



# **CITY OF ATASCADERO ATASCADERO PUBLIC FINANCING AUTHORITY**

(The Public Financing Authority (PFA) is a public corporation empowered to borrow money and issue bonds. The City of Atascadero formed the PFA in 2004 to assist in raising capital for essential public projects.)

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## **AGENDA**

**Tuesday, July 27, 2010**

***Time: Immediately following the conclusion of the Community  
Redevelopment Agency meeting at 6:00 P.M.***

**Atascadero City Hall  
6907 El Camino Real, Atascadero, California**

**ROLL CALL:** Chairperson Fonzi  
Vice Chairperson O'Malley  
Board Member Beraud  
Board Member Clay  
Board Member Kelley

**APPROVAL OF AGENDA:** Roll Call

**COMMUNITY FORUM:**

**BOARD ANNOUNCEMENTS AND REPORTS:** (On their own initiative, the Board Members may make a brief announcement or a brief report on their own activities. Board Members may ask a question for clarification, make a referral to staff or take action to have staff place a matter of business on a future agenda. The Board may take action on items listed on the Agenda.)

**A. CONSENT CALENDAR:**

1. **[Board Special Meeting Minutes – June 22, 2010](#)**

- Board Secretary Recommendation: Board approve the Authority Board special meeting minutes of June 22, 2010. [Board Secretary]

**B. PUBLIC HEARINGS:       None.**

**C. MANAGEMENT REPORTS:**

1. **[2010 Series A Lease Revenue Bonds](#)**

- Fiscal Impact: Costs related to the bond issue are included in the financing. The City's General Fund will provide for the repayment of bonds.
- Recommendation: Board adopt the Draft Resolution authorizing the issuance and sale of lease revenue bonds to finance improvements to the City of Atascadero's Historic City Hall and the acquisition and development of other capital improvements throughout the geographic boundaries of the City, approving form and authorizing execution of related documents and approving official actions. [Treasurer]

**D. ADJOURNMENT:**



ITEM NUMBER:  
DATE:

PFA A - 1  
07/27/10

## **CITY OF ATASCADERO ATASCADERO PUBLIC FINANCING AUTHORITY**

(The Public Financing Authority (PFA) is a public corporation empowered to borrow money and issue bonds. The City of Atascadero formed the PFA in 2004 to assist in raising capital for essential public projects.)

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### **SPECIAL MEETING**

### **DRAFT ACTION MINUTES**

**Tuesday, June 22, 2010**

***Time: Immediately following the conclusion of the Community  
Redevelopment Agency meeting at 6:00 P.M.***

**Atascadero City Hall  
6907 El Camino Real, Atascadero, California**

Chairperson Fonzi called the meeting to order at 6:32 p.m.

#### **ROLL CALL:**

**Present:** Board Members Béraud, Kelley, Clay, Vice Chairperson O'Malley and Chairperson Fonzi

**Others Present:** Board Secretary Marcia McClure Torgerson

**Staff Present:** Executive Director Wade McKinney, Assistant Executive Director Jim Lewis, Public Works Director Russ Thompson, Police Chief Jim Mulhall, and City Attorney Brian Pierik.

**APPROVAL OF AGENDA: Roll Call**

**MOTION:** By Vice Chairperson O'Malley and seconded by Board Member Kelley to approve the agenda.  
*Motion passed 5:0 by a roll-call vote.*

**COMMUNITY FORUM: None**

**BOARD ANNOUNCEMENTS AND REPORTS: None**

**A. CONSENT CALENDAR:**

1. [Board Meeting Minutes – January 12, 2010](#)
  - Board Secretary Recommendation: Board approve the Authority Board meeting minutes of January 12, 2010. [Board Secretary]

**MOTION:** By Board Member Kelley and seconded by Board Member Béraud to approve the Consent Calendar.  
*Motion passed 5:0 by a roll-call vote.*

**B. PUBLIC HEARINGS: None.**

**C. MANAGEMENT REPORTS:**

1. [Establishment of Regular Meeting Dates for Public Finance Authority Meetings](#)
  - Fiscal Impact: None.
  - Recommendation: Board adopt Draft Resolution A establishing regular meeting dates for Public Financing authority meetings. [Treasurer]

City Manager Wade McKinney gave the staff report and answered questions from the Board.

**PUBLIC COMMENT: None**

**MOTION:** By Vice Chairperson O'Malley and seconded by Board Member Kelley to adopt Draft Resolution A, establishing regular meeting dates for Public Financing authority meetings.  
*Motion passed 5:0 by a roll-call vote. (Resolution No. PFA 2010-001)*

**D. ADJOURNMENT:**

Chairperson Fonzi adjourned the meeting at 6:35 p.m.

MINUTES PREPARED BY:

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Marcia McClure Torgerson, C.M.C.  
City Clerk / Board Secretary

## **DRAFT RESOLUTION**

### **RESOLUTION OF THE ATASCADERO PUBLIC FINANCING AUTHORITY AUTHORIZING THE ISSUANCE AND SALE OF LEASE REVENUE BONDS TO FINANCE IMPROVEMENTS TO THE CITY OF ATASCADERO'S HISTORIC CITY HALL AND THE ACQUISITION AND DEVELOPMENT OF OTHER CAPITAL IMPROVEMENTS THROUGHOUT THE GEOGRAPHIC BOUNDARIES OF THE CITY, APPROVING FORM AND AUTHORIZING EXECUTION OF RELATED DOCUMENTS AND APPROVING OFFICIAL ACTIONS**

WHEREAS, the Atascadero Public Financing Authority (the "Authority") is a joint powers authority duly organized and existing under and pursuant to that certain Joint Exercise of Powers Agreement, dated as of November 9, 2004, by and between the City of Atascadero (the "City") and the Community Redevelopment Agency of Atascadero (the "Agency" and, with the City, the "Members"), and under the provisions of Articles 1 through 4 (commencing with section 6500) of Chapter 5 of Division 7 of Title 1 of the California Government Code (the "Act"), and is authorized pursuant to Article 4 of the Act to borrow money for the purpose of financing the acquisition of bonds, notes and other obligations of, or for the purpose of making loans to, public entities, including the Members, and to provide financing for public capital improvements of public entities, including the Members;

WHEREAS, the City, working together with the Authority, proposes to undertake the financing of improvements to the City's historic city hall and the acquisition and development of other capital improvements throughout the geographic boundaries of the City (the "Project");

WHEREAS, for such purposes, the Authority has determined to issue its Atascadero Public Financing Authority Lease Revenue Bonds, 2010 Series A, in a principal amount not to exceed \$18,000,000 (the "Bonds");

WHEREAS, the Bonds will be issued under the provisions of Article 4 (commencing with section 6584) of the Act (the "Bond Law") and an indenture of trust (the "Indenture"), by and between the Authority and The Bank of New York Mellon Trust Company, N.A., as trustee;

WHEREAS, in order to provide for the repayment of the Bonds, the Authority will lease certain real property and improvements (the "Property") to the City pursuant to a lease agreement (the "Lease Agreement") under which the City will agree to make lease payments to the Authority from moneys in its General Fund and the City will budget and appropriate sufficient amounts in each year to pay the full amount of principal of and interest on the Bonds;

WHEREAS, the Agency has agreed to reimburse the City for amounts paid from its General Fund from tax increment revenues available to the Agency;

WHEREAS, as required pursuant to section 6586.5(a) of the California Government Code, a public hearing has been held by the City Council of the City in connection with the financing;

WHEREAS, the firm of Piper Jaffray & Co. (the “Underwriter”) has proposed to purchase and underwrite the Bonds and has presented to the Authority a form of bond purchase agreement for the Bonds, to be entered into among the Authority, the City and the Underwriter (the “Bond Purchase Agreement”);

WHEREAS, a proposed form of official statement (the “Official Statement”) describing the Bonds, to be used in connection with the marketing of the Bonds by the Underwriter, has been prepared and has been presented to the Authority;

WHEREAS, the Bonds will be issued as (i) bonds the interest on which is excluded from gross income for purposes of federal income taxation (“Tax-Exempt Bonds”); or (ii) bonds designated as “Build America Bonds” (“Build America Bonds”) under the provisions of the American Recovery and Reinvestment Act of 2009, the interest on which is not excluded from gross income for purposes of federal income taxation; or (iii) both Tax-Exempt Bonds and Build America Bonds;

WHEREAS, if any Bonds are issued as Build America Bonds, the Authority expects to receive a cash subsidy payment from the United States Treasury equal to 35% of the interest payable on such Bonds;

WHEREAS, the determination of whether to issue the Bonds as (i) Tax-Exempt Bonds, (ii) Build America Bonds, or (iii) some combination thereof, will be made by a Designated Officer (hereinafter defined) at or prior to the date of sale thereof; and

WHEREAS, this Board has duly considered such transactions and wishes at this time to approve said transactions in the public interests of the Authority;

NOW, THEREFORE, BE IT RESOLVED, by this Board of Directors of the Atascadero Public Financing Authority as follows:

SECTION 1. Findings. This Board hereby finds that significant public benefits will arise from the financing in accordance with section 6586 of the California Government Code.

SECTION 2. Issuance of Bonds; Approval of Indenture. This Board hereby authorizes the issuance of the Bonds under and pursuant to the Bond Law and the Indenture, and in multiple series if the Bonds are issued as Tax-Exempt Bonds and Build America Bonds, for the purpose of providing funds to finance the Project. The Authority hereby approves the Indenture, in the form on file with the Secretary, together with any changes therein or additions thereto approved by the Chair, the Vice Chair, the Executive Director or the Treasurer of the Authority (the “Designated Officers”), whose execution thereof shall be conclusive evidence of such approval. The Designated Officers, each acting alone, are hereby authorized and directed for and in the name and on behalf of the Authority to execute, and the Secretary is hereby authorized and

directed to attest, the final form of the Indenture for and in the name of the Authority. The Authority hereby authorizes the delivery and performance of the Indenture.

SECTION 3. Approval of Site and Facility Lease. This Board hereby approves a site and facility lease, by and between the City and the Authority (the "Site and Facility Lease"), pursuant to which the City will lease the Property to the Authority, to be leased back to the City pursuant to the Lease Agreement, in the form on file with the Secretary, together with any changes therein or additions thereto deemed advisable by any Designated Officer, whose execution thereof shall be conclusive evidence of such approval. The Designated Officers, each acting alone, are hereby authorized and directed for and in the name and on behalf of the Authority to execute, and the Secretary is hereby authorized and directed to attest, the final form of the Site and Facility Lease for and in the name of the Authority. The Authority hereby authorizes the delivery and performance of the Site and Facility Lease.

SECTION 4. Approval of Lease Agreement. This Board hereby approves the Lease Agreement, in the form on file with the Secretary, together with any changes therein or additions thereto deemed advisable by any Designated Officer, whose execution thereof shall be conclusive evidence of such approval. The Designated Officers, each acting alone, are hereby authorized and directed for and in the name and on behalf of the Authority to execute, and the Secretary is hereby authorized and directed to attest, the final form of the Lease Agreement for and in the name of the Authority. The Authority hereby authorizes the delivery and performance of the Lease Agreement.

SECTION 5. Sale of the Bonds. This Board hereby approves the sale of the Bonds by the Authority to the Underwriter, in multiple series if the Bonds are issued as Tax-Exempt Bonds and Build America Bonds, pursuant to the Bond Purchase Agreement in substantially the form on file with the Secretary, together with such additions thereto and changes therein as a Designated Officer shall deem necessary, desirable or appropriate, the execution of which by the Authority shall be conclusive evidence of the approval of any such additions and changes. The Designated Officers, each acting alone, are hereby authorized and directed to execute the final form of the Bond Purchase Agreement for and in the name and on behalf of the Authority upon the submission of an offer by the Underwriter to purchase the Bonds, which offer is acceptable to a Designated Officer and consistent with the requirements of this Resolution. The amount of Underwriter's compensation for any Tax-Exempt Bonds shall not exceed \$10.00 per \$1,000 of principal amount of the Tax-Exempt Bonds and the Underwriter's compensation for any Build America Bonds shall not exceed \$12.50 per \$1,000 of principal amount of the Build America Bonds.

SECTION 6. Official Statement. This Board hereby approves, and hereby deems nearly final within the meaning of Rule 15c2-12 of the Securities Exchange Act of 1934 (the "Rule"), the preliminary official statement describing the Bonds (the "Preliminary Official Statement"), in substantially the form on file with the Secretary. The Designated Officers, each acting alone, are hereby authorized and directed to execute an appropriate certificate stating the Authority's determination that the Preliminary Official Statement is nearly final within the meaning of the Rule. Distribution of the Preliminary Official Statement in connection with the sale of the Bonds is hereby approved. The Designated Officers, each acting alone, are hereby authorized and directed to approve any changes in or additions to a final form of official statement (the "Final



Official Statement”), and the execution thereof by any Designated Officer shall be conclusive evidence of approval of any such changes and additions. The Authority hereby authorizes the distribution of the Final Official Statement by the Underwriter. The Final Official Statement shall be executed in the name and on behalf of the Authority by any Designated Officer.

SECTION 7. Official Actions. The Chair, the Vice Chair, the Executive Director the Treasurer, the Secretary and all other officers of the Authority are each authorized and directed in the name and on behalf of the Authority to make any and all assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance, warrants and other documents, which they or any of them might deem necessary or appropriate in order to consummate any of the transactions contemplated by the documents approved pursuant to this Resolution. Whenever in this Resolution any officer of the Authority is authorized to execute or countersign any document or take any action, such execution, countersigning or action may be taken on behalf of such officer by any person designated by such officer to act on his or her behalf in the case such officer shall be absent or unavailable.

SECTION 8. Effective Date. This Resolution shall take effect immediately.

On motion by Board Member \_\_\_\_\_ and seconded by Board Member \_\_\_\_\_, the foregoing Resolution is hereby adopted in its entirety on the following roll call vote:

AYES:

NOES:

ABSENT:

ADOPTED:

ATASCADERO PUBLIC  
FINANCING AUTHORITY

By: \_\_\_\_\_  
Roberta Fonzi, Chairperson

ATTEST:

\_\_\_\_\_  
Marcia McClure Torgerson, C.M.C.  
Board Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Brian A. Pierik, Authority Counsel

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**INDENTURE OF TRUST**

**by and between the**

**ATASCADERO PUBLIC FINANCING AUTHORITY**

**and**

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

**Dated as of August 1, 2010**

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**Relating to**  
**\$ \_\_\_\_\_**  
**Atascadero Public Financing Authority**  
**Lease Revenue Bonds, 2010 Series A**

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## INDENTURE OF TRUST

THIS INDENTURE OF TRUST (this "Indenture"), made and entered into and dated as of August 1, 2010, by and between the ATASCADERO PUBLIC FINANCING AUTHORITY, a joint exercise of powers authority organized and existing under and by virtue of the laws of the State of California (the "Authority"), and THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., a national banking association organized and existing under and by virtue of the laws of the United States of America with a corporate trust office in Los Angeles, California, and being qualified to accept and administer the trusts hereby created (the "Trustee");

### RECITALS:

WHEREAS, the Authority is a joint powers authority duly organized and existing under and pursuant to that certain Joint Exercise of Powers Agreement, dated November 9, 2004, by and between the City of Atascadero (the "City") and the Atascadero Community Development Agency (the "Agency" and, with the City, the "Members"), and under the provisions of Articles 1 through 4 (commencing with section 6500) of Chapter 5 of Division 7 of Title 1 of the California Government Code (the "Act"), and is authorized pursuant to Article 4 of the Act to borrow money for the purpose of financing the acquisition of bonds, notes and other obligations of, or for the purpose of making loans to, public entities, including the Members, and to provide financing for public capital improvements of public entities, including the Members;

WHEREAS, the City, working together with the Authority, proposes to undertake the financing of improvements to the City's historic city hall and the acquisition and development of other capital improvements throughout the geographic boundaries of the City (the "Project");

WHEREAS, for such purposes, the Authority has determined to issue its Atascadero Public Financing Authority Lease Revenue Bonds, 2010 Series A, in the aggregate principal amount of \$\_\_\_\_\_ (the "Bonds");

WHEREAS, the Bonds will be issued under the provisions of Article 4 (commencing with section 6584) of the Act (the "Bond Law") and this Indenture;

WHEREAS, in order to provide for the repayment of the Bonds, the Authority will lease certain real property and improvements (the "Property") to the City pursuant to a lease agreement, dated as of August 1, 2010 (the "Lease Agreement"), under which the City will agree to make lease payments to the Authority from moneys in its General Fund and the City will budget and appropriate sufficient amounts in each year to pay the full amount of principal of and interest on the Bonds;

WHEREAS, the Community Redevelopment Agency of Atascadero (the "Agency") has agreed to reimburse the City for amounts to be paid under this Lease Agreement from its General Fund from tax increment revenues available to the Agency and, in furtherance thereof, the Agency and the City have entered into a Reimbursement Agreement, dated as of August 1, 2010 (the "Reimbursement Agreement");

WHEREAS, in order to provide for the authentication and delivery of the Bonds, to establish and declare the terms and conditions upon which the Bonds are to be issued and to secure the payment of the principal thereof, premium, if any, and interest thereon, the Authority has authorized the execution and delivery of this Indenture; and

WHEREAS, the Authority has determined that all acts and proceedings required by law necessary to make the Bonds, when executed by the Authority, authenticated and delivered by

the Trustee and duly issued, the valid, binding and legal special obligations of the Authority, and to constitute this Indenture a valid and binding agreement for the uses and purposes herein set forth in accordance with its terms, have been done and taken, and the execution and delivery of the Indenture have been in all respects duly authorized;

NOW, THEREFORE, THIS INDENTURE WITNESSETH, that in order to secure the payment of the Bonds at any time issued and Outstanding under this Indenture, according to their terms, and to secure the performance and observance of all the covenants and conditions therein and herein set forth, and to declare the terms and conditions upon and subject to which the Bonds are to be issued and delivered, and in consideration of the premises and of the mutual covenants herein contained and of the purchase and acceptance of the Bonds by the Owners thereof, and for other valuable consideration, the receipt of which is hereby acknowledged, the Authority does covenant and agree with the Trustee, for the benefit of the respective Owners from time to time of the Bonds, as follows:

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## ARTICLE I

### DEFINITIONS; AUTHORIZATION AND PURPOSE OF BONDS; EQUAL SECURITY

Section 1.01. Definitions. Unless the context otherwise requires, the terms defined in this Section 1.01 shall for all purposes of this Indenture, of any Supplemental Indenture, of the Lease Agreement, of the Bonds and of any certificate, opinion, request or other documents herein mentioned have the meanings herein specified.

*"Authority"* means the Atascadero Public Financing Authority, a joint exercise of powers authority organized and existing under and by virtue of the laws of the State, and any successor thereto.

*"Authorized Representative"* means: (a) with respect to the Authority, its Chair, Executive Director or Treasurer or any other person designated as an Authorized Representative of the Authority by a Written Certificate of the Authority signed by its Executive Director, and filed with the City, and the Trustee; and (b) with respect to the City, its Mayor, Mayor Pro Tem, City Manager, the Assistant City Manager or Administrative Services Director, or any other person designated as an Authorized Representative of the City by a Written Certificate of the City signed by its City Manager and filed with the Authority and the Trustee.

*"Bond Counsel"* means (a) Quint & Thimmig LLP, or (b) any other attorney or firm of attorneys appointed by or acceptable to the Authority of nationally-recognized experience in the issuance of obligations the interest on which is excludable from gross income for federal income tax purposes under the Code.

*"Bond Year"* means each twelve-month period extending from October 2 in one calendar year to October 1 of the succeeding calendar year, both dates inclusive; *provided* that the first Bond Year with respect to the Bonds shall commence on the Closing Date and end on October 1, 2010.

*"Bonds"* means the \$\_\_\_\_\_ aggregate principal amount of Atascadero Public Financing Authority Lease Revenue Bonds, 2010 Series A, authorized by and at any time Outstanding pursuant to this Indenture.

*"Business Day"* means a day (other than a Saturday or a Sunday) on which banks are not required or authorized to remain closed in the city in which the Office of the Trustee is located and on which the Federal Reserve is open.

*"City"* means the City of Atascadero, a general law city and municipal corporation organized and existing under and by virtue of its charter and the laws of the State.

*"Closing Date"* means the date of delivery of the Bonds to the Original Purchaser.

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

*"Continuing Disclosure Certificate"* means that certain Continuing Disclosure Certificate executed by the City and the Authority and dated the date of execution and delivery of the Bonds, as originally executed and as it may be amended from time to time in accordance with the terms thereof.



*"Costs of Issuance"* means all expenses incurred in connection with the authorization, issuance, sale and delivery of the Bonds, including but not limited to all compensation, fees and expenses (including but not limited to fees and expenses for legal counsel) of the Authority or the City, initial fees and expenses of the Trustee (including but not limited to fees and expenses for legal counsel), compensation to any financial consultants or underwriters, legal fees and expenses, filing and recording costs, rating agency fees, costs of preparation and reproduction of documents, out-of-pocket expenses of the Authority or the City, Authority and City staff costs and costs of printing.

*"Costs of Issuance Fund"* means the fund by that name established and held by the Trustee pursuant to Section 3.02.

*"Debt Service"* means, during any period of computation, the amount obtained for such period by totaling the following amounts: (a) the principal amount of all Outstanding Bonds coming due and payable by their terms in such period; and (b) the interest which would be due during such period on the aggregate principal amount of Bonds which would be Outstanding in such period if the Bonds are retired as scheduled, but deducting and excluding from such aggregate amount the amount of Bonds no longer Outstanding.

*"Defeasance Obligations"* means (a) cash (insured at all times by the Federal Deposit Insurance Corporation); (b) obligations of, or obligations fully and unconditionally guaranteed as to the timely payment of principal and interest by, the United States or any agency or instrumentality thereof, when such obligations are backed by the full faith and credit of the United States, including: (i) United States treasury obligations; (ii) all direct or fully guaranteed obligations; (iii) certificates of beneficial ownership of the Farmers Home Administration; (iv) participation certificates of the General Services Administration; (v) guaranteed Title XI financings of the U.S. Maritime Administration; (vi) Government National Mortgage Association obligations; and (vii) State and Local Government Series.

*"Event of Default,"* with respect to this Indenture, means any of the events specified in Section 7.01 and, with respect to the Lease Agreement, means any of the events specified in Section 9.1 of the Lease Agreement.

*"Facility"* means the improvements more particularly described in Exhibit B to the Lease Agreement.

*"Federal Securities"* means: (a) any direct general obligations of the United States of America (including obligations issued or held in book entry form on the books of the Department of the Treasury of the United States of America), the timely payment of principal of and interest on which are unconditionally and fully guaranteed by the United States of America; (b) obligations of any agency or department of the United States of America which represent the full faith and credit of the United States of America or the timely payment of the principal of and interest on which are secured or guaranteed by the full faith and credit of the United States of America; and (c) any obligations issued by the State of California or any political subdivision thereof the payment of and interest and premium (if any) on which are fully secured by Federal Securities described in the preceding clauses (a) or (b), as verified by an independent certified public accountant, and rated "AAA" and "Aaa" by S&P and Moody's, respectively.

*"Fiscal Year"* means any twelve-month period extending from July 1 in one calendar year to June 30 of the succeeding calendar year, both dates inclusive, or any other twelve-month period selected and designated by the Authority or the City, as applicable, as its official fiscal year period.

*"Indenture"* means this Indenture of Trust, as originally executed or as it may from time to time be supplemented, modified or amended by any Supplemental Indenture pursuant to the provisions hereof.

*"Independent Accountant"* means any certified public accountant or firm of certified public accountants appointed and paid by the Authority or the City, and who, or each of whom (a) is in fact independent and not under domination of the Authority or the City; (b) does not have any substantial interest, direct or indirect, in the Authority or the City; and (c) is not connected with the Authority or the City as an officer or employee of the Authority or the City but who may be regularly retained to make annual or other audits of the books of or reports to the Authority or the City.

*"Information Services"* means the Electronic Municipal Market Access System (referred to as "EMMA"), a facility of the Municipal Securities Rulemaking Board, (at <http://emma.msrb.org>); provided, however, in accordance with then current guidelines of the Securities and Exchange Commission, shall mean such other organizations providing information with respect to the Bonds shall mean such other organizations providing information with respect to the redemption of bonds as the Authority may designate in a Written Certificate of the Authority delivered to the Trustee.

*"Insurance and Condemnation Fund"* means the fund by that name established and held by the Trustee pursuant to Section 5.08.

*"Interest Account"* means the account by that name established in the Revenue Fund pursuant to Section 5.02.

*"Interest Payment Date"* means each April 1 and October 1, commencing April 1, 2011.

*"Lease Agreement"* means that certain Lease Agreement, dated as of August 1, 2010, by and between the Authority and the City, as originally executed and as it may from time to time be supplemented, modified or amended in accordance with the terms thereof and of this Indenture.

*"Lease Payment Date"* means, with respect to any Interest Payment Date, commencing with the April 1, 2011, Interest Payment Date, the fifteenth (15th) calendar day of the month preceding such Interest Payment Date.

*"Lease Payments"* means the aggregate amount of all the payments required to be paid by the City pursuant to Section 4.3 of the Lease Agreement.

*"Moody's"* means Moody's Investors Service, New York, New York, or its successors.

*"Net Proceeds"* means amounts derived by the City from any policy of casualty insurance with respect to any portion of the Property, or the proceeds of any taking of the Property or any portion thereof in eminent domain proceedings (including sale under threat of such proceedings), to the extent remaining after payment therefrom of all expenses incurred in the collection and administration thereof.

*"Office"* means, with respect to the Trustee, the corporate trust office of the Trustee located in Los Angeles, California, except that with respect to presentation of Bonds for payment or for registration of transfer and exchange, such term shall mean the office or agency of the Trustee at which, at any particular time, its corporate agency business shall be conducted, initially located in St. Paul, Minnesota.

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

*“Outstanding,”* when used as of any particular time with reference to Bonds, means (subject to the provisions of Section 11.09) all Bonds theretofore, or thereupon being, authenticated and delivered by the Trustee under this Indenture except: (a) Bonds theretofore canceled by the Trustee or surrendered to the Trustee for cancellation; (b) Bonds with respect to which all liability of the Authority shall have been discharged in accordance with Section 10.02, including Bonds (or portions thereof) described in Section 11.09; and (c) Bonds for the transfer or exchange of or in lieu of or in substitution for which other Bonds shall have been authenticated and delivered by the Trustee pursuant to this Indenture.

*“Owner,”* whenever used herein with respect to a Bond, means the person in whose name the ownership of such Bond is registered on the Registration Books.

*“Participating Underwriter”* shall have the meaning ascribed thereto in the Continuing Disclosure Certificate.

*“Permitted Encumbrances”* means, as of any particular time: (a) liens for general ad valorem taxes and assessments, if any, not then delinquent, or which the City may, pursuant to provisions of Article V of the Lease Agreement, permit to remain unpaid; (b) the Site and Facility Lease; (c) the Lease Agreement; (d) any right or claim of any mechanic, laborer, materialman, supplier or vendor not filed or perfected in the manner prescribed by law; (e) easements, rights-of-way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions which exist of record as of the Closing Date and which the City certifies in writing will not materially impair the use of the Property; and (f) easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions established following the date of recordation of the Lease Agreement and to which the Authority and the City agree in writing do not reduce the value of the Property.

*“Permitted Investments”* means any of the following which at the time of investment are legal investments under the laws of the State for the moneys proposed to be invested therein, but only to the extent that the same are acquired at Fair Market Value (provided the Trustee may rely upon the Request of the Authority directing investment under the Indenture as a determination that such investment is a Permitted Investment):

(a) direct obligations of (including obligations issued or held in book entry form on the books of) the Department of the Treasury of the United States of America;

(b) debentures of the Federal Housing Administration to the extent such obligations are guaranteed by the full faith and credit of the United States of America;

(c) obligations of the following agencies which are not guaranteed by the United States of America: (i) participation certificates or debt obligations of the Federal Home Loan Mortgage Corporation; (ii) consolidated system-wide bonds and notes of the Farm Credit Banks (consisting of Federal Land Banks, Federal Intermediate Credit Banks and Banks for Cooperatives); (iii) consolidated debt obligations or letter of credit-backed issues of the Federal Home Loan Banks; or (iv) mortgage-backed securities (excluding stripped mortgage securities which are valued greater than par on the portion of unpaid principal) or debt obligations of the Federal National Mortgage Association; *provided, however,* that not more than ten percent (10%) of the proceeds of the Bonds may, in the aggregate, be invested in any such obligations at one time;

(d) commercial paper of “prime” quality of the highest ranking or of the highest letter and number rating as provided for by a nationally recognized statistical-rating organization (NRSRO). The entity that issues the commercial paper shall meet all of the following conditions in either paragraph (1) or (2):

(1) The entity meets the following criteria:

- is organized and operating in the United States as a general corporation
- has total assets in excess of five hundred million dollars (\$500,000,000)
- has debt other than commercial paper, if any, that is rated “A” or higher by a nationally recognized statistical-rating organization (NRSRO)

(2) The entity meets the following criteria:

- is organized within the United States as a special purpose corporation, trust, or limited liability company
- has program-wide credit enhancements including, but not limited to, overcollateralization, letters of credit, or surety bond
- has commercial paper that is rated “A-1” or higher, or the equivalent, by two of the nationally recognized statistical-rating organizations (NRSRO),

and split ratings (i.e. A2/P1) are not allowable, and no more than 10 percent of the outstanding commercial paper of any single corporate issue may be purchased;

(e) shares of beneficial interest issued by diversified management companies which invest only in direct obligations of the US Treasury, debt instruments issued by agencies of the Federal government, and repurchase agreements with a weighted average of 60 days or less, and have the highest rating from two nationally recognized statistical-rating organization (NRSRO), and must maintain a daily principal per share value of \$1.00 per share and distribute interest monthly, and have a minimum of \$500 million in assets under management. The purchase price of the shares may not include commission;

(f) demand deposits, including interest bearing money market accounts, trust funds, trust accounts, overnight bank deposits, interest-bearing deposits or certificates of deposit, including those placed by a third party pursuant to an agreement between the Trustee and the Authority, including in the case of any such deposit, fund or account of the Trustee or any of its affiliates, rated in one of the top two highest categories from two nationally recognized statistical-rating organizations (NRSRO) without regard to gradations, or which are fully FDIC-insured;

(g) Investment agreements, guaranteed investment contracts, funding agreements, or any other form of corporate note which represents the unconditional obligation of one or more banks, insurance companies or other financial institutions, or are guaranteed by a financial institution which has an unsecured rating, or which agreement is itself rated, as of the date of execution thereof, in one of the two highest rating categories by a nationally recognized statistical-rating organizations (NRSRO);

(h) the Local Agency Investment Fund of the State, created pursuant to Section 16429.1 of the California Government Code, to the extent the Trustee is authorized to register such investment in its name;

(i) Repurchase and reverse repurchase agreements collateralized with securities described in subsections (a) and (c) above, at 102% and 104% respectively, including those of the

Trustee or any of its affiliates, so long as such repurchase and/or reverse repurchase agreements have a final maturity date of 365 days or less, and must be marked to market weekly with a two (2) day cure period for any deficiencies, and any failure to deliver such collateral or to cure a deficiency shall require the immediate acceleration and termination of the agreement;

(j) longer dated repurchase agreements with financial institutions, or banks insured by the FDIC or FSLIC, or any broker dealer with "retail customers" which falls under the jurisdiction of the Securities Investors Protection Corporation (SIPC), provided that: (i) the over-collateralization is at 102%, computed weekly, for securities described in subsection (a) and 104% for securities described in subsection (c); (ii) a third party custodian, the Trustee or the Federal Reserve Bank shall have possession of such obligations; (iii) the Trustee shall have perfected a first priority security interest in such obligations; and (iv) failure to maintain the requisite collateral percentage will require the Trustee to liquidate the collateral;

(k) Forward delivery or forward purchase agreements with underlying securities of the types outlined in (a), (b), (c) and (d) above; and

(l) Tax-exempt obligations of the City, any local agency in the State or of any other 49 states, rated in either of the two highest rating categories by two of the nationally recognized statistical-rating organizations (NRSRO).

*"Principal Account"* means the account by that name established in the Revenue Fund pursuant to Section 5.02.

*"Project"* means improvements to the City's historic city hall and various capital improvements throughout the geographic boundaries of the City.

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

*"Property"* means, collectively, the Site and the Facility.

*"Qualified Reserve Fund Credit Instrument"* means a surety bond issued to the Trustee by an insurance company rated in the highest category by Moody's and S&P and, if rated by A.M. Best & Company, rated in the highest rating category by A.M. Best & Company.

*"Rating Category"* means, with respect to any Permitted Investment, one of the generic categories of rating by Moody's and S&P applicable to such Permitted Investment, without regard to any refinement or graduation of such rating category by a plus or minus sign or a numeral.

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

*"Redemption Fund"* means the fund by that name established pursuant to Section 5.07.

*"Registration Books"* means the records maintained by the Trustee pursuant to Section 2.05 for the registration and transfer of ownership of the Bonds.

*"Regulations"* means the regulations of the United States Department of Treasury issued under the Code.



*"Reserve Account"* means the account by that name in the Revenue Fund established pursuant to Section 5.02.

*"Reserve Requirement"* means a fixed amount equal to the least of (a) maximum annual debt service on the Bonds, (b) 125% of average annual debt service on the Bonds, and (c) 10% of the par amount of the Bonds. *provided, however*, that if the Bonds are partially refunded, such amount shall be reduced to an amount equal to the maximum annual debt service on the Bonds following such redemption, as specified in a certificate of a City Representative delivered to the Trustee As of the Closing date, the Reserve Requirement is \$\_\_\_\_\_.

*"Revenue Fund"* means the fund by that name established and held by the Trustee pursuant to Section 5.01.

*"Revenues"* means (a) all Lease Payments, prepayments, insurance proceeds, condemnation proceeds, and (b) subject to the provisions of Section 5.09 hereof, all interest, profits or other income derived from the investment of amounts in any fund or account established pursuant to this Indenture.

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

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

*"Site"* means that certain real property more particularly described in Exhibit A to the Site and Facility Lease and in Exhibit A to the Lease Agreement.

*"Site and Facility Lease"* means the Site and Facility Lease, dated as of August 1, 2010, by and between the City, as lessor, and the Authority, as lessee, together with any duly authorized and executed amendments thereto.

*"State"* means the State of California.

*"Supplemental Indenture"* means any indenture hereafter duly authorized and entered into between the Authority and the Trustee, supplementing, modifying or amending this Indenture; but only if and to the extent that such Supplemental Indenture is specifically authorized hereunder.

*"Tax Certificate"* means the certificate of the Authority dated the Closing Date, with respect to tax matters.

*"Trustee"* means The Bank of New York Mellon Trust Company, N.A., a national banking association organized and existing under the laws of the United States of America, or its successor, as Trustee hereunder as provided in Section 8.01.

*"Written Certificate," "Written Request" and "Written Requisition"* of the Authority or the City mean, respectively, a written certificate, request or requisition signed in the name of the Authority or the City by its Authorized Representative. Any such instrument and supporting opinions or representations, if any, may, but need not, be combined in a single instrument with any other instrument, opinion or representation, and the two or more so combined shall be read and construed as a single instrument.

Section 1.02. Rules of Construction. All references in this Indenture to “Articles,” “Sections” and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Indenture; and the words “herein,” “hereof,” “hereunder,” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or subdivision hereof.

Section 1.03. Authorization and Purpose of Bonds. The Authority has reviewed all proceedings heretofore taken relative to the authorization of the Bonds and has found, as a result of such review, and hereby finds and determines that all things, conditions, and acts required by law to exist, happen and/or be performed precedent to and in the issuance of the Bonds do exist, have happened and have been performed in due time, form and manner as required by law, and the Authority is now authorized under each and every requirement of law, to issue the Bonds in the manner and form provided in this Indenture. Accordingly, the Authority hereby authorizes the issuance of the Bonds pursuant to this Indenture for the purposes described herein.

Section 1.04. Equal Security. In consideration of the acceptance of the Bonds by the Owners thereof, this Indenture shall be deemed to be and shall constitute a contract between the Authority and the Owners from time to time of the Bonds; and the covenants and agreements herein set forth to be performed on behalf of the Authority shall be for the equal and proportionate benefit, security and protection of all Owners of the Bonds without preference, priority or distinction as to security or otherwise of any of the Bonds over any of the others by reason of the number or date thereof or the time of sale, execution or delivery thereof, or otherwise for any cause whatsoever, except as expressly provided therein or herein.

ARTICLE II

ISSUANCE OF BONDS

Section 2.01. Authorization of Bonds. The Authority hereby authorizes the issuance of the Bonds, which shall constitute special obligations of the Authority, for the purpose of providing funds to finance the Project. The Bonds are hereby designated the "Atascadero Public Financing Authority Lease Revenue Bonds, 2010 Series A." The aggregate principal amount of Bonds initially issued and Outstanding under this Indenture shall equal \_\_\_\_\_ dollars (\$\_\_\_\_\_). At any time after the execution of this Indenture, the Authority may execute and the Trustee shall authenticate and, upon the Written Request of the Authority, deliver the Bonds. This Indenture constitutes a continuing agreement with the Trustee and the Owners from time to time of the Bonds to secure the full payment of the principal of and interest and premium (if any) on all the Bonds, subject to the covenants, provisions and conditions herein contained.

Section 2.02. Terms of the Bonds. The Bonds shall be issued in fully registered form without coupons in denominations of \$5,000 or any integral multiple thereof, so long as no Bond shall have more than one maturity date. The Bonds shall mature on October 1 in each of the years and in the amounts, and shall bear interest (calculated on the basis of a 360-day year of twelve 30-day months) at the rates, as follows:

<u>Maturity</u> <u>(October 1)</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>	<u>Maturity</u> <u>(October 1)</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>
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Interest on the Bonds shall be payable semiannually on each Interest Payment Date, to the person whose name appears on the Registration Books as the Owner thereof as of the Record Date immediately preceding each such Interest Payment Date, such interest to be paid by check of the Trustee mailed on such Interest Payment Date by first class mail to the Owners at the respective addresses of such Owners as they appear on the Registration Books; *provided however*, that payment of interest may be by wire transfer in immediately available funds to an account in the United States of America to any Owner of Bonds in the aggregate principal amount of \$1,000,000 or more who shall furnish written wire instructions to the Trustee at least five (5) days before the applicable Record Date. Principal of any Bond and any premium upon redemption shall be paid by check of the Trustee upon presentation and surrender thereof at the Office of the Trustee, except as provided in Section 2.04. Principal of and interest and premium (if any) on the Bonds shall be payable in lawful money of the United States of America.

Each Bond shall be dated as of the Closing Date and shall bear interest from the Interest Payment Date next preceding the date of authentication thereof, unless (a) it is authenticated after a Record Date and on or before the following Interest Payment Date, in which event it shall bear interest from such Interest Payment Date, or (b) unless it is authenticated on or before March 15, 2011, in which event it shall bear interest from the Closing Date; *provided, however*, that if, as of the date of authentication of any Bond, interest thereon is in default, such Bond shall bear interest from the Interest Payment Date to which interest has previously been paid or made available for payment thereon.



Section 2.03. Transfer and Exchange of Bonds. Any Bond may, in accordance with its terms, be transferred on the Registration Books by the person in whose name it is registered, in person or by his duly authorized attorney, upon surrender of such Bond for cancellation, accompanied by delivery of a written instrument of transfer, duly executed in a form acceptable to the Trustee. Transfer of any Bond shall not be permitted by the Trustee during the period established by the Trustee for selection of Bonds for redemption or if such Bond has been selected for redemption pursuant to Article IV. Whenever any Bond or Bonds shall be surrendered for transfer, the Authority shall execute and the Trustee shall authenticate and shall deliver a new Bond or Bonds for a like aggregate principal amount and of like maturity. The Trustee may require the Bond Owner requesting such transfer to pay any tax or other governmental charge required to be paid with respect to such transfer. The cost of printing Bonds and any services rendered or expenses incurred by the Trustee in connection with any transfer shall be paid by the Authority.

Any Bond may be exchanged at the Office of the Trustee for a like aggregate principal amount of Bonds of other authorized denominations and of like maturity. Exchange of any Bond shall not be permitted during the period established by the Trustee for selection of Bonds for redemption or if such Bond has been selected for redemption pursuant to Article IV. The Trustee may require the Bond Owner requesting such exchange to pay any tax or other governmental charge required to be paid with respect to such exchange. The cost of printing Bonds and any services rendered or expenses incurred by the Trustee in connection with any transfer shall be paid by the Authority.

Section 2.04. Book-Entry System. Notwithstanding any provision of this Indenture to the contrary:

(a) The Bonds shall be initially issued and registered in the name of "Cede & Co.," as nominee of The Depository Trust Company, the depository designated by the Original Purchaser, and shall be evidenced by one certificate maturing on each of the maturity dates set forth in Section 2.02 hereof to be in a denomination corresponding to the total principal therein designated to mature on such date. Registered ownership of such Bonds, or any portions thereof, may not thereafter be transferred except:

(i) to any successor of The Depository Trust Company or its nominee, or of any substitute depository designated pursuant to paragraph (ii) of this subsection (a) ("substitute depository"); provided that any successor of The Depository Trust Company or substitute depository shall be qualified under any applicable laws to provide the service proposed to be provided by it;

(ii) to any substitute depository designated in a written request of the Authority, upon (A) the resignation of The Depository Trust Company or its successor (or any substitute depository or its successor) from its functions as depository or (B) a determination by the Authority that The Depository Trust Company or its successor is no longer able to carry out its functions as depository; provided that any such substitute depository shall be qualified under any applicable laws to provide the services proposed to be provided by it; or

(iii) to any person as provided below, upon (A) the resignation of The Depository Trust Company or its successor (or any substitute depository or its successor) from its functions as depository or (B) a determination by the Authority that The Depository Trust Company or its successor is no longer able to carry out its functions as depository; provided that no substitute depository which is not objected to by the Authority and the Trustee can be obtained.

(b) In the case of any transfer pursuant to paragraph (i) or paragraph (ii) of subsection (a) of this Section 2.04, upon receipt of all Outstanding Bonds by the Trustee, together with a written request of an Authorized Representative of the Authority to the Trustee, a single new Bond shall be issued, authenticated and delivered for each maturity of such Bond then outstanding, registered in the name of such successor or such substitute depository or their nominees, as the case may be, all as specified in such written request of an Authorized Representative of the Authority. In the case of any transfer pursuant to paragraph (iii) of subsection (a) of this Section 2.04, upon receipt of all Outstanding Bonds by the Trustee together with a written request of an Authorized Representative of the Authority, new Bonds shall be issued, authenticated and delivered in such denominations and registered in the names of such persons as are requested in a written request of the Authority provided the Trustee shall not be required to deliver such new Bonds within a period less than sixty (60) days from the date of receipt of such a written request of an Authorized Representative of the Authority.

(c) In the case of partial redemption or an advance refunding of any Bonds evidencing all of the principal maturing in a particular year, The Depository Trust Company shall, at the Authority's expense, deliver the Bonds to the Trustee for cancellation and re-registration to reflect the amounts of such reduction in principal.

(d) The Authority and the Trustee shall be entitled to treat the person in whose name any Bond is registered as the absolute Owner thereof for all purposes of this Indenture and any applicable laws, notwithstanding any notice to the contrary received by the Trustee or the Authority; and the Authority and the Trustee shall have no responsibility for transmitting payments to, communication with, notifying or otherwise dealing with any beneficial owners of the Bonds. Neither the Authority nor the Trustee will have any responsibility or obligations, legal or otherwise, to the beneficial owners or to any other party including The Depository Trust Company or its successor (or substitute depository or its successor), except for the registered owner of any Bond.

(e) So long as all outstanding Bonds are registered in the name of Cede & Co. or its registered assign, the Authority and the Trustee shall reasonably cooperate with Cede & Co., as sole registered Owner, or its registered assign in effecting payment of the principal and redemption premium, if any, and interest due with respect to the Bonds by arranging for payment in such manner that funds for such payments are properly identified and are made immediately available on the date they are due.

(f) So long as all Outstanding Bonds are registered in the name of Cede & Co. or its registered assigns (hereinafter, for purposes of this paragraph (f), the "Owner"):

(i) All notices and payments addressed to the Owners shall contain the Bonds' CUSIP number.

(ii) Notices to the Owner shall be forwarded in the manner set forth in the form of blanket issuer letter of representations (prepared by The Depository Trust Company) executed by the Authority and received and accepted by The Depository Trust Company.

Section 2.05. Registration Books. The Trustee will keep or cause to be kept, at the Office of the Trustee, sufficient records for the registration and transfer of ownership of the Bonds, which shall at all reasonable times upon reasonable prior notice be open to inspection during regular business hours by the Authority and the City; and, upon presentation for such purpose, the Trustee shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on such records, the ownership of the Bonds as hereinbefore provided.

Section 2.06. Form and Execution of Bonds. The Bonds shall be signed in the name and on behalf of the Authority with the facsimile signature of its Chair, Vice Chair or Executive Director and attested with the facsimile signature of its Secretary, and shall be delivered to the Trustee for authentication by it. In case any officer of the Authority who shall have signed any of the Bonds shall cease to be such officer before the Bonds so signed shall have been authenticated or delivered by the Trustee or issued by the Authority, such Bonds may nevertheless be authenticated, delivered and issued and, upon such authentication, delivery and issue, shall be as binding upon the Authority as though the individual who signed the same had continued to be such officer of the Authority. Also, any Bond may be signed on behalf of the Authority by any individual who on the actual date of the execution of such Bond shall be the proper officer although on the nominal date of such Bond such individual shall not have been such officer.

Only such of the Bonds as shall bear thereon a certificate of authentication in substantially the form set forth in Exhibit A, manually executed by the Trustee, shall be valid or obligatory for any purpose or entitled to the benefits of this Indenture, and such certificate of the Trustee shall be conclusive evidence that the Bonds so authenticated have been duly authenticated and delivered hereunder and are entitled to the benefits of this Indenture.

Section 2.07. Temporary Bonds. The Bonds may be issued in temporary form exchangeable for definitive Bonds when ready for delivery. Any temporary Bonds may be printed, lithographed or typewritten, shall be of such denominations as may be determined by the Authority, shall be in fully registered form without coupons and may contain such reference to any of the provisions of this Indenture as may be appropriate. Every temporary Bond shall be executed by the Authority and authenticated by the Trustee upon the same conditions and in substantially the same manner as the definitive Bonds. If the Authority issues temporary Bonds it will execute and deliver definitive Bonds as promptly thereafter as practicable, and thereupon the temporary Bonds may be surrendered, for cancellation, at the Office of the Trustee and the Trustee shall authenticate and deliver in exchange for such temporary Bonds an equal aggregate principal amount of definitive Bonds of authorized denominations. Until so exchanged, the temporary Bonds shall be entitled to the same benefits under this Indenture as definitive Bonds authenticated and delivered hereunder.

Section 2.08. Bonds Mutilated, Lost, Destroyed or Stolen. If any Bond shall become mutilated, the Authority, at the expense of the Owner of said Bond, shall execute, and the Trustee shall thereupon authenticate and deliver, a new Bond of like tenor in exchange and substitution for the Bond so mutilated, but only upon surrender to the Trustee of the Bond so mutilated. Every mutilated Bond so surrendered to the Trustee shall be canceled by it and delivered to, or upon the order of, the Authority. If any Bond shall be lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Authority and the Trustee and, if such evidence be satisfactory to them an indemnity satisfactory to them shall be given, the Authority, at the expense of the Owner of such lost, destroyed or stolen Bond, shall execute, and the Trustee shall thereupon authenticate and deliver, a new Bond of like tenor in lieu of and in substitution for the Bond so lost, destroyed or stolen (or if any such Bond shall have matured or shall have been called for redemption, instead of issuing a substitute Bond, the Trustee may pay the same without surrender thereof upon receipt of indemnity satisfactory to the Trustee). The Authority may require payment by the Owner of a sum not exceeding the actual cost of preparing each new Bond issued under this Section 2.08 and of the expenses which may be incurred by the Authority and the Trustee in the premises. Any Bond issued under the provisions of this Section 2.08 in lieu of any Bond alleged to be lost, destroyed or stolen shall constitute an original additional contractual obligation on the part of the Authority whether or not the Bond so alleged to be lost, destroyed or stolen be at any time enforceable by anyone, and shall be entitled to the benefits of this Indenture with all other Bonds secured by this Indenture.

Section 2.09. CUSIP Numbers. The Trustee, the Authority and the City shall not be liable for any defect or inaccuracy in the CUSIP number that appears on any Bond or in any redemption notice. The Trustee may, in its discretion, include in any redemption notice a statement to the effect that the CUSIP numbers on the Bonds have been assigned by an independent service and are included in such notice solely for the convenience of the Owners and that neither the Trustee, the Authority nor the City shall be liable for any inaccuracies in such numbers.

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ARTICLE III

APPLICATION OF PROCEEDS

Section 3.01. Application of Proceeds of Sale of Bonds.

(a) Upon the receipt of payment for the Bonds on the Closing Date of \$\_\_\_\_\_, being the principal amount of the Bonds of \$\_\_\_\_\_, less an underwriter's discount of \$\_\_\_\_\_, plus an original issue premium of \$\_\_\_\_\_, the Trustee shall apply the proceeds of sale thereof as follows:

(i) The Trustee shall deposit the amount of \$\_\_\_\_\_ in the Costs of Issuance Fund;

(ii) The Trustee shall deposit the amount of \$\_\_\_\_\_ in the Reserve Account; and

(iii) The Trustee shall deposit the amount of \$\_\_\_\_\_ in the Project Fund.

(b) The Trustee may, in its sole discretion, establish such funds or accounts in its records to facilitate the foregoing transfers and deposits.

Section 3.02. Establishment and Application of Costs of Issuance Fund. The Trustee shall establish, maintain and hold in trust a separate fund designated as the "Costs of Issuance Fund." The moneys in the Costs of Issuance Fund shall be used and withdrawn by the Trustee to pay the Costs of Issuance upon submission of Written Requisitions of the Authority stating the person to whom payment is to be made, the amount to be paid, the purpose for which the obligation was incurred and that such payment is a proper charge against said fund. Each such Written Requisition shall be sufficient evidence to the Trustee of the facts stated therein and the Trustee shall have no duty to confirm the accuracy of such facts. On February 25, 2011, or upon the earlier Written Request of the Authority, all amounts remaining in the Costs of Issuance Fund shall be transferred by the Trustee to the Project Fund.

Section 3.03. Establishment and Application of Project Fund. The Trustee shall establish, maintain and hold in trust a separate fund designated as the "Project Fund." Amounts on deposit in the Project Fund shall be used and withdrawn by the Trustee to pay the costs of the Project, upon the receipt from time to time of Written Requisitions of the City seeking payment of costs of the Project. Each such Written Requisition shall state (a) the person to whom payment is to be made, (b) the amount to be paid, and (c) the purpose for which the obligation was incurred. At the Written Request of the City filed at any time with the Trustee, the Trustee shall close the Project Fund and shall transfer all amounts therein to the Revenue Fund to be used for the payment of interest on the Bonds.

Section 3.04. Validity of Bonds. The validity of the authorization and issuance of the Bonds is not dependent on and shall not be affected in any way by any proceedings taken by the Authority or the Trustee with respect to or in connection with the Lease Agreement. The recital contained in the Bonds that the same are issued pursuant to the Constitution and laws of the State shall be conclusive evidence of their validity and of compliance with the provisions of law in their issuance.

ARTICLE IV

REDEMPTION OF BONDS

Section 4.01. Terms of Redemption.

(a) *Optional Redemption.* The Bonds maturing on or before October 1, \_\_\_\_, are not subject to optional redemption prior to their respective stated maturities. The Bonds maturing on or after October 1, \_\_\_\_, shall be subject to optional redemption, in whole or in part, upon forty-five (45) days written notice to the Trustee (or such lesser number of days acceptable to the Trustee in the sole discretion of the Trustee) by the City of its intention to optionally prepay all or a portion of the Lease Payments, on any date on or after October 1, \_\_\_\_, from any available source of funds of the City, at a redemption price equal to the principal amount of the Bonds to be redeemed, together with accrued interest thereon to the date fixed for redemption, without premium.

Any such redemption shall be in such order of maturity as the City shall designate in the above-mentioned written notice (and, if no specific order of redemption is designated by the City, pro rata among maturities).

(b) *Sinking Fund Redemption.*

(i) The Bonds maturing on October 1, \_\_\_\_ (the “ \_\_\_\_ Term Bonds”), shall also be subject to mandatory sinking fund redemption in part by lot on October 1, \_\_\_\_, and on each October 1 thereafter, to and including October 1, \_\_\_\_, from sinking fund payments derived from scheduled Lease Payments made by the City at a redemption price equal to the principal amount thereof to be redeemed together with accrued interest thereon to the redemption date, without premium, in the aggregate respective principal amounts and on the respective dates as set forth in the following table; *provided, however*, that if some but not all of the \_\_\_\_ Term Bonds have been redeemed pursuant to subsection (a) above, the total amount of all future sinking fund payments shall be reduced by the aggregate principal amount of \_\_\_\_ Term Bonds so redeemed, to be allocated among the sinking fund payments as are thereafter payable on a *pro rata* basis in integral multiples of \$5,000 to the extent possible and in inverse order thereafter. The City shall provide the Trustee with a revised schedule.

Sinking Account Redemption Date (October 1)	Principal Amount to be Redeemed or Purchased
---	---

†Maturity

In lieu of redemption of \_\_\_\_ Term Bonds pursuant to this subsection (b)(i), amounts on deposit with the Trustee as sinking fund payments may also be used and withdrawn by the Trustee, at the written direction of the Authority, at any time for the purchase of \_\_\_\_ Term Bonds otherwise required to be redeemed on the following October 1 at public or private sale as and when and at such prices (including brokerage and other charges and including accrued interest) as the Authority may in its discretion determine. The par amount of any of the \_\_\_\_ Term Bonds so purchased by the Authority and surrendered to the Trustee for cancellation in any twelve-month period ending on July 1 in any year shall be credited towards and shall reduce the par amount



of the \_\_\_\_ Term Bonds otherwise required to be redeemed on the following October 1 pursuant to this subsection (b)(ii).

(ii) The Bonds maturing on October 1, \_\_\_\_ (the “ \_\_\_\_ Term Bonds”), shall also be subject to mandatory sinking fund redemption in part by lot on October 1, \_\_\_\_, and on each October 1 thereafter, to and including October 1, \_\_\_\_, from sinking fund payments derived from scheduled Lease Payments made by the City at a redemption price equal to the principal amount thereof to be redeemed together with accrued interest thereon to the redemption date, without premium, in the aggregate respective principal amounts and on the respective dates as set forth in the following table; *provided, however*, that if some but not all of the \_\_\_\_ Term Bonds have been redeemed pursuant to subsection (a) above, the total amount of all future sinking fund payments shall be reduced by the aggregate principal amount of \_\_\_\_ Term Bonds so redeemed, to be allocated among the sinking fund payments as are thereafter payable on a *pro rata* basis in integral multiples of \$5,000 to the extent possible and in inverse order thereafter. The City shall provide the Trustee with a revised schedule.

Sinking Account Redemption Date (October 1)	Principal Amount to be Redeemed or Purchased
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\_\_\_\_\_  
†Maturity

In lieu of redemption of \_\_\_\_ Term Bonds pursuant to this subsection (b)(ii), amounts on deposit with the Trustee as sinking fund payments may also be used and withdrawn by the Trustee, at the written direction of the Authority, at any time for the purchase of \_\_\_\_ Term Bonds otherwise required to be redeemed on the following October 1 at public or private sale as and when and at such prices (including brokerage and other charges and including accrued interest) as the Authority may in its discretion determine. The par amount of any of the \_\_\_\_ Term Bonds so purchased by the Authority and surrendered to the Trustee for cancellation in any twelve-month period ending on July 1 in any year shall be credited towards and shall reduce the par amount of the \_\_\_\_ Term Bonds otherwise required to be redeemed on the following October 1 pursuant to this subsection (b)(ii).

(c) *Special Mandatory Redemption From Insurance or Condemnation Proceeds.* The Bonds shall also be subject to redemption as a whole, or in part on any date, to the extent the Trustee has received hazard insurance proceeds or condemnation proceeds not used to repair or replace any portion of the Property damaged or destroyed and elected by the City, to be used for such purpose as provided in Section 5.08, at a redemption price equal to one hundred percent (100%) of the principal amount thereof plus interest accrued thereon to the date fixed for redemption, without premium.

Section 4.02. Selection of Bonds for Redemption. Whenever provision is made in this Indenture for the redemption of less than all of the Bonds of a particular maturity, the Trustee shall select the Bonds to be redeemed from all Bonds of such maturity or such given portion thereof not previously called for redemption, by lot in any manner which the Trustee in its sole discretion shall deem appropriate. For purposes of such selection, the Trustee shall treat each Bond as consisting of separate \$5,000 portions and each such portion shall be subject to redemption as if such portion were a separate Bond. If less than all the Outstanding Bonds are

called for redemption from proceeds of eminent domain or insurance at any one time, the Authority shall specify to the Trustee a principal amount in each maturity to be redeemed which, to the extent practicable, results in approximately equal annual debt service on the Bonds Outstanding following such redemption. If less than all Outstanding Bonds are called for redemption from proceeds of eminent domain or insurance at any one time, the Authority shall designate the maturity or maturities of the Bonds to be redeemed.

Section 4.03. Notice of Redemption. Notice of redemption shall be mailed by the Trustee by first class mail, postage prepaid, not less than thirty (30) nor more than sixty (60) days before any redemption date, to the respective Owners of any Bonds designated for redemption at their addresses appearing on the Registration Books, and to the Securities Depositories and to the Information Services. Each notice of redemption shall state the date of the notice, the redemption date, the place or places of redemption, whether less than all of the Bonds (or all Bonds of a single maturity) are to be redeemed, the CUSIP numbers and (in the event that not all Bonds within a maturity are called for redemption) Bond numbers of the Bonds to be redeemed, the maturity or maturities of the Bonds to be redeemed and in the case of Bonds to be redeemed in part only, the respective portions of the principal amount thereof to be redeemed. Each such notice shall also state that on the redemption date there will become due and payable on each of said Bonds the redemption price thereof, and that from and after such redemption date interest thereon shall cease to accrue, and shall require that such Bonds be then surrendered. Neither the failure to receive any notice nor any defect therein shall affect the sufficiency of the proceedings for such redemption or the cessation of accrual of interest from and after the redemption date. Notice of redemption of Bonds shall be given by the Trustee, at the expense of the Authority, for and on behalf of the Authority.

Notwithstanding the foregoing, in the case of any optional redemption of the Bonds under Section 4.01(a) above, the notice of redemption shall state that the redemption is conditioned upon receipt by the Trustee of sufficient moneys to redeem the Bonds on the anticipated redemption date, and that the optional redemption shall not occur if, by no later than the scheduled redemption date, sufficient moneys to redeem the Bonds have not been deposited with the Trustee. In the event that the Trustee does not receive sufficient funds by the scheduled optional redemption date to so redeem the Bonds to be optionally redeemed, such event shall not constitute an Event of Default, the Trustee shall send written notice to the Owners, to the Securities Depositories and to one or more of the Information Services to the effect that the redemption did not occur as anticipated, and the Bonds for which notice of optional redemption was given shall remain Outstanding for all purposes of this Indenture.

The Authority shall have the right to rescind any optional redemption by written notice to the Trustee on or prior to the date fixed for redemption. The Trustee shall mail notice of rescission of redemption in the same manner notice of redemption was originally provided.

Section 4.04. Partial Redemption of Bonds. Upon surrender of any Bonds redeemed in part only, the Authority shall execute and the Trustee shall authenticate and deliver to the Owner thereof, at the expense of the Authority, a new Bond or Bonds of authorized denominations equal in aggregate principal amount to the unredeemed portion of the Bonds surrendered and of the same interest rate and maturity.

Section 4.05. Effect of Redemption. Notice of redemption having been duly given as aforesaid, and moneys for payment of the redemption price of, together with interest accrued to the date fixed for redemption on, the Bonds (or portions thereof) so called for redemption being held by the Trustee, on the redemption date designated in such notice, the Bonds (or portions thereof) so called for redemption shall become due and payable, interest on the Bonds so called for redemption shall cease to accrue, said Bonds (or portions thereof) shall cease to be entitled to



any benefit or security under this Indenture, and the Owners of said Bonds shall have no rights in respect thereof except to receive payment of the redemption price thereof.

All Bonds redeemed pursuant to the provisions of this Article shall be canceled by the Trustee upon surrender thereof and destroyed.

Section 4.06. Purchase of Bonds. In lieu of redemption of Bonds as provided in this Article IV, amounts held by the Trustee for such redemption may also be used on any Interest Payment Date, upon receipt by the Trustee at least sixty (60) days prior to the next scheduled Interest Payment Date of the written request of an Authorized Representative of the Authority, for the purchase of Bonds at public or private sale as and when and at such prices (including brokerage, accrued interest and other charges) as the Authority may in its discretion direct, but not to exceed the redemption price which would be payable if such Bonds were redeemed. The aggregate principal amount of Bonds of the same maturity purchased in lieu of redemption pursuant to this Section 4.06 shall not exceed the aggregate principal amount of Bonds of such maturity which would otherwise be subject to such redemption. Any Bonds so purchased shall be surrendered to the Trustee for cancellation.

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## ARTICLE V

### REVENUES; FUNDS AND ACCOUNTS; PAYMENT OF PRINCIPAL AND INTEREST

#### Section 5.01. Pledge and Assignment; Revenue Fund.

(a) Subject only to the provisions of this Indenture permitting the application thereof for the purposes and on the terms and conditions set forth herein, all of the Revenues and any other amounts (including proceeds of the sale of the Bonds) held in any fund or account established pursuant to this Indenture are hereby pledged to secure the payment of the principal of, premium, if any, and interest on the Bonds in accordance with their terms and the provisions of this Indenture. Said pledge shall constitute a first lien on and security interest in such assets and shall attach, be perfected and be valid and binding from and after the Closing Date, without any physical delivery thereof or further act.

(b) The Authority hereby transfers in trust, grants a security interest in and assigns to the Trustee, for the benefit of the Owners from time to time of the Bonds, all of the Revenues and all of the rights of the Authority in the Lease Agreement (except for certain rights to indemnification set forth therein), and in the Site and Facility Lease (except for certain rights to indemnification set forth therein). The Trustee shall be entitled to and shall collect and receive all of the Revenues, and any Revenues collected or received by the Authority shall be deemed to be held, and to have been collected or received, by the Authority as the agent of the Trustee and shall forthwith be paid by the Authority to the Trustee. The Trustee also shall be entitled to and shall, subject to the provisions of Article VIII, take all steps, actions and proceedings which the Trustee determines to be reasonably necessary in its judgment to enforce, either jointly with the Authority or separately, all of the rights of the Authority, all of the obligations of the City under the Lease Agreement.

The assignment of the Lease Agreement and the Site and Facility Lease to the Trustee is solely in its capacity as Trustee under this Indenture and the duties, powers and liabilities of the Trustee in acting thereunder shall be subject to the provisions of this Indenture, including, without limitation, the provisions of Article VIII hereof. The Trustee shall not be responsible for any representations, warranties, covenants or obligations of the Authority.

(c) The Trustee agrees to provide written notice to the City at least five Business Days prior to each Lease Payment Date of the amount, if any, on deposit in the Revenue Fund which shall serve as a credit against, and shall relieve the City of making, the Lease Payments due from the City on such Lease Payment Date. Subject to Section 5.09, all Revenues shall be promptly deposited by the Trustee upon receipt thereof in a special fund designated as the "Revenue Fund" which the Trustee shall establish, maintain and hold in trust; except that all moneys received by the Trustee and required hereunder or under the Lease Agreement to be deposited in the Redemption Fund or the Insurance and Condemnation Fund shall be promptly deposited in such Funds. Within the Revenue Fund there shall be established an Interest Account, a Principal Account and a Reserve Account. All Revenues deposited with the Trustee shall be held, disbursed, allocated and applied by the Trustee only as provided in this Indenture.

Section 5.02. Allocation of Revenues. Not later than the Business Day preceding each Interest Payment Date, the Trustee shall transfer from the Revenue Fund and deposit into the following respective accounts (each of which the Trustee shall establish and maintain within the Revenue Fund), the following amounts in the following order of priority, the requirements of each such account (including the making up of any deficiencies in any such account resulting

from lack of Revenues sufficient to make any earlier required deposit) at the time of deposit to be satisfied before any transfer is made to any account subsequent in priority:

(a) The Trustee shall deposit in the Interest Account an amount required to cause the aggregate amount on deposit in the Interest Account to be at least equal to the amount of interest becoming due and payable on such Interest Payment Date on all Bonds then Outstanding.

(b) The Trustee shall deposit in the Principal Account an amount, if any, required to cause the aggregate amount on deposit in the Principal Account to equal the principal amount of the Bonds coming due at maturity or upon sinking fund redemption and payable on such Interest Payment Date.

(c) The Trustee shall deposit in the Reserve Account an amount, if any, required to cause the amount on deposit in the Reserve Account to be equal to the Reserve Requirement.

(d) If the then applicable Interest Payment Date is April 1, all remaining moneys shall be held by the Trustee in the Revenue Fund and applied for the next succeeding October 1 Interest Payment Date deposits. If the then applicable Interest Payment Date is October 1, all remaining moneys shall be transferred to the City for deposit to the General Fund of the City.

Section 5.03. Application of Interest Account. All amounts in the Interest Account shall be used and withdrawn by the Trustee solely for the purpose of paying interest on the Bonds as it shall become due and payable (including accrued interest on any Bonds purchased or redeemed prior to maturity pursuant to this Indenture).

Section 5.04. Application of Principal Account. All amounts in the Principal Account shall be used and withdrawn by the Trustee solely to pay the principal amount of the Bonds at their respective maturity dates.

Section 5.05. Application of Sinking Account. All amounts in the Sinking Account shall be used and withdrawn by the Trustee solely to pay the aggregate principal amount of the Term Bonds required to be redeemed on such October 1 pursuant to Section 4.01(b).

Section 5.06. Application of Reserve Account. (a) Amounts in the Reserve Account shall be used and withdrawn by the Trustee solely for the purpose of making transfers to the Interest Account and the Principal Account in such order of priority, in the event of any deficiency at any time in any of such accounts or for the retirement of all the Bonds then Outstanding, except that so long as the Authority is not in default hereunder, any amount in the Reserve Account in excess of the Reserve Requirement (as determined by the Trustee based upon a valuation of investments held in such account) shall be withdrawn from the Reserve Account semiannually on or before the Business Day preceding each April 1 and October 1 by the Trustee and deposited in the Interest Account. All amounts in the Reserve Account on the Business Day preceding the final Interest Payment Date shall be withdrawn from the Reserve Account and shall be transferred either (i) to the Interest Account and the Principal Account, in such order, to the extent required to make the deposits then required to be made pursuant to this Section 5.06 or, (ii) if the Authority shall have caused to be transferred to the Trustee an amount sufficient to make the deposits required by this Section 5.06, then, at the Written Request of the Authority, to the Authority for deposit by the Authority into the Revenue Fund. The Trustee may conclusively presume that there has been no change in the Reserve Requirement unless notified in writing by the Authority.

~~(b) At any time, moneys on deposit in the Reserve Account may be substituted by the Authority with a Qualified Reserve Fund Credit Instrument, in an amount equal to the Reserve~~

~~Requirement, upon presentation to the Trustee of such Qualified Reserve Fund Credit Instrument. Upon such substitution, the Trustee shall transfer amounts on deposit in the Reserve Account to the Revenue Fund up to an amount equal to the maximum limits or principal amount, as applicable, of such letter of credit, surety bond, bond insurance policy or other form of guarantee.~~

Section 5.07. Application of Redemption Fund. The Trustee shall establish and maintain the Redemption Fund, amounts in which shall be used and withdrawn by the Trustee solely for the purpose of paying the principal of and premium on the Bonds to be redeemed pursuant to Sections 4.01(a) or (c); *provided, however*, that at any time prior to the selection of Bonds for redemption, the Trustee may apply such amounts to the purchase of Bonds at public or private sale, in accordance with Section 4.06.

Section 5.08. Insurance and Condemnation Fund.

(a) *Establishment of Fund*. Upon the receipt of any proceeds of insurance or eminent domain with respect to any portion of the Property, the Trustee shall establish and maintain an Insurance and Condemnation Fund, to be held and applied as hereinafter set forth in this Section 5.08.

(b) *Application of Insurance Proceeds*. Any Net Proceeds of insurance against accident to or destruction of the Property collected by the City in the event of any such accident or destruction shall be paid to the Trustee by the City pursuant to Section 6.1 of the Lease Agreement and deposited by the Trustee promptly upon receipt thereof in the Insurance and Condemnation Fund. If the City fails to determine and notify the Trustee in writing of its determination, within forty-five (45) days following the date of such deposit, to replace, repair, restore, modify or improve the Property, then such Net Proceeds shall be promptly transferred by the Trustee to the Redemption Fund and applied to the redemption of Bonds pursuant to Section 4.01(c) to the extent that such Net Proceeds permit. All proceeds deposited in the Insurance and Condemnation Fund and not so transferred to the Redemption Fund shall be applied to the prompt replacement, repair, restoration, modification or improvement of the damaged or destroyed portions of the Property by the City, upon receipt of Written Requisitions of the City, as agent for the Authority, which: (i) states with respect to each payment to be made (A) the requisition number, (B) the name and address of the person to whom payment is due, (C) the amount to be paid and (D) that each obligation mentioned therein has been properly incurred, is a proper charge against the Insurance and Condemnation Fund, has not been the basis of any previous withdrawal; and (ii) specifies in reasonable detail the nature of the obligation. Each such Written Requisition shall be sufficient evidence to the Trustee of the facts stated therein and the Trustee shall have no duty to confirm the accuracy of such facts. Any balance of the proceeds remaining after such work has been completed as certified by the City to the Trustee shall after payment of amounts due the Trustee be paid to the City.

(c) *Application of Eminent Domain Proceeds*. If all or any part of the 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 6.1 of the Lease Agreement and shall be applied and disbursed by the Trustee as follows:

(i) If the City has not given written notice to the Trustee, within forty-five (45) days following the date on which such Net Proceeds are deposited with the Trustee, of its determination that such Net Proceeds are needed for the replacement of the Property or such portion thereof, the Trustee shall transfer such Net Proceeds to the Redemption Fund to be applied towards the redemption of the Bonds pursuant to Section 4.01(c).

(ii) If the City has given written notice to the Trustee, within forty-five (45) days following the date on which such Net Proceeds are deposited with the Trustee, of its determination that such Net Proceeds are needed for replacement of the Property or such portion thereof, the Trustee shall pay to the City, or to its order, from said proceeds such amounts as the City may expend for such repair or rehabilitation, upon the filing of Written Requisitions of the City as agent for the Authority in the form and containing the provisions set forth in subsection (b) of this Section 5.08. Each such Written Requisition shall be sufficient evidence to the Trustee of the facts stated therein and the Trustee shall have no duty to confirm the accuracy of such facts.

Section 5.09. Investments. All moneys in any of the funds or accounts established with the Trustee pursuant to this Indenture shall be invested by the Trustee solely in Permitted Investments. Such investments shall be directed by the Authority pursuant to a Written Request of the Authority filed with the Trustee at least two (2) Business Days in advance of the making of such investments (which Written Request shall certify that the investments constitute Permitted Investments). In the absence of any such directions from the Authority, the Trustee shall invest any such moneys in Permitted Investments described in clause (d) of the definition thereof. Permitted Investments purchased as an investment of moneys in any fund shall be deemed to be part of such fund or account. The Authority shall take the liquidity needs of the moneys held hereunder into account in making investments.

All interest or gain derived from the investment of amounts in any of the funds or accounts established hereunder shall, prior to the completion of the Project, be deposited in the Project Fund, except that interest or gain derived from the investment of the amount in the Reserve Account shall be retained therein to the extent required to maintain the Reserve Requirement and that interest or gain derived from the investment of the amount in the Revenue Fund shall be retained therein. Following completion of the Project, all interest or gain derived from the investment of amounts in any of the funds or accounts established hereunder shall be deposited in the Revenue Fund, except that interest or gain derived from the investment of the amount in the Reserve Account shall be retained therein to the extent required to maintain the Reserve Requirement. To the extent that any investment agreement requires the payment of fees, such fees shall be paid from available moneys in the Revenue Fund after the deposit of moneys described in Section 5.02 (a) through (c) above. For purposes of acquiring any investments hereunder, the Trustee may commingle funds held by it hereunder. The Trustee or any of its affiliates may act as principal or agent in the acquisition or disposition of any investment and may impose its customary charges therefor. The Trustee or its affiliates may act as sponsor, advisor or depository with respect to any Permitted Investment. To the extent that any Permitted Investment purchased by the Trustee are registrable securities such Permitted Investment shall be registered in the name of the Trustee on behalf of the Owners. The Trustee shall incur no liability for losses arising from any investments made pursuant to this Section 5.09.

The Authority acknowledges that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the Authority the right to receive brokerage confirmations of security transactions as they occur, the Authority specifically waives receipt of such confirmations to the extent permitted by law. The Trustee will furnish the Authority periodic cash transaction statements which include detail for all investment transactions made by the Trustee hereunder.

Such investments shall be valued by the Trustee, but not less often than quarterly, at the market value thereof, exclusive of accrued interest. Deficiencies in the amount on deposit in any fund or account resulting from a decline in market value shall be restored no later than the succeeding valuation date. Investments purchased with funds on deposit in the Reserve

Account shall have a term to maturity of not greater than five years unless by the terms of such investment, the Trustee can access such funds at par upon reasonable notice.

The Trustee may utilize securities pricing services that may be available to it making such valuations, including those within its accounting system with respect to the Bonds, and conclusively rely thereon.

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## ARTICLE VI

### PARTICULAR COVENANTS

Section 6.01. Punctual Payment. The Authority shall punctually pay or cause to be paid the principal of and interest and premium (if any) on all the Bonds in strict conformity with the terms of the Bonds and of this Indenture, according to the true intent and meaning thereof, but only out of Revenues and other assets pledged for such payment as provided in this Indenture.

Section 6.02. Extension of Payment of Bonds. The Authority shall not directly or indirectly extend or assent to the extension of the maturity of any of the Bonds or the time of payment of any claims for interest by the purchase of such Bonds or by any other arrangement, and in case the maturity of any of the Bonds or the time of payment of any such claims for interest shall be extended, such Bonds or claims for interest shall not be entitled, in case of any default hereunder, to the benefits of this Indenture, except subject to the prior payment in full of the principal of all of the Bonds then Outstanding and of all claims for interest thereon which shall not have been so extended. Nothing in this Section 6.02 shall be deemed to limit the right of the Authority to issue Bonds for the purpose of refunding any Outstanding Bonds, and such issuance shall not be deemed to constitute an extension of maturity of the Bonds.

Section 6.03. Against Encumbrances. The Authority shall not create, or permit the creation of, any pledge, lien, charge or other encumbrance upon the Revenues and other assets pledged or assigned under this Indenture while any of the Bonds are Outstanding, except the pledge and assignment created by this Indenture. Subject to this limitation, the Authority expressly reserves the right to enter into one or more other indentures for any of its corporate purposes, and reserves the right to issue other obligations for such purposes. Nothing in this section shall in any way limit the City's ability to encumber its assets in accordance with the Lease Agreement.

Section 6.04. Power to Issue Bonds and Make Pledge and Assignment. The Authority is duly authorized pursuant to law to issue the Bonds and to enter into this Indenture and to pledge and assign the Revenues and other assets purported to be pledged and assigned, respectively, under this Indenture in the manner and to the extent provided in this Indenture. The Bonds and the provisions of this Indenture are and will be the legal, valid and binding special obligations of the Authority in accordance with their terms, and the Authority and the Trustee shall at all times, subject to the provisions of Article VIII and to the extent permitted by law, defend, preserve and protect said pledge and assignment of Revenues and other assets and all the rights of the Bond Owners under this Indenture against all claims and demands of all persons whomsoever.

Section 6.05. Accounting Records. The Trustee shall at all times keep, or cause to be kept, proper books of record and account, prepared in accordance with corporate trust industry standards, in which complete and accurate entries shall be made of all transactions made by it relating to the proceeds of Bonds, the Revenues, the Lease Agreement and all funds and accounts established pursuant to this Indenture. Such books of record and account shall be available for inspection by the Authority and the City, during business hours and under reasonable circumstances upon reasonable prior notice.

Section 6.06. No Additional Obligations. The Authority covenants that no additional bonds, notes or other indebtedness shall be issued or incurred which are payable out of the Revenues in whole or in part.

Section 6.07. Tax Covenants. The Authority covenants to and for the benefit of the Owners that, notwithstanding any other provisions of this Indenture (other than Section 11.01 hereof), it will:

(a) neither make or use nor cause to be made or used any investment or other use of the proceeds of the Bonds or the moneys and investments held in the funds and accounts established under this Indenture which would cause the Bonds to be arbitrage bonds under section 103(b) and section 148 of the Code and the Regulations issued under section 148 of the Code or which would otherwise cause the interest payable on the Bonds to be includable in gross income for federal income tax purposes;

(b) not take or cause to be taken any other action or actions, or fail to take any action or actions, which would cause the interest payable on the Bonds to be includable in gross income for federal income tax purposes;

(c) at all times do and perform all acts and things permitted by law and necessary or desirable in order to assure that interest paid by the Authority on the Bonds will be excluded from the gross income, for federal income tax purposes, of the Owners pursuant to section 103 of the Code; and

(d) not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Bonds to be “federally guaranteed” within the meaning of section 149(b) of the Code and the Regulations.

In furtherance of the covenants in this Section 6.07, the Authority shall execute, deliver and comply with the provisions of the Tax Certificate, which is by this reference incorporated into this Indenture and made a part of this Indenture as if set forth in this Indenture in full including all of the defined terms therein. The Trustee agrees it will invest funds held under this Indenture in accordance with the terms of this Indenture (this covenant shall extend throughout the term of the Bonds, to all funds and accounts created under this Indenture held by the Trustee and all moneys on deposit to the credit of any fund or account held by the Trustee).

The City has designated the Bonds as “Qualified Tax-Exempt Obligations” within the meaning of section 265(b)(3) of the Code.

Section 6.08. Rebate Fund.

(a) The Trustee shall establish and maintain, when required, a fund separate from any other fund established and maintained hereunder designated as the Rebate Fund. Within the Rebate Fund, the Trustee shall maintain such accounts as shall be necessary to comply with instructions of the Authority given pursuant to the terms and conditions of the Tax Certificate. Subject to the transfer provisions provided in paragraph (e) below, all money at any time deposited in the Rebate Fund shall be held by the Trustee in trust, to the extent required to satisfy the Rebate Requirement (as defined in the Tax Certificate), for payment to the federal government of the United States of America. Neither the Authority nor the Owner of any Bonds shall have any rights in or claim to such money. All amounts deposited into or on deposit in the Rebate Fund shall be governed by this Section 6.08, by Section 6.07 and by the Tax Certificate (which is incorporated herein by reference). The Trustee shall be deemed conclusively to have complied with such provisions if it follows the directions of the Authority including supplying all necessary information reasonably requested by the Authority, and shall have no liability or responsibility to enforce compliance by the Authority with the terms of the Tax Certificate or any other tax covenants contained herein. The Trustee shall not be responsible for calculating rebate amounts or for the adequacy or correctness of any rebate report or rebate calculations. The Trustee shall have no independent duty to review such calculations or enforce the



compliance by the Authority with such rebate requirements. The Trustee shall have no duty or obligation to determine the applicability of the Code and shall only be obligated to act in accordance with written instructions provided by the Authority.

(b) Upon the Authority's written direction, an amount shall be deposited to the Rebate Fund by the Trustee from deposits by the Authority, if and to the extent required, so that the balance in the Rebate Fund shall equal the Rebate Requirement. Computations of the Rebate Requirement shall be furnished by or on behalf of the Authority in accordance with the Tax Certificate. The Trustee shall supply to the Authority all necessary information requested by the Authority to the extent such information is reasonably available to the Trustee.

(c) The Trustee shall have no obligation to rebate any amounts required to be rebated pursuant to this Section 6.08, other than from moneys held in the funds and accounts created under this Indenture or from other moneys provided to it by the Authority.

(d) At the written direction of the Authority, the Trustee shall invest all amounts held in the Rebate Fund in Permitted Investments. Moneys shall not be transferred from the Rebate Fund except as provided in paragraph (e) below. The Trustee shall not be liable for any consequences arising from such investment.

(e) Upon receipt of the Authority's written directions, the Trustee shall remit part or all of the balances in the Rebate Fund to the United States, as so directed. In addition, if the Authority so directs, the Trustee will deposit money into or transfer money out of the Rebate Fund from or into such accounts or funds as directed by the Authority's written directions; *provided, however*, only moneys in excess of the Rebate Requirement may, at the written direction of the Authority, be transferred out of the Rebate Fund to such other accounts or funds or to anyone other than the United States in satisfaction of the arbitrage rebate obligation. Any funds remaining in the Rebate Fund after each five year remission to the United States, redemption and payment of all of the Bonds and payment and satisfaction of any Rebate Requirement, or provision made therefor satisfactory to the Trustee, shall be withdrawn and remitted to the Authority.

(f) Notwithstanding any other provision of this Indenture, including in particular Article X, the obligation to remit the Rebate Requirement to the United States and to comply with all other requirements of this Section 6.08, Section 6.07 and the Tax Certificate shall survive the defeasance or payment in full of the Bonds.

Section 6.09. Collection of Amounts Due Under Lease Agreement. The Trustee shall promptly collect all amounts due from the City pursuant to the Lease Agreement. Subject to the provisions of Article VIII, the Trustee shall enforce, and take all steps, actions and proceedings which the Trustee determines to be reasonably necessary for the enforcement of all of its rights thereunder as assignee of the Authority, for the enforcement of all of the obligations of the City under the Lease Agreement.

The Authority shall not amend, modify or terminate any of the terms of the Lease Agreement, or consent to any such amendment, modification or termination, without the prior written consent of the Trustee. The Trustee shall give such written consent only if (a) in the opinion of Bond Counsel, such amendment, modification or termination will not materially adversely affect the interests of the Owners, or (b) the Trustee first obtains the written consent of the Owners of a majority in aggregate principal amount of the Bonds then Outstanding to such amendment, modification or termination.

Section 6.10. Continuing Disclosure. The Authority hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate.

Notwithstanding any other provision of this Indenture, failure of the Authority to comply with the Continuing Disclosure Certificate shall not constitute an Event of Default hereunder; *provided, however*, that any Participating Underwriter or any Owner or beneficial owner of the Bonds may take such actions as may be necessary and appropriate to compel performance by the Authority of its obligations under this Section 6.10, including seeking mandate or specific performance by court order.

Section 6.11. Waiver of Laws. The Authority shall not at any time insist upon or plead in any manner whatsoever, or claim or take the benefit or advantage of, any stay or extension of law now or at any time hereafter in force that may affect the covenants and agreements contained in this Indenture or in the Bonds, and all benefit or advantage of any such law or laws is hereby expressly waived by the Authority to the extent permitted by law.

Section 6.12. Further Assurances. The Authority will make, execute and deliver any and all such further indentures, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Indenture and for the better assuring and confirming unto the Owners of the Bonds of the rights and benefits provided in this Indenture.

## ARTICLE VII

### EVENTS OF DEFAULT AND REMEDIES

Section 7.01. Events of Default. The following events shall be Events of Default hereunder:

(a) Default in the due and punctual payment of the principal or sinking fund installments of any Bonds when and as the same shall become due and payable, whether at maturity as therein expressed, by proceedings for redemption or otherwise.

(b) Default in the due and punctual payment of any installment of interest on any Bonds when and as the same shall become due and payable.

(c) Default by the Authority in the observance of any of the other covenants, agreements or conditions on its part in this Indenture or in the Bonds contained, if such default shall have continued for a period of thirty (30) days after written notice thereof, specifying such default and requiring the same to be remedied, shall have been given to the Authority by the Trustee; *provided, however*, that if in the reasonable opinion of the Authority the default stated in the notice can be corrected, but not within such thirty (30) day period, such default shall not constitute an Event of Default hereunder if the Authority shall commence to cure such default within such thirty (30) day period and thereafter diligently and in good faith cure such failure in a reasonable period of time which period shall be no longer than 120 days after the original written notice of default.

(d) The occurrence and continuation of an event of default under and as defined in the Lease Agreement.

Section 7.02. Remedies Upon Event of Default. Upon the occurrence and continuance of any Event of Default, then and in every such case the Trustee in its discretion may, and upon the written request of the Owners of not less than 25% in principal amount of the Bonds then Outstanding and receipt of indemnity to its satisfaction, and payment of its fees and expenses, including the fees and expenses of its counsel, shall in its own name and as the Trustee of an express trust:

(a) by mandamus, or other suit, action or proceeding at law or in equity, enforce all rights of the Owners under, and require the Authority or the City to carry out any agreements with or for the benefit of the Owners of Bonds and to perform its or their duties under the Lease Agreement and this Indenture, provided that any such remedy may be taken only to the extent permitted under the applicable provisions of the Lease Agreement or this Indenture, as the case may be;

(b) bring suit upon the Bonds;

(c) by action or suit in equity require the Authority to account as if it were the trustee of an express trust for the Owners of Bonds; or

(d) by action or suit in equity enjoin any acts or things which may be unlawful or in violation of the rights of the Owners of Bonds hereunder.

Upon the occurrence of an Event of Default, the Trustee shall be entitled as a matter of right to the appointment of a receiver or receivers for the Revenues, *ex parte*, and without notice, and the Authority consents to the appointment of such receiver upon the occurrence of an Event

of Default. In the case of any receivership, insolvency, bankruptcy, or other judicial proceedings affecting the Authority or the City, the Trustee shall be entitled to file such proofs of claims and other documents as may be necessary or advisable in order to have the claims of the Trustee and the Bond Owners allowed in such proceedings, without prejudice, however, to the right of any Bond Owner to file a claim on his or her own behalf; provided, the Trustee shall be entitled to compensation and reimbursement for the reasonable fees and expenses of its counsel and indemnity for its reasonable expenses and liability from the Authority, the City or the Bond Owners, as appropriate.

Nothing herein shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Bond Owner any plan of reorganization, arrangement, adjustment, or composition affecting the Bonds or the rights of any Owner thereof, or to authorize the Trustee to vote in respect of the claim of any Bond Owner in any such proceeding without the approval of the Bond Owners so affected.

Section 7.03. Application of Revenues and Other Funds After Default. If an Event of Default shall occur and be continuing, all Revenues and any other funds then held or thereafter received by the Trustee under any of the provisions of this Indenture shall be applied by the Trustee as follows and in the following order:

(a) To the payment of any expenses necessary in the opinion of the Trustee to protect the interests of the Owners of the Bonds and payment of reasonable fees, charges and expenses of the Trustee (including reasonable fees and disbursements of its counsel) incurred in and about the performance of its powers and duties under this Indenture;

(b) To the payment of the principal of and interest then due on the Bonds (upon presentation of the Bonds to be paid, and stamping or otherwise noting thereon of the payment if only partially paid, or surrender thereof if fully paid) in accordance with the provisions of this Indenture, as follows:

*First:* To the payment to the persons entitled thereto of all installments of interest then due in the order of the maturity of such installments, and, if the amount available shall not be sufficient to pay in full any installment or installments maturing on the same date, then to the payment thereof ratably, according to the amounts due thereon, to the persons entitled thereto, without any discrimination or preference; and

*Second:* To the payment to the persons entitled thereto of the unpaid principal of any Bonds which shall have become due, whether at maturity or by redemption, with interest on the overdue principal at the rate borne by the respective Bonds (to the extent permitted by law), and, if the amount available shall not be sufficient to pay in full all the Bonds, together with such interest, then to the payment thereof ratably, according to the amounts of principal due on such date to the persons entitled thereto, without any discrimination or preference.

Section 7.04. Trustee to Represent Bond Owners. The Trustee is hereby irrevocably appointed (and the successive respective Owners of the Bonds, by taking and holding the same, shall be conclusively deemed to have so appointed the Trustee) as trustee and true and lawful attorney-in-fact of the Owners of the Bonds for the purpose of exercising and prosecuting on their behalf such rights and remedies as may be available to such Owners under the provisions of the Bonds, this Indenture and applicable provisions of any law. Upon the occurrence and continuance of an Event of Default or other occasion giving rise to a right in the Trustee to represent the Bond Owners, the Trustee in its discretion may, and upon the written request of the Owners of a majority in aggregate principal amount of the Bonds then Outstanding, and upon being indemnified to its satisfaction therefor, the Trustee shall, proceed to protect or

enforce its rights or the rights of such Owners by such appropriate action, suit, mandamus or other proceedings as shall be deemed most effectual to protect and enforce any such right, at law or in equity, either for the specific performance of any covenant or agreement contained herein, or in aid of the execution of any power herein granted, or for the enforcement of any other appropriate legal or equitable right or remedy vested in the Trustee or in such Owners under the Bonds, this Indenture or any other law; and upon instituting such proceeding, the Trustee shall be entitled, as a matter of right, to the appointment of a receiver of the Revenues and other assets pledged under this Indenture, pending such proceedings. All rights of action under this Indenture or the Bonds or otherwise may be prosecuted and enforced by the Trustee without the possession of any of the Bonds or the production thereof in any proceeding relating thereto, and any such suit, action or proceeding instituted by the Trustee shall be brought in the name of the Trustee for the benefit and protection of all the Owners of such Bonds, subject to the provisions of this Indenture.

Section 7.05. Bond Owners' Direction of Proceedings. Anything in this Indenture to the contrary notwithstanding, the Owners of a majority in aggregate principal amount of the Bonds then Outstanding shall have the right, by an instrument or concurrent instruments in writing executed and delivered to the Trustee, and upon indemnification of the Trustee to its reasonable satisfaction, to direct the method of conducting all remedial proceedings taken by the Trustee hereunder, provided that such direction shall not be otherwise than in accordance with law and the provisions of this Indenture, and that the Trustee shall have the right to decline to follow any such direction which in the opinion of the Trustee would expose it to liability.

Section 7.06. Limitation on Bond Owners' Right to Sue. Notwithstanding any other provision hereof, no Owner of any Bonds shall have the right to institute any suit, action or proceeding at law or in equity, for the protection or enforcement of any right or remedy under this Indenture, the Lease Agreement or any other applicable law with respect to such Bonds, unless (a) such Owner shall have given to the Trustee written notice of the occurrence of an Event of Default; (b) the Owners of a majority in aggregate principal amount of the Bonds then Outstanding shall have made written request upon the Trustee to exercise the powers hereinbefore granted or to institute such suit, action or proceeding in its own name; (c) such Owner or Owners shall have tendered to the Trustee reasonable indemnity against the costs, expenses and liabilities to be incurred in compliance with such request; (d) the Trustee shall have failed to comply with such request for a period of sixty (60) days after such written request shall have been received by, and said tender of indemnity shall have been made to, the Trustee; and (e) no direction inconsistent with such written request shall have been given to the Trustee during such sixty (60) day period by the Owners of a majority in aggregate principal amount of the Bonds then Outstanding.

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 Bonds of any remedy hereunder or under law; it being understood and intended that no one or more Owners of Bonds shall have any right in any manner whatever by his or their action to affect, disturb or prejudice the security of this Indenture or the rights of any other Owners of Bonds, or to enforce any right under the Bonds, this Indenture, the Lease Agreement or other applicable law with respect to the Bonds, except in the manner herein provided, and that all proceedings at law or in equity to enforce any such right shall be instituted, had and maintained in the manner herein provided and for the benefit and protection of all Owners of the Outstanding Bonds, subject to the provisions of this Indenture.

Section 7.07. Absolute Obligation of Authority. Nothing in Section 7.06 or in any other provision of this Indenture or in the Bonds contained shall affect or impair the obligation of the Authority, which is absolute and unconditional, to pay the principal of and interest and premium (if any) on the Bonds to the respective Owners of the Bonds at their respective dates of

maturity, or upon call for redemption, as herein provided, but only out of the Revenues and other assets herein pledged therefor, or affect or impair the right of such Owners, which is also absolute and unconditional, to enforce such payment by virtue of the contract embodied in the Bonds.

Section 7.08. Termination of Proceedings. If any proceedings taken by the Trustee or any one or more Bond Owners on account of any Event of Default shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee or the Bond Owners, then the Authority, the Trustee and the Bond Owners, subject to any determination in such proceedings, shall be restored to their former positions and rights hereunder, severally and respectively, and all rights, remedies, powers and duties of the Authority, the Trustee and the Bond Owners shall continue as though no such proceedings had been taken.

Section 7.09. Remedies Not Exclusive. No remedy herein conferred upon or reserved to the Trustee or the Owners of the Bonds is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

Section 7.10. No Waiver of Default. No delay or omission of the Trustee or any Owner of the Bonds to exercise any right or power arising upon the occurrence 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 Indenture to the Trustee or the Owners of the Bonds may be exercised from time to time and as often as may be deemed expedient.

Section 7.11. Parties Interested Herein. Nothing in this Indenture expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the City, the Authority, the Trustee, their officers, employees and agents, and the Owners any right, remedy or claim under or by reason of this Indenture, or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Indenture contained by and on behalf of the Authority shall be for the sole and exclusive benefit of the City, the Authority, the Trustee, their officers, employees and agents, and the Owners.



ARTICLE VIII  
THE TRUSTEE

Section 8.01. Duties, Immunities and Liabilities of Trustee.

(a) The Trustee shall, prior to an Event of Default, and after the curing or waiver of all Events of Default which may have occurred, perform such duties and only such duties as are expressly and specifically set forth in this Indenture and no implied duties or covenants shall be read into this Indenture against the Trustee. The Trustee shall, during the existence of any Event of Default (which has not been cured or waived), exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in its exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

(b) The Authority may remove the Trustee at any time unless an Event of Default shall have occurred and then be continuing, and the Authority shall remove the Trustee if at any time requested to do so by the Owners of not less than a majority in aggregate principal amount of the Bonds then Outstanding (or their attorneys duly authorized in writing) or if at any time the Trustee shall cease to be eligible in accordance with subsection (e) of this Section 8.01, or shall become incapable of acting, or shall be adjudged a bankrupt or insolvent, or a receiver of the Trustee or its property shall be appointed, or any public officer shall take control or charge of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation, in each case by giving written notice of such removal to the Trustee and the City and thereupon shall appoint a successor Trustee by an instrument in writing. Any such removal shall be made upon at least thirty (30) days' prior written notice to the Trustee.

(c) The Trustee may at any time resign by giving written notice of such resignation to the Authority and the City, and by giving the Bond Owners notice of such resignation by mail at the addresses shown on the Registration Books. Upon receiving such notice of resignation, the Authority shall promptly appoint a successor Trustee by an instrument in writing.

(d) Any removal or resignation of the Trustee and appointment of a successor Trustee shall become effective upon acceptance of appointment by the successor Trustee. If no successor Trustee shall have been appointed and have accepted appointment within sixty (60) days of giving notice of removal or notice of resignation as aforesaid, the Authority shall (or the Trustee may at the expense of the Authority) petition any court of competent jurisdiction for the appointment of a successor Trustee, and such court may thereupon, after such notice (if any) as it may deem proper, appoint such successor Trustee. Any successor Trustee appointed under this Indenture, shall signify its acceptance of such appointment by executing and delivering to the Authority, to its predecessor Trustee a written acceptance thereof, and thereupon such successor Trustee, without any further act, deed or conveyance, shall become vested with all the moneys, estates, properties, rights, powers, trusts, duties and obligations of such predecessor Trustee, with like effect as if originally named Trustee herein; but, nevertheless at the Written Request of the Authority or the request of the successor Trustee, such predecessor Trustee shall execute and deliver any and all instruments of conveyance or further assurance and do such other things as may reasonably be required for more fully and certainly vesting in and confirming to such successor Trustee all the right, title and interest of such predecessor Trustee in and to any property held by it under this Indenture and shall pay over, transfer, assign and deliver to the successor Trustee any money or other property subject to the trusts and conditions herein set forth. Upon request of the successor Trustee, the Authority shall execute and deliver any and all instruments as may be reasonably required for more fully and certainly vesting in and confirming to such successor Trustee all such moneys, estates, properties, rights,

powers, trusts, duties and obligations. Upon acceptance of appointment by a successor Trustee as provided in this subsection, the Authority shall promptly mail or cause the successor trustee to mail a notice of the succession of such Trustee to the trusts hereunder to each rating agency which is then rating the Bonds and to the Bond Owners at the addresses shown on the Registration Books. If the Authority fails to mail such notice within fifteen (15) days after acceptance of appointment by the successor Trustee, the successor Trustee shall cause such notice to be mailed at the expense of the Authority.

(e) Any Trustee appointed under this Indenture shall be a corporation or association organized and doing business under the laws of any state or the United States of America or the District of Columbia, shall be authorized under such laws to exercise corporate trust powers, shall have (or, in the case of a corporation or national banking association included in a bank holding company system, the related bank holding company shall have) a combined capital and surplus of at least fifty million dollars (\$50,000,000), shall be subject to supervision or examination by federal or state agency, so long as any Bonds are Outstanding. If such corporation or national banking association publishes a report of condition at least annually pursuant to law or to the requirements of any supervising or examining agency above referred to then for the purpose of this subsection (e), the combined capital and surplus of such corporation or national banking association shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. In case at any time the Trustee shall cease to be eligible in accordance with the provisions of this subsection (e), the Trustee shall resign immediately in the manner and with the effect specified in this Section 8.01.

Section 8.02. Merger or Consolidation. Any bank or trust company into which the Trustee may be merged or converted or with which it may be consolidated or any bank or trust company resulting from any merger, conversion or consolidation to which it shall be a party or any bank or trust company to which the Trustee may sell or transfer all or substantially all of its corporate trust business, provided such bank or trust company shall be eligible under subsection (e) of Section 8.01 shall be the successor to such Trustee, without the execution or filing of any paper or any further act, anything herein to the contrary notwithstanding.

Section 8.03. Liability of Trustee.

(a) The recitals of facts herein and in the Bonds contained shall not be taken as statements of the Trustee, and the Trustee shall not assume responsibility for the correctness of the same, or make any representations as to the validity or sufficiency of this Indenture, the Bonds or the Lease Agreement, nor shall the Trustee incur any responsibility in respect thereof, other than as expressly stated herein in connection with the respective duties or obligations herein or in the Bonds assigned to or imposed upon it. The Trustee shall, however, be responsible for its representations contained in its certificate of authentication on the Bonds. The Trustee shall not be liable in connection with the performance of its duties hereunder, except for its own negligence. The Trustee may become the Owner of Bonds with the same rights it would have if it were not Trustee, and, to the extent permitted by law, may act as depository for and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Bond Owners, whether or not such committee shall represent the Owners of a majority in principal amount of the Bonds then Outstanding.

(b) The Trustee shall not be liable for any error of judgment made in good faith by a responsible officer, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts.

(c) The Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Owners of not less than a majority in aggregate principal amount of the Bonds at the time Outstanding relating to the time, method



and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee under this Indenture.

(d) The Trustee shall not be liable for any action taken by it in good faith and believed by it to be authorized or within the discretion or rights or powers conferred upon it by this Indenture.

(e) The Trustee shall not be deemed to have knowledge of any Event of Default hereunder, or any other event which, with the passage of time, the giving of notice, or both, would constitute an Event of Default hereunder unless and until it shall have actual knowledge thereof, or a corporate trust officer shall have received written notice thereof, at its Office. Except as otherwise expressly provided herein, the Trustee shall not be bound to ascertain or inquire as to the performance or observance by the Authority or the City of any of the terms, conditions, covenants or agreements herein, under the Lease Agreement or of any of the documents executed in connection with the Bonds, or as to the existence of an Event of Default or an event which would, with the giving of notice, the passage of time, or both, constitute an Event of Default. The Trustee shall not be responsible for the validity, effectiveness or priority of any collateral given to or held by it. Without limiting the generality of the foregoing, the Trustee shall not be required to ascertain or inquire as to the performance or observance by the City and the Authority of the terms, conditions, covenants or agreements set forth in the Lease Agreement, other than the covenants of the City to make Lease Payments to the Trustee when due, such reports and certifications as the City are required to file with the Trustee thereunder.

(f) No provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it is not assured to its satisfaction that the repayment of such funds or indemnity satisfactory to it against such risk or liability is reasonably assured to it.

(g) The Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or through agents or attorneys and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder.

(h) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of Owners pursuant to this Indenture, unless such Owners shall have offered to the Trustee reasonable security or indemnity satisfactory to it against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction. No permissive power, right or remedy conferred upon the Trustee hereunder shall be construed to impose a duty to exercise such power, right or remedy.

(i) Whether or not therein expressly so provided, every provision of this Indenture and the Lease Agreement relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of Section 8.01(a), this Section 8.03 and Section 8.04 hereof.

(j) The Trustee shall not be concerned with or accountable to anyone for the subsequent use or application of any moneys which shall be released or withdrawn in accordance with the provisions hereof.

(k) The Trustee makes no representation or warranty, expressed or implied as to the title, value, design, compliance with specifications or legal requirements, quality, durability, operation, condition, merchantability or fitness for any particular purpose for the use

contemplated by the Authority or the City of the Property. In no event shall the Trustee be liable for incidental, indirect, special or consequential damages in connection with or arising from the Lease Agreement or this Indenture for the existence, furnishing or use of the Property.

(l) Except to the extent that information was provided by the Trustee, 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 with respect to the Bonds.

(m) The indemnities extended to the Trustee also extend to its directors, officers, employees and agents.

(n) The Trustee may become the owner or pledgee of any Bonds with the same rights it would have if it were not Trustee.

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

(p) The Trustee agrees to accept and act upon instructions or directions pursuant to this Indenture sent by unsecured e-mail, facsimile transmission or other similar unsecured electronic methods, provided, however, that, the Trustee shall have received an incumbency certificate listing persons designated to give such instructions or directions and containing specimen signatures of such designated persons, which such incumbency certificate shall be amended and replaced whenever a person is to be added or deleted from the listing. If the Authority or the City elects to give the Trustee e-mail or facsimile instructions (or instructions by a similar electronic method) and the Trustee in its discretion elects to act upon such instructions, the Trustee's understanding of such instructions shall be deemed controlling. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The Authority and the City agree to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties.

Section 8.04. Right to Rely on Documents. The Trustee shall be protected in acting upon any notice, facsimile, e-mail, resolution, request, requisition, consent, order, certificate, report, opinion, bonds or other paper or document believed by them to be genuine and to have been signed or presented by the proper party or parties. The Trustee may consult with counsel, who may be counsel of or to the Authority, with regard to legal questions, and the opinion or advice of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance therewith.

The Trustee may treat the Owners of the Bonds appearing in the Registration Books as the absolute owners of the Bonds for all purposes and the Trustee shall not be affected by any notice to the contrary.

Whenever in the administration of the trusts imposed upon it by this Indenture the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively proved and established by a Written Certificate, Written Request or Written Requisition of the Authority or the City, and such Written Certificate, Written Request or Written Requisition shall be full warrant to the Trustee for any action taken or suffered in good faith under the provisions of this Indenture in reliance upon such Written Certificate, Written Request or Written Requisition, but in its discretion the Trustee may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as to it may deem reasonable.

Section 8.05. Preservation and Inspection of Documents. All documents received by the Trustee under the provisions of this Indenture shall be retained by the Trustee and shall be subject at all reasonable times to the inspection of the Authority, the City and any Bond Owner, and their agents and representatives duly authorized in writing, at reasonable hours and under reasonable conditions upon reasonable prior notice.

Section 8.06. Compensation and Indemnification. The Authority shall pay to the Trustee from time to time compensation for all services rendered under this Indenture and also all reasonable expenses and disbursements (including fees and expenses of counsel), incurred in and about the performance of its powers and duties under this Indenture.

The Authority shall indemnify, defend and hold harmless the Trustee against any loss, liability or expense incurred without negligence or willful misconduct on its part, arising out of or in connection with the acceptance or administration of this Indenture, under the Lease Agreement, or any other document or transaction contemplated in connection herewith including costs and expenses of defending itself against any claim or liability in connection with the exercise or performance of any of its powers hereunder. As security for the performance of the obligations of the Authority under this Section 8.06 to the Trustee, the Trustee shall have a lien prior to the lien of the Bonds upon all property and funds held or collected by the Trustee as such, except funds held in trust for the payment of principal of or interest on particular Bonds. The rights of the Trustee and the obligations of the Authority under this Section 8.06 shall survive the resignation or removal of the Trustee or the discharge of the Bonds and this Indenture.

When the Trustee incurs expenses or renders services after the occurrence of an Event of Default, such expenses and the compensation for such services are intended to constitute expenses of administration under any federal or state bankruptcy, insolvency, arrangement, moratorium, reorganization or other debtor relief law.

## ARTICLE IX

### MODIFICATION OR AMENDMENT OF THIS INDENTURE

#### Section 9.01. Amendments Permitted.

(a) This Indenture and the rights and obligations of the Authority and of the Owners of the Bonds and of the Trustee may be modified or amended from time to time and at any time by an indenture or indentures supplemental thereto, which the Authority and the Trustee may enter into when the written consents of the Owners of a majority in aggregate principal amount of all Bonds then Outstanding, shall have been filed with the Trustee. No such modification or amendment shall (i) extend the fixed maturity of any Bonds, or reduce the amount of principal thereof or extend the time of payment, or change the method of computing the rate of interest thereon, or extend the time of payment of interest thereon, without the consent of the Owner of each Bond so affected, or (ii) reduce the aforesaid percentage of Bonds the consent of the Owners of which is required to effect any such modification or amendment, or permit the creation of any lien on the Revenues and other assets pledged under this Indenture prior to or on a parity with the lien created by this Indenture except as permitted herein, or deprive the Owners of the Bonds of the lien created by this Indenture on such Revenues and other assets (except as expressly provided in this Indenture), without the consent of the Owners of all of the Bonds then Outstanding. It shall not be necessary for the consent of the Bond Owners to approve the particular form of any Supplemental Indenture, but it shall be sufficient if such consent shall approve the substance thereof.

(b) This Indenture and the rights and obligations of the Authority, of the Trustee and the Owners of the Bonds may also be modified or amended from time to time and at any time by a Supplemental Indenture, which the Authority and the Trustee may enter into without the consent of any Bond Owners, if the Trustee has been furnished an opinion of counsel that the provisions of such Supplemental Indenture shall not materially adversely affect the interests of the Owners of the Bonds, including, without limitation, for any one or more of the following purposes:

(i) to add to the covenants and agreements of the Authority in this Indenture contained other covenants and agreements thereafter to be observed, to pledge or assign additional security for the Bonds (or any portion thereof), or to surrender any right or power herein reserved to or conferred upon the Authority;

(ii) to make such provisions for the purpose of curing any ambiguity, inconsistency or omission, or of curing or correcting any defective provision, contained in this Indenture, or in regard to matters or questions arising under this Indenture, as the Authority may deem necessary or desirable;

(iii) to modify, amend or supplement this Indenture in such manner as to permit the qualification hereof under the Trust Indenture Act of 1939, as amended, or any similar federal statute hereafter in effect, and to add such other terms, conditions and provisions as may be permitted by said act or similar federal statute; or

(iv) to modify, amend or supplement this Indenture in such manner as to cause interest on the Bonds to remain excludable from gross income under the Code.

(c) The Trustee may in its discretion, but shall not be obligated to, enter into any such Supplemental Indenture authorized by subsections (a) or (b) of this Section 9.01 which

materially adversely affects the Trustee's own rights, duties or immunities under this Indenture or otherwise.

(d) Prior to the Trustee entering into any Supplemental Indenture hereunder, there shall be delivered to the Trustee an opinion of Bond Counsel stating, in substance, that such Supplemental Indenture has been adopted in compliance with the requirements of this Indenture and that the adoption of such Supplemental Indenture will not, in and of itself, adversely affect the exclusion from gross income for purposes of federal income taxes of interest on the Bonds.

(e) Written notice of any amendment or modification made pursuant to this Section 9.01 shall be given by the Authority to any rating agency then rating the Bonds at least thirty (30) days prior to the effective date of such amendment or modification.

Section 9.02. Effect of Supplemental Indenture. Upon the execution of any Supplemental Indenture pursuant to this Article IX, this Indenture shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties and obligations under this Indenture of the Authority, the Trustee and all Owners of Bonds Outstanding 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 such Supplemental Indenture shall be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

Section 9.03. Endorsement of Bonds; Preparation of New Bonds. Bonds delivered after the execution of any Supplemental Indenture pursuant to this Article may, and if the Authority so determines shall, bear a notation by endorsement or otherwise in form approved by the Authority and the Trustee as to any modification or amendment provided for in such Supplemental Indenture, and, in that case, upon demand on the Owner of any Bonds Outstanding at the time of such execution and presentation of his Bonds for the purpose at the Office of the Trustee or at such additional offices as the Trustee may select and designate for that purpose, a suitable notation shall be made on such Bonds. If the Supplemental Indenture shall so provide, new Bonds so modified as to conform, in the opinion of the Authority and the Trustee, to any modification or amendment contained in such Supplemental Indenture, shall be prepared and executed by the Authority and authenticated by the Trustee, and upon demand on the Owners of any Bonds then Outstanding shall be exchanged at the Office of the Trustee, without cost to any Bond Owner, for Bonds then Outstanding, upon surrender for cancellation of such Bonds, in equal aggregate principal amount of the same series and maturity.

Section 9.04. Amendment of Particular Bonds. The provisions of this Article IX shall not prevent any Bond Owner from accepting any amendment as to the particular Bonds held by him.



ARTICLE X  
DEFEASANCE

Section 10.01. Discharge of Indenture. Any or all of the Outstanding Bonds may be paid by the Authority in any of the following ways, provided that the Authority also pays or causes to be paid any other sums payable hereunder by the Authority:

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

(b) by depositing with the Trustee, in trust, at or before maturity, Defeasance Obligations in the necessary amount (as provided in Section 10.03) to pay or redeem such Bonds; or

(c) by delivering to the Trustee, for cancellation by it, such Bonds.

If the Authority shall also pay or cause to be paid all other sums payable hereunder by the Authority, then and in that case, at the election of the Authority (evidenced by a Written Certificate of the Authority, filed with the Trustee, signifying the intention of the Authority to discharge all such indebtedness and this Indenture), and notwithstanding that any of such Bonds shall not have been surrendered for payment, this Indenture and the pledge of Revenues and other assets made under this Indenture with respect to such Bonds and all covenants, agreements and other obligations of the Authority under this Indenture (except its obligations under Section 8.06 hereof) with respect to such Bonds shall cease, terminate, become void and be completely discharged and satisfied. In such event, upon the Written Request of the Authority, the Trustee shall execute and deliver to the Authority all such instruments as may be necessary or desirable to evidence such discharge and satisfaction, and the Trustee shall pay over, transfer, assign or deliver to the City all moneys or securities or other property held by it pursuant to this Indenture which are not required for the payment or redemption of any of such Bonds not theretofore surrendered for such payment or redemption.

Section 10.02. Discharge of Liability on Bonds. Upon the deposit with the Trustee, in trust, at or before maturity, of money or securities in the necessary amount (as provided in Section 10.03) to pay or redeem any Outstanding Bonds (whether upon or prior to the maturity or the redemption date of such Bonds), provided that, if such Bonds are to be redeemed prior to maturity, notice of such redemption shall have been given as provided in Article IV or provision satisfactory to the Trustee shall have been made for the giving of such notice, then all liability of the Authority in respect of such Bonds shall cease, terminate and be completely discharged, and the Owners thereof shall thereafter be entitled only to payment out of such money or securities deposited with the Trustee as aforesaid for their payment, subject, however, to the provisions of Section 10.04.

The Authority may at any time surrender to the Trustee for cancellation by it any Bonds previously issued and delivered, which the Authority may have acquired in any manner whatsoever, and such Bonds, upon such surrender and cancellation, shall be deemed to be paid and retired.

Section 10.03. Deposit of Money or Securities with Trustee. Whenever in this Indenture it is provided or permitted that there be deposited with or held in trust by the Trustee money or securities in the necessary amount to pay or redeem any Bonds, the money or securities so to be deposited or held may include money or securities held by the Trustee in the funds and accounts established pursuant to this Indenture and shall be:

(a) lawful money of the United States of America in an amount equal to the principal amount of such Bonds and all unpaid interest thereon to maturity, except that, in the case of Bonds which are to be redeemed prior to maturity and in respect of which notice of such redemption shall have been given as provided in Article IV or provision satisfactory to the Trustee shall have been made for the giving of such notice, the amount to be deposited or held shall be the principal amount of such Bonds and all unpaid interest thereon to the redemption date; or

(b) Defeasance Obligations, the principal of and interest on which when due will, in the written opinion of an Independent Accountant filed with the City, the Authority and the Trustee, provide money sufficient to pay the principal of and interest and premium (if any) on the Bonds to be paid or redeemed, as such principal, interest and premium become due, provided that in the case of Bonds which are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given as provided in Article IV or provision satisfactory to the Trustee shall have been made for the giving of such notice;

provided, in each case, that (i) the Trustee shall have been irrevocably instructed (by the terms of this Indenture or by Written Request of the Authority) to apply such money to the payment of such principal, interest and premium (if any) with respect to such Bonds, and (ii) the Authority shall have delivered to the Trustee an opinion of Bond Counsel to the effect that such Bonds have been discharged in accordance with this Indenture (which opinion may rely upon and assume the accuracy of the Independent Accountant's opinion referred to above).

Section 10.04. Unclaimed Funds. Notwithstanding any provisions of this Indenture, and subject to applicable provisions of State law, any moneys held by the Trustee in trust for the payment of the principal of, or interest on, any Bonds and remaining unclaimed for two (2) years after the principal of all of the Bonds has become due and payable (whether at maturity or upon call for redemption as provided in this Indenture), if such moneys were so held at such date, or two (2) years after the date of deposit of such moneys if deposited after said date when all of the Bonds became due and payable, shall be repaid to the Authority free from the trusts created by this Indenture, and all liability of the Trustee with respect to such moneys shall thereupon cease; *provided, however*, that before the repayment of such moneys to the Authority as aforesaid, the Trustee shall (at the written request and cost of the Authority) first mail to the Owners of Bonds which have not yet been paid, at the addresses shown on the Registration Books, a notice, in such form as may be deemed appropriate by the Trustee with respect to the Bonds so payable and not presented and with respect to the provisions relating to the repayment to the Authority of the moneys held for the payment thereof.

## ARTICLE XI

### MISCELLANEOUS

Section 11.01. Liability of Authority Limited to Revenues. Notwithstanding anything in this Indenture or in the Bonds contained, the Authority shall not be required to advance any moneys derived from any source other than the Revenues and other assets pledged under this Indenture for any of the purposes in this Indenture mentioned, whether for the payment of the principal of or interest on the Bonds or for any other purpose of this Indenture. Nevertheless, the Authority may, but shall not be required to, advance for any of the purposes hereof any funds of the Authority which may be made available to it for such purposes.

Section 11.02. Limitation of Rights to Parties and Bond Owners. Nothing in this Indenture or in the Bonds expressed or implied is intended or shall be construed to give to any person other than the Authority, the Trustee, the City and the Owners of the Bonds, any legal or equitable right, remedy or claim under or in respect of this Indenture or any covenant, condition or provision therein or herein contained; and all such covenants, conditions and provisions are and shall be held to be for the sole and exclusive benefit of the Trustee, the City, the Authority and the Owners of the Bonds.

Section 11.03. Funds and Accounts. Any fund or account required by this Indenture to be established and maintained by the Trustee may be established and maintained in the accounting records of the Trustee, either as a fund or an account, and may, for the purposes of such records, any audits thereof and any reports or statements with respect thereto, be treated either as a fund or as an account; but all such records with respect to all such funds and accounts shall at all times be maintained in accordance with industry standards to the extent practicable, and for the protection of the security of the Bonds and the rights of every Owner thereof. The Trustee may establish such funds and accounts as it deems necessary to perform its obligations hereunder. The Trustee shall deliver a monthly accounting to the Authority of the funds and accounts held hereunder; provided, that the Trustee shall not be obligated to deliver an accounting for any fund or account that has had no activity since the last reporting date and that has a balance of zero.

Section 11.04. Waiver of Notice; Requirement of Mailed Notice. Whenever in this Indenture 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 such 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. Whenever in this Indenture any notice shall be required to be given by mail, such requirement shall be satisfied by the deposit of such notice in the United States mail, postage prepaid, by first class mail.

Section 11.05. Destruction of Bonds. Whenever in this Indenture provision is made for the cancellation by the Trustee and the delivery to the Authority of any Bonds, the Trustee shall, in lieu of such cancellation and delivery, cancel and destroy such Bonds as may be allowed by law, and at the written request of the Authority the Trustee shall deliver a certificate of such destruction to the Authority.

Section 11.06. Severability of Invalid Provisions. If any one or more of the provisions contained in this Indenture or in the Bonds shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions contained in this Indenture and such invalidity, illegality or unenforceability shall not affect any other provision of this Indenture, and this Indenture shall be construed as if such invalid or illegal or unenforceable provision had never been contained



herein. The Authority hereby declares that it would have entered into this Indenture and each and every other Section, paragraph, sentence, clause or phrase hereof and authorized the issuance of the Bonds pursuant thereto irrespective of the fact that any one or more Sections, paragraphs, sentences, clauses or phrases of this Indenture may be held illegal, invalid or unenforceable.

Section 11.07. Notices. All written notices to be given under this Indenture shall be given by first class mail or personal delivery to the party entitled thereto at its address set forth below, or at such address as the party may provide to the other party in writing from time to time. Notice shall be effective either (a) upon transmission by facsimile transmission or other form of telecommunication, confirmed by Phone, (b) after deposit in the United States mail, postage prepaid, upon receipt, or (c) in the case of personal delivery to any person, upon actual receipt. The Authority, the City or the Trustee may, by written notice to the other parties, from time to time modify the address or number to which communications are to be given hereunder.

If to the Authority: Atascadero Public Financing Authority  
c/o City of Atascadero  
6907 El Camino Real  
Atascadero, CA 93422  
Attention: Administrative Services Director  
Phone: (805) 470-3428  
Fax: (805) 470-3477

If to the City: City of Atascadero  
6907 El Camino Real  
Atascadero, CA 93422  
Attention: Administrative Services Director  
Phone: (805) 470-3428  
Fax: (805) 470-3477

If to the Trustee: The Bank of New York Mellon Trust Company, N.A.  
700 South Flower Street, Suite 500  
Los Angeles, CA 90017-4104  
Attention: Corporate Trust Department  
Phone: (213) 630-6239  
Fax: (213) 630-6480

The City, the Authority and the Trustee, by notice given hereunder, may designate different addresses to which subsequent notices, certificates or other communications will be sent.

Section 11.08. Evidence of Rights of Bond Owners. Any request, consent or other instrument required or permitted by this Indenture to be signed and executed by Bond Owners may be in any number of concurrent instruments of substantially similar tenor and shall be signed or executed by such Bond Owners in person or by an agent or agents duly appointed in writing. Proof of the execution of any such request, consent or other instrument or of a writing appointing any such agent, or of the holding by any person of Bonds transferable by delivery, shall be sufficient for any purpose of this Indenture and shall be conclusive in favor of the Trustee and the Authority if made in the manner provided in this Section 11.08.

The fact and date of the execution by any person of any such request, consent or other instrument or writing may be proved by the certificate of any notary public or other officer of any jurisdiction, authorized by the laws thereof to take acknowledgments of deeds, certifying that the person signing such request, consent or other instrument acknowledged to him the execution thereof, or by an affidavit of a witness of such execution duly sworn to before such notary public or other officer.

The ownership of Bonds shall be proved by the Registration Books.

Any request, consent, or other instrument or writing of the Owner of any Bond shall bind every future Owner of the same Bond and the Owner of every Bond issued in exchange therefor or in lieu thereof, in respect of anything done or suffered to be done by the Trustee or the Authority in accordance therewith or reliance thereon.

Section 11.09. Disqualified Bonds. In determining whether the Owners of the requisite aggregate principal amount of Bonds have concurred in any demand, request, direction, consent or waiver under this Indenture, Bonds which are actually known by the Trustee to be owned or held by or for the account of the Authority or the City, or by any other obligor on the Bonds, or by any person directly or indirectly controlling or controlled by, or under direct or indirect common control with, the Authority or the City or any other obligor on the Bonds, shall be disregarded and deemed not to be Outstanding for the purpose of any such determination (unless 100% of the Bonds are so owned). Bonds so owned which have been pledged in good faith may be regarded as Outstanding for the purposes of this Section 11.09 if the pledgee shall certify to the Trustee the pledgee's right to vote such Bonds and that the pledgee is not a person directly or indirectly controlling or controlled by, or under direct or indirect common control with, the Authority or the City or any other obligor on the Bonds. In case of a dispute as to such right, any decision by the Trustee taken upon the advice of counsel shall be full protection to the Trustee.

Upon request, the Authority or the City shall specify to the Trustee those Bonds disqualified pursuant to this Section 11.09. The Trustee may conclusively rely on such representation of the Authority and City.

Section 11.10. Money Held for Particular Bonds. The money held by the Trustee for the payment of the interest or principal due on any date with respect to particular Bonds (or portions of Bonds in the case of Bonds redeemed in part only) shall, on and after such date and pending such payment, be set aside on its books and held in trust by it for the Owners of the Bonds entitled thereto, subject, however, to the provisions of Section 10.04 hereof but without any liability for interest thereon.

Section 11.11. Waiver of Personal Liability. No member, officer, agent or employee of the Authority shall be individually or personally liable for the payment of the principal of or interest or premium (if any) on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof; but nothing herein contained shall relieve any such member, officer, agent or employee from the performance of any official duty provided by law or by this Indenture.

Section 11.12. Successor Is Deemed Included in All References to Predecessor. Whenever in this Indenture either the City, the Authority or the Trustee is named or referred to, such reference shall be deemed to include the successors or assigns thereof, and all the covenants and agreements in this Indenture contained by or on behalf of the City, the Authority or the Trustee shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

Section 11.13. Execution in Several Counterparts. This Indenture may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the Authority and the Trustee shall preserve undestroyed, shall together constitute but one and the same instrument.

Section 11.14. Governing Law. This Indenture shall be governed by and construed in accordance with the laws of the State.

DRAFT

IN WITNESS WHEREOF, the ATASCADERO PUBLIC FINANCING AUTHORITY has caused this Indenture to be signed in its name by its officers identified below and THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., in token of its acceptance of the trust created hereunder, has caused this Indenture to be signed in its corporate name by its officer identified below, all as of the day and year first above written.

ATASCADERO PUBLIC FINANCING  
AUTHORITY

By \_\_\_\_\_

Wade G. McKinney  
Executive Director

Attest:

\_\_\_\_\_

Marcia McClure Torgerson  
Secretary

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

By \_\_\_\_\_

Authorized Signatory

DRAFT

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

UNITED STATES OF AMERICA  
STATE OF CALIFORNIA  
SAN LUIS OBISPO COUNTY

**ATASCADERO PUBLIC FINANCING AUTHORITY**  
**Lease Revenue Bonds, 2010 Series A**

INTEREST RATE: _____ %	MATURITY DATE: October 1, _____	ORIGINAL ISSUE DATE: August _____, 2010	CUSIP: _____
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REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: \_\_\_\_\_ DOLLARS

The ATASCADERO PUBLIC FINANCING AUTHORITY, a duly constituted joint exercise of powers authority under the laws of the State of California (the "Authority"), for value received, hereby promises to pay to the Registered Owner specified above or registered assigns (the "Registered Owner"), on the Maturity Date specified above (subject to any right of prior redemption hereinafter provided for), the Principal Amount specified above, in lawful money of the United States of America, and to pay interest thereon in like lawful money from the Interest Payment Date (as hereinafter defined) next preceding the date of authentication of this Bond unless (i) this Bond is authenticated on or before an Interest Payment Date and after the close of business on the fifteenth day of the month preceding such interest payment date, in which event it shall bear interest from such Interest Payment Date, or (ii) this Bond is authenticated on or before March 15, 2011, in which event it shall bear interest from the Original Issue Date specified above; *provided, however*, that if at the time of authentication of this Bond, interest is in default on this Bond, this Bond shall bear interest from the Interest Payment Date to which interest has previously been paid or made available for payment on this Bond, at the Interest Rate specified above, payable semiannually on April 1 and October 1 in each year, commencing April 1, 2011 (collectively, the "Interest Payment Dates"), calculated on the basis of a 360-day year composed of twelve 30-day months. Principal hereof and premium, if any, upon early redemption hereof are payable upon presentation and surrender hereof at the corporate trust office (the "Office") of The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee") or such other place as designated by the Trustee. Interest hereon is payable by check on the Interest Payment Date of the Trustee mailed on the applicable Interest Payment Date to the Registered Owner hereof at the Registered Owner's address as it appears on the registration books of the Trustee as of the close of business on the fifteenth day of the month preceding each Interest Payment Date (a "Record Date"), or, upon written request filed with the Trustee at least five days prior to such Record Date by a Registered Owner of at least \$1,000,000 in aggregate principal amount of Bonds, by wire transfer in immediately available funds to an account in the United States designated by such Registered Owner in such written request.

This Bond is not a debt of the City of Atascadero (the "City"), San Luis Obispo County, the State of California, or any of its political subdivisions, and neither the City, said County,

said State, nor any of its political subdivisions, is liable hereon nor in any event shall this Bond be payable out of any funds or properties of the Authority other than the Revenues (as defined in the Indenture hereinafter defined).

This Bond is one of a duly authorized issue of bonds of the Authority designated as the "Atascadero Public Financing Authority Lease Revenue Bonds, 2010 Series A (the "Bonds"), in an aggregate principal amount of \_\_\_\_\_ dollars (\$\_\_\_\_\_), all of like tenor and date (except for such variation, if any, as may be required to designate varying numbers, maturities, interest rates or redemption provisions) and all issued pursuant to the provisions of Article 5 of Part 1 of Division 24 of the California Health and Safety Code (the "Law"), and pursuant to an Indenture of Trust, dated as of August 1, 2010, by and between the Authority and the Trustee (the "Indenture"), and a resolution of the Authority adopted on July 27, 2010, authorizing the issuance of the Bonds. Reference is hereby made to the Indenture (copies of which are on file at the office of the Authority) and all supplements thereto for a description of the terms on which the Bonds are issued, the provisions with regard to the nature and extent of the Revenues, and the rights thereunder of the owners of the Bonds and the rights, duties and immunities of the Trustee and the rights and obligations of the Authority thereunder, to all of the provisions of which the Registered Owner of this Bond, by acceptance hereof, assents and agrees.

The Bonds are being issued to (a) finance improvements to the City's historic city hall and the acquisition and development of other capital improvements throughout the geographic boundaries of the City, (c) fund a reserve fund for the Bonds, and (d) pay costs of issuance of the Bonds.

This Bond and the interest and premium, if any, hereon and all other Bonds and the interest and premium, if any, thereon (to the extent set forth in the Indenture) are special obligations of the Authority, and are payable from, and are secured by a charge and lien on the Revenues as defined in the Indenture, consisting primarily of payments under the Lease Agreement. As and to the extent set forth in the Indenture, all of the Revenues are exclusively and irrevocably pledged in accordance with the terms hereof and the provisions of the Indenture, to the payment of the principal of and interest and premium (if any) on the Bonds.

The rights and obligations of the Authority and the owners of the Bonds may be modified or amended at any time in the manner, to the extent and upon the terms provided in the Indenture, but no such modification or amendment shall extend the fixed maturity of any Bonds, or reduce the amount of principal thereof or premium (if any) thereon, or extend the time of payment, or change the method of computing the rate of interest thereon, or extend the time of payment of interest thereon, without the consent of the owner of each Bond so affected.

The Bonds maturing on or after October 1, \_\_\_\_, are subject to optional redemption prior to their respective stated maturities, at the written direction of the Authority, from moneys deposited by the Authority or the City, in whole or in part, in such order of maturity as the City designates (and, if no specific order of redemption is designated by the City, in inverse order of maturity), on any date on or after October 1, \_\_\_\_, from any available source of funds, at a redemption price equal to the principal amount of the Bonds to be redeemed, together with accrued interest thereon to the date fixed for redemption, without premium.

The Bonds maturing on October 1, \_\_\_\_ (the "\_\_\_\_ Term Bonds") are also subject to mandatory sinking fund redemption in part by lot on October 1, \_\_\_\_, and on each October 1 to and including October 1, \_\_\_\_, from sinking account payments made by the Authority at a redemption price equal to the principal amount thereof to be redeemed together with accrued interest thereon to the redemption date, without premium, in the aggregate respective principal amounts and on the respective dates as set forth in the following table; *provided, however*, that if

some but not all of the \_\_\_\_ Term Bonds have been optionally redeemed, the total amount of all future sinking account payments will be reduced by the aggregate principal amount of \_\_\_\_ Term Bonds so redeemed, to be allocated among the sinking account payments as are thereafter payable on a *pro rata* basis in integral multiples of \$5,000 as determined by the Authority (notice of which determination shall be given by the Authority to the Trustee).

Sinking Account Redemption Date (October 1)	Principal Amount to be Redeemed or Purchased
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\_\_\_\_\_  
†Maturity

In lieu of redemption of \_\_\_\_ Term Bonds, amounts on deposit as sinking account payments may also be used and withdrawn by the Trustee, at the written direction of the Authority, at any time for the purchase of \_\_\_\_ Term Bonds otherwise required to be redeemed on the following October 1 at public or private sale as and when and at such prices (including brokerage and other charges and including accrued interest) as the Authority may in its discretion determine. The par amount of any of the \_\_\_\_ Term Bonds so purchased by the Authority and surrendered to the Trustee for cancellation in any twelve-month period ending on July 1 in any year shall be credited towards and shall reduce the par amount of the \_\_\_\_ Term Bonds otherwise required to be redeemed on the following October 1.

The Bonds maturing on October 1, \_\_\_\_ (the “\_\_\_\_ Term Bonds”) are also subject to mandatory sinking fund redemption in part by lot on October 1, \_\_\_\_, and on each October 1 to and including October 1, \_\_\_\_, from sinking account payments made by the Authority at a redemption price equal to the principal amount thereof to be redeemed together with accrued interest thereon to the redemption date, without premium, in the aggregate respective principal amounts and on the respective dates as set forth in the following table; *provided, however*, that if some but not all of the \_\_\_\_ Term Bonds have been optionally redeemed, the total amount of all future sinking account payments will be reduced by the aggregate principal amount of \_\_\_\_ Term Bonds so redeemed, to be allocated among the sinking account payments as are thereafter payable on a *pro rata* basis in integral multiples of \$5,000 as determined by the Authority (notice of which determination shall be given by the Authority to the Trustee).

Sinking Account Redemption Date (October 1)	Principal Amount to be Redeemed or Purchased
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\_\_\_\_\_  
†Maturity

In lieu of redemption of \_\_\_\_ Term Bonds, amounts on deposit as sinking account payments may also be used and withdrawn by the Trustee, at the written direction of the Authority, at any time for the purchase of \_\_\_\_ Term Bonds otherwise required to be redeemed on the following October 1 at public or private sale as and when and at such prices (including brokerage and other charges and including accrued interest) as the Authority may in its discretion determine. The par amount of any of the \_\_\_\_ Term Bonds so purchased by the Authority and surrendered to the Trustee for cancellation in any twelve-month period ending on July 1 in any year shall be credited towards and shall reduce the par amount of the \_\_\_\_ Term Bonds otherwise required to be redeemed on the following October 1.



The Bonds are also subject to redemption as a whole, or in part on a *pro rata* basis among maturities, on any date, to the extent the Trustee has received hazard insurance proceeds or condemnation proceeds not used to repair or replace any portion of the leased property damaged or destroyed and elected by the City, to be used for such purpose, at a redemption price equal to one hundred percent (100%) of the principal amount thereof plus interest accrued thereon to the date fixed for redemption, without premium.

As provided in the Indenture, notice of redemption shall be mailed by the Trustee by first class mail not less than thirty (30) nor more than sixty (60) days prior to the redemption date to the respective owners of any Bonds designated for redemption at their addresses appearing on the registration books of the Trustee, but neither failure to receive such notice nor any defect in the notice so mailed shall affect the sufficiency of the proceedings for redemption or the cessation of accrual of interest thereon from and after the date fixed for redemption.

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

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

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

This Bond is transferable by the Registered Owner hereof, in person or by his attorney duly authorized in writing, at the Office of the Trustee, or such other place as designated by the Trustee, but only in the manner, subject to the limitations and upon payment of the charges provided in the Indenture, and upon surrender and cancellation of this Bond. Upon registration of such transfer, a new Bond or Bonds, of authorized denomination or denominations, for the same aggregate principal amount and of the same maturity will be issued to the transferee in exchange herefor. This Bond may be exchanged at the Office of the Trustee, or such other place as designated by the Trustee, for Bonds of the same tenor, aggregate principal amount, interest rate and maturity, of other authorized denominations.

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

THE BONDS HAVE BEEN DESIGNATED BY THE CITY AS "QUALIFIED TAX-EXEMPT OBLIGATIONS" WITHIN THE MEANING OF SECTION 265(b)(3) OF THE INTERNAL REVENUE CODE OF 1986.



Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the Authority or the Trustee for registration of transfer, exchange, or payment, and any Bond issued is registered in the name of Cede & Co. or in 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.

It is hereby certified that all of the things, conditions and acts required to exist, to have happened or to have been performed precedent to and in the issuance of this Bond do exist, have happened or have been performed in due and regular time, form and manner as required by the Law and the laws of the State of California and that the amount of this Bond, together with all other indebtedness of the Authority, does not exceed any limit prescribed by the Law or any laws of the State of California, and is not in excess of the amount of Bonds permitted to be issued under the Indenture.

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

IN WITNESS WHEREOF, the Atascadero Public Financing Authority has caused this Bond to be executed in its name and on its behalf with the facsimile signature of its Chair and attested to by the facsimile signature of its Secretary, all as of the Original Issue Date specified above.

ATASCADERO PUBLIC FINANCING  
AUTHORITY

By \_\_\_\_\_  
Chair

Attest:

\_\_\_\_\_  
Secretary

### CERTIFICATE OF AUTHENTICATION

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

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

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

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

**FORM OF ASSIGNMENT**

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

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

---

---

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

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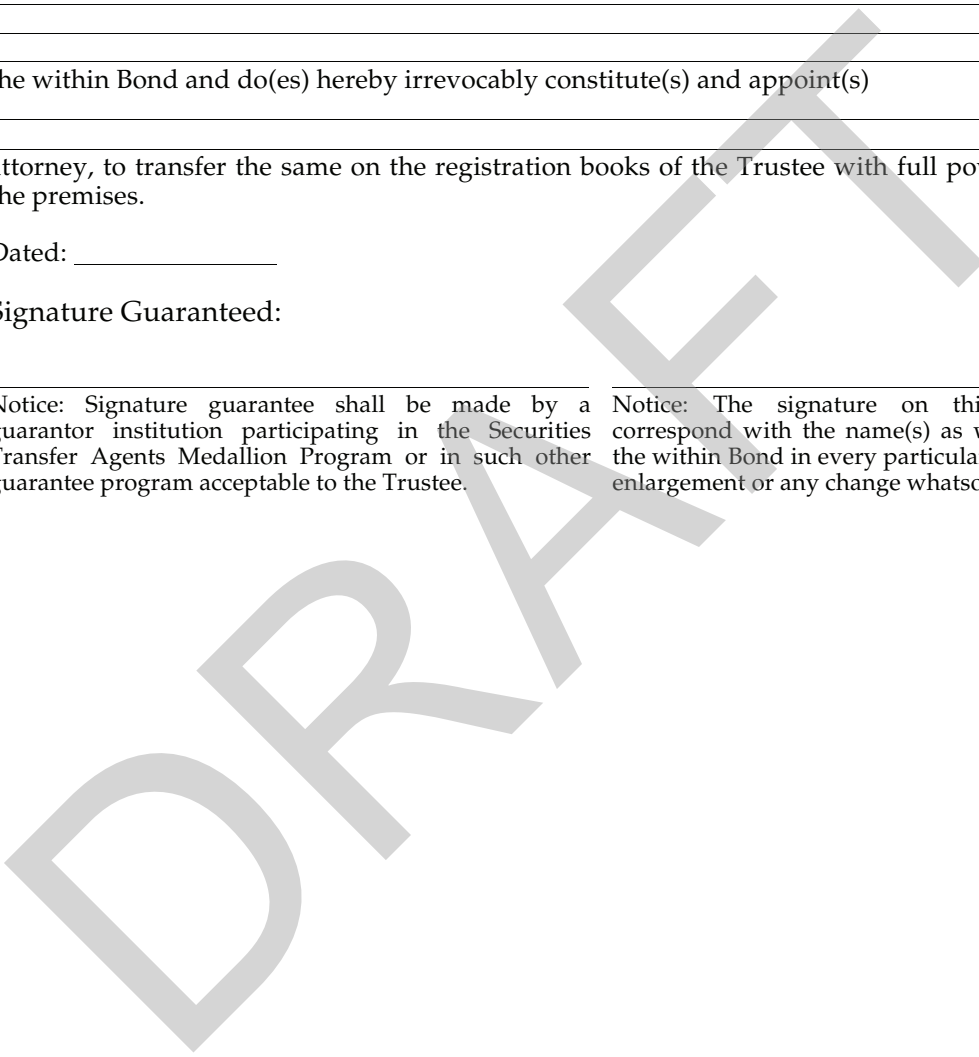
attorney, to transfer the same on the registration books of the Trustee with full power of substitution in the premises.

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

Signature Guaranteed:

Notice: Signature guarantee shall be made by a guarantor institution participating in the Securities Transfer Agents Medallion Program or in such other guarantee program acceptable to the Trustee.

Notice: The signature on this assignment must correspond with the name(s) as written on the face of the within Bond in every particular without alteration or enlargement or any change whatsoever."



AFTER RECORDATION RETURN TO:

Quint & Thimmig LLP  
575 Market Street, Suite 3600  
San Francisco, California 94105-2874  
Attention: Brian D. Quint, Esq.

THIS TRANSACTION IS EXEMPT FROM CALIFORNIA DOCUMENTARY TRANSFER TAX PURSUANT TO SECTION 11929 OF THE CALIFORNIA REVENUE AND TAXATION CODE. THIS DOCUMENT IS EXEMPT FROM RECORDING FEES PURSUANT TO SECTION 27383 OF THE CALIFORNIA GOVERNMENT CODE.

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**SITE AND FACILITY LEASE**

**Dated as of August 1, 2010**

**by and between the**

**CITY OF ATASCADERO, as Lessor**

**and**

**ATASCADERO PUBLIC FINANCING AUTHORITY, as Lessee**

---

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Relating to  
\$ \_\_\_\_\_  
Atascadero Public Financing Authority  
Lease Revenue Bonds, 2010 Series A

## SITE AND FACILITY LEASE

This SITE AND FACILITY LEASE, dated as of August 1, 2010, is by and between the CITY OF ATASCADERO, a municipal corporation and general law city organized and existing under and by virtue of the laws of the State of California (the "City"), as lessor, and the ATASCADERO PUBLIC FINANCING AUTHORITY, a joint exercise of powers authority organized and existing under and by virtue of the laws of the State of California, as lessee (the "Authority");

### WITNESSETH:

WHEREAS, the Authority intends to assist the City by leasing certain real property and improvements to the City pursuant to a Lease Agreement, dated as of August 1, 2010, and recorded concurrently herewith by memorandum thereof (the "Lease Agreement"), and the City proposes to enter into this Site and Facility Lease with the Authority as a material consideration for the Authority's agreement to lease such real property and improvements to the City;

NOW, THEREFORE, IT IS HEREBY MUTUALLY AGREED, as follows:

Section 1. Definitions. Unless the context clearly otherwise requires or unless otherwise defined herein, the capitalized terms in this Site and Facility Lease shall have the respective meanings specified in that certain Indenture of Trust, dated as of August 1, 2010, by and between the Authority and U.S. Bank National Association, as trustee thereunder.

Section 2. Site and Facility Lease. The City hereby leases to the Authority and the Authority hereby leases from the City, on the terms and conditions hereinafter set forth, those certain parcels of real property situated in San Luis Obispo County, State of California, more particularly described in Exhibit A attached hereto and made a part hereof (collectively, the "Site"), and certain existing facilities on the Site, more particularly described in Exhibit B attached hereto and made a part hereof (collectively, the "Facility").

Section 3. Term. The term of this Site and Facility Lease shall commence on the date of recordation of this Site and Facility Lease in the Office of the County Recorder of San Luis Obispo County, State of California, and shall end on October 1, \_\_\_\_, unless such term is extended or sooner terminated as hereinafter provided. If, on October 1, \_\_\_\_, the aggregate amount of Lease Payments (as defined in and as payable under the Lease Agreement) shall not have been paid, or provision shall not have been made for their payment, then the term of this Site and Facility Lease shall be extended until such Lease Payments shall be fully paid or provision made for such payment. If, prior to October 1, \_\_\_\_, all Lease Payments shall be fully paid or provision made for such payment in accordance with Section 4.3 or 4.4 of the Lease Agreement, the term of this Site and Facility Lease shall end ten (10) days thereafter.

Section 4. Rental. The City acknowledges receipt from the Authority as and for rental hereunder the sum of one dollar (\$1.00), on or before the date of delivery of this Site and Facility Lease.

Section 5. Purpose. The Authority shall use the Site and the Facility solely for the purpose of leasing the Site and the Facility to the City pursuant to the Lease Agreement and for such purposes as may be incidental thereto; *provided, however*, that in the event of default by the City under the Lease Agreement, the Authority and its assigns may exercise the remedies provided in the Lease Agreement.

Section 6. City's Interest in the Site and the Facility. The City covenants that it is the owner of fee title to the Site and the Facility.

Section 7. Assignments; Subleases; Amendments. Unless the City shall be in default under the Lease Agreement, the Authority may not assign its rights under this Site and Facility Lease or sublet the Site or the Facility, except as provided in the Lease Agreement and the Indenture, without the written consent of the City. This Site and Facility Lease may be amended, if required, pursuant to the provisions of Section 8.3 of the Lease Agreement.

Section 8. Right of Entry. The City reserves the right, for any of its duly authorized representatives, to enter upon the Site and the Facility at any reasonable time to inspect the same or to make any repairs, improvements or changes necessary for the preservation thereof.

Section 9. Termination. The Authority agrees, upon the termination of this Site and Facility Lease, to quit and surrender the Site and the Facility in the same good order and condition as the same was in at the time of commencement of the term hereunder, reasonable wear and tear excepted, and agrees that any permanent improvements and structures existing upon the Site and the Facility at the time of the termination of this Site and Facility Lease shall remain thereon and title thereto shall vest in the City.

Section 10. Default. In the event the Authority shall be in default in the performance of any obligation on its part to be performed under the terms of this Site and Facility Lease, which default continues for thirty (30) days following notice and demand for correction thereof to the Authority, the City may exercise any and all remedies granted by law, except that no merger of this Site and Facility Lease and of the Lease Agreement shall be deemed to occur as a result thereof; *provided, however*, that so long as any Bonds are outstanding and unpaid in accordance with the terms thereof, the Lease Payments assigned by the Authority to the Trustee under the Indenture shall continue to be paid to the Trustee.

Section 11. Quiet Enjoyment. The Authority, at all times during the term of this Site and Facility Lease, shall peaceably and quietly have, hold and enjoy the Site and the Facility subject to the provisions of the Lease Agreement and the Indenture.

Section 12. Waiver of Personal Liability. All liabilities under this Site and Facility Lease on the part of the Authority are solely liabilities of the Authority and the City hereby releases each and every member, director, officer, employee and agent of the Authority of and from any personal or individual liability under this Site and Facility Lease. No member, director, officer, employee or agent of the Authority shall at any time or under any circumstances be individually or personally liable under this Site and Facility Lease for anything done or omitted to be done by the Authority hereunder.

Section 13. Taxes. The City covenants and agrees to pay any and all assessments of any kind or character and also all taxes, including possessory interest taxes, levied or assessed upon the Site and the Facility (including both land and improvements).

Section 14. Eminent Domain. In the event the whole or any part of the Site or the Facility is taken by eminent domain proceedings, the interest of the Authority shall be recognized and is hereby determined to be the amount of the then unpaid Bonds including the unpaid principal and interest with respect to any such Bonds then outstanding and, subject to the provisions of the Lease Agreement, the balance of the award, if any, shall be paid to the City.

Section 15. Use of the Proceeds. The City and the Authority hereby agree that the lease to the Authority of the City's right, title and interest in the Site and the Facility pursuant to Section 2 serves the public purposes of the City. The City hereby agrees that the proceeds of the

Bonds shall be used solely for the purpose of financing the costs of certain public improvements owned, to be held or controlled by the City for its public purposes, on or before the date three years following the date of execution and delivery of the Bonds, or to refinance prior obligations of the City incurred for such purposes.

Section 16. Partial Invalidity. If any one or more of the terms, provisions, covenants or conditions of this Site and Facility Lease shall, to any extent, be declared invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, the finding, order or decree of which becomes final, none of the remaining terms, provisions, covenants and conditions of this Site and Facility Lease shall be affected thereby, and each provision of this Site and Facility Lease shall be valid and enforceable to the fullest extent permitted by law.

Section 17. Notices. All notices, statements, demands, consents, approvals, authorizations, offers, designations, requests or other communications hereunder by either party to the other shall be in writing and shall be sufficiently given and served upon the other party if delivered personally or if mailed by United States registered mail, return receipt requested, postage prepaid, and, if to the City, to the City Clerk, the City of Atascadero, 6907 El Camino Real, Atascadero, CA 93422, and if to the Authority, to the Secretary, Atascadero Public Financing Authority, 6907 El Camino Real, Atascadero, CA 93422, or to such other addresses as the respective parties may from time to time designate by notice in writing.

Section 18. Section Headings. All section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this Site and Facility Lease.

Section 19. Applicable Law. This Site and Facility Lease shall be governed by and construed in accordance with the laws of the State.

Section 20. Execution in Counterparts. This Site and Facility Lease may be executed in any number of counterparts, each of which shall be deemed to be an original but all together shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the City and the Authority have caused this Site and Facility Lease to be executed by their respective officers thereunto duly authorized, all as of the day and year first above written.

CITY OF ATASCADERO

By \_\_\_\_\_  
Wade G. McKinney  
City Manager

Attest:

\_\_\_\_\_  
Marcia McClure Torgerson  
City Clerk

ATASCADERO PUBLIC FINANCING  
AUTHORITY

By \_\_\_\_\_  
Wade G. McKinney  
Executive Director

Attest:

\_\_\_\_\_  
Marcia McClure Torgerson  
Secretary



[NOTARY ACKNOWLEDGMENTS TO BE ATTACHED]

DRAFT

**EXHIBIT A**

**DESCRIPTION OF THE SITE**

Those parcels of land in the City of Atascadero, San Luis Obispo County, State of California, described as follows:

*Colony Park Community Center Site*  
*APN 029-091-040*

*[DESCRIPTION TO COME]*

*Atascadero Police Station Site*  
*APN 029-323-016*

*[DESCRIPTION TO COME]*

*Fire Station No. 1 Site*  
*APN 029-332-004*

*[DESCRIPTION TO COME]*

*Fire Station No. 2 Site*  
*APN 056-151-033*

*[DESCRIPTION TO COME]*

*Lake Park Pavilion Site*  
*APN 056-332-003*

*[DESCRIPTION TO COME]*

*Atascadero Corporate Yard Site*  
*APN 028-421-001*

*[DESCRIPTION TO COME]*

## EXHIBIT B

### DESCRIPTION OF THE FACILITY

Colony Park Community Center. The Colony Park Community Center is a recreation and meeting hall for all ages. It is located at 5599 Traffic Way in Atascadero, close to downtown. The building is 17,240 sq feet and contains offices, entry lobby, meeting rooms, gym, art room, dance/fitness room, teen center, cafe and storage areas. The building is situated on a parcel of over 11 acres and is adjacent to Colony Park and ball fields. The facilities contains a landscaped area, paved driveways and paved parking areas.

Atascadero Police Station. The facility houses the City's Police Department and is located at 5505 El Camino Real in Atascadero. The building is 12,380 sq feet and has offices, a 911 dispatch center, locker rooms, restroom facilities, conference rooms, a break room, an evidence room, a investigations center, jail (4 holding cells), a generator room with a permanent generator and storage areas. The building features a secured lobby and gated parking area. Typically, 14 staff members occupy the facility. The land is almost 1.3 acres, and contains a landscaped area, three covered parking structures, paved driveways and parking areas and storage sheds. The facility is located close to downtown with convenient access to Highway 101.

Fire Station No. 1. The facility, one of two City fire stations, is located at 6005 Lewis Avenue in Atascadero. The building is 5,320 square feet and has offices, living quarters, a kitchen, restroom facilities, a hose tower, four apparatus bays, a shop and storage areas. The land is just over an acre and contains a grassy landscaped area, a covered parking and barbeque area, paved driveways and parking areas and a sand-bagging station. The facility is located in the downtown area.

Fire Station No. 2. The facility, the second of the two City fire stations, is located at 9801 West Front Street in Atascadero. The building is 3,820 square feet and has offices, living quarters, a kitchen, restroom facilities, four apparatus bays, a shop, and storage areas. The land is just under an acre and contains paved driveways and paved parking areas. The facility is located on the south west side of town with close access to Highway 101.

Lake Park Pavilion. The Pavilion on the Lake is an events center rented to groups and private parties for meetings, weddings, banquets, concerts and more. It is located at 9315 Pismo Avenue in Atascadero, adjacent to Atascadero Lake Park and the Charles Paddock Zoo. The building is 14,360 square feet and contains offices, entry lobby, banquet room, meeting rooms, kitchen and storage areas. The building is situated on a parcel of over 5 acres and overlooks the Atascadero Lake. The facility contains a landscaped area, paved driveways and paved parking areas. The facility is located on Highway 41.

Atascadero Corporate Yard. The facility consists of the City's corporate yard and is located at 8005 Garbada Avenue in Atascadero. The yard houses four of the City's Public Works divisions: Wastewater, Parks, Streets and Operations and is 14,444 square feet. Approximately 13 staff members work out of the facility. The building shares a parcel with the Wastewater Treatment Facility. The parcel is about 75 acres in size. The building consists of five offices, a break room, a locker room, entry lobby, a wood shop and warehouse, storage, a sign shop, two vehicle repair shops, a welding shop and two small-tools shops. There are landscaped areas, a carport covered parking, and paved driveways, parking and roads.

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**LEASE AGREEMENT**

**Dated as of August 1, 2010**

**by and between the**

**ATASCADERO PUBLIC FINANCING AUTHORITY, as Lessor**

**and the**

**CITY OF ATASCADERO, as Lessee**

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**Relating to**  
**\$\_\_\_\_\_**  
**Atascadero Public Financing Authority**  
**Lease Revenue Bonds, 2010 Series A**

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EXHIBIT A:	DESCRIPTION OF THE SITE
EXHIBIT B:	DESCRIPTION OF THE FACILITY
EXHIBIT C:	SCHEDULE OF LEASE PAYMENTS

## LEASE AGREEMENT

THIS LEASE AGREEMENT (the "Lease Agreement"), dated for convenience as of August 1, 2010, by and between the ATASCADERO PUBLIC FINANCING AUTHORITY, a joint exercise of powers authority organized and existing under and by virtue of the laws of the State of California, as lessor (the "Authority"), and the CITY OF ATASCADERO, a municipal corporation and general law city organized and existing under and by virtue of the laws of the State of California, as lessee (the "City");

### WITNESSETH:

WHEREAS, pursuant to that certain Site and Facility Lease, dated as of August 1, 2010 (the "Site and Facility Lease"), the City has leased those certain parcels of real property situated in San Luis Obispo County, State of California, more particularly described in Exhibit A attached hereto and made a part hereof (the "Site"), and certain existing facilities on the Site, more particularly described in Exhibit B attached hereto and made a part hereof (the "Facility" and, with the Site, the "Property"), all for the purpose of enabling the City to finance improvements to the City's historic city hall and the acquisition and development of other capital improvements throughout the geographic boundaries of the City (the "Project");

WHEREAS, in order to provide the revenues necessary to enable the Authority to pay debt service on the Bonds as it becomes due, the Authority proposes to lease the Property to the City pursuant to this Lease Agreement and to assign its right to receive lease payments under this Lease Agreement (the "Lease Payments"), its right to enforce payment of the Lease Payments and otherwise to enforce its interest and rights under this Lease Agreement in the event of a default hereunder by the City, to The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee"), pursuant to that certain Indenture of Trust, dated as of August 1, 2010, by and between the Authority and the Trustee (the "Indenture"), and pursuant to which the Authority will issue and the Trustee will authenticate and deliver the \$\_\_\_\_\_ aggregate principal amount of Atascadero Public Financing Authority Lease Revenue Bonds, 2010 Series A (the "Bonds");

WHEREAS, the Community Redevelopment Agency of Atascadero (the "Agency") has agreed to reimburse the City for amounts to be paid under this Lease Agreement from its General Fund from tax increment revenues available to the Agency and, in furtherance thereof, the Agency and the City have entered into a Reimbursement Agreement, dated as of August 1, 2010 (the "Reimbursement Agreement"); and

WHEREAS, the Authority and the City have duly authorized the execution and delivery of this Lease Agreement;

NOW, THEREFORE, for and in consideration of the premises and the material covenants hereinafter contained, the parties hereto hereby formally covenant, agree and bind themselves as follows:



## ARTICLE I

### DEFINITIONS AND EXHIBITS

Section 1.1. Definitions. Unless the context clearly otherwise requires or unless otherwise defined herein, the capitalized terms in this Lease Agreement shall have the respective meanings specified in Section 1.01 of the Indenture.

Section 1.2. Exhibits. The following exhibits are attached to, and by this reference made a part of, this Lease Agreement:

- EXHIBIT A: DESCRIPTION OF THE SITE
- EXHIBIT B: DESCRIPTION OF THE FACILITY
- EXHIBIT C: SCHEDULE OF LEASE PAYMENTS

DRAFT

## ARTICLE II

### REPRESENTATIONS, COVENANTS AND WARRANTIES

Section 2.1. Representations, Covenants and Warranties of Authority. The Authority makes the following covenants, representations and warranties as the basis for its undertakings herein contained:

(a) *Due Organization and Existence*. The Authority is a joint exercise of powers authority, organized and existing under and by virtue of the laws of the State; has power to enter into this Lease Agreement, the Site and Facility Lease and the Indenture; is possessed of full power to own and hold, improve and equip real and personal property, and to lease and lease back the same; and has duly authorized the execution and delivery of each of the aforesaid agreements and such agreements constitute the legal, valid and binding obligations of the Authority, enforceable against the Authority in accordance with their respective terms.

(b) *Due Execution*. The representatives of the Authority executing this Lease Agreement, the Site and Facility Lease and the Indenture, are fully authorized to execute the same pursuant to official action taken by the governing body of the Authority.

(c) *Valid, Binding and Enforceable Obligations*. This Lease Agreement, the Site and Facility Lease and the Indenture have been duly authorized, executed and delivered by the Authority and constitute the legal, valid and binding agreements of the Authority, enforceable against the Authority in accordance with their respective terms.

(d) *No Conflicts*. The execution and delivery of this Lease Agreement, the Site and Facility Lease and the Indenture, the consummation of the transactions herein and therein contemplated and the fulfillment of or compliance with the terms and conditions hereof, do not and will not conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both) under any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, lease, contract or other agreement or instrument to which the Authority is a party or by which it or its properties are otherwise subject or bound, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Authority, which conflict, violation, breach, default, lien, charge or encumbrance would have consequences that would materially and adversely affect the consummation of the transactions contemplated by this Lease Agreement, the Site and Facility Lease and the Indenture, or the financial condition, assets, properties or operations of the Authority.

(e) *Consents and Approvals*. No consent or approval of any trustee or holder of any indebtedness of the Authority, and no consent, permission, authorization, order or license of, or filing or registration with, any governmental authority is necessary in connection with the execution and delivery of this Lease Agreement, the Site and Facility Lease and the Indenture, or the consummation of any transaction herein or therein contemplated, except as have been obtained or made and as are in full force and effect.

(f) *No Litigation*. There is no action, suit, proceeding, inquiry or investigation before or by any court or federal, state, municipal or other governmental authority pending or, to the knowledge of the Authority after reasonable investigation, threatened against or affecting the Authority or the assets, properties or operations of the Authority which, if determined adversely to the Authority or its interests, would have a material and adverse effect upon the consummation of the transactions contemplated by or the validity of this Lease Agreement, the

Site and Facility Lease or the Indenture, or upon the financial condition, assets, properties or operations of the Authority, and the Authority 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 other governmental authority, which default might have consequences that would materially and adversely affect the consummation of the transactions contemplated by this Lease Agreement, the Site and Facility Lease or the Indenture or the financial conditions, assets, properties or operations of the Authority.

Section 2.2. Representations, Covenants and Warranties of the City. The City makes the following covenants, representations and warranties to the Authority as of the date of the execution and delivery of this Lease Agreement:

(a) *Due Organization and Existence*. The City is a municipal corporation and general law city organized and existing under and by virtue of its charter and the laws of the State, has full legal right, power and authority under the laws of the State to enter into the Site and Facility Lease, this Lease Agreement and the Reimbursement Agreement and to carry out and consummate all transactions contemplated hereby and thereby, and by proper action the City has duly authorized the execution and delivery of the Site and Facility Lease, this Lease Agreement and the Reimbursement Agreement.

(b) *Due Execution*. The representatives of the City executing the Site and Facility Lease, this Lease Agreement and the Reimbursement Agreement have been fully authorized to execute the same pursuant to a resolution duly adopted by the City Council of the City.

(c) *Valid, Binding and Enforceable Obligations*. The Site and Facility Lease, this Lease Agreement and the Reimbursement Agreement have been duly authorized, executed and delivered by the City and constitute the legal, valid and binding obligations of the City enforceable against the City in accordance with their respective terms.

(d) *No Conflicts*. The execution and delivery of the Site and Facility Lease, this Lease Agreement and the Reimbursement Agreement, the consummation of the transactions herein and therein contemplated and the fulfillment of or compliance with the terms and conditions hereof and thereof, do not and will not conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both) under any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, lease, contract or other agreement or instrument to which the City is a party or by which it or its properties are otherwise subject or bound, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the City, which conflict, violation, breach, default, lien, charge or encumbrance would have consequences that would materially and adversely affect the consummation of the transactions contemplated by the Site and Facility Lease, this Lease Agreement and the Reimbursement Agreement, or the financial condition, assets, properties or operations of the City.

(e) *Consents and Approvals*. No consent or approval of any trustee or holder of any indebtedness of the City or of the voters of the City, and no consent, permission, authorization, order or license of, or filing or registration with, any governmental authority is necessary in connection with the execution and delivery of the Site and Facility Lease, this Lease Agreement and the Reimbursement Agreement, or the consummation of any transaction herein or therein contemplated, except as have been obtained or made and as are in full force and effect.

(f) *No Litigation*. There is no action, suit, proceeding, inquiry or investigation before or by any court or federal, state, municipal or other governmental authority pending or, to the

knowledge of the City after reasonable investigation, threatened against or affecting the City or the assets, properties or operations of the City which, if determined adversely to the City or its interests, would have a material and adverse effect upon the consummation of the transactions contemplated by or the validity of the Site and Facility Lease, this Lease Agreement and the Reimbursement Agreement, or upon the financial condition, assets, properties or operations of the City, and the City 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 other governmental authority, which default might have consequences that would materially and adversely affect the consummation of the transactions contemplated by the Site and Facility Lease, this Lease Agreement and the Reimbursement Agreement, or the financial conditions, assets, properties or operations of the City.

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ARTICLE III

ISSUANCE OF THE BONDS

Section 3.1. The Bonds. The Authority has authorized the issuance of the Bonds pursuant to the Indenture in the aggregate principal amount of \_\_\_\_\_ dollars (\$\_\_\_\_\_). The Authority agrees that the proceeds of sale of the Bonds shall be paid to the Trustee on the Closing Date for deposit and application pursuant to the terms and conditions of the Indenture, which terms and conditions authorize the City to draw upon specified proceeds of the Bonds for purposes of financing the Project. The City hereby approves the Indenture, the assignment to the Trustee of the rights (but none of the obligations) of the Authority assigned or purported to be assigned thereunder, and the issuance of the Bonds by the Authority thereunder.

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## ARTICLE IV

### LEASE OF PROPERTY; TERM OF THE LEASE AGREEMENT; LEASE PAYMENTS

Section 4.1. Lease of Property. The Authority hereby leases the Property to the City, and the City hereby leases the Property from the Authority, upon the terms and conditions set forth in this Lease Agreement.

Section 4.2. Term of Lease. This Lease Agreement shall take effect on the date hereof, and shall end on the earlier of October 1, 2040, or such earlier date on which the Bonds shall no longer be Outstanding under the Indenture. If, on October 1, 2040, the Indenture shall not be discharged by its terms or if the Lease Payments payable hereunder shall have been abated at any time and for any reason, then the Term of the Lease Agreement shall be extended until there has been deposited with the Trustee an amount sufficient to pay all obligations due under the Lease Agreement, but in no event shall the Term of the Lease Agreement extend beyond October 1, 2050.

#### Section 4.3. Lease Payments.

(a) *Obligation to Pay*. In consideration of the lease of the Property from the Authority hereunder and subject to the provisions of Section 6.2, the City agrees to pay to the Authority, its successors and assigns, as rental for the use and occupancy of the Property during each Fiscal Year, the Lease Payments (denominated into components of principal and interest) for the Property in the respective amounts specified in Exhibit C hereto, to be due and payable on the respective Lease Payment Dates specified in Exhibit C hereto. Any amount held in the Revenue Fund (except the Reserve Account therein), the Interest Account, the Principal Account or the Sinking Account on any Lease Payment Date, derived from any source of funds of the City or the Authority, shall be credited towards the Lease Payment then due and payable. The Lease Payments coming due and payable in any Fiscal Year shall be for the use of the Property for such Fiscal Year.

The City's obligation to pay Lease Payments hereunder shall be absolute and unconditional subject only to abatement, in the event and to the extent that there is substantial interference with the use and occupancy of the property or any portion thereof.

(b) *Rate on Overdue Payments*. In the event the City should fail to make any of the payments required in this Section 4.3, the payment in default shall continue as an obligation of the City until the amount in default shall have been fully paid, and the City agrees to pay the same with interest thereon, from the date of default to the date of payment at the highest rate of interest borne by any Outstanding Bond. Such interest, if received, shall be deposited in the Revenue Fund.

(c) *Fair Rental Value*. The Lease Payments and Additional Payments coming due and payable in each Fiscal Year shall constitute the total rental for the Property for each Fiscal Year and shall be paid by the City in each Fiscal Year for and in consideration of the right of the use and occupancy of, and the continued quiet use and enjoyment of, the Property during each Fiscal Year. The Authority and the City hereby agree and determine that the total Lease Payments do not exceed the fair rental value of the Property. In making such determination, consideration has been given to the obligations of the parties under this Lease Agreement, the value of the Property, the uses and purposes which may be served by the Property and the benefits therefrom which will accrue to the City and the general public.

(d) *Source of Payments; Budget and Appropriation.* The Lease Payments shall be payable from any source of available funds of the City, subject to the provisions of Section 6.2. The City covenants to take such action as may be necessary to include all Lease Payments due hereunder in each of its budgets during the Term of the Lease Agreement and to make the necessary annual appropriations for all such Lease Payments. The covenants on the part of the City herein contained shall be deemed to be and shall be construed to be ministerial duties imposed by law and it shall be the duty of each and every public official of the City to take such action and do such things as are required by law in the performance of the official duty of such official to enable the City to carry out and perform the covenants and agreements in this Lease Agreement agreed to be carried out and performed by the City. During the Term of the Lease Agreement, the City shall furnish to the Authority and the Trustee, no later than ten days following the adoption of a budget for the current Fiscal Year, a certificate stating that the Lease Payments due in that Fiscal Year have been included in the budget approved by the City Council for such Fiscal Year. Notwithstanding the foregoing, the parties hereto acknowledge that it is the intention of the City that the source of moneys to be used to make Lease Payments hereunder are to be derived from payments made by the Community Redevelopment Agency of Atascadero (the "Agency") to the City under and pursuant to that certain Reimbursement Agreement, dated as of August 1, 2010, by and between the Agency and the City.

(e) *Assignment.* The City understands and agrees that all Lease Payments have previously been assigned by the Authority to the Trustee in trust, pursuant to Section 5.01 of the Indenture, for the benefit of the Owners of the Bonds, and the City hereby assents to such assignment. The Authority hereby directs the City, and the City hereby agrees, to pay all of the Lease Payments to the Trustee at its Office.

(f) *Security Deposit.* Notwithstanding any other provision of this Lease Agreement, the City may on any date secure the payment of the Lease Payments for the Property in whole or in part by depositing with the Trustee an amount of cash which, together with other available amounts, including but not limited to amounts on deposit in the Revenue Fund and the Reserve Account, is either (i) sufficient to pay such Lease Payments, including the principal and interest components thereof, and premium, if any, in accordance with the Lease Payment schedule set forth in Exhibit C, or (ii) invested in whole or in part in Defeasance Obligations in such amount as will, in the opinion of an Independent Accountant, together with interest to accrue thereon and together with any cash which is so deposited, be fully sufficient to pay such Lease Payments when due hereunder, as the City shall instruct at the time of said deposit. Said security deposit shall be deemed to be and shall constitute a special fund for the payment of Lease Payments in accordance with the provisions of this Lease Agreement.

Section 4.4. Prepayment Option. The Authority hereby grants an option to the City to prepay the principal component of the Lease Payments in full, or in part, without premium.

Said option may be exercised with respect to Lease Payments due on and after September 15, \_\_\_\_, in whole or in part on any date commencing September 15, \_\_\_\_. Said option shall be exercised by the City by giving written notice to the Authority and the Trustee of the exercise of such option at least sixty (60) days prior to said Lease Payment Date, or such lesser number of days acceptable to the Authority and the Trustee in the sole discretion of the Authority and the Trustee. Such option shall be exercised in the event of prepayment in full, by depositing with said notice cash in an amount, which, together with amounts then on deposit in the Reserve Account, the Insurance and Condemnation Fund and the Revenue Fund, will be sufficient to pay the aggregate unpaid Lease Payments on said Lease Payment Date as set forth in Exhibit C hereto, together with any Lease Payments then due but unpaid, or, in the event of prepayment in part, by depositing with said notice cash equal to the amount desired to be



prepaid (the principal component of which shall be an amount divisible by \$5,000) together with any Lease Payments then due but unpaid. In the event of prepayment in part, the partial prepayment shall be applied against Lease Payments in such manner as the City shall determine and if the City shall fail to make such determination, in inverse order of their payment dates. Lease Payments due after any such partial prepayment shall be in the amounts set forth in a revised Lease Payment schedule which shall be provided by, or caused to be provided by, the City to the Trustee and which shall represent an adjustment to the schedule set forth in Exhibit C attached hereto taking into account said partial prepayment.

Section 4.5. Quiet Enjoyment. During the Term of the Lease Agreement, the Authority shall provide the City with quiet use and enjoyment of the Property, and the City shall, during such Term, peaceably and quietly have and hold and enjoy the Property without suit, trouble or hindrance from the Authority, except as expressly set forth in this Lease Agreement. The Authority will, at the request of the City and at the City's cost, join in any legal action in which the City asserts its right to such possession and enjoyment to the extent the Authority may lawfully do so. Notwithstanding the foregoing, the Authority shall have the right to inspect the Property as provided in Section 7.2.

Section 4.6. Title. If the City pays all of the Lease Payments and Additional Payments during the Term of the Lease Agreement as the same become due and payable, or if the City posts a security deposit for payment of the Lease Payments pursuant to Section 4.3(f), and if the City has paid in full all of the Additional Payments coming due and payable as of such date, and provided in any event that no Event of Default shall have occurred and be continuing, all right, title and interest of the Authority in and to the Property shall be transferred to and vested in the City. The Authority agrees to take any and all steps and execute and record any and all documents reasonably required by the City to consummate any such transfer of title.

Section 4.7. Additional Payments. In addition to the Lease Payments, the City shall pay when due the following Additional Payments:

(a) Any fees and expenses incurred by the Authority in connection with or by reason of its leasehold estate in the Property as and when the same become due and payable;

(b) Any amounts due to the Trustee pursuant to Section 8.06 of the Indenture for all services rendered under the Indenture and for all reasonable expenses, charges, costs, liabilities, legal fees and other disbursements incurred in and about the performance of its powers and duties under the Indenture;

(c) Any reasonable fees and expenses of such accountants, consultants, attorneys and other experts as may be engaged by the Authority or the Trustee to prepare audits, financial statements, reports, opinions or provide such other services required under this Lease Agreement or the Indenture; and

(d) Any reasonable out-of-pocket expenses of the Authority in connection with the execution and delivery of this Lease Agreement or the Indenture, or in connection with the issuance of the Bonds, including any and all expenses incurred in connection with the authorization, issuance, sale and delivery of the Bonds, or incurred by the Authority in connection with any litigation which may at any time be instituted involving this Lease Agreement, the Bonds, the Indenture or any of the other documents contemplated hereby or thereby, or incurred by the Authority in connection with the Continuing Disclosure Certificate, or otherwise incurred in connection with the administration hereof or thereof.

## ARTICLE V

### MAINTENANCE, TAXES, INSURANCE AND OTHER MATTERS

Section 5.1. Maintenance, Utilities, Taxes and Assessments. Throughout the Term of the Lease Agreement, as part of the consideration for the rental of the Property, all improvement, repair and maintenance of the Property shall be the responsibility of the City and the City shall pay for or otherwise arrange for the payment of all utility services supplied to the Property which may include, without limitation, janitor service, security, power, gas, phone, light, heating, water and all other utility services, and shall pay for or otherwise arrange for the payment of the cost of the repair and replacement of the Property resulting from ordinary wear and tear or want of care on the part of the City or any assignee or lessee thereof. In exchange for the Lease Payments herein provided, the Authority agrees to provide only the Property, as hereinbefore more specifically set forth. The City waives the benefits of subsections 1 and 2 of Section 1932 of the California Civil Code, but such waiver shall not limit any of the rights of the City under the terms of this Lease Agreement.

The City shall also pay or cause to be paid all taxes and assessments of any type or nature, if any, charged to the Authority or the City affecting the Property or the respective interests or estates therein; provided that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the City shall be obligated to pay only such installments as are required to be paid during the Term of the Lease Agreement as and when the same become due.

The City may, at the City's expense and in its name, in good faith contest any such taxes, assessments, utility and other charges 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 unless the Authority shall notify the City that, in the reasonable opinion of the Authority, by nonpayment of any such items, the interest of the Authority in the Property will be materially endangered or the Property or any part thereof will be subject to loss or forfeiture, in which event the City shall promptly pay such taxes, assessments or charges or provide the Authority with full security against any loss which may result from nonpayment, in form satisfactory to the Authority and the Trustee.

Section 5.2. Modification of Property. The City shall, at its own expense, have the right to make additions, modifications and improvements to the Property. All additions, modifications and improvements to the Property shall thereafter comprise part of the Property and be subject to the provisions of this Lease Agreement. Such additions, modifications and improvements shall not in any way damage the Property or cause the Property to be used for purposes other than those authorized under the provisions of State and federal law; and the City shall file with the Trustee and the Authority a Written Certificate of the City stating that the Property, upon completion of any additions, modifications and improvements made thereto pursuant to this Section 5.2, shall be of a value which is not substantially less than the value of the Property immediately prior to the making of such additions, modifications and improvements. The City will not permit any mechanic's or other lien to be established or remain against the Property for labor or materials furnished in connection with any remodeling, additions, modifications, improvements, repairs, renewals or replacements made by the City pursuant to this Section 5.2; provided that if any such lien is established and the City shall first notify or cause to be notified the Authority of the City's intention to do so, the City may in good faith contest any lien filed or established against the Property, and in such event may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom and

shall provide the Authority with full security against any loss or forfeiture which might arise from the nonpayment of any such item, in form satisfactory to the Authority. The Authority will cooperate fully in any such contest, upon the request and at the expense of the City.

Section 5.3. Public Liability and Property Damage Insurance. The City shall maintain or cause to be maintained throughout the Term of the Lease Agreement, a standard comprehensive general insurance policy or policies in protection of the Authority, City, and their respective members, officers, agents, employees and assigns. Said policy or policies shall provide for indemnification of said parties against direct or contingent loss or liability for damages for bodily and personal injury, death or property damage occasioned by reason of the operation of the Property. Said policy or policies shall provide coverage in the minimum liability limits of \$1,000,000 for personal injury or death of each person and \$3,000,000 for personal injury or deaths of two or more persons in each accident or event, and in a minimum amount of \$100,000 (subject to a deductible clause of not to exceed \$5,000) for damage to property resulting from each accident or event. Such public liability and property damage insurance may, however, be in the form of a single limit policy in the amount of \$3,000,000 covering all such risks. Such insurance may be maintained as part of or in conjunction with any other insurance coverage carried by the City, and such liability insurance may be maintained in whole or in part in the form of self-insurance by the City, subject to the provisions of Section 5.7, or in the form of the participation by the City in a joint powers agency or other program providing pooled insurance. The proceeds of such liability insurance shall be applied by the City toward extinguishment or satisfaction of the liability with respect to which paid.

Section 5.4. Fire and Extended Coverage Insurance. The City shall procure and maintain, or cause to be procured and maintained, throughout the Term of the Lease Agreement, insurance against loss or damage to the improvements constituting a part of the Property by fire and lightning, with extended coverage and vandalism and malicious mischief insurance. Said extended coverage insurance, when required, shall, as nearly as practicable, cover loss or damage by explosion, windstorm, riot, aircraft, vehicle damage, smoke and such other hazards as are normally covered by such insurance, ~~and shall include earthquake coverage if such coverage is available at reasonable cost from reputable insurers in the judgment of the City.~~ Such insurance shall be in an amount at least equal to the lesser of (a) one hundred percent (100%) of the replacement cost of all of the insured improvements, or (b) the aggregate principal amount of the outstanding Bonds. Such insurance may be maintained as part of or in conjunction with any other insurance coverage carried by the City, and may be maintained in whole or in part in the form of the participation by the City in a joint powers agency or other program providing pooled insurance; provided however, that such insurance may not be maintained by the City in the form of self-insurance. The Net Proceeds of such insurance shall be applied as provided in Section 6.1(a).

Section 5.5. Rental Interruption Insurance. The City shall procure and maintain, or cause to be procured and maintained, throughout the Term of the Lease Agreement, rental interruption or use and occupancy insurance to cover loss, total or partial, of the use of the Property as a result of any of the hazards covered in the insurance required by Section 5.4, in an amount at least equal to the maximum Lease Payments coming due and payable during any future twenty-four (24) month period. Such insurance may be maintained as part of or in conjunction with any other insurance coverage carried by the City, and may be maintained in whole or in part in the form of the participation by the City in a joint powers agency or other program providing pooled insurance; provided that such insurance may not be maintained in the form of self-insurance. The proceeds of such insurance, if any, shall be paid to the Trustee and deposited in the Revenue Fund, and shall be credited towards the payment of the Lease Payments as the same become due and payable.

Section 5.6. Recordation Hereof; Title Insurance. On or before the Closing Date the City shall, at its expense, (a) cause the Site and Facility Lease and this Lease Agreement, or a memorandum hereof or thereof, in each case in form and substance approved by Bond Counsel, to be recorded in the office of the San Luis Obispo County Recorder, and (b) obtain a CLTA policy of title insurance which insures the City's leasehold estate in the Property in an amount equal to the aggregate principal amount of the Bonds. All Net Proceeds received under said policy shall be deposited with the Trustee in the Redemption Fund and shall be applied to the redemption of Bonds pursuant to Section 4.01(c) of the Indenture.

Section 5.7. Net Proceeds of Insurance; Form of Policies. Each policy of insurance maintained pursuant to Sections 5.4, 5.5 and 5.6 shall name the Trustee as loss payee so as to provide that all proceeds thereunder shall be payable to the Trustee. All required insurance policies shall be provided by a commercial insurer in one of the two highest rating categories by Moody's and S&P (without regard to designations of plus (+) or minus (-)). The City shall pay or cause to be paid when due the premiums for all insurance policies required by this Lease Agreement. All such policies shall provide that the Trustee shall be given thirty (30) days' notice of each expiration, any intended cancellation thereof or reduction of the coverage provided thereby. The Trustee shall not be responsible for the sufficiency or amount of any insurance or self-insurance herein required and shall be fully protected in accepting payment on account of such insurance or any adjustment, compromise or settlement of any loss. The City shall cause to be delivered to the Trustee annually, no later than October 1 in each year, a certificate stating that all of the insurance policies required by this Lease Agreement are in full force and effect and identifying whether any such insurance is then maintained in the form of self-insurance.

In the event that any insurance maintained pursuant to Section 5.3 shall be provided in the form of self-insurance, the City shall file with the Trustee annually, within ninety (90) days following the close of each Fiscal Year, a statement of the City risk manager, insurance consultant or actuary identifying the extent of such self-insurance and stating the determination that the City maintains sufficient reserves with respect thereto. In the event that any such insurance shall be provided in the form of self-insurance by the City, the City shall not be obligated to make any payment with respect to any insured event except from such reserves. The results of such review shall be filed with the Trustee.

Section 5.8. Installation of Personal Property. The City may, at any time and from time to time, in its sole discretion and at its own expense, install or permit to be installed items of equipment or other personal property in or upon any portion of the Property. All such items shall remain the sole property of the City, in which neither the Authority nor the Trustee shall have any interest, and may be modified or removed by the City at any time provided that the City shall repair and restore any and all damage to the Property resulting from the installation, modification or removal of any such items. Nothing in this Lease Agreement shall prevent the City from purchasing or leasing items to be installed pursuant to this Section 5.8 under a lease or conditional sale agreement, or subject to a vendor's lien or security agreement, as security for the unpaid portion of the purchase price thereof, provided that no such lien or security interest shall attach to any part of the Property.

Section 5.9. Liens. Neither the City nor the Authority shall, directly or indirectly, create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to any portion of the Property, other than the respective rights of the Trustee, the Authority and the City as provided herein and Permitted Encumbrances. Except as expressly provided in this Article V, the City and the Authority shall promptly, at their own expense, take such action as may be necessary to duly discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim, for which it is responsible, if the same shall arise at any time. The

City shall reimburse the Authority for any expense incurred by it in order to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim.

Section 5.10. Tax Covenants.

(a) *Private Activity Bond Limitation.* The City shall assure that proceeds of the Bonds are not so used as to cause the Bonds to satisfy the private business tests of section 141(b) of the Code or the private loan financing test of section 141(c) of the Code.

(b) *Federal Guarantee Prohibition.* The City shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause any of the Bonds to be "federally guaranteed" within the meaning of section 149(b) of the Code.

(c) *Rebate Requirement.* The City shall take any and all actions necessary to assure compliance with section 148(f) of the Code, relating to the rebate of excess investment earnings, if any, to the federal government, to the extent that such section is applicable to the Bonds.

(d) *No Arbitrage.* The City shall not take, or permit or suffer to be taken by the Trustee or otherwise, any action with respect to the proceeds of the Bonds which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the Closing Date would have caused the Bonds to be "arbitrage bonds" within the meaning of section 148 of the Code.

(e) *Maintenance of Tax-Exemption.* The City shall take all actions necessary to assure the exclusion of interest with respect to the Bonds from the gross income of the Owners of the Bonds to the same extent as such interest is permitted to be excluded from gross income under the Code as in effect on the Closing Date.

(f) *Small Issuer Exemption from Bank Deductibility Restriction.*

(i) The City hereby designates the Bonds as "qualified tax-exempt obligations" for the purposes and within the meaning of section 265(b)(3) of the Code. In support of such designation, the City hereby certifies that (A) the Bonds will be at no time "private activity bonds" (as defined in section 141 of the Code); (B) as of the date hereof in calendar year 2010, other than the Bonds, no tax-exempt obligations of any kind have been issued (1) by or on behalf of the City, (2) by other issuers, any of the proceeds of which have been or will be used to make any loans to the City, or (3) any portion of which has been allocated to the City for purposes of section 265(b) of the Code; and (C) not more than \$30,000,000 of obligations of any kind (including the Bonds) issued (1) by or on behalf of the City, (2) by other issuers any of the proceeds of which have been or will be used to make any loans to the City, or (3) any portion of which has been allocated to the City for purposes of section 265(b) of the Code during calendar year 2010 will be designated for purposes of section 265(b)(3) of the Code.

(ii) The City is not subject to control by any entity, and there are no entities subject to control by the City.

(iii) On the date hereof, the City does not reasonably anticipate that for calendar year 2010 it will issue, borrow the proceeds of or have allocated to it for purposes of section 265(b) of the Code, any Section 265 Tax-Exempt Obligations (other than the Tax-Exempt Bonds), or that any Section 265 Tax-Exempt Obligations will be issued on behalf of it. "Section 265 Tax-Exempt Obligations" are obligations the interest on which is excludable from gross income of the owners thereof under section 103 of the Code,



except for private activity bonds, other than qualified 501(c)(3) bonds, both as defined in section 141 of the Code. The City will not, in calendar 2010, issue, permit the issuance on behalf of it or by any entity subject to control by the City (which may hereafter come into existence), borrow the proceeds of or agree to an allocation to it for purposes of section 265(b) of the Code, Section 265 Tax-Exempt Obligations (including the Bonds) that exceed the aggregate amount of \$30,000,000 during calendar year 2010, unless it first obtains an opinion of bond counsel to the effect that such issuance, borrowing or allocation will not adversely affect the treatment of the Bonds as a “qualified tax-exempt obligation” for the purpose and within the meaning of section 265(b)(3) of the Code.

(iv) The Bonds have not been sold in conjunction with any other tax exempt obligations.

Section 5.11. Continuing Disclosure. The City hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate. Notwithstanding any other provision of this Lease Agreement, failure of the City to comply with the Continuing Disclosure Certificate shall not constitute an Event of Default hereunder; *provided, however*, that the Participating Underwriter or any Owner or beneficial owner of the Bonds may take such actions as may be necessary and appropriate to compel performance by the City of its obligations under this Section 5.11, including seeking mandate or specific performance by court order.

## ARTICLE VI

### DAMAGE, DESTRUCTION AND EMINENT DOMAIN; ABATEMENT OF LEASE PAYMENTS

#### Section 6.1. Application of Net Proceeds.

(a) *From Insurance Award.* The Net Proceeds of any insurance award resulting from any damage to or destruction of the Property by fire or other casualty shall be paid by the City to the Trustee and shall be deposited in the Insurance and Condemnation Fund by the Trustee and applied as set forth in Section 5.08 of the Indenture.

(b) *From Eminent Domain Award.* If the Property or any portion thereof shall be taken permanently or temporarily under the power of eminent domain or sold to a government threatening to exercise the power of eminent domain, the Net Proceeds resulting therefrom shall be deposited in the Insurance and Condemnation Fund and applied as set forth in Section 5.08 of the Indenture.

(c) *From Title Insurance Award.* The Net Proceeds of any title insurance award shall be paid to the Trustee, deposited in the Insurance and Condemnation Fund and applied as set forth in Section 5.08 of the Indenture.

#### Section 6.2. Abatement of Lease Payments.

(a) *Abatement Due to Damage or Destruction of the Property; Non-Completion.* The Lease Payments shall be abated during any period in which by reason of damage to or destruction of the Property (other than by eminent domain which is hereinafter provided for) there is substantial interference with the use and occupancy by the City of the Property or any portion thereof. The amount of such abatement shall be an amount agreed upon by the City and the Authority such that the resulting Lease Payments represent fair consideration for the use and occupancy of the portions of the Property not damaged or destroyed and available for use and possession by the City. Such abatement shall continue for the period commencing with such damage or destruction and ending with the substantial completion of the work of repair or reconstruction or the date when the remaining portion of the Property is available for use and possession by the City. In the event of any such damage, destruction or non-completion, this Lease Agreement shall continue in full force and effect and the City waives any right to terminate this Lease Agreement by virtue of any such damage, destruction or non-completion. There shall be no abatement of the Lease Payments to the extent that moneys derived from any person as a result of such damage or destruction are available to pay the amount which would otherwise be abated or if there is any money available in the Revenue Fund or the Reserve Account to pay the amount which would otherwise be abated.

(b) *Abatement Due to Eminent Domain.* If all of the Property shall be taken permanently under the power of eminent domain or sold to a government threatening to exercise the power of eminent domain, the Term of the Lease Agreement shall cease with respect to the Property as of the day possession shall be so taken. If less than all of the Property shall be taken permanently, or if all of the Property or any part thereof shall be taken temporarily under the power of eminent domain, (i) this Lease Agreement shall continue in full force and effect and shall not be terminated by virtue of such taking and the parties waive the benefit of any law to the contrary, and (ii) there shall be a partial abatement of Lease Payments in an amount to be agreed upon by the City and the Authority such that the resulting Lease Payments for the Property represent fair consideration for the use and occupancy of the remaining usable portion of the Property.



## ARTICLE VII

### DISCLAIMER OF WARRANTIES; ACCESS

Section 7.1. Disclaimer of Warranties. THE AUTHORITY MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR FITNESS FOR THE USE CONTEMPLATED BY THE CITY OF THE PROPERTY, OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE PROPERTY. IN NO EVENT SHALL THE AUTHORITY AND ITS ASSIGNS BE LIABLE FOR INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH OR ARISING OUT OF THE SITE AND FACILITY LEASE, THIS LEASE AGREEMENT OR THE INDENTURE FOR THE EXISTENCE, FURNISHING, FUNCTIONING OR THE CITY'S USE OF THE PROPERTY.

Section 7.2. Rights of Access. The City agrees that the Authority and any Authorized Representative of the Authority, and the Authority's successors or assigns, shall have the right at all reasonable times to enter upon and to examine and inspect the Property. The City further agrees that the Authority, any Authorized Representative of the Authority, and the Authority's successors or assigns, shall have such rights of access to the Property as may be reasonably necessary to cause the proper maintenance of the Property in the event of failure by the City to perform its obligations hereunder; provided, however, that the Authority's assigns shall not be required to cause such proper maintenance.

Section 7.3. Release and Indemnification Covenants. The City shall and hereby agrees to indemnify and save the Authority, the Trustee and their respective officers, agents, directors, employees, successors and assigns, harmless from and against all claims, losses and damages, including legal fees and expenses, arising out of (a) the use, maintenance, condition or management of, or from any work or thing done on the Property by the City, (b) any breach or default on the part of the City in the performance of any of its obligations under this Lease Agreement, (c) any act or negligence of the City or of any of its agents, contractors, servants, employees or licensees with respect to the Property, (d) any act or negligence of any lessee of the City with respect to the Property, or (e) the performance by the Trustee of its duties hereunder or under the Indenture. No indemnification is made under this Section 7.3 or elsewhere in this Lease Agreement for willful misconduct or negligence under this Lease Agreement by the Authority, the Trustee or any of their respective officers or employees. The indemnification hereunder shall survive removal or resignation of the Trustee, termination of this Lease Agreement or discharge of the Bonds.

## ARTICLE VIII

### ASSIGNMENT, LEASING AND AMENDMENT

Section 8.1. Assignment by the Authority. Certain rights of the Authority under this Lease Agreement, including the right to receive and enforce payment of the Lease Payments to be made by the City under this Lease Agreement, have been pledged and assigned to the Trustee for the benefit of the Owners of the Bonds pursuant to the Indenture, to which pledge and assignment the City hereby consents. The assignment of this Agreement to the Trustee is solely in its capacity as Trustee under the Indenture and the duties, powers and liabilities of the Trustee in acting hereunder shall be subject to the provisions of the Indenture, including, without limitation, the provisions of Article VIII thereof.

Section 8.2. Assignment and Subleasing by the City. This Lease Agreement may not be assigned by the City. The City may sublease the Property or any portion thereof, subject to, and delivery to the Authority of a certificate as to, all of the following conditions:

(a) This Lease Agreement and the obligation of the City to make Lease Payments hereunder shall remain obligations of the City;

(b) The City shall, within thirty (30) days after the delivery thereof, furnish or cause to be furnished to the Authority and the Trustee a true and complete copy of such sublease;

(c) No such sublease by the City shall cause the Property to be used for a purpose other than as may be authorized under the provisions of the laws of the State; and

(d) The City shall furnish the Authority and the Trustee with a written opinion of Bond Counsel, stating that such sublease is permitted by this Lease Agreement and the Indenture, and will not cause the interest on the Bonds to become included in gross income for federal income tax purposes.

#### Section 8.3. Amendment of Lease.

(a) *Substitution of Site*. The City shall have, and is hereby granted, the option at any time and from time to time during the Term of the Lease Agreement to substitute other land (a "Substitute Site") for the Site (the "Former Site"), or a portion thereof, provided that the City shall satisfy all of the following requirements which are hereby declared to be conditions precedent to such substitution:

(i) The City shall file with the Authority and the Trustee an amended Exhibit A to the Site and Facility Lease which adds thereto a description of such Substitute Site and deletes therefrom the description of the Former Site;

(ii) The City shall file with the Authority and the Trustee an amended Exhibit A to this Lease Agreement which adds thereto a description of such Substitute Site and deletes therefrom the description of the Former Site;

(iii) The City shall certify in writing to the Authority and the Trustee that such Substitute Site serves the purposes of the City, constitutes property that is unencumbered (or the portion of such property to be substituted is unencumbered), subject to Permitted Encumbrances, and constitutes property which the City is permitted to lease under the laws of the State;

(iv) The City delivers to the Trustee and the Authority evidence that the Substitute Site (or the portions to be substituted) is of equal or greater value than the Site (or the portions thereof) to be substituted;

(v) The City shall certify the Substitute Site shall not cause the City to violate any of its covenants, representations and warranties made herein;

(vi) The City shall obtain an amendment to the title insurance policy required pursuant to Section 5.6 hereof which adds thereto a description of the Substitute Site and deletes therefrom the description of the Former Site;

(vii) The City shall certify that the Substitute Site is of the same or greater essentiality to the City as was the Former Site;

(viii) The City shall certify that the Substitute Site has a useful life equal to or longer than the remaining term of the Bonds; and

(ix) The City shall provide notice of such substitution to any rating agency then rating the Bonds.

(b) *Substitution of Facility.* The City shall have, and is hereby granted, the option at any time and from time to time during the Term of the Lease Agreement to substitute a substitute facility or substitute facilities (a "Substitute Facility") for the Facility (the "Former Facility"), or a portion thereof, provided that the City shall satisfy all of the following requirements which are hereby declared to be conditions precedent to such substitution:

(i) The City shall file with the Authority and the Trustee an amended Exhibit B to the Site and Facility Lease which adds thereto a description of such Substitute Facility and deletes therefrom the description of the Former Facility, if applicable;

(ii) The City shall file with the Authority and the Trustee an amended Exhibit B to this Lease Agreement which adds thereto a description of such Substitute Facility and deletes therefrom the description of the Former Facility;

(iii) The City shall certify in writing to the Authority and the Trustee that such Substitute Facility serves the purposes of the City, constitutes property that is unencumbered (or the portion of such property to be substituted is unencumbered), subject to Permitted Encumbrances, and constitutes property which the City is permitted to lease under the laws of the State;

(iv) The City delivers to the Trustee and the Authority evidence that the Substitute Facility (or the portions to be substituted) is of equal or greater value than the property (or the portions thereof) to be substituted;

(v) The City shall certify the Substitute Facility shall not cause the City to violate any of its covenants, representations and warranties made herein;

(vi) The City shall certify that the Substitute Facility is of the same or greater essentiality to the City as was the Former Facility;

(vii) The City shall certify that the Substitute Facility has a useful life equal to or longer than the remaining term of the Bonds; and

(viii) The City shall provide notice of such substitution to any rating agency then rating the Bonds.

(c) *Release of Site.* The City shall have, and is hereby granted, the option at any time and from time to time during the Term of the Lease Agreement to release any portion of the Site, provided that the City shall satisfy all of the following requirements which are hereby declared to be conditions precedent to such release:

(i) The City shall file with the Authority and the Trustee an amended Exhibit A to the Site and Facility Lease which describes the Site, as revised by such release;

(ii) The City shall file with the Authority and the Trustee an amended Exhibit A to this Lease Agreement which describes the Site, as revised by such release;

(iii) The City delivers to the Trustee and the Authority evidence that the Site, as revised by such release, without regard to the value of the Facility, has a value at least equal to ~~1.1 times~~ the principal amount of the Bonds then outstanding;

(iv) The City shall obtain an amendment to the title insurance policy required pursuant to Section 5.6 hereof which describes the Site, as revised by such release; and

(v) The City shall provide notice of such release to any rating agency then rating the Bonds.

(d) *Release of Facility.* The City shall have, and is hereby granted, the option at any time and from time to time during the Term of the Lease Agreement to release any portion of the Facility provided that the City shall satisfy all of the following requirements which are hereby declared to be conditions precedent to such release:

(i) The City shall file with the Authority and the Trustee an amended Exhibit B to the Site and Facility Lease which describes the Facility, as revised by such release;

(ii) The City shall file with the Authority and the Trustee an amended Exhibit B to this Lease Agreement which describes the Facility, as revised by such release;

(iii) The City delivers to the Trustee and the Authority evidence that the Facility, as revised by such release, together with the Site, has a total value at least equal to ~~1.1 times~~ the principal amount of the Bonds then outstanding; and

(iv) The City shall provide notice of such release to any rating agency then rating the Bonds.

~~Notwithstanding the foregoing, the City may, at any time in connection with a legal subdivision of the Site, release all portions of the Facility other than the City Hall building, and shall not be required to satisfy the requirements of subparagraphs (iii) or (iv) of this paragraph (d), and such release may be accomplished with the necessity of separate approval by the City Council.~~

(e) *Generally.* The Authority and the City may at any time amend or modify any of the provisions of this Lease Agreement, but only (a) with the prior written consents of the Owners of a majority in aggregate principal amount of the Outstanding Bonds, or (b) without the

consent of any of the Bond Owners, but only if such amendment or modification is for any one or more of the following purposes:

(i) to add to the covenants and agreements of the City contained in this Lease Agreement, other covenants and agreements thereafter to be observed, or to limit or surrender any rights or power herein reserved to or conferred upon the City;

(ii) to make such provisions for the purpose of curing any ambiguity, or of curing, correcting or supplementing any defective provision contained herein, or in any other respect whatsoever as the Authority and the City may deem necessary or desirable, provided that, in the opinion of Bond Counsel, such modifications or amendments will not materially adversely affect the interests of the Owners of the Bonds; or

(iii) to amend any provision thereof relating to the Tax Code, to any extent whatsoever but only if and to the extent such amendment will not adversely affect the exclusion from gross income of interest on the Bonds under the Code, in the opinion of Bond Counsel.

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## ARTICLE IX

### EVENTS OF DEFAULT; REMEDIES

Section 9.1. Events of Default Defined. The following shall be "Events of Default" under this Lease Agreement:

(a) Failure by the City to pay any Lease Payment required to be paid hereunder at the time specified herein.

(b) Failure by the City to make any Additional Payment required hereunder and the continuation of such failure for a period of thirty (30) days.

(c) Failure by the City to observe and perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in the preceding clauses (a) or (b), for a period of sixty (60) days after written notice specifying such failure and requesting that it be remedied has been given to the City by the Authority or the Trustee; provided, however, that if in the reasonable opinion of the City the failure stated in the notice can be corrected, but not within such sixty (60) day period, such failure shall not constitute an Event of Default if the City shall commence to cure such failure within such sixty (60) day period and thereafter diligently and in good faith shall cure such failure in a reasonable period of time which shall last no longer than 120 days after the original written notice.

(d) The filing by the City of a voluntary petition in bankruptcy, or failure by the City promptly to lift any execution, garnishment or attachment, or adjudication of the City as a bankrupt, or assignment by the City for the benefit of creditors, or the entry by the City into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of a petition applicable to the City in any proceedings instituted under the provisions of applicable federal bankruptcy law, or under any similar acts which may hereafter be enacted.

Section 9.2. Remedies on Default. Whenever any Event of Default referred to in Section 9.1 shall have happened and be continuing, it shall be lawful for the Authority to exercise any and all remedies available pursuant to law or granted pursuant to this Lease Agreement; provided, however, that notwithstanding anything to the contrary herein or in the Indenture, there shall be no right under any circumstances to accelerate the Lease Payments or otherwise declare any Lease Payments not then in default to be immediately due and payable or to terminate this Lease Agreement or to cause the fee interest or the leasehold interest of the City in the Property to be sold, assigned or otherwise alienated. Each and every covenant hereof to be kept and performed by the City is expressly made a condition and, upon the breach thereof, the Authority may exercise any and all rights of entry and re-entry upon the Property. The City hereby irrevocably consents to the Authority's repossession of the Property if such an Event of Default shall occur and consents to the Authority's re-letting of the Property for the account of the City. In the event of such default and notwithstanding any re-entry by the Authority, the City shall, as herein expressly provided, continue to remain liable for the payment of the Lease Payments and/or damages for breach of this Lease Agreement and the performance of all conditions herein contained and, in any event, such rent and/or damages shall be payable to the Authority at the time and in the manner as herein provided, to wit:

(a) The City agrees to and shall remain liable for the payment of all Lease Payments and the performance of all conditions herein contained and shall reimburse the Authority for any deficiency arising out of the re-leasing of the Property, or, in the event the Authority is unable to re-lease the Property, then for the full amount of all Lease Payments to the end of the Term of



the Lease Agreement, but said Lease Payments and/or deficiency shall be payable only at the same time and in the same manner as hereinabove provided for the payment of Lease Payments hereunder, notwithstanding such entry or re-entry by the Authority or any suit in unlawful detainer, or otherwise, brought by the Authority for the purpose of effecting such re-entry or obtaining possession of the Property or the exercise of any other remedy by the Authority.

(b) The City hereby irrevocably appoints the Authority as the agent and attorney-in-fact of the City to enter upon and re-lease the Property in the event of default by the City in the performance of any covenants herein contained to be performed by the City and to remove all personal property whatsoever situated upon the Property to place such property in storage or other suitable place in San Luis Obispo County, for the account of and at the expense of the City, and the City hereby exempts and agrees to save harmless the Authority from any costs, loss or damage whatsoever arising or occasioned by any such entry upon and re-leasing of the Property and the removal and storage of such property by the Authority or its duly authorized agents in accordance with the provisions herein contained.

(c) The City hereby waives any and all claims for damages caused or which may be caused by the Authority in re-entering and taking possession of the Property as herein provided and all claims for damages that may result from the destruction of or injury to the Property and all claims for damages to or loss of any property belonging to the City that may be in or upon the Property.

(d) The City agrees that the terms of this Lease Agreement constitute full and sufficient notice of the right of the Authority to re-lease the Property in the event of such re-entry without effecting a surrender of this Lease Agreement, and further agrees that no acts of the Authority in effecting such re-leasing shall constitute a surrender or termination of this Lease Agreement irrespective of the term for which such re-leasing is made or the terms and conditions of such re-leasing, or otherwise.

Section 9.3. Limitation on Remedies. Notwithstanding the foregoing provisions of Section 9.2, neither the Authority nor the Trustee shall exercise any remedies against the Property to the extent such remedies would generate funds which are not available to satisfy the obligations of this Lease Agreement or the Indenture.

Section 9.4. No Remedy Exclusive. No remedy herein conferred upon or reserved to the Authority is intended to be exclusive and every such remedy shall be cumulative and shall, except as herein expressly provided to the contrary, be in addition to every other remedy given under this Lease Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Authority to exercise any remedy reserved to it in this Article IX it shall not be necessary to give any notice, other than such notice as may be required in this Article IX or by law.

Section 9.5. Agreement to Pay Attorneys' Fees and Expenses. In the event either party to this Lease Agreement should default under any of the provisions hereof and the nondefaulting party should employ attorneys or incur other expenses for the collection of moneys or the enforcement or performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party agrees that it will on demand therefor pay to the nondefaulting party the reasonable fees of such attorneys and such other expenses so incurred by the nondefaulting party.



Section 9.6. No Additional Waiver Implied by One Waiver. In the event any agreement contained in this Lease Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

Section 9.7. Trustee and Bond Owners to Exercise Rights. Such rights and remedies as are given to the Authority under this Article IX have been assigned by the Authority to the Trustee under the Indenture, to which assignment the City hereby consents. Such rights and remedies shall be exercised by the Trustee and the Owners of the Bonds as provided in the Indenture. The Trustee shall be considered a third party beneficiary for enforcing its rights under this Lease Agreement.

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ARTICLE X

MISCELLANEOUS

Section 10.1. Notices. All written notices to be given under this Lease Agreement shall be given by first class mail or personal delivery to the party entitled thereto at its address set forth below, or at such address as the party may provide to the other party in writing from time to time. Notice shall be effective either (a) upon transmission by facsimile transmission or other form of telecommunication, confirmed by phone, (b) upon receipt after deposit in the United States mail, postage prepaid, or (c) in the case of personal delivery to any person, upon actual receipt.

If to the Authority: Atascadero Public Financing Authority  
c/o City of Atascadero  
6907 El Camino Real  
Atascadero, CA 93422  
Attention: Administrative Services Director  
Phone: (805) 470-3428  
Fax: (805) 470-3477

If to the City: City of Atascadero  
6907 El Camino Real  
Atascadero, CA 93422  
Attention: Administrative Services Director  
Phone: (805) 470-3428  
Fax: (805) 470-3477

If to the Trustee: The Bank of New York Mellon Trust Company, N.A.  
700 South Flower Street, Suite 500  
Los Angeles, CA 90017-4104  
Attention: Corporate Trust Department  
Phone: (213) 630-6239  
Fax: (213) 630-6480

The Authority, the City or the Trustee may, by written notice to the other parties, from time to time modify the address or number to which communications are to be given hereunder.

Section 10.2. Binding Effect. This Lease Agreement shall inure to the benefit of and shall be binding upon the Authority and the City and their respective successors and assigns.

Section 10.3. Severability. In the event any provision of this Lease Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 10.4. Net-net-net Lease. This Lease Agreement shall be deemed and construed to be a "net-net-net lease" and the City hereby agrees that the Lease Payments shall be an absolute net return to the Authority, free and clear of any expenses, charges or set-offs whatsoever.

Section 10.5. Further Assurances and Corrective Instruments. The Authority and the City agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the

Property hereby leased or intended so to be or for carrying out the expressed intention of this Lease Agreement.

Section 10.6. Execution in Counterparts. This Lease 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 10.7. Applicable Law. This Lease Agreement shall be governed by and construed in accordance with the laws of the State.

Section 10.8. Authorized Representatives. Whenever under the provisions of this Lease Agreement the approval of the Authority or the City is required, or the Authority or the City is required to take some action at the request of the other, such approval or such request shall be given for the Authority by an Authorized Representative of the Authority and for the City by an Authorized Representative of the City, and any party hereto shall be authorized to rely upon any such approval or request.

Section 10.9. Waiver of Personal Liability. All liabilities under this Lease Agreement on the part of the City are solely liabilities of the City and the Authority hereby releases each and every member, director, officer, employee and agent of the City of and from any personal or individual liability under this Lease Agreement. No member, director, officer, employee or agent of the City shall at any time or under any circumstances be individually or personally liable under this Lease Agreement for anything done or omitted to be done by the City hereunder.

Section 10.10. Limitation of Rights to Parties and Bond Owners. Nothing in this Lease Agreement expressed or implied is intended or shall be construed to give to any person other than the Authority, the Trustee, the City, the Authority and the Owners of the Bonds, any legal or equitable right, remedy or claim under or in respect of this Lease Agreement or any covenant, condition or provision therein or herein contained; and all such covenants, conditions and provisions are and shall be held to be for the sole and exclusive benefit of the Authority, the Trustee, the City, the Authority and the Owners of the Bonds.

Section 10.11. Captions. The captions or headings in this Lease Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Section of this Lease Agreement.

IN WITNESS WHEREOF, the Authority has caused this Lease Agreement to be executed in its name by its duly authorized officers; and the City has caused this Lease Agreement to be executed in its name by its duly authorized officers, as of the date first above written.

ATASCADERO PUBLIC FINANCING  
AUTHORITY

By \_\_\_\_\_  
Wade G. McKinney  
Executive Director

Attest:

\_\_\_\_\_  
Marcia McClure Torgerson  
Secretary

CITY OF ATASCADERO

By \_\_\_\_\_  
Wade G. McKinney  
City Manager

Attest:

\_\_\_\_\_  
Marcia McClure Torgerson  
City Clerk

[NOTARY ACKNOWLEDGMENTS TO BE ATTACHED]

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## EXHIBIT A

### DESCRIPTION OF THE SITE

Those parcels of land in the City of Atascadero, San Luis Obispo County, State of California, described as follows:

*Colony Park Community Center Site*  
*APN 029-091-040*

*[DESCRIPTION TO COME]*

*Atascadero Police Station Site*  
*APN 029-323-016*

*[DESCRIPTION TO COME]*

*Fire Station No. 1 Site*  
*APN 029-332-004*

*[DESCRIPTION TO COME]*

*Fire Station No. 2 Site*  
*APN 056-151-033*

*[DESCRIPTION TO COME]*

*Lake Park Pavilion Site*  
*APN 056-332-003*

*[DESCRIPTION TO COME]*

*Atascadero Corporate Yard Site*  
*APN 028-421-001*

*[DESCRIPTION TO COME]*

## EXHIBIT B

### DESCRIPTION OF THE FACILITY

Colony Park Community Center. The Colony Park Community Center is a recreation and meeting hall for all ages. It is located at 5599 Traffic Way in Atascadero, close to downtown. The building is 17,240 sq feet and contains offices, entry lobby, meeting rooms, gym, art room, dance/fitness room, teen center, cafe and storage areas. The building is situated on a parcel of over 11 acres and is adjacent to Colony Park and ball fields. The facilities contains a landscaped area, paved driveways and paved parking areas.

Atascadero Police Station. The facility houses the City's Police Department and is located at 5505 El Camino Real in Atascadero. The building is 12,380 sq feet and has offices, a 911 dispatch center, locker rooms, restroom facilities, conference rooms, a break room, an evidence room, a investigations center, jail (4 holding cells), a generator room with a permanent generator and storage areas. The building features a secured lobby and gated parking area. Typically, 14 staff members occupy the facility. The land is almost 1.3 acres, and contains a landscaped area, three covered parking structures, paved driveways and parking areas and storage sheds. The facility is located close to downtown with convenient access to Highway 101.

Fire Station No. 1. The facility, one of two City fire stations, is located at 6005 Lewis Avenue in Atascadero. The building is 5,320 square feet and has offices, living quarters, a kitchen, restroom facilities, a hose tower, four apparatus bays, a shop and storage areas. The land is just over an acre and contains a grassy landscaped area, a covered parking and barbeque area, paved driveways and parking areas and a sand-bagging station. The facility is located in the downtown area.

Fire Station No. 2. The facility, the second of the two City fire stations, is located at 9801 West Front Street in Atascadero. The building is 3,820 square feet and has offices, living quarters, a kitchen, restroom facilities, four apparatus bays, a shop, and storage areas. The land is just under an acre and contains paved driveways and paved parking areas. The facility is located on the south west side of town with close access to Highway 101.

Lake Park Pavilion. The Pavilion on the Lake is an events center rented to groups and private parties for meetings, weddings, banquets, concerts and more. It is located at 9315 Pismo Avenue in Atascadero, adjacent to Atascadero Lake Park and the Charles Paddock Zoo. The building is 14,360 square feet and contains offices, entry lobby, banquet room, meeting rooms, kitchen and storage areas. The building is situated on a parcel of over 5 acres and overlooks the Atascadero Lake. The facility contains a landscaped area, paved driveways and paved parking areas. The facility is located on Highway 41.

Atascadero Corporate Yard. The facility consists of the City's corporate yard and is located at 8005 Garbada Avenue in Atascadero. The yard houses four of the City's Public Works divisions: Wastewater, Parks, Streets and Operations and is 14,444 square feet. Approximately 13 staff members work out of the facility. The building shares a parcel with the Wastewater Treatment Facility. The parcel is about 75 acres in size. The building consists of five offices, a break room, a locker room, entry lobby, a wood shop and warehouse, storage, a sign shop, two vehicle repair shops, a welding shop and two small-tools shops. There are landscaped areas, a carport covered parking, and paved driveways, parking and roads.



**EXHIBIT C**  
**SCHEDULE OF LEASE PAYMENTS**

<u>Lease Payment Date</u>	<u>Principal Component</u>	<u>Interest Component</u>	<u>Total Lease Payment</u>
<u>3/15/11</u>			
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AFTER RECORDATION RETURN TO:

Quint & Thimmig LLP  
575 Market Street, Suite 3600  
San Francisco, CA 94105-2874  
Attention: Brian D. Quint, Esq.

THIS TRANSACTION IS EXEMPT FROM CALIFORNIA DOCUMENTARY TRANSFER TAX PURSUANT TO SECTION 11929 OF THE CALIFORNIA REVENUE AND TAXATION CODE. THIS DOCUMENT IS EXEMPT FROM RECORDING FEES PURSUANT TO SECTION 27383 OF THE CALIFORNIA GOVERNMENT CODE.

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## MEMORANDUM OF LEASE AGREEMENT

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This MEMORANDUM OF LEASE AGREEMENT (this "Memorandum of Lease Agreement"), is entered into as of August 1, 2010, by and between the ATASCADERO PUBLIC FINANCING AUTHORITY, a joint exercise of powers authority organized and existing under and by virtue of the laws of the State of California (the "Authority"), and the CITY OF ATASCADERO, a municipal corporation and general law city organized and existing under and by virtue of the laws of the State of California, as lessee (the "City"), who agree as follows:

*Section 1. The Lease.* The City leases from the Authority and the Authority leases to the City, certain real property described in paragraph 2 hereof, and the improvements situated and to be situated upon said real property, upon the terms and conditions, and for the term, more fully set forth in the Lease Agreement, dated as of August 1, 2010, by and between the Authority, as lessor, and the City, as lessee (the "Lease Agreement"), all of the provisions of which are hereby incorporated into this Memorandum of Lease Agreement by reference.

*Section 2. Leased Premises; Term.* The Authority leases, lets and demises unto the City and the City leases, hires and takes from the Authority, those certain parcels of real property situated in San Luis Obispo County, State of California, more particularly described in Exhibit A attached hereto and made a part hereof (collectively, the "Site"), and certain existing facilities on the Site, more particularly described in Exhibit B attached hereto and made a part hereof (the "Facility" and, with the Site, the "Property"). The Lease Agreement is for a term commencing on the date of recordation and ending on October 1, \_\_\_\_, or such earlier date on which the Lease Payments (as defined in the Lease Agreement) are paid in full or provision has been made for such payment in accordance with the Lease Agreement.

*Section 3. Assignment of Lessor's Rights Under Lease Agreement.* Pursuant to the Indenture of Trust, dated as of August 1, 2010, by and between the Authority and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee"), and evidenced by a memorandum of assignment of lease, dated as of August 1, 2010, and recorded concurrently herewith, the Authority has agreed to assign and transfer to the Trustee, certain of its rights under the Lease Agreement and in consideration of such assignment, the Authority has agreed to issue and the Trustee has agreed to authenticate and deliver \$ \_\_\_\_\_ aggregate principal amount of the Atascadero Public Financing Authority Lease Revenue Bonds, 2010 Series A.

*Section 4. Provisions Binding on Successors and Assigns.* Subject to the provisions of the Lease Agreement relating to assignment and subletting, the Lease Agreement shall inure to the benefit of and shall be binding upon the Authority and the City and their respective successors and assigns.

*Section 5. Purpose of Memorandum.* This Memorandum of Lease Agreement is prepared for the purpose of recordation and it in no way modifies the provisions of the Lease Agreement.

*Section 6. Execution.* This Memorandum of Lease 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.

DRAFT

IN WITNESS WHEREOF, the Authority has caused this Memorandum of Lease Agreement to be executed in its corporate name by its duly authorized officers; and the City has caused this Memorandum of Lease Agreement to be executed in its name by its duly authorized officers, as of the date first above written.

ATASCADERO PUBLIC FINANCING  
AUTHORITY

By \_\_\_\_\_  
Wade G. McKinney  
Executive Director

Attest:

\_\_\_\_\_  
Marcia McClure Torgerson  
Secretary

CITY OF ATASCADERO

By \_\_\_\_\_  
Wade G. McKinney  
City Manager

Attest:

\_\_\_\_\_  
Marcia McClure Torgerson  
City Clerk

[NOTARY ACKNOWLEDGMENTS TO BE ATTACHED]

DRAFT

## EXHIBIT A

### DESCRIPTION OF THE SITE

Those parcels of land in the City of Atascadero, San Luis Obispo County, State of California, described as follows:

*Colony Park Community Center Site*  
*APN 029-091-040*

*[DESCRIPTION TO COME]*

*Atascadero Police Station Site*  
*APN 029-323-016*

*[DESCRIPTION TO COME]*

*Fire Station No. 1 Site*  
*APN 029-332-004*

*[DESCRIPTION TO COME]*

*Fire Station No. 2 Site*  
*APN 056-151-033*

*[DESCRIPTION TO COME]*

*Lake Park Pavilion Site*  
*APN 056-332-003*

*[DESCRIPTION TO COME]*

*Atascadero Corporate Yard Site*  
*APN 028-421-001*

*[DESCRIPTION TO COME]*



## EXHIBIT B

### DESCRIPTION OF THE FACILITY

Colony Park Community Center. The Colony Park Community Center is a recreation and meeting hall for all ages. It is located at 5599 Traffic Way in Atascadero, close to downtown. The building is 17,240 sq feet and contains offices, entry lobby, meeting rooms, gym, art room, dance/fitness room, teen center, cafe and storage areas. The building is situated on a parcel of over 11 acres and is adjacent to Colony Park and ball fields. The facilities contains a landscaped area, paved driveways and paved parking areas.

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AFTER RECORDATION RETURN TO:

Quint & Thimmig LLP  
575 Market Street, Suite 3600  
San Francisco, California 94105-2874  
Attention: Brian D. Quint, Esq.

THIS TRANSACTION IS EXEMPT FROM CALIFORNIA DOCUMENTARY TRANSFER TAX PURSUANT TO SECTION 11922 OF THE CALIFORNIA REVENUE AND TAXATION CODE. THIS DOCUMENT IS EXEMPT FROM RECORDING FEES PURSUANT TO SECTION 6103 OF THE CALIFORNIA GOVERNMENT CODE.

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## MEMORANDUM OF ASSIGNMENT OF LEASE

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THIS MEMORANDUM OF ASSIGNMENT OF LEASE (this "Memorandum"), made and entered into as of August 1, 2010, is by and between the ATASCADERO PUBLIC FINANCING AUTHORITY, a joint exercise of powers authority organized and existing under and by virtue of the laws of the State of California (the "Authority"), and THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., a national banking association organized and existing under and by virtue of the laws of the United States of America, as trustee (the "Trustee");

### WITNESSETH:

In the joint and mutual exercise of their powers, in consideration of the mutual covenants herein contained, and for other valuable consideration, the parties hereto recite and agree as follows:

#### *Section 1. Recitals.*

(a) The Authority and the City of Atascadero (the "City") have entered into that certain Lease Agreement, dated as of August 1, 2010 (the "Lease Agreement"), evidenced by a memorandum recorded concurrently herewith, under which the Authority has leased to the City certain parcels of real property situated in San Luis Obispo County, State of California, more particularly described in Exhibit A attached hereto and made a part hereof (collectively, the "Site"), certain existing facilities on the Site, more particularly described in Exhibit B attached hereto and made a part hereof (the "Facility" and, with the Site, the "Property").

(b) Under the Lease Agreement, the Authority has agreed to lease the Property to the City in the manner and on the terms set forth therein, which terms include, without limitation, the obligation of the City to pay Lease Payments (as defined in the Lease Agreement) to the Authority, as the rental for the lease of the Property.

(c) Under the Lease Agreement and under an Indenture of Trust, dated as of August 1, 2010, by and between the Authority and the Trustee (the "Indenture"), the Authority is required to cause to be deposited certain sums of money to be credited, held and applied in accordance therewith.

(d) For the purpose of obtaining such moneys, the Authority has assigned and transferred to the Trustee, under the Indenture, certain of its rights under the Lease Agreement for the purpose of securing the bonds of the Authority designated the "Atascadero Public Financing Authority Lease Revenue Bonds, 2010 Series A," issued under the Indenture in the aggregate principal amount of \$\_\_\_\_\_ (the "Bonds").

(e) The Authority has requested the Trustee to enter into this Memorandum for the purpose of memorializing such assignment of record.

*Section 2. Assignment.* The Authority has transferred, assigned and set over to the Trustee, pursuant to the terms of the Indenture, and does hereby assign to the Trustee for the benefit of the Owners of Bonds, (a) all of the rights of the Authority in the Lease Agreement (other than the rights of the Authority under Sections 4.7, 7.3 and 9.5 thereof and other than its rights to give approvals and consents thereunder), including but not limited to the right to receive and collect all of the Lease Payments (including prepayments thereof) from the City under the Lease Agreement, and the right to exercise such rights and remedies conferred on the Authority pursuant to the Lease Agreement as may be necessary or convenient to enforce payment of the Lease Payments and prepayments thereof, and (b) all of the rights of the Authority in the Site and Facility Lease (other than its rights to give approvals and consents thereunder). All rights assigned by the Authority shall be administered by the Trustee in accordance with the provisions of the Indenture and for the benefit of the owners of the Bonds.

*Section 3. Acceptance.* The Trustee hereby accepts the assignments made herein for the purpose of providing for the payments due pursuant to the Indenture to, and the rights under the Lease Agreement and Indenture of, the owners of the Bonds delivered pursuant to the Indenture, all subject to the provisions of the Indenture.

*Section 4. Conditions.* This Memorandum shall confer no obligations or impose no duties upon the Trustee beyond those expressly provided for in the Indenture.

*Section 5. Counterpart Signatures.* This Memorandum 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.

IN WITNESS WHEREOF, the parties have executed this Memorandum by their officers thereunto duly authorized as of the day and year first written above.

ATASCADERO PUBLIC FINANCING  
AUTHORITY

By \_\_\_\_\_  
Wade G. McKinney  
Executive Director

Attest:

\_\_\_\_\_  
Marcia McClure Torgerson  
Secretary

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

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

NOTARY ACKNOWLEDGMENT FORMS TO BE ATTACHED

**EXHIBIT A**

**DESCRIPTION OF THE SITE**

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## CONTINUING DISCLOSURE CERTIFICATE

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This CONTINUING DISCLOSURE CERTIFICATE (the "Disclosure Certificate") is executed and delivered by the CITY OF ATASCADERO (the "City") in connection with the issuance by the Atascadero Public Financing Authority (the "Authority") of \$\_\_\_\_\_ aggregate principal amount of Atascadero Public Financing Authority Lease Revenue Bonds, 2010 Series A (the "Bonds"). The Bonds are being issued pursuant to an indenture of trust, dated as of August 1, 2010 (the "Indenture"), by and between the Authority and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee"). The City covenants and agrees as follows:

Section 1. Purpose of the Disclosure Certificate. This Disclosure Certificate is being executed and delivered by the City for the benefit of the holders and beneficial owners of the Bonds and in order to assist the Participating Underwriter in complying with S.E.C. Rule 15c2-12(b)(5).

Section 2. Definitions. In addition to the definitions set forth in the Indenture, which apply to any capitalized term used in this Disclosure Certificate unless otherwise defined in this Section 2, the following capitalized terms shall have the following meanings:

"*Annual Report*" shall mean any Annual Report provided by the City pursuant to, and as described in, Sections 3 and 4 of this Disclosure Certificate.

"*Beneficial Owner*" shall mean any person which (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries), or (b) is treated as the owner of any Bonds for federal income tax purposes.

"*Dissemination Agent*" shall mean \_\_\_\_\_ or any successor Dissemination Agent designated in writing by the City and which has filed with the City a written acceptance of such designation. In the absence of such a designation, the City shall act as the Dissemination Agent.

"*EMMA*" or "*Electronic Municipal Market Access*" means the centralized on-line repository for documents filed with the MSRB, such as official statements and disclosure information relating to municipal bonds, notes and other securities as issued by state and local governments or similar medium should EMMA no longer exist.

"*Listed Events*" shall mean any of the events listed in Section 5(a) of this Disclosure Certificate.

"*MSRB*" means the Municipal Securities Rulemaking Board, which has been designated by the Securities and Exchange Commission as the sole repository of disclosure information for purposes of the Rule, or any other repository of disclosure information which may be designated by the Securities and Exchange Commission as such for purposes of the Rule in the future.

"*Participating Underwriter*" shall mean the original underwriter of the Bonds, required to comply with the Rule in connection with offering of the Bonds.

“Rule” shall mean Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

### Section 3. Provision of Annual Reports.

(a) *Delivery of Annual Report to MSRB.* The City shall, or shall cause the Dissemination Agent to, not later than March 31 of each year (being the last day of the 9th month after the end of the City’s fiscal year, which ends on June 30), commencing with the report for the 2009-2010 fiscal year, file with EMMA, in a readable PDF or other electronic format as prescribed by the MSRB, an Annual Report prepared by or on behalf of the City that is consistent with the requirements of Section 4 of this Disclosure Certificate. The Annual Report may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as provided in Section 4 of this Disclosure Certificate; provided that the audited financial statements of the City may be submitted separately from the balance of the Annual Report and later than the date required above for the filing of the Annual Report if they are not available by that date.

(b) *Change of Fiscal Year.* If the City’s fiscal year changes, it shall give notice of such change in the same manner as for a Listed Event under Section 5(d).

(c) *Delivery of Annual Report to Dissemination Agent.* Not later than five (5) Business Days prior to the date specified in subsection (a) for providing the Annual Report to EMMA, the City shall provide the Annual Report to the Dissemination Agent (if other than the City). If by such date, the Dissemination Agent has not received a copy of the Annual Report, the Dissemination Agent shall notify the City.

(d) *Report of Non-Compliance.* If the City is unable to provide an Annual Report by the date required in subsection (a), the Dissemination Agent shall send a notice to EMMA in substantially the form attached as Exhibit A.

(e) *Annual Compliance Certification.* The Dissemination Agent shall, if the Dissemination Agent is other than the City, file a report with the City certifying that the Annual Report has been provided pursuant to this Disclosure Certificate, stating the date it was provided.

Section 4. Content of Annual Reports. The Annual Report shall contain or incorporate by reference the following:

(a) Audited financial statements of the City for the preceding fiscal year, prepared in accordance with the laws of the State and including all statements and information prescribed for inclusion therein by the Controller of the State. If the City’s audited financial statements are not available by the time the Annual Report is required to be filed pursuant to Section 3(a), the Annual Report shall contain unaudited financial statements in a format similar to the financial statements contained in the final Official Statement, and the audited financial statements shall be filed in the same manner as the Annual Report when they become available.

(b) To the extent not included in the audited financial statements of the City, the Annual Report shall also include operating data with respect to the City for the preceding fiscal year, substantially similar to that provided in the corresponding tables and charts in the official statement for the Bonds, as follows:

- (i) general fund revenue sources by type (over \$1,000,000);
- (ii) assessed valuations and tax collection records;
- (ii) summary of investments, to the extent not summarized in the Audited Financial Statements, including types and amounts of investments;
- (iv) combined annual contribution (City's share and employees' share) to the Public Employees Retirement System;
- (v) adopted general fund budget; and
- (vi) to the extent not summarize in the Audited Financial Statements, a schedule of general fund long term debt, indicating type of issue, final maturity, interest rate range, original issue amount, outstanding principal amount, dollar amount maturing in the fiscal year to which the report relates and principal amount outstanding as of the end of the fiscal year to which the report relates.

(c) Any or all of the items listed above may be included by specific reference to other documents, including official statements of debt issues of the City or related public entities, which are available to the public on the MSRB's Internet web site or filed with the Securities and Exchange Commission. The City shall clearly identify each such other document so included by reference.

If the document included by reference is a final official statement, it must be available from EMMA.

(d) In addition to any of the information expressly required to be provided under paragraph (b) of this Section 4, the City shall provide such further information, if any, as may be necessary to make the specifically required statements, in the light of the circumstances under which they are made, not misleading.

#### Section 5. Reporting of Significant Events.

(a) *Listed Events.* Pursuant to the provisions of this Section 5, the City shall give, or cause to be given, notice of the occurrence of any of the following events with respect to the Bonds, if material:

- (i) Principal and interest payment delinquencies.
- (ii) Non-payment related defaults.
- (iii) Unscheduled draws on debt service reserves reflecting financial difficulties.
- (iv) Unscheduled draws on credit enhancements reflecting financial difficulties.
- (v) Substitution of credit or liquidity providers, or their failure to perform.
- (vi) Adverse tax opinions or events affecting the tax-exempt status of the security.
- (vii) Modifications to rights of security holders.
- (viii) Contingent or uncheduled bond calls.
- (ix) Defeasances.
- (x) Release, substitution, or sale of property securing repayment of the securities.
- (xi) Rating changes.

(b) *Determination of Materiality of Listed Events.* Whenever the City obtains knowledge of the occurrence of a Listed Event, the City shall as soon as possible determine if such event would be material under applicable federal securities laws.

(c) *Notice to Dissemination Agent.* If the City has determined that knowledge of the occurrence of a Listed Event would be material under applicable federal securities laws, the

City shall promptly notify the Dissemination Agent (if other than the City) in writing. Such notice shall instruct the Dissemination Agent to report the occurrence pursuant to subsection (d).

(d) *Notice of Listed Events.* The City shall file, or cause the Dissemination Agent to file, a notice of the occurrence of a Listed Event, if material, with EMMA, in a readable PDF or other electronic format as prescribed by EMMA. Notwithstanding the foregoing, notice of Listed Events described in subsections (a)(viii) and (ix) (defeasances) need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to Bondholders of affected Bonds.

Section 6. Identifying Information for Filings with EMMA. All documents provided to EMMA under this Disclosure Certificate shall be accompanied by identifying information as prescribed by the MSRB.

Section 7. Termination of Reporting Obligation. The City's obligations under this Disclosure Certificate shall terminate upon the defeasance, prior redemption or payment in full of all of the Bonds. If such termination occurs prior to the final maturity of the Bonds, the City shall give notice of such termination in the same manner as for a Listed Event under Section 5.

Section 8. Dissemination Agent.

(a) *Appointment of Dissemination Agent.* The initial Dissemination Agent shall be \_\_\_\_\_. The City may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Certificate, and may discharge any such agent, with or without appointing a successor Dissemination Agent. If the Dissemination Agent is not the City, the Dissemination Agent shall not be responsible in any manner for the content of any notice or report prepared by the City pursuant to this Disclosure Certificate. It is understood and agreed that any information that the Dissemination Agent may be instructed to file with EMMA shall be prepared and provided to it by the City. The Dissemination Agent has undertaken no responsibility with respect to any reports, notices or disclosures provided to it under this Continuing Disclosure Certificate, and has no liability to any person, including any Owner, with respect to any such reports, notices or disclosures. The fact that the Dissemination Agent or any affiliate thereof may have any fiduciary or banking relationship with the City shall not be construed to mean that the Dissemination Agent has actual knowledge of any event or condition except as may be provided by written notice from the City.

(b) *Compensation of Dissemination Agent.* The Dissemination Agent shall be paid compensation by the City for its services provided hereunder in accordance with its schedule of fees as agreed to between the Dissemination Agent and the City from time to time and all expenses, legal fees and advances made or incurred by the Dissemination Agent in the performance of its duties hereunder. The Dissemination Agent shall not be deemed to be acting in any fiduciary capacity for the City, Holders or Beneficial Owners, or any other party. The Dissemination Agent may rely and shall be protected in acting or refraining from acting upon any direction from the City or an opinion of nationally recognized bond counsel. The Dissemination Agent may at any time resign by giving written notice of such resignation to the City.

Section 9. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Certificate, the City may amend this Disclosure Certificate (and the Dissemination Agent shall agree to any amendment so requested by the City that does not impose any greater duties or risk of liability on the Dissemination Agent), and any provision of this Disclosure Certificate may be waived, provided that the following conditions are satisfied:

(a) *Change in Circumstances.* If the amendment or waiver relates to the provisions of Sections 3(a), 4 or 5(a), it may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature, or status of an obligated person with respect to the Bonds, or the type of business conducted;

(b) *Compliance as of Issue Date.* The undertaking, as amended or taking into account such waiver, would, in the opinion of a nationally recognized bond counsel, have complied with the requirements of the Rule at the time of the original issuance of the Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and

(c) *Consent of Holders; Non-impairment Opinion.* The amendment or waiver either (i) is approved by the Bondholders in the same manner as provided in the Indenture for amendments to the Indenture with the consent of Bondholders, or (ii) does not, in the opinion of nationally recognized bond counsel provided to the Dissemination Agent, materially impair the interests of the Bondholders or Beneficial Owners.

If this Disclosure Certificate is amended or any provision of this Disclosure Certificate is waived, the City shall describe such amendment or waiver in the next following Annual Report and shall include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or in the case of a change of accounting principles, on the presentation) of financial information or operating data being presented by the City. In addition, if the amendment relates to the accounting principles to be followed in preparing financial statements, (i) notice of such change shall be given in the same manner as for a Listed Event under Section 5(d), and (ii) the Annual Report for the year in which the change is made should present a comparison (in narrative form and also, if feasible, in quantitative form) between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

Section 10. Additional Information. Nothing in this Disclosure Certificate shall be deemed to prevent the City from disseminating any other information, using the means of dissemination set forth in this Disclosure Certificate or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Certificate. If the City chooses to include any information in any Annual Report or notice of occurrence of a Listed Event in addition to that which is specifically required by this Disclosure Certificate, the City shall have no obligation under this Disclosure Certificate to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

Section 11. Default. In the event of a failure of the City to comply with any provision of this Disclosure Certificate, any Bondholder or Beneficial Owner may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the City to comply with its obligations under this Disclosure Certificate. The sole remedy under this Disclosure Certificate in the event of any failure of the City to comply with this Disclosure Certificate shall be an action to compel performance.

Section 12. Duties, Immunities and Liabilities of Dissemination Agent. The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Certificate, and the City agrees to indemnify and save the Dissemination Agent, its officers, directors, employees and agents, harmless against any loss, expense and liabilities which it may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs and expenses (including attorneys fees and expenses) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's negligence or

willful misconduct. The obligations of the City under this Section shall survive resignation or removal of the Dissemination Agent and payment of the Bonds.

Section 13. Beneficiaries. This Disclosure Certificate shall inure solely to the benefit of the City, the Dissemination Agent, the Participating Underwriters and Holders and Beneficial Owners from time to time of the Bonds, and shall create no rights in any other person or entity.

Date: August 25, 2010

CITY OF ATASCADERO

By \_\_\_\_\_

Wade G. McKinney  
City Manager

ACKNOWLEDGED:

\_\_\_\_\_, as Dissemination Agent

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

DRAFT

**EXHIBIT A**

**NOTICE TO EMMA OF FAILURE TO FILE ANNUAL REPORT**

Name of Issuer: Atascadero Public Financing Authority  
Name of Obligor: City of Atascadero, California  
Name of Issue: \$\_\_\_\_\_ Atascadero Public Financing Authority Lease Revenue Bonds, 2010 Series A  
Date of Issuance: August 25, 2010

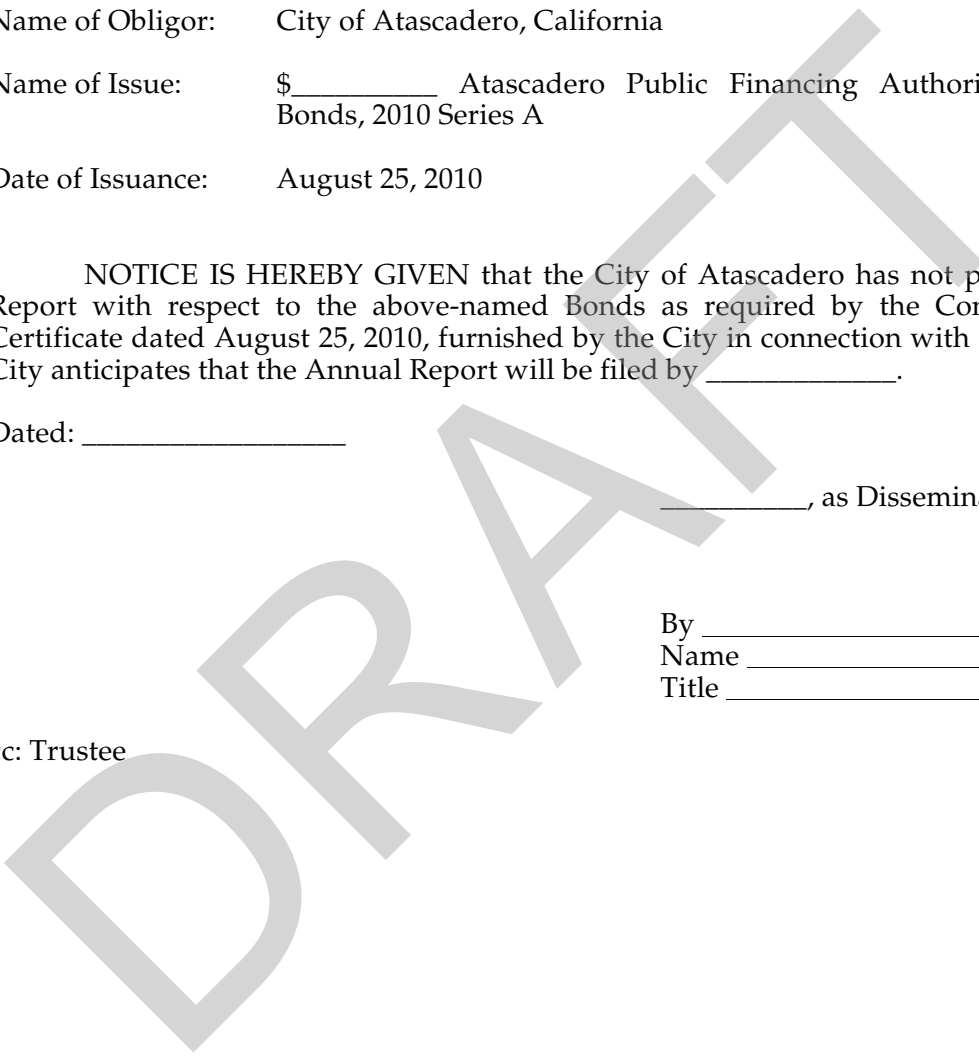
NOTICE IS HEREBY GIVEN that the City of Atascadero has not provided an Annual Report with respect to the above-named Bonds as required by the Continuing Disclosure Certificate dated August 25, 2010, furnished by the City in connection with the Bond Issue. The City anticipates that the Annual Report will be filed by \_\_\_\_\_.

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

\_\_\_\_\_, as Dissemination Agent

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

cc: Trustee





\$ \_\_\_\_\_  
**ATASCADERO PUBLIC FINANCING AUTHORITY**  
**Lease Revenue Bonds, 2010 Series A**

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**BOND PURCHASE AGREEMENT**

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August 11, 2010

Atascadero Public Financing Authority  
6907 El Camino Real  
Atascadero, California 93422

City of Atascadero  
6907 El Camino Real  
Atascadero, California 93422

Ladies and Gentlemen:

Piper Jaffray & Co. (the "Underwriter") hereby offers to enter into this bond purchase agreement (the "Bond Purchase Agreement") with the Atascadero Public Financing Authority (the "Authority") and the City of Atascadero (the "City"). Upon the acceptance hereof by the Authority and the City, this offer will be binding upon the Authority, the City and the Underwriter. This offer is made subject to (a) the written acceptance hereof by the Authority and the City and (b) withdrawal by the Underwriter upon written notice (by telecopy or otherwise) delivered to the Authority and the City at any time prior to each of their acceptance hereof by the Authority and the City.

1. Purchase and Sale. Upon the terms and conditions and upon the basis of the representations, warranties and agreements set forth herein, the Underwriter hereby agrees to purchase on the Closing Date (as defined herein), and the Authority and the City hereby agree to sell and deliver to the Underwriter on the Closing Date, \$ \_\_\_\_\_ aggregate principal amount of Atascadero Public Financing Authority Lease Revenue Bonds, 2010 Series A (the "Bonds"). The Bonds are being issued pursuant to Article 4, Chapter 5, Division 7, Title 1 of the California Government Code (the "Marks-Roos Act"), a resolution of the Authority authorizing the issuance of the Bonds, adopted on July 27, 2010 (the "Authority Resolution"), and an Indenture, dated as of August 1, 2010 (the "Indenture"), by and between the Authority and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee"). The City will lease certain real property and all buildings and other improvements installed thereon (collectively, the "Property") to the Authority pursuant to a Site and Facility Lease, dated as of August 1, 2010 (the "Site and Facility Lease"). The Property will be leased by the Authority to the City pursuant to the Lease Agreement, dated as of August 1, 2010 (the "Lease Agreement"), by and between the Authority and the City. All capitalized terms not defined herein shall have the respective meaning specified in Section 1.01 of the Indenture.

Under the Lease Agreement, the City is required to make Lease Payments and Additional Payments from legally available funds in amounts calculated to be sufficient to pay principal of and interest on the Bonds when due. All of the Authority's right, title and interest in and to the Lease Agreement (except for the right to receive Additional Payments to the extent payable to the Authority and certain rights to indemnification), including the right to receive Lease Payments under the Lease Agreement, are assigned to the Trustee for the benefit of the Owners of the Bonds.

The Bonds are being issued to (a) finance improvements to the City's historic city hall and the acquisition and development of other capital improvements throughout the geographic boundaries of the City, (c) fund a reserve fund for the Bonds, and (d) pay costs of issuance of the Bonds.

The aggregate purchase price to be paid by the Underwriter for the Bonds is hereby agreed to be \$\_\_\_\_\_, which amount represents the principal amount of the Bonds of \$\_\_\_\_\_, less \$\_\_\_\_\_, representing the Underwriter's discount, plus \$\_\_\_\_\_, representing original issue premium (such payment and delivery of the Bonds and the other actions contemplated hereby to take place at the time of such payment and delivery being herein sometimes called the "Closing").

A Preliminary Official Statement of the City and the Authority, dated July 28, 2010 (together with the Appendices thereto, any documents incorporated therein by reference and any supplements or amendments thereto and as disseminated in its printed physical form or in electronic form in all respects materially consistent with such physical form, the "Preliminary Official Statement"), has been prepared for use in marketing the Bonds, and a final Official Statement of the Authority, to be dated the date hereof, as amended to conform to the terms of this Bond Purchase Agreement, and with such changes and amendments as are mutually agreed to by the Authority, the City and the Underwriter, including the cover page, inside cover page, the appendices and all information incorporated therein by reference, is herein collectively referred to as the "Official Statement," which shall be in substantially the form of the Preliminary Official Statement, with such changes and amendments thereto as may be mutually agreed upon by the Underwriter, the Authority and the City.

The Bonds shall be dated their date of delivery, and shall have the maturities, bear interest at the rates, have reoffering yields, and be subject to mandatory sinking fund redemption as shown on Exhibit A hereto.

It shall be a condition to the Authority's obligation to sell and to deliver the Bonds to the Underwriter and to the obligation of the Underwriter to purchase, to accept delivery of and to pay for the Bonds that the entire \$\_\_\_\_\_ aggregate principal amount of the Bonds as authorized by the Indenture shall be sold and delivered by the Authority and accepted and paid for by the Underwriter at the Closing. The Underwriter may change the offering prices (or yields) of the Bonds from time to time at any time. The Bonds may be offered and sold to certain dealers at prices lower than such initial public offering prices. The obligation of the Authority to sell and deliver the Bonds to the Underwriter shall also be conditioned upon the delivery by Quint & Thimmig LLP, Bond Counsel ("Bond Counsel"), of its approving legal opinion with respect to the Bonds.

The Authority and the City hereby authorize the Underwriter to use and distribute the Lease Agreement, the Site and Facility Lease, the Indenture and the Official Statement and the information contained in such documents in connection with the public offering and sale of the Bonds. The Authority and the City have authorized the use of the Preliminary Official Statement in connection with the public offering of the Bonds by the Underwriter prior to the date hereof.

The obligation of the City to make Lease Payments under the Lease Agreement does not constitute an obligation of the City for which the City is obligated to levy or pledge any form of taxation or for which the City has levied or pledged any form of taxation. Neither the Bonds nor the obligation of the City to make Lease Payments under the Lease Agreement constitutes a debt of the Authority, the City, the State of California or any of its political subdivisions within the meaning of any constitutional or statutory debt limitation or restriction. The obligation of the City to make Lease Payments, as set forth in the Lease Agreement, shall be deemed to be and shall be construed to be a ministerial duty imposed by law and it shall be the ministerial duty of each and every public official of the City to take such actions and do such things as are required by law in the performance of such duty, subject to abatement in the event of damage or destruction to, or condemnation of, the Property or a portion thereof.

2. The Bonds. The Bonds will be issued, executed and delivered pursuant to the Indenture. The Authority will assign its interest in the Lease Agreement and the Site and Facility Lease to the Trustee pursuant to the Indenture. The City Council of the City has adopted a resolution on July 27, 2010, relating to the Bonds (the "City Resolution"). This Bond Purchase Agreement, the Lease Agreement, the Site and Facility Lease and the Continuing Disclosure Certificate (as hereinafter defined), are collectively referred to as the "City Documents." This Bond Purchase Agreement, the Indenture, the Lease Agreement and the Site and Facility Lease are collectively referred to as the "Authority Documents."

### 3. Official Statement, Continuing Disclosure.

(a) The Authority and the City represent that they have deemed the Preliminary Official Statement to be final as of its date, except for either revisions or additions to the offering price(s), interest rate(s), yield(s) to maturity, selling compensation, aggregate principal amount, principal amount per maturity, delivery date, rating(s) and other terms of the Bonds which depend upon the foregoing as provided in and pursuant to Rule 15c2-12 of the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended (the "Rule").

(b) The Underwriter agrees that, prior to the time the final Official Statement is available, the Underwriter will send to any potential purchaser of the Bonds, upon the request of such potential purchaser, a copy of the most recent Preliminary Official Statement. Such Preliminary Official Statement shall be sent by first class mail (or other equally prompt means) not later than the second business day following the date upon which each such request is received.

(c) The Authority agrees to deliver to the Underwriter, at such addresses as the Underwriter shall specify, as many copies of the final Official Statement relating to the Bonds as the Underwriter shall reasonably request as necessary to comply with paragraph (b)(4) of the Rule and with Rule G-32, Rule G-36 and all other applicable rules of the Municipal Securities Rulemaking Board. The Authority agrees to deliver such Official Statements within seven business days after the execution hereof. The Underwriter agrees to give notice to the Authority on the date after which the Underwriter shall no longer be obligated to deliver Official Statements pursuant to paragraph (b)(4) of the Rule, which date shall be no earlier than 25 days after the "end of the underwriting period," as determined in accordance with Section 13 herein.

(d) Prior to the earlier of (i) receipt of notice from the Underwriter that no participating underwriter, as such term is defined in the Rule, remains obligated to deliver Official Statements pursuant to paragraph (b)(4) of the Rule or (ii) 25 days after the date of the Closing (as defined below), the Authority and the City shall provide the Underwriter with such information regarding the Authority and the City, each of their current financial conditions and ongoing operations as the Underwriter may reasonably request.

(e) The City hereby covenants and agrees that it will, on or prior to the Closing Date, enter into an agreement or contract for the benefit of the owners of the Bonds in which the City will undertake to provide financial information, operating data and notices of material events as required by paragraph (d)(2)(ii) of the Rule substantially in the form of Appendix D to the Official Statement (the "Continuing Disclosure Certificate").

4. Representations, Warranties and Agreements of the City. The City represents, warrants and agrees as follows:

(a) The City is a municipal corporation and general law city duly organized and validly existing under its charter and the Constitution and laws of the State of California.

(b) The City has full legal right, power and authority (i) to enter into, execute and deliver the City Documents; and (ii) to carry out and consummate the transactions on its part contemplated by the City Documents and the Official Statement.

(c) By all necessary official action, the City has duly authorized and approved the City Documents, has duly authorized and approved the Preliminary Official Statement and the Official Statement and approved the distribution thereof (including in electronic form), has duly authorized and approved the execution and delivery of, and the performance by the City of the obligations in connection with the execution and delivery of the Bonds on its part contained in the City Documents, and the consummation by it of all other transactions contemplated by the City Documents in connection with the execution and delivery of the Bonds, all pursuant to the City Resolution adopted at a meeting duly called and held in accordance with the requirements of all applicable laws and at which a quorum of the members of the City Council was continuously present. The City Resolution has not been modified, amended or rescinded since the date of its adoption.

(d) The City is not in any material respect in breach of or default under any applicable constitutional provision, law or administrative regulation of the State of California or of the United States, or any agency or instrumentality of either, or any applicable judgment or decree, or any loan agreement, indenture, bond, note, resolution, agreement (including, without limitation, the City Documents) or other instrument to which the City is a party which breach or default has or may have an adverse effect on the ability of the City to perform its obligations under the City Documents, and no event has occurred and is continuing which with the passage of time or the giving of notice, or both, would constitute such a default or event of default under any such instrument; and the execution and delivery of the Bonds and the City Documents, and compliance with the provisions on the City's part contained therein, will not conflict in any material way with or constitute a material breach of or a material default under any constitutional provision, law, administrative regulation, judgment, decree, loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the City is a party nor will any such execution, delivery, adoption or compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of the property or assets of the City or under the terms of any such law, regulation or instrument, except as provided by the Bonds and the City Documents.

(e) All authorizations, approvals, licenses, permits, consents and orders of any governmental authority, legislative body, board, agency or commission having jurisdiction of the matter which are required for the due authorization by, or which would constitute a condition precedent to or the absence of which would materially adversely affect the due performance by, the City of its obligations in connection with the execution and delivery of the Bonds under the City Documents or the consummation by it of all other transactions contemplated by the City Documents have been duly obtained, except for such approvals, consents and orders as may be required under the Blue Sky or securities laws of any state in

connection with the offering and sale of the Bonds; except as described in or contemplated by the Official Statement, all authorizations, approvals, licenses, permits, consents and orders of any governmental authority, board, agency or commission having jurisdiction of the matter which are required for the due authorization by, or which would constitute a condition precedent to or the absence of which would materially adversely affect the due performance by, the City of its obligations under the City Documents have been duly obtained.

(f) There is no action, suit, proceeding, inquiry or investigation, notice of which has been duly served on the City, at law or in equity before or by any court, government agency, public board or body, pending or to the best knowledge of the officer of the City executing this Bond Purchase Agreement, threatened against the City, affecting the existence of the City or the titles of its officers to their respective offices, or affecting or seeking to prohibit, restrain or enjoin the sale, execution or delivery of the Bonds pursuant to the Indenture, or contesting or affecting as to the City the validity or enforceability of the Bonds or the City Documents, or contesting the completeness or accuracy of the Preliminary Official Statement or the Official Statement, or contesting the powers of the City to cause the execution and delivery of the Bonds, or the execution and delivery or adoption by the City of the City Documents, or in any way contesting or challenging the consummation of the transactions contemplated hereby or thereby; nor, to the best knowledge of the City, is there any basis for any such action, suit, proceeding, inquiry or investigation, wherein an unfavorable decision, ruling or finding would materially adversely affect the validity of the Bonds or the authorization, execution, delivery or performance by the City of the City Documents.

(g) The City will furnish such information, execute such instruments and take such other action in cooperation with the Underwriter as the Underwriter may reasonably request in order (i) to qualify the Bonds for offer and sale under the Blue Sky or other securities laws and regulations of such states and other jurisdictions of the United States as the Underwriter may designate and (ii) to determine the eligibility of the Bonds for investment under the laws of such states and other jurisdictions, and will use its best efforts to continue such qualifications in effect so long as required for the distribution of the Bonds; provided, however, that the City shall not be required to execute a general or special consent to service of process or qualify to do business in connection with any such qualification or determination in any jurisdiction, and the Underwriter shall bear all costs in connection with the foregoing.

(h) As of the date thereof, the Preliminary Official Statement did not, except for the omission of certain information permitted to be omitted in accordance with the Rule, contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(i) At the time of the City's acceptance hereof, and (unless an event occurs of the nature described in paragraph (k) of this Section 4) at all times subsequent thereto up to and including the Closing Date, the Official Statement (other than information therein provided by the Underwriter) did not and will not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(j) If the Official Statement is supplemented or amended pursuant to paragraph (k) of this Section 4, at the time of each supplement or amendment thereto and (unless subsequently again supplemented or amended pursuant to such paragraph) at all times subsequent thereto up to and including the Closing Date, the Official Statement (other than information therein provided by the Underwriter) as so supplemented or amended will not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.



(k) If between the date of this Bond Purchase Agreement and that date which is 25 days after the end of the underwriting period (as determined in accordance with Section 13 hereof) any event of which the officer of the City executing this Bond Purchase Agreement has knowledge shall occur affecting the City which might adversely affect the marketability of the Bonds or the market prices thereof, or which might cause the Official Statement, as then supplemented or amended, to contain any untrue statement of a material fact or to omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, the City shall notify the Underwriter thereof, and if in the opinion of the Underwriter such event requires the preparation and publication of a supplement or amendment to the Official Statement, the City will at its expense prepare and furnish to the Underwriter a reasonable number of copies of such supplement to, or amendment of, the Official Statement in a form and in a manner approved by the Underwriter.

(l) Any certificate signed by any officer of the City and delivered to the Underwriter pursuant to the City Documents or any document contemplated thereby or required for the valid execution and delivery of the Bonds shall be deemed a representation and warranty by the City to the Underwriter as to the statements made therein.

(m) The City will cause the proceeds from the sale of the Bonds to be paid to the Trustee for the purposes specified in the Indenture and the Official Statement. So long as any of the Bonds are outstanding and except as may be authorized by the Indenture, the City will not issue or sell, or cause to be issued or sold, any Bonds or other obligations, other than the Bonds delivered thereunder, the interest on and premium, if any, or principal of which will be payable from Lease Payments.

(n) The City shall honor all other covenants on its part contained in the Lease Agreement which are incorporated herein and made a part of this Bond Purchase Agreement.

5. Representations, Warranties and Agreements of the Authority. The Authority represents, warrants and agrees as follows:

(a) The Authority is a joint exercise of powers entity duly organized and validly existing under the laws of the State of California pursuant to a Joint Exercise of Powers Agreement between the City and the Atascadero Community Development Agency, dated November 9, 2004 (the "JPA Agreement").

(b) The Authority has full legal right, power and authority (i) to enter into, execute and deliver the Authority Documents and to sell and deliver the Bonds to the Underwriter as provided herein; and (ii) to carry out and consummate the transactions on its part contemplated by the Authority Documents and the Official Statement.

(c) By all necessary official action, the Authority has duly authorized and approved the issuance of the Bonds and the Authority Documents, has duly authorized and approved the Preliminary Official Statement and the Official Statement and approved the distribution thereof (including in electronic form), has duly authorized and approved the execution and delivery of, and the performance by the Authority of the obligations in connection with the execution and delivery of the Bonds on its part contained in the Bonds and the Authority Documents, and the consummation by it of all other transactions contemplated by the Authority Documents in connection with the execution and delivery of the Bonds, all pursuant to the Authority Resolution adopted at a meeting duly called and held in accordance with the requirements of all applicable laws and at which a quorum of the board members of the Authority was continuously present. The Authority Resolution has not been modified, amended or rescinded

since the date of its adoption and each Authority Document is the valid and binding obligation of the Authority.

(d) The Authority is not in any material respect in breach of or default under any applicable constitutional provision, law or administrative regulation of the State of California or of the United States, or any agency or instrumentality of either, or any applicable judgment or decree, or the JPA Agreement, or any loan agreement, indenture, bond, note, resolution, agreement (including, without limitation, the Authority Documents) or other instrument to which the Authority is a party which breach or default has or may have an adverse effect on the ability of the Authority to perform its obligations under the Bonds or the Authority Documents, and no event has occurred and is continuing which with the passage of time or the giving of notice, or both, would constitute such a default or event of default under any such instrument; and the execution and delivery of the Bonds and the Authority Documents, and compliance with the provisions on the Authority's part contained therein, will not conflict in any material way with or constitute a material breach of or a material default under any constitutional provision, law, administrative regulation, judgment, decree, loan agreement, indenture, Bond, note, resolution, agreement or other instrument to which the Authority is a party nor will any such execution, delivery, adoption or compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of the property or assets of the Authority or under the terms of any such law, regulation or instrument, except as provided by the Bonds and the Authority Documents.

(e) All authorizations, approvals, licenses, permits, consents and orders of any governmental authority, legislative body, board, agency or commission having jurisdiction of the matter which are required for the due authorization by, or which would constitute a condition precedent to or the absence of which would materially adversely affect the due performance by, the Authority of its obligations in connection with the execution and delivery of the Bonds under the Authority Documents or the consummation by it of all other transactions contemplated by the Authority Documents, including all filings with the California Secretary of State, have been duly obtained, except for such approvals, consents and orders as may be required under the Blue Sky or securities laws of any state in connection with the offering and sale of the Bonds; except as described in or contemplated by the Official Statement, all authorizations, approvals, licenses, permits, consents and orders of any governmental authority, board, agency or commission having jurisdiction of the matter which are required for the due authorization by, or which would constitute a condition precedent to or the absence of which would materially adversely affect the due performance by, the Authority of its obligations under the Bonds and the Authority Documents have been duly obtained.

(f) The Bonds, when executed, issued, authenticated and delivered in accordance with the Indenture, and sold to the Underwriter as provided herein, will be validly executed and outstanding obligations, entitled to the benefits of the Indenture, and upon such execution and delivery, the Indenture will provide, for the benefit of the Owners from time to time of the Bonds, the legally valid and binding security interest it purports to create.

(g) There is no action, suit, proceeding, inquiry or investigation, notice of which has been duly served on the Authority, at law or in equity before or by any court, government agency, public board or body, pending or to the best knowledge of the officer of the Authority executing this Bond Purchase Agreement, threatened against the Authority, affecting the existence of the Authority or the titles of its officers to their respective offices, or affecting or seeking to prohibit, restrain or enjoin the sale, issuance, execution or delivery of the Bonds pursuant to the Indenture, or contesting or affecting as to the Authority the validity or enforceability of the Bonds or the Authority Documents, or contesting the completeness or accuracy of the Preliminary Official Statement or the Official Statement, or contesting the powers of the Authority to cause the execution and delivery of the Bonds, or the execution and



delivery or adoption by the Authority of the Authority Documents, or in any way contesting or challenging the consummation of the transactions contemplated hereby or thereby; nor, to the best knowledge of the Authority, is there any basis for any such action, suit, proceeding, inquiry or investigation, wherein an unfavorable decision, ruling or finding would materially adversely affect the validity of the Bonds or the authorization, execution, delivery or performance by the Authority of the Bonds or the Authority Documents.

(h) The Authority will furnish such information, execute such instruments and take such other action in cooperation with the Underwriter as the Underwriter may reasonably request in order (i) to qualify the Bonds for offer and sale under the Blue Sky or other securities laws and regulations of such states and other jurisdictions of the United States as the Underwriter may designate and (ii) to determine the eligibility of the Bonds for investment under the laws of such states and other jurisdictions, and will use its best efforts to continue such qualifications in effect so long as required for the distribution of the Bonds; provided, however, that the Authority shall not be required to execute a general or special consent to service of process or qualify to do business in connection with any such qualification or determination in any jurisdiction, and the Underwriter shall bear all costs in connection with the foregoing.

(i) As of the date thereof, the Preliminary Official Statement did not, except for the omission of certain information permitted to be omitted in accordance with the Rule, contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(j) At the time of the Authority's acceptance hereof, and (unless an event occurs of the nature described in paragraph (l) of this Section 5) at all times subsequent thereto up to and including the Closing Date, the Official Statement (other than information therein provided by the Underwriter) did not and will not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(k) If the Official Statement is supplemented or amended pursuant to paragraph (l) of this Section 5, at the time of each supplement or amendment thereto and (unless subsequently again supplemented or amended pursuant to such paragraph) at all times subsequent thereto up to and including the Closing Date, the Official Statement (other than information therein provided by the Underwriter) as so supplemented or amended will not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(l) If between the date of this Bond Purchase Agreement and that date which is 25 days after the end of the underwriting period (as determined in accordance with Section 13 hereof) any event of which the officer of the Authority executing this Bond Purchase Agreement has knowledge shall occur affecting the Authority which might adversely affect the marketability of the Bonds or the market prices thereof, or which might cause the Official Statement, as then supplemented or amended, to contain any untrue statement of a material fact or to omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, the Authority shall notify the Underwriter thereof, and if in the opinion of the Underwriter such event requires the preparation and publication of a supplement or amendment to the Official Statement, the Authority will at its expense prepare and furnish to the Underwriter a reasonable number of copies of such supplement to, or amendment of, the Official Statement in a form and in a manner approved by the Underwriter.

(m) Any certificate signed by any officer of the Authority and delivered to the Underwriter pursuant to the Authority Documents or any document contemplated thereby or

required for the valid execution and delivery of the Bonds shall be deemed a representation and warranty by the Authority to the Underwriter as to the statements made therein.

(n) The Authority will cause the proceeds from the sale of the Bonds to be paid to the Trustee for the purposes specified in the Indenture and the Official Statement. So long as any of the Bonds are outstanding and except as may be authorized by the Indenture, the Authority will not issue or sell any Bonds or other obligations, other than the Bonds delivered thereunder, the interest on and premium, if any, or principal of which will be payable from the Revenues.

(o) The Authority shall honor all other covenants on its part contained in the Indenture and the Lease Agreement which are incorporated herein and made a part of this Bond Purchase Agreement.

6. Closing. At 8:00 A.M., California time, on August 25, 2010, or on such other date time, as may be mutually agreed upon by the Authority, the City and the Underwriter (the "Closing Date"), the Authority will, subject to the terms and conditions hereof, deliver to the Underwriter, at the offices of The Depository Trust Company ("DTC"), in New York, New York, or at such other place as the Authority, the City and the Underwriter may mutually agree upon, the Bonds in definitive, fully registered form (one Bond for each maturity), duly executed and registered in the name of Cede & Co. as nominee of DTC; and, subject to the terms and conditions hereof, the Underwriter shall wire to the Trustee Federal Reserve Bank Funds in the amount of the purchase price of the Bonds.

7. Closing Conditions. The Underwriter has entered into this Bond Purchase Agreement in reliance upon the representations and warranties of the Authority and the City contained herein, and in reliance upon the representations and warranties to be contained in the documents and instruments to be delivered at the Closing and upon the performance by the Authority and the City of its obligations hereunder, both as of the date hereof and as of the Closing Date. Accordingly, the Underwriter's obligations under this Bond Purchase Agreement to purchase, to accept delivery of and to pay for the Bonds shall be conditioned upon the performance by the Authority and the City of their respective obligations to be performed hereunder and under such documents and instruments at or prior to the Closing Date, shall be subject, at the option of the Underwriter, to the accuracy in all material respects of the statements the officers and other officials of the Authority and of the City, as the Underwriter, authorized representatives of Bond Counsel, the Trustee, and the City Attorney made in any certification or other documents furnished pursuant to the provisions hereof, and shall also be subject to the following additional conditions:

(a) The respective representations and warranties of the Authority and the City contained herein shall be true, complete and correct on the date hereof and on and as of the Closing Date, as if made on the Closing Date;

(b) At the time of Closing, the City Documents and the Authority Documents shall be in full force and effect in accordance with their terms and shall not have been amended, modified or supplemented and the Official Statement shall not have been supplemented or amended, except in any such case as may have been agreed to by the Underwriter;

(c) All necessary official action of the Authority, the City and of the other parties thereto relating to the City Documents and the Authority Documents shall have been taken and shall be in full force and effect and shall not have been amended, modified or supplemented in any material respect;

(d) Subsequent to the date hereof, there shall not have occurred any change in or affecting particularly the Authority, the City or the Bonds, as the foregoing is described in the

Official Statement, which in the reasonable opinion of the Underwriter materially impairs the investment quality of the Bonds; and

(e) At or prior to the Closing Date, the Underwriter shall have received copies of each of the following documents:

(i) The Official Statement and each supplement or amendment, if any, thereto, executed by authorized officers of the Authority and the City;

(ii) A copy of the Indenture, executed by the parties thereto;

(iii) A copy of the Lease Agreement, executed by the parties thereto;

(iv) A copy of the Site and Facility Lease, executed by the parties thereto;

(v) A copy of the Continuing Disclosure Certificate, executed by the City;

(vi) A certified copy of the JPA Agreement;

(vii) A certificate or certificates of the City, dated the Closing Date, to the effect that:

(A) the representations and warranties of the City contained herein are true and correct in all material respects on and as of the Closing Date as if made on the Closing Date and the City has complied with all of the terms and conditions of this Purchase Agreement required to be complied with by the City at or prior to the Closing Date;

(B) none of the proceedings or authority for (1) the authorization, sale, execution and delivery of the Bonds, (2) the adoption of the City Resolution, or (3) the execution and delivery of the City Documents and performance of its obligations thereunder, has been repealed, modified, amended, revoked or rescinded;

(C) subsequent to June 30, 2009, and prior to Closing, there have been no material adverse changes in the financial position of the City;

(D) no event affecting the City has occurred since the date of the Official Statement that should be disclosed in the Official Statement for the purposes for which it is to be used or which it is necessary to disclose therein in order to make the statements and information therein not misleading in any material respect;

(E) the information and statements contained in the Official Statement (other than information relating to The Depository Trust Company and its book-entry system) do not contain an untrue statement of a material fact required to be stated therein or necessary to make such statements therein, in the light of the circumstances under which they were made, not misleading in any material respect;

(F) to the best of its knowledge after reasonable investigation, the City is not in breach of or default under any applicable law or administrative regulation of the State of California or the United States or any applicable judgment or decree or any loan agreement, indenture, bond, note, resolution, agreement (including but not limited to the Lease Agreement) or other instrument to which

the City is a party or is otherwise subject, which would have a material adverse impact on the City's ability to perform its obligations under the City Documents, and no event has occurred and is continuing which, with the passage of time or the giving of notice, or both, would constitute a default or an event of default under any such instrument; and

(G) No consent is required for the inclusion of the City's 2008-09 audited financial statements in the Official Statement.

(viii) A certificate or certificates of the Authority, dated the Closing Date, to the effect that:

(A) the representations and warranties of the Authority contained herein are true and correct in all material respects on and as of the Closing Date as if made on the Closing Date and the Authority has complied with all of the terms and conditions of this Purchase Agreement required to be complied with by the Authority at or prior to Closing Date;

(B) none of the proceedings or authority for (1) the authorization, sale, execution and delivery of the Bonds, (2) the adoption of the Authority Resolution, or (3) the execution and delivery of the Authority Documents, has been repealed, modified, amended, revoked or rescinded;

(C) no event affecting the Authority has occurred since the date of the Official Statement that should be disclosed in the Official Statement for the purposes for which it is to be used or which it is necessary to disclose therein in order to make the statements and information therein not misleading in any material respect; and

(D) the information and statements contained in the Official Statement (other than information relating to the Underwriter and The Depository Trust Company and its book-entry system) do not contain an untrue statement of a material fact required to be stated therein or necessary to make such statements therein, in the light of the circumstances under which they were made, not misleading in any material respect; and to the best of its knowledge after reasonable investigation, the Authority is not in breach of or default under any applicable law or administrative regulation of the State of California or the United States or any applicable judgment or decree or any loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the Authority is a party or is otherwise subject, which would have a material adverse impact on the Authority's ability to perform its obligations under the Authority Documents, and no event has occurred and is continuing which, with the passage of time or the giving of notice, or both, would constitute a default or an event of default under any such instrument;

(ix) An opinion or opinions, dated the Closing Date and addressed to the Underwriter and the Trustee, of Burke, Williams and Sorensen, counsel for the City, to the effect that:

(A) The City is a municipal corporation and general law city duly organized and validly existing under the Constitution and laws of the State of California;

(B) The City Documents have been duly approved by a resolution of the City adopted at a meeting duly called and held in accordance with the requirements of all applicable laws, with all public notice required by law, and at which a quorum of the members of the City Council was continuously present and such resolution has not been modified, amended or rescinded since the date of its adoption;

(C) Except as described in the Official Statement, there is no litigation, inquiry, or investigation pending or to the best of such counsel's knowledge after due inquiry, threatened, which: (1) challenges the right or title of any member or officer of the City to hold his or her office or exercise or perform the powers and duties pertaining thereto; (2) challenges the validity or enforceability of the Bonds or the City Documents; (3) seeks to restrain or enjoin the sale of the Bonds or the execution and delivery by the City of, or the performance by the City of its legal obligations under, the City Documents or in which a final adverse decision could materially adversely affect the operations of the City with respect to the Property; or (4) contesting in any way the completeness or accuracy of the Preliminary Official Statement or the Official Statement, nor, to the best of such counsel's knowledge, is there any basis therefor;

(D) The execution and delivery by the City of, and the performance by the City of its obligations under, the City Documents, do not conflict with, violate or constitute a default under any provision of any law, court order or decree or any contract, instrument or agreement to which the City is a party or by which it is bound and of which such counsel has knowledge;

(E) As of the date hereof, the statements and information relating to the City contained in the Preliminary Official Statement and Official Statement did not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances, under which they were made not misleading; and

(F) The City Documents have been duly authorized, executed and delivered by the City and, assuming due authorization, execution and delivery of the City Documents by the parties thereto other than the City, the City Documents constitute legal, valid and binding agreements of the City, enforceable against the City in accordance with their respective terms except as enforcement may be limited by bankruptcy, insolvency and other laws affecting the enforcement of creditors' rights and remedies in general, or by the application of equitable principles if equitable remedies are sought.

(G) Except as may be required under the "blue sky" or securities laws of the United States or any state, there is no authorization, approval, consent or other order of, or filing with, or certification by, the State or any other governmental authority or agency within the State having jurisdiction over the City required for the issuance of the Bonds or the consummation by the City of the other financial transactions contemplated by the Official Statement and the City Documents.

(H) Based on the information made available to the City Attorney in its role as City Attorney to the City, and without having undertaken to determine independently or assume any responsibility for the accuracy, completeness or fairness of the statements contained in the Official Statement, nothing has come to its attention which would lead it to believe that the Official Statement as of its



date and as of the date of Closing (excluding therefrom the financial and statistical data and forecasts included therein, as to which no opinion is expressed and information relating to the Authority and the Depository Trust Company and its book entry system) contained or contains any untrue statement of a material fact or omitted or omits to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(x) An opinion or opinions, dated the Closing Date and addressed to the Underwriter, of Burke, Williams and Sorensen, Camarillo, counsel for the Authority, to the effect that:

(A) The Authority is a joint exercise of powers authority duly organized and validly existing under the laws of the State of California pursuant to the JPA Agreement;

(B) The Authority Documents have been duly approved by a resolution of the Authority adopted at a meeting duly called and held in accordance with the requirements of all applicable laws, with all public notice required by law, and at which a quorum of the members of the Board of the Authority was continuously present and such resolution has not been modified, amended or rescinded since the date of its adoption;

(C) Except as described in the Official Statement, there is no litigation, inquiry, or investigation pending to the best of such counsel's knowledge after due inquiry, or threatened, which: (1) challenges the right or title of any member or officer of the Authority to hold his or her office or exercise or perform the powers and duties pertaining thereto; (2) challenges the validity or enforceability of the Bonds or the Authority Documents; (3) seeks to restrain or enjoin the sale of the Bonds or the execution and delivery by the Authority of, or the performance by the Authority of its legal obligations under, the Authority Documents or in which a final adverse decision could materially adversely affect the operations of the Authority with respect to the Property; or (4) contesting in any way the completeness or accuracy of the Preliminary Official Statement or the Official Statement, nor, to the best of such counsel's knowledge, is there any basis therefor;

(D) The execution and delivery by the Authority of, and the performance by the Authority of its obligations under, the Authority Documents, do not conflict with, violate or constitute a default under any provision of any law, court order or decree or any contract, instrument or agreement to which the Authority is a party or by which it is bound and of which such counsel has knowledge; and

(E) The Authority Documents have been duly authorized, executed and delivered by the Authority and, assuming due authorization, execution and delivery of the Authority Documents by the parties thereto other than the Authority, the Authority Documents constitute legal, valid and binding agreements of the Authority, enforceable against the Authority in accordance with their respective terms except as enforcement may be limited by bankruptcy, insolvency and other laws affecting the enforcement of creditors' rights and remedies in general, or by the application of equitable principles if equitable remedies are sought.

(F) Except as may be required under the “blue sky” or securities laws of the United States or any state, there is no authorization, approval, consent or other order of, or filing with, or certification by, the State or any other governmental authority or agency having jurisdiction over the Authority required for the issuance of the Bonds or the consummation by the Authority of the other financial transactions contemplated by the Official Statement and the Authority Documents.

(G) Based on the information made available to such City Attorney in its role as counsel to the Authority, and without having undertaken to determine independently or assume any responsibility for the accuracy, completeness or fairness of the statements contained in the Official Statement under the captions entitled “THE AUTHORITY,” and “LITIGATION”, nothing has come to such City Attorney’s attention that would lead it to believe that the statements contained in the above-referenced captions as of the date of the Official Statement and as of the date of Closing (excluding therefrom the financial and statistical data and forecasts included therein, as to which no opinion is expressed) contained or contains any untrue statement of a material fact or omitted or omits to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(xi) An opinion, dated the Closing Date and addressed to the Authority, of Bond Counsel, substantially in the form set forth in Appendix C to the Official Statement, together with a letter from such counsel, dated the Closing Date and addressed to the Underwriter, to the effect that the foregoing opinion may be relied upon by the Underwriter to the same extent as if such opinion were addressed to them;

(xii) A supplemental opinion, dated the Closing Date and addressed to the Underwriter, of Bond Counsel, to the effect that:

(A) the Bonds are not subject to the registration requirements of the Securities Act of 1933, as amended, and the Indenture is exempt from qualification pursuant to the Trust Indenture Act of 1939, as amended;

(B) the Bond Purchase Agreement has been duly executed and delivered by the Authority and the City and is a valid and binding agreement of the Authority and the City; and

(C) the statements contained in the Official Statement under the captions “THE BONDS,” “SECURITY FOR THE BONDS” and “TAX MATTERS” and in APPENDIX D–SUMMARY OF CERTAIN PROVISIONS OF THE LEGAL DOCUMENTS, insofar as such statements expressly summarize certain provisions of the Indenture, the Lease Agreement, the Site and Facility Lease and the final opinion of Bond Counsel concerning certain state income tax matters relating to the Bonds, are accurate in all material respects;

(xiii) An opinion letter, dated the Closing Date and addressed to the Authority, the City and the Underwriter of Quint & Thimmig, LLP, San Francisco, California, Disclosure Counsel (“Disclosure Counsel”), to the effect that based upon their participation in the preparation of the Official Statement as Disclosure Counsel, except to the extent set forth in their supplemental opinion without assuming any responsibility for the accuracy, completeness or fairness of any of the statements contained in the Official Statement nor making any representation regarding independent verification of the accuracy, completeness or fairness of any of the



statements contained in the Official Statement, except to the extent set forth in their supplemental opinion such counsel advises that during the course of such representation of the Authority as disclosure counsel on this matter, no information came to the attention of the attorneys in such firm rendering legal services in connection with such representation which caused them to believe that the Official Statement as of its date (except for any financial, statistical or economic data or forecasts, numbers, charts, tables, graphs, estimates, projections, assumptions or expressions of opinion (except opinions of Bond Counsel), Appendix A to the Official Statement, or any information about book-entry or DTC included therein, as to which no opinion or view is expressed) contained any untrue statement of a material fact or omitted to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(xiv) A certificate of an authorized officer of the Trustee satisfactory to the Underwriter, certifying substantially as follows:

(A) The Trustee is a national banking association duly organized and in good standing under the laws of the United States of America and has all necessary power and authority to enter into the Indenture and to perform its duties under the Indenture;

(B) The Trustee is duly authorized to enter into the Indenture and to authenticate and deliver the Bonds to the Underwriter pursuant to the terms of the Indenture and, when executed by the other parties thereto, the Indenture will constitute a legal, valid and binding obligation of the Trustee enforceable in accordance with its terms;

(C) The Bonds have been duly authenticated and delivered to the Underwriter pursuant to direction from the Authority;

(D) The Trustee is not in breach of or default under any law or administrative rule or regulation of the State of California or of any department, division, agency or instrumentality thereof, of any applicable court or administrative decree or order, or any other material instrument to which the Trustee is a party or is otherwise subject or bound and which would materially impair the ability of the Trustee to perform its obligations under the Indenture;

(E) To its knowledge, no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, regulatory agency, public board or body, is pending or threatened in any way affecting the existence of the Trustee or the titles of its directors or officers to their respective offices, or seeking to restrain or enjoin the execution, sale or delivery of the Bonds, the application of the proceeds thereof in accordance with the Indenture, or in any way contesting or affecting the validity or enforceability of the Bonds or the Indenture;

(F) The execution and delivery of the Indenture will not conflict with or constitute a breach of or default under the Trustee's duties under such documents, or any law, administrative regulation, court decree, resolution, articles of association, bylaws or other material agreement to which the Trustee is subject or by which it is bound; and

(G) No consent, approval, authorization or other action by any governmental or regulatory authority having jurisdiction over the Trustee that has not been obtained is or will be required for the authentication and delivery of

the Bonds, the execution and delivery of the Indenture, the performance of the Trustee's duties under the Indenture or the consummation by the Trustee of the other transactions contemplated by the Indenture, except as such may be required under the state securities or blue sky laws in connection with the distribution of the Bonds by the Underwriter.

(xv) An opinion of counsel to the Trustee in form and substance acceptable to the Underwriter;

(xvi) Evidence, satisfactory to Bond Counsel and the Underwriter, of insurance, including a CLTA title insurance policy, in compliance with the Lease Agreement;

(xvii) 15c2-12 certificates of City and the Authority;

(xviii) Certified copies of the City Resolution and the Authority Resolution;

(xix) Evidence, satisfactory to the Underwriter, that the Bonds have been assigned the rating of "\_\_\_\_" and "\_\_\_\_" by Moody's Investors Service and Standard & Poor's Ratings Services, respectively;

(xx) Transcripts of all proceedings relating to the authorization, issuance, execution and delivery of the Bonds certified by the City and the Authority as applicable; and

(xxi) Such additional legal opinions, certificates, instruments and other documents as the Underwriter may reasonably request to evidence the truth and accuracy, as of the date hereof and as of the date of the Closing, of the City's representations and warranties contained herein and of the statements and information contained in the Official Statement and the due performance or satisfaction by the City and the Authority on or prior to the date of the Closing of all the agreements then to be performed and conditions then to be satisfied by each of them.

All the opinions, letters, certificates, instruments and other documents mentioned above or elsewhere in this Bond Purchase Agreement shall be deemed to be in compliance with the provisions hereof if, but only if, they are in form and substance satisfactory to Bond Counsel, Disclosure Counsel and the Underwriter.

If the City shall be unable to satisfy the conditions to the obligations of the Underwriter to purchase, to accept delivery of and to pay for the Bonds contained in this Bond Purchase Agreement, or if the obligations of the Underwriter to purchase, to accept delivery of and to pay for the Bonds shall be terminated for any reason permitted by this Bond Purchase Agreement, this Bond Purchase Agreement shall terminate and none of the Underwriter, the Authority or the City shall be under any further obligation hereunder.

8. Termination. The Underwriter shall have the right to terminate the Underwriter's obligations under this Bond Purchase Agreement to purchase, to accept delivery of and to pay for the Bonds by notifying the Authority and the City in writing or by telegram, of its election to do so, if, after the execution hereof and prior to the Closing: (a) the United States has become engaged in, or there has been an escalation of, hostilities which, in the reasonable opinion of the Underwriter, materially adversely affects the marketability or market price of the Bonds; (b) there shall have occurred the declaration of a general banking moratorium by any authority of the United States or the State of New York or the State of California; (c) an event shall have occurred, or been discovered as described in paragraph (k) of Section 4 or paragraph (l) of Section 5 hereof, which in the opinion of the Underwriter requires the preparation and

publication of disclosure material or a supplement or amendment to the Official Statement; (d) any legislation, ordinance, rule or regulation shall be introduced in, or be enacted by any governmental body, department or agency in the State of California, or a decision by any court of competent jurisdiction within the State of California shall be rendered which, in the Underwriter's reasonable opinion, materially adversely affects the market price of the Bonds; (e) any rating of the Bonds or the rating or credit outlook of any obligations of the City secured by the City's general fund shall have been downgraded or withdrawn by national rating services; (f) legislation shall be introduced, by amendment or otherwise, or be enacted by the House of Representatives or the Senate of the Congress of the United States, or a decision by a court of the United States shall be rendered, or a stop order, ruling, regulation or official statement by or on behalf of the Securities and Exchange Commission or other governmental agency having jurisdiction of the subject matter shall be made or proposed, to the effect that the execution, issuance, delivery, offering or sale of obligations of the general character of the Bonds, or the Bonds, as contemplated hereby or by the Official Statement, is or would be in violation of any provision of the Securities Act of 1933, as amended and as then in effect, or the Securities Exchange Act of 1934, as amended and as then in effect, or the Trust Indenture Act of 1939, as amended and as then in effect, or with the purpose or effect of otherwise prohibiting the issuance, offering or sale of obligations of the general character of the Bonds or the Bonds, as contemplated hereby or by the Official Statement; (g) additional material restrictions not in force as of the date hereof shall have been imposed upon trading in securities generally by any governmental authority or by any national securities exchange; (h) the New York Stock Exchange, or other national securities exchange or association or any governmental authority, shall impose as to the Bonds, or obligations of the general character of the Bonds, any material restrictions not now in force, or increase materially those now in force, with respect to the extension of credit by or the charge to the net capital requirements of broker-dealers; and (i) any action shall have been taken by any government in respect of its monetary affairs which, in the reasonable opinion of the Underwriter, has a material adverse effect on the United States securities market; or as of the date hereof that in the Underwriter's reasonable opinion materially adversely affects the marketability or market price of the Bonds.

If this Bond Purchase Agreement shall be terminated pursuant to Section 7 or this Section 8, or if the purchase provided for herein is not consummated because any condition to the Underwriter's obligations hereunder is not satisfied or because of any refusal, inability or failure on the part of the City or the Authority to comply with any of the terms or to fulfill any of the conditions of this Bond Purchase Agreement, or if for any reason the City or the Authority shall be unable to perform all of its respective obligations under this Bond Purchase Agreement, neither the City nor the Authority shall be liable to the Underwriter for damages on account of loss of anticipated profits arising out of the transactions covered by this Bond Purchase Agreement. The Underwriter may, in its sole discretion, waive any of the conditions set forth in Section 7 or this Section 8.

9. Changes in Official Statement. After the Closing, neither the Authority nor the City will adopt any amendment of or supplement to the Official Statement to which the Underwriter shall reasonably object in writing. Within 25 days following the "end of the underwriting period" (as defined in Section 240 15c-12 in Chapter II of Title 17 of the Code of Federal Regulations (Rule 15c2-12), whichever occurs first, if any event relating to or affecting the Bonds, the City or the Authority shall occur as a result of which it is necessary, in the opinion of the Underwriter, to amend or supplement the Official Statement in order to make the Official Statement not misleading in any material respect in the light of the circumstances existing at the time it is delivered to a purchaser, the Authority will forthwith prepare and furnish to the Underwriter an amendment or supplement that will amend or supplement the Official Statement so that it will not contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances existing at the time the Official Statement is delivered to purchaser, not misleading. The City

and the Authority shall cooperate with the Underwriter in the filing by the Underwriter of such amendment or supplement to the Official Statement with a nationally recognized municipal securities repository.

10. Payment of Costs and Expenses.

(a) All costs and expenses incident to the sale and delivery of the Bonds to the Underwriter shall be payable by the Authority from the proceeds of the Bonds, including, but not limited to: (i) the fees and expenses of the City, its counsel and consultants; (ii) the fees and expenses of the Authority, its counsel and consultants; (iii) the fees and expenses of Bond Counsel; (iv) the fees and expenses of Disclosure Counsel; (v) the fees and expenses of Public Financial Management, Inc., the City's financial advisor; (vi) all expenses in connection with the preparation and printing of the Bonds; (vii) all expenses in connection with the preparation, printing, distribution and delivery of the Preliminary Official Statement, the Official Statement and any amendment or supplement thereto; (viii) the initial fees and expenses of the Trustee, including the reasonable fees and expenses of its counsel; and (ix) the fees and expenses of any rating agency rating the Bonds.

(b) The Underwriter shall pay all expenses incurred by it in connection with the public offering and distribution of the Bonds including, but not limited to: (i) all advertising expenses in connection with the offering of the Bonds; (ii) the fees and disbursements of Underwriter's counsel, if any, and (iii) all out-of-pocket disbursements and expenses incurred by the Underwriter in connection with the offering and distribution of the Bonds, including, air travel and hotel accommodations in connection with the pricing of the Bonds; investor meetings, rating agency trips and meetings; the Closing; meals and transportation for the City, the Underwriter and other working group personnel during rating agency, investor meetings; pricing and Closing trips; expenses related to attending working group meetings, such as parking, meals and transportation and any other miscellaneous costs associated with the Closing; (iv) all other expenses incurred by the Underwriter in connection with the public offering and distribution of Bonds, except as provided in (a) above or as otherwise agreed to by the Underwriter and the City, and (v) the fees of the California Debt and Investment Advisory Commission.

11. Notices. Any notice or other communication to be given under this Bond Purchase Agreement may be given by delivering the same in writing:

To the City: City of Atascadero  
6907 El Camino Real  
Atascadero, CA 93422  
Attention: Administrative Services Director

To the Authority: Atascadero Public Financing Authority  
c/o City of Atascadero  
6907 El Camino Real  
Atascadero, CA 93422  
Attention: Administrative Services Director

To the Underwriter: Piper Jaffray & Co.  
345 California Street, Suite 2400  
San Francisco, CA 94104  
Attention: Mr. Mark A. Curran, Managing Director

12. Parties in Interest. This Bond Purchase Agreement is made solely for the benefit of the Authority, the City and the Underwriter (including the successors or assigns of the Underwriter) and no other person shall acquire or have any right hereunder or by virtue hereof. All of the Authority's and the City's representations, warranties and agreements contained in

this Bond Purchase Agreement shall remain operative and in full force and effect, regardless of: (a) any investigations made by or on behalf of the Underwriter; (b) delivery of and payment for the Bonds pursuant to this Bond Purchase Agreement; and (c) any termination of this Bond Purchase Agreement.

13. Determination of End of the Underwriting Period. For purposes of this Bond Purchase Agreement, the end of the underwriting period for the Bonds shall mean the earlier of (a) the Closing Date unless the City and the Authority have been notified in writing by the Underwriter, on or prior to the Closing Date, that the “end of the underwriting period” for the Bonds for all purposes of the Rule will not occur on the Closing Date, or (b) the date on which notice is given to the City and the Authority by the Underwriter in accordance with the following sentence. In the event that the Underwriter has given notice to the City and the Authority pursuant to clause (a) above that the “end of the underwriting period” for the Bonds will not occur on the Closing Date, the Underwriter agrees to notify the City and the Authority in writing as soon as practicable following the “end of the underwriting period” for the Bonds for all purposes of the Rule. The Underwriter agrees to file a copy of the Official Statement with each of the nationally recognized municipal securities information repositories.

14. No Assignment. This Bond Purchase Agreement is entered into between the City, the Authority and the Underwriter, and is solely for the benefit of the City, the Authority, the Underwriter and their respective successors or assigns, and no person other than the foregoing shall acquire or have any right under or by virtue of this Bond Purchase Agreement. All of the representations, warranties and agreements contained in this Bond Purchase Agreement shall survive the delivery of and payment for the Bonds and any termination thereof.

15. Effectiveness. This Bond Purchase Agreement shall become effective upon the execution of the acceptance by an authorized representative of the City and an authorized representative of the Authority and shall be valid and enforceable at the time of such acceptance.

16. Headings. The headings of the sections of this Bond Purchase Agreement are inserted for convenience only and shall not be deemed to be a part hereof.

17. Governing Law. This Bond Purchase Agreement shall be interpreted, governed and enforced in accordance with the laws of the State of California.

18. Counterparts. This Bond Purchase Agreement may be executed in any number of counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

If the foregoing is in accordance with your understanding of this Bond Purchase Agreement please sign and return to us the enclosed duplicate copies hereof, whereupon it will become a binding agreement among the City, the Authority and the Underwriter in accordance with its terms.

Very truly yours,

PIPER JAFFRAY & CO., as Underwriter

By \_\_\_\_\_  
Mark A. Curran  
Managing Director

ATASCADERO PUBLIC FINANCING  
AUTHORITY

By \_\_\_\_\_  
Wade G. McKinney  
Executive Director

CITY OF ATASCADERO

By \_\_\_\_\_  
Wade G. McKinney  
City Manager



EXHIBIT A

\$ \_\_\_\_\_

ATASCADERO PUBLIC FINANCING AUTHORITY  
Lease Revenue Bonds, 2010 Series A

MATURITIES, PRINCIPAL AMOUNTS, INTEREST RATES, PRICES AND YIELDS

<u>Maturity October 1</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Yield</u>	<u>Price</u>
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Redemption Provisions

*Optional Redemption*

The Bonds maturing on or after October 1, \_\_\_\_\_, are subject to optional redemption prior to their respective stated maturities, at the written direction of the Authority, from moneys deposited by the Authority or the City, in whole or in part, in such order of maturity as the City designates (and, if no specific order of redemption is designated by the City, in inverse order of maturity), on any date on or after October 1, \_\_\_\_\_, from any available source of funds, at a redemption price equal to the principal amount of the Bonds to be redeemed, together with accrued interest thereon to the date fixed for redemption, without premium.

*Mandatory Sinking Fund Redemption*

The Bonds maturing on October 1, \_\_\_\_\_ (the "\_\_\_\_\_ Term Bonds") are also subject to mandatory sinking fund redemption in part by lot on October 1, \_\_\_\_\_, and on each October 1 to and including October 1, \_\_\_\_\_, from sinking account payments made by the Authority at a redemption price equal to the principal amount thereof to be redeemed together with accrued interest thereon to the redemption date, without premium, in the aggregate respective principal amounts and on the respective dates as set forth in the following table; *provided, however*, that if some but not all of the \_\_\_\_\_ Term Bonds have been optionally redeemed, the total amount of all future sinking account payments will be reduced by the aggregate principal amount of \_\_\_\_\_ Term Bonds so redeemed, to be allocated among the sinking account payments as are thereafter payable on a *pro rata* basis in integral multiples of \$5,000 as determined by the Authority (notice of which determination shall be given by the Authority to the Trustee).



Sinking Account Redemption Date (October 1)	Principal Amount to be Redeemed or Purchased
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†Maturity

The Bonds maturing on October 1, \_\_\_\_ (the “ \_\_\_\_ Term Bonds”) are also subject to mandatory sinking fund redemption in part by lot on October 1, \_\_\_\_, and on each October 1 to and including October 1, \_\_\_\_, from sinking account payments made by the Authority at a redemption price equal to the principal amount thereof to be redeemed together with accrued interest thereon to the redemption date, without premium, in the aggregate respective principal amounts and on the respective dates as set forth in the following table; *provided, however*, that if some but not all of the \_\_\_\_ Term Bonds have been optionally redeemed, the total amount of all future sinking account payments will be reduced by the aggregate principal amount of \_\_\_\_ Term Bonds so redeemed, to be allocated among the sinking account payments as are thereafter payable on a *pro rata* basis in integral multiples of \$5,000 as determined by the Authority (notice of which determination shall be given by the Authority to the Trustee).

Sinking Account Redemption Date (October 1)	Principal Amount to be Redeemed or Purchased
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†Maturity

*Extraordinary Redemption from Insurance or Condemnation Proceeds*

The Bonds are also subject to redemption as a whole, or in part on a pro rata basis among maturities, on any date, in integral multiples of \$5,000, to the extent of prepayments made by the City from insurance proceeds or condemnation proceeds not used to repair, reconstruct or replace any portion of the Property damaged or destroyed or elected by the City to be used for such purpose, at a redemption price equal to 100% of the principal amount thereof plus interest accrued thereon to the date fixed for redemption, without premium.

**FORM OF FINAL OPINION OF BOND COUNSEL**

[Letterhead of Quint &amp; Thimmig LLP]

August 25, 2010

Atascadero Public Financing Authority  
6907 El Camino Real  
Atascadero, California 93422

**OPINION:** \$\_\_\_\_\_ Atascadero Public Financing Authority Lease Revenue Bonds, 2010 Series A

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**Members of the Authority:**

We have acted as bond counsel in connection with the delivery by the Atascadero Public Financing Authority (the "Authority") of \$\_\_\_\_\_ aggregate principal amount of the bonds of the Authority designated the "Atascadero Public Financing Authority Lease Revenue Bonds, 2010 Series A" (the "Bonds"), pursuant to the provisions of Article 4 (commencing with section 6584) of Chapter 5 of Division 7 of Title 1 of the California Government Code (the "Law"), and pursuant to an indenture of trust, dated as of August 1, 2010 (the "Indenture"), by and between the Authority and The Bank of New York Mellon Trust Company, N.A., as trustee, and a resolution of the Authority adopted on July 27, 2010. The Bonds are secured by Revenues (as defined in the Indenture), including certain payments made by the City of Atascadero (the "City") under a lease agreement, dated as of August 1, 2010 (the "Lease Agreement"), by and between the Authority and the City. We have examined the Law and such certified proceedings and other papers as we deem necessary to render this opinion.

As to questions of fact material to our opinion, we have relied upon representations of the Authority and the City contained in the Indenture and Lease Agreement, as applicable, and in the certified proceedings, and upon other certifications furnished to us, without undertaking to verify the same by independent investigation.

Based upon our examination we are of the opinion, under existing law, that:

1. The Authority is a duly constituted joint exercise of powers authority under the laws of the State of California with power to enter into the Indenture, to perform the agreements on its part contained therein and to issue the Bonds.

2. The Bonds constitute legal, valid and binding special obligations of the Authority enforceable in accordance with their terms and payable solely from the sources provided therefor in the Indenture.

3. The Indenture has been duly approved by the Authority and constitutes a legal, valid and binding obligation of the Authority enforceable against the Authority in accordance with its terms.

4. The Indenture establishes a valid first and exclusive lien on and pledge of the Revenues (as such term is defined in the Indenture) and other funds pledged thereby for the security of the Bonds, in accordance with the terms of the Indenture.

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5. Subject to the Authority's and the City's compliance with certain covenants, interest on the Bonds (i) is excludable from gross income of the owners thereof for federal income tax purposes, (ii) is not included as an item of tax preference in computing the alternative minimum tax for individuals and corporations under the Internal Revenue Code of 1986, as amended (the "Code"), and (iii) interest on the Bonds is not taken into account in computing adjusted current earnings, which is used as an adjustment in determining the federal alternative minimum tax for certain corporations. Failure to comply with certain of such covenants could cause interest on the Bonds to be includable in gross income for federal income tax purposes retroactively to the date of issuance of the Bonds. It is also our opinion that the Bonds are "qualified tax exempt obligations" under section 265(b)(3) of the Code.

6. Interest on the Bonds is exempt from personal income taxation imposed by the State of California.

Ownership of the Bonds may result in other tax consequences to certain taxpayers, and we express no opinion regarding any such collateral consequences arising with respect to the Bonds.

The rights of the owners of the Bonds and the enforceability of the Bonds, the Indenture and the Lease Agreement may be subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted and also may be subject to the exercise of judicial discretion in accordance with general principles of equity.

In rendering this opinion, we have relied upon certifications of the Authority, the City and others with respect to certain material facts. Our opinion represents our legal judgment based upon such review of the law and the facts that we deem relevant to render our opinion and is not a guarantee of a result. This opinion is given as of the date hereof and we assume no obligation to revise or supplement this opinion to reflect any facts or circumstances that may hereafter come to our attention or any changes in law that may hereafter occur.

Respectfully submitted,

\$ \_\_\_\_\_ \*

**ATASCADERO PUBLIC FINANCING AUTHORITY**  
**Lease Revenue Bonds, 2010 Series A**

**AUTHORITY CERTIFICATE**  
**REGARDING PRELIMINARY OFFICIAL STATEMENT**

The undersigned hereby states and certifies:

(i) that the undersigned is the duly appointed, qualified and acting Executive Director of the Atascadero Public Financing Authority, a joint exercise powers authority duly organized and existing under the laws of the State of California (the "Authority"), and, as such, is familiar with the facts herein certified and is authorized and qualified to certify the same on behalf of the Authority;

(ii) that there has been delivered to Piper Jaffray & Co., as underwriter (the "Underwriter"), a Preliminary Official Statement, dated July 28, 2010 (including the cover page and all appendices thereto, the "Preliminary Official Statement"), relating to the captioned bonds, which the undersigned, on behalf of the Authority, deems final as of its date, for purposes of Rule 15c2-12 promulgated under the Securities Exchange Act of 1934 ("Rule 15c2-12"), except for information permitted to be omitted therefrom by Rule 15c2-12; and

(iii) that the Authority hereby approves of the use and distribution by the Underwriter of the Preliminary Official Statement.

Dated: July 28, 2010

ATASCADERO PUBLIC FINANCING  
AUTHORITY

By \_\_\_\_\_  
Wade G. McKinney  
Executive Director

PRELIMINARY OFFICIAL STATEMENT DATED JULY 28, 2010

NEW ISSUE—BOOK-ENTRY ONLY

RATINGS:
Moody's: " "
S&P: " "
See "RATINGS" herein.

In the opinion of Quint & Thimmig LLP, San Francisco, California, Bond Counsel, subject, however, to certain qualifications described in this Official Statement, under existing law, interest on the Bonds (i) is excludable from gross income of the owners thereof for federal income tax purposes...



\$ \*
Atascadero Public Financing Authority
(San Luis Obispo County, California)
Lease Revenue Bonds, 2010 Series A
(Bank Qualified)

Dated: Date of Delivery

Due: October 1, as shown below

The \$ \* Atascadero Public Financing Authority Lease Revenue Bonds, 2010 Series A (the "Bonds"), are being issued by the Atascadero Public Financing Authority, a joint exercise of powers entity organized and existing under the laws of the State of California...

The Bonds are issuable in denominations of \$5,000 and any integral multiple thereof. Interest on the Bonds is payable on April 1 and October 1 of each year, commencing April 1, 2011. See "THE BONDS" herein.

The Bonds will be delivered in fully registered form only, and, when delivered, will be registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC").

The Bonds are subject to optional and mandatory redemption as described herein. See "THE BONDS—Redemption" herein.

The City will lease certain real property and the improvements thereon from the Authority pursuant to a Lease Agreement, dated as of August 1, 2010 (the "Lease Agreement"), by and between the Authority and the City.

THE BONDS ARE SPECIAL LIMITED OBLIGATIONS OF THE AUTHORITY PAYABLE SOLELY FROM AND SECURED SOLELY BY THE REVENUES PLEDGED UNDER THE INDENTURE. THE BONDS ARE NOT A DEBT OF THE CITY, THE STATE OF CALIFORNIA OR ANY OF ITS POLITICAL SUBDIVISIONS...

MATURITY SCHEDULE\*

\$ Serial Bonds

CUSIP Prefix: +

Table with 10 columns: Maturity (October 1), Principal Amount, Interest Rate, Yield, CUSIP Suffix+, Maturity (October 1), Principal Amount, Interest Rate, Yield, CUSIP Suffix+

\$ % Term Bonds due October 1, , Price: %, to Yield %; CUSIP +

This cover page contains information for quick reference only. It is not a summary of this issue. Potential purchasers must read the entire Official Statement to obtain information essential to making an informed investment decision.

The Bonds will be offered when, as and if issued, and received by the Underwriter, subject to the approval as to their validity by Quint & Thimmig LLP, San Francisco, California, Bond Counsel, and certain other conditions.

PiperJaffray

Dated: August \_\_, 2010

\*Preliminary, subject to change.

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This Preliminary Official Statement and the information contained herein are subject to completion or amendment. Under no circumstances shall this Preliminary Official Statement constitute an offer to sell or a solicitation of an offer to buy nor shall there be any sale of these securities in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of such jurisdiction.



**ATASCADERO PUBLIC FINANCING AUTHORITY**

**CITY OF ATASCADERO**

City of Atascadero  
6907 El Camino Real, Suite 6,  
Atascadero, CA 93422  
(805) 470-3428  
<http://www.atasacadero.org>

Authority Board of Directors and City Council

Roberta Fonzi, *Authority Chair/Mayor*  
Tom O'Malley, *Authority Vice Chair/Mayor Pro Tem*  
Jerry Clay, Sr., *Authority/Council Member*  
Bob Kelley, *Authority/Council Member*  
Ellen Béraud, *Authority/Council Member*

Authority/City Staff

Wade G. McKinney, *Executive Director/City Manager*  
James R. Lewis, *Assistant City Manager*  
Rachelle Rickard, *Administrative Services Director*  
Warren Frace, *Community Development Director*  
Marcia McClure Torgerson, *Secretary/City Clerk*  
Brian Pierik, Esq., *Authority Counsel and City Attorney*

Special Services

Quint & Thimmig LLP  
San Francisco, California  
*Bond Counsel and Disclosure Counsel*

The Bank of New York Mellon Trust Company, N.A.  
Los Angeles, California  
*Trustee*



No dealer, broker, salesperson or other person has been authorized by the Authority, the City or the Underwriter to give any information or to make any representations other than as set forth herein and, if given or made, such other information or representation must not be relied upon as having been authorized by the Authority, the City or the Underwriter. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy nor shall there be any sale of the Bonds by a person in any jurisdiction in which it is unlawful for such person to make such an offer, solicitation or sale.

This Official Statement is not to be construed as a contract with the purchasers of the Bonds. Statements contained in this Official Statement that involve estimates, forecasts or matters of opinion, whether or not expressly so described herein, are intended solely as such and are not to be construed as representations of facts.

The information set forth in this Official Statement has been obtained from official sources and other sources that are believed to be reliable, but it is not guaranteed as to accuracy or completeness, and is not to be construed as a representation of the Underwriter. The information and expressions of opinion herein are subject to change without notice, and neither the delivery of this Official Statement nor any sale made hereunder shall under any circumstances create any implication that there has been no change in the affairs of the Authority or the City since the date hereof. This Official Statement is submitted in connection with the sale of the Bonds referred to herein and may not be reproduced or used, in whole or in part, for any other purpose. The Underwriter has provided the following sentence for inclusion in this Official Statement: The Underwriter has reviewed the information in this Official Statement in accordance with, and as part of, its responsibilities to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Underwriter does not guarantee the accuracy or completeness of such information.

Certain statements included or incorporated by reference in this Official Statement constitute "forward-looking statements" within the meaning of the United States Private Securities Litigation Reform Act of 1995, Section 21E of the United States Securities Exchange Act of 1934, as amended, and Section 27A of the United States Securities Act of 1933, as amended. Such statements are generally identifiable by the terminology used such as "plan," "expect," "estimate," "budget" or other similar words. The achievement of certain results or other expectations contained in such forward-looking statements involve known and unknown risks, uncertainties and other factors which may cause actual results, performance or achievements described to be materially different from any future results, performance or achievements expressed or implied by such forward-looking statements. No assurance is given that actual results will meet the Authority's or the City's forecasts in any way, regardless of the level of optimism communicated in the information. The Authority is not obligated to issue any updates or revisions to the forward-looking statements if or when its expectations, or events, conditions or circumstances on which such statements are based occur. See "CONTINUING DISCLOSURE" herein.

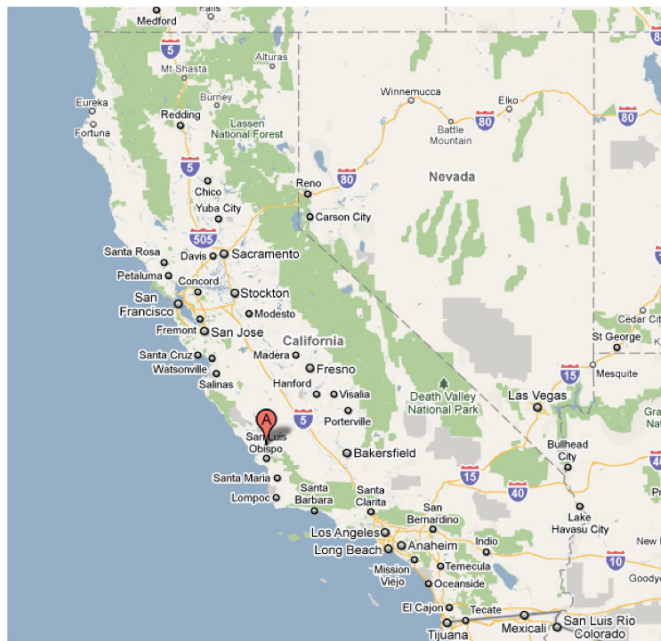
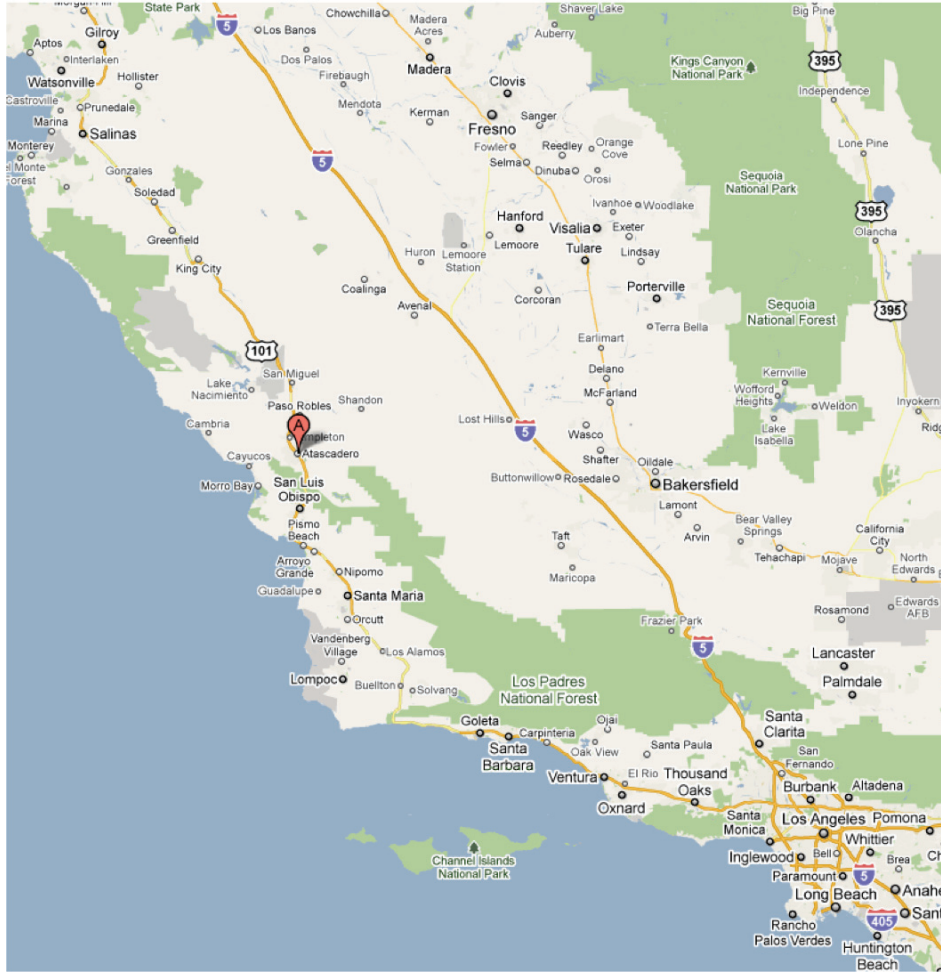
IN CONNECTION WITH THIS OFFERING, THE UNDERWRITER MAY OVERALLOT OR EFFECT TRANSACTIONS WHICH STABILIZE OR MAINTAIN THE MARKET PRICE OF THE BONDS AT A LEVEL ABOVE THAT WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING TRANSACTIONS, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME. THE UNDERWRITER MAY OFFER AND SELL THE BONDS TO CERTAIN DEALERS AND OTHERS AT PRICES LOWER THAN THE PUBLIC OFFERING PRICES STATED ON THE COVER PAGE OF THIS OFFICIAL STATEMENT, AND SUCH PUBLIC OFFERING PRICES MAY BE CHANGED FROM TIME TO TIME BY THE UNDERWRITER.

The City maintains a website, however, the information presented therein is not a part of this Official Statement and should not be relied on in making an investment decision with respect to the Bonds.

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# ATASCADERO LOCATION MAPS



## OFFICIAL STATEMENT

\$ \_\_\_\_\_ \*

### ATASCADERO PUBLIC FINANCING AUTHORITY (San Luis Obispo County, California) Lease Revenue Bonds, 2010 Series A

#### INTRODUCTION

The following introduction presents a brief description of certain information in connection with the Bonds (as defined below) and is qualified in its entirety by reference to the entire Official Statement and the documents summarized or described herein. References to, and summaries of, provisions of the Constitution and the laws of the State of California (the "State") and any documents referred to herein do not purport to be complete and such references are qualified in their entirety by reference to the complete provisions thereof. Capitalized terms used in this Official Statement and not defined elsewhere herein have the meanings given such terms in the Indenture. See APPENDIX D—SUMMARY OF CERTAIN PROVISIONS OF THE PRINCIPAL LEGAL DOCUMENTS—Definitions.

#### General Description

This Official Statement, including the cover page, the inside cover page and the attached appendices (this "Official Statement"), provides certain information concerning the issuance of \$ \_\_\_\_\_\* aggregate principal amount of Atascadero Public Financing Authority Lease Revenue Bonds, 2010 Series A (the "Bonds"), by the Atascadero Public Financing Authority, a joint exercise of powers entity organized under the laws of the State (the "Authority"). The Bonds are being issued pursuant to Article 4, Chapter 5, Division 7, Title 1 (commencing with section 6584) of the California Government Code, a resolution of the Authority authorizing the issuance of the Bonds (the "Authority Resolution") and an Indenture, dated as of August 1, 2010 (the "Indenture"), by and between the Authority and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee"). The Bonds are being issued to (a) finance improvements to the historic City of Atascadero (the "City") city hall and the acquisition and development of other capital improvements throughout the geographic boundaries of the City (b) fund a reserve fund for the Bonds, and (c) pay costs of issuance of the Bonds. See "THE REFUNDING PLAN" and "ESTIMATED SOURCES AND USES OF FUNDS."

#### Terms of the Bonds

The Bonds will mature on the dates and in the principal amounts set forth on the cover page of this Official Statement. Interest on the Bonds is payable semiannually on each April 1 and October 1 (each, an "Interest Payment Date"), commencing April 1, 2011, computed at the respective rates of interest set forth on the inside cover page of this Official Statement. The Bonds will be issuable in denominations of \$5,000 or any integral multiple thereof. The Bonds are subject to optional and mandatory redemption as described herein. See "THE BONDS."

#### Book-Entry Only

The Bonds will be issuable in fully registered form only and, when issued and delivered, will be registered in the name of Cede & Co., as nominee of the Depository Trust Company, New York, New York ("DTC"). DTC will act as the depository of the Bonds and all payments due on

---

\* Preliminary, subject to change.

the Bonds will be made to DTC or its nominee. Ownership interests in the Bonds may be purchased in book-entry form only. See APPENDIX G—BOOK-ENTRY ONLY SYSTEM.

### **Source of Payment for the Bonds**

Pursuant to the Site and Facility Lease, dated as of August 1, 2010 (the “Site and Facility Lease”), by and between the City and the Authority, the City will lease to the Authority certain real property and certain facilities and improvements located thereon (the “Property”) owned by the City. See “THE PROPERTY.” Concurrently, the City will sublease the Property from the Authority pursuant to a Lease Agreement, dated as of August 1, 2010 (the “Lease Agreement”), by and between the Authority and the City. Under the Lease Agreement, subject to abatement as provided therein, the City is required to make lease payments (the “Lease Payments”) from legally available funds for use and occupancy of the Property in amounts calculated to be sufficient to pay principal of and interest on the Bonds when due. The City has covenanted in the Lease Agreement to take such action as may be necessary to include the Lease Payments in each of its annual budgets during the Term of the Lease Agreement and has further covenanted to make the necessary annual appropriations for all such Lease Payments. All of the Authority’s right, title and interest in and to the Lease Agreement (apart from certain rights to receive Additional Payments to the extent payable to the Authority and to indemnification), including the right to receive Lease Payments under the Lease Agreement, are assigned to the Trustee under the Indenture for the benefit of the Bondowners.

Except to the extent of amounts otherwise available to the City for payments under the Lease Agreement, during any period in which, by reason of material damage or destruction (other than by condemnation, which is provided for in the Lease Agreement) there is substantial interference with the use and occupancy by the City of any portion of the Property, Lease Payments will be adjusted or abated in the proportion in which the value of that portion of the Property rendered unusable bears to the entire value of the Property. Such adjustment or abatement will end with the substantial replacement or reconstruction of the Property. To the extent proceeds of rental interruption insurance are available or there are moneys in the Reserve Fund, the Insurance and Condemnation Fund, or Revenue Fund, the Lease Agreement provides there will be no abatement of Lease Payments. See “SECURITY FOR THE BONDS—Abatement.”

The Bonds are special limited obligations of the Authority payable solely from and secured by the Revenues and certain other amounts (including proceeds of the sale of the Bonds) held by the Trustee in any fund or account established under the Indenture and pledged therefor, and the Revenues may not be used for any other purpose while any of the Bonds remain Outstanding; provided, however, that the Revenues may be applied for such other purposes as are permitted under the Indenture. “Revenues” means (i) all Lease Payments and other amounts paid, or caused to be paid, by the City, and received by the Authority pursuant to the Lease Agreement (but not Additional Payments), and (ii) all interest or other income from any investment of any money in any fund or account established pursuant to the Indenture (other than the Rebate Fund).

### **Reserve Account**

A reserve account (the “Reserve Account”) will be established and held under the Indenture in order to secure the payment of principal of and interest on the Bonds in an amount, as of the Closing Date, equal to the Reserve Requirement. A portion of the proceeds of the Bonds will be deposited in the Reserve Account in an amount equal to the Reserve Requirement. If, on any Interest Payment Date for the Bonds, the amounts on deposit under the Indenture to pay the principal of and interest due on the Bonds are insufficient therefor, the Trustee will draw on the amounts in the Reserve Account to replenish the Interest Account or the Principal Account, in that order, to make up such deficiencies. See “SECURITY FOR THE BONDS—Reserve Account”



and APPENDIX D—"SUMMARY OF CERTAIN PROVISIONS OF THE PRINCIPAL LEGAL DOCUMENTS" for additional information on the Reserve Account.

### **Additional Bonds**

The Authority may not issue additional bonds, notes or other indebtedness that would be payable out of the Revenues in whole or in part. See "SECURITY FOR THE BONDS—Additional Bonds."

### **The City**

The City is a municipal corporation and general law city of the State. See "THE CITY," "CITY FINANCIAL INFORMATION" and APPENDIX A—GENERAL, ECONOMIC AND DEMOGRAPHIC INFORMATION RELATING TO THE CITY.

### **The Authority**

The Authority is a joint exercise of powers entity formed on November 9, 2004, by agreement between the City and the Community Redevelopment Agency of Atascadero (the "Agency") pursuant to Articles 1 through 4, Chapter 5, Division 7, Title 1 of the California Government Code. See "THE AUTHORITY."

### **Limited Liability**

THE BONDS ARE SPECIAL LIMITED OBLIGATIONS OF THE AUTHORITY, PAYABLE SOLELY FROM AND SECURED SOLELY BY CERTAIN PROCEEDS OF THE BONDS HELD IN CERTAIN FUNDS AND ACCOUNTS PURSUANT TO THE INDENTURE AND THE REVENUES DERIVED FROM LEASE PAYMENTS AND OTHER PAYMENTS MADE OR CAUSED TO BE MADE BY THE CITY PURSUANT TO THE LEASE AGREEMENT. THE AUTHORITY IS NOT OBLIGATED TO PAY INTEREST ON OR PRINCIPAL OF THE BONDS EXCEPT FROM THE REVENUES. THE CITY HAS COVENANTED IN THE LEASE AGREEMENT TO TAKE SUCH ACTIONS AS MAY BE NECESSARY TO INCLUDE ALL LEASE PAYMENTS DUE THEREUNDER IN ITS ANNUAL BUDGETS AND TO MAKE THE NECESSARY ANNUAL APPROPRIATIONS THEREFOR. NEITHER THE BONDS NOR THE OBLIGATION OF THE CITY TO MAKE LEASE PAYMENTS CONSTITUTES AN INDEBTEDNESS OF THE AUTHORITY, THE CITY, THE STATE OR ANY OF ITS POLITICAL SUBDIVISIONS WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMITATION, OR A PLEDGE OF THE FAITH AND CREDIT OF THE CITY. THE AUTHORITY HAS NO TAXING POWER. THE OBLIGATION OF THE CITY TO MAKE LEASE PAYMENTS DOES NOT CONSTITUTE AN OBLIGATION OF THE CITY FOR WHICH THE CITY IS OBLIGATED TO LEVY OR PLEDGE ANY FORM OF TAXATION OR FOR WHICH THE CITY HAS LEVIED OR PLEDGED ANY FORM OF TAXATION.

### **Continuing Disclosure**

The ultimate security for the payments of principal and interest on the Bonds comes from the Lease Payments to be made by the City, and, therefore, the City, as an obligated person within the meaning of the Rule (as defined below), has agreed to undertake the continuing disclosure responsibilities required by the Rule. The Authority has not undertaken a commitment to provide any continuing disclosure required by the Rule.

The City has covenanted in the Continuing Disclosure Certificate (the "Continuing Disclosure Certificate") to provide, or cause to be provided, to each nationally recognized municipal securities information repository and any public or private repository or entity

designated by the State as a state repository and any public or private repository for purposes of Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission (the "Rule") certain annual financial information and operating data of the type set forth herein including, but not limited to, its audited financial statements and, in a timely manner, notice of certain material events. See "CONTINUING DISCLOSURE" and APPENDIX F—FORM OF CONTINUING DISCLOSURE CERTIFICATE for a description of the specific nature of the annual report and notices of material events and a summary description of the terms of the Continuing Disclosure Certificate pursuant to which such reports and notices are to be made. The City has never failed to comply with any previous undertakings with regard to said Rule to provide annual reports or notices of material events.

### **Tax Matters**

In the opinion of Quint & Thimmig LLP, San Francisco, California, Bond Counsel, subject, however, to certain qualifications described in this Official Statement, under existing law, interest on the Bonds (i) is excludable from gross income of the owners thereof for federal income tax purposes, (ii) is not included as an item of tax preference in computing the federal alternative minimum tax for individuals and corporations, and (iii) is not taken into account in computing adjusted current earnings, which is used as an adjustment in determining the federal alternative minimum tax for certain corporations. The Bonds are "qualified tax-exempt obligations" under Section 265(b)(3) of the Internal Revenue Code of 1986, as amended. In addition, in the opinion of Bond Counsel, interest on the Bonds is exempt from personal income taxation imposed by the State of California. See "TAX MATTERS."

### **Certain Risk Factors**

Certain events could affect the ability of the City to make the Lease Payments when due. See "CERTAIN RISK FACTORS" for a discussion of certain factors that should be considered, in addition to other matters set forth herein, in evaluating an investment in the Bonds.

### **Other Information**

The descriptions herein of the Indenture, the Lease Agreement and any other agreements relating to the Bonds are qualified in their entirety by reference to such documents, and the descriptions herein of the Bonds are qualified in their entirety by the forms thereof and the information with respect thereto included in the aforementioned documents. See APPENDIX D—SUMMARY OF CERTAIN PROVISIONS OF THE PRINCIPAL LEGAL DOCUMENTS. Copies of the documents are on file and, upon request and payment to the City of a charge for copying, mailing and handling, from the Director of Administrative Services, City of Atascadero, 6907 El Camino Real, Suite 6, Atascadero, CA 93422, telephone (805) 470-3428.

The information and expressions of opinion herein speak only as of their date and are subject to change without notice. Neither the delivery of this Official Statement nor any sale made hereunder nor any future use of this Official Statement, under any circumstances, creates any implication that there has been no change in the affairs of the City or the Authority since the date hereof.

The presentation of information, including tables of receipt of revenues, is intended to show recent historical information and is not intended to indicate future or continuing trends in the financial position or other affairs of the City or the Authority. No representation is made that past experience, as it might be shown by such financial and other information, will necessarily continue or be repeated in the future.



## ESTIMATED SOURCES AND USES OF FUNDS

The estimated sources and uses of funds realized upon the sale of, or in connection with, the Bonds as follows:

### Estimated Sources:

Principal Amount of Bonds  
Plus/Less: Original Issue Premium/Discount  
Total Sources

### Estimated Uses:

Deposit to Project Fund (1)  
Deposit to Reserve Account (2)  
Deposit to Costs of Issuance Fund (3)  
Total Uses

(1) Represents the amount estimated to be necessary to finance the Project. See "THE PROJECT."

(2) Represents the Reserve Requirement.

(3) Includes, but is not limited to, the Underwriter's discount, the fees and expenses of Bond Counsel, Disclosure Counsel, the Trustee and the rating agencies, costs of printing the Official Statement, the premium for title insurance and other costs incurred by the Authority and the City in connection with the issuance and delivery of the Bonds.

## THE PROPERTY

The Property consists of the following City-owned assets:

Colony Park Community Center. The Colony Park Community Center is a recreation and meeting hall for all ages. It is located at 5599 Traffic Way in Atascadero, close to downtown. The building is 17,240 sq feet and contains offices, entry lobby, meeting rooms, gym, art room, dance/fitness room, teen center, cafe and storage areas. The building is situated on a parcel of over 11 acres and is adjacent to Colony Park and ball fields. The facilities contains a landscaped area, paved driveways and paved parking areas.

Atascadero Police Station. The facility houses the City's Police Department and is located at 5505 El Camino Real in Atascadero. The building is 12,380 sq feet and has offices, a 911 dispatch center, locker rooms, restroom facilities, conference rooms, a break room, an evidence room, a investigations center, jail (4 holding cells), a generator room with a permanent generator and storage areas. The building features a secured lobby and gated parking area. Typically, 14 staff members occupy the facility. The land is almost 1.3 acres, and contains a landscaped area, three covered parking structures, paved driveways and parking areas and storage sheds. The facility is located close to downtown with convenient access to Highway 101.

Fire Station No. 1. The facility, one of two City fire stations, is located at 6005 Lewis Avenue in Atascadero. The building is 5,320 square feet and has offices, living quarters, a kitchen, restroom facilities, a hose tower, four apparatus bays, a shop and storage areas. The land is just over an acre and contains a grassy landscaped area, a covered parking and barbeque area, paved driveways and parking areas and a sand-bagging station. The facility is located in the downtown area.

Fire Station No. 2. The facility, the second of the two City fire stations, is located at 9801 West Front Street in Atascadero. The building is 3,820 square feet and has offices, living quarters, a kitchen, restroom facilities, four apparatus bays, a shop, and storage areas. The land is just under an acre and contains paved driveways and paved parking areas. The facility is located on the south west side of town with close access to Highway 101.

Lake Park Pavilion. The Pavilion on the Lake is an events center rented to groups and private parties for meetings, weddings, banquets, concerts and more. It is located at 9315 Pismo Avenue in Atascadero, adjacent to Atascadero Lake Park and the Charles Paddock Zoo. The building is 14,360 square feet and contains offices, entry lobby, banquet room, meeting rooms, kitchen and storage areas. The building is situated on a parcel of over 5 acres and overlooks the Atascadero Lake. The facility contains a landscaped area, paved driveways and paved parking areas. The facility is located on Highway 41.

Atascadero Corporate Yard. The facility consists of the City's corporate yard and is located at 8005 Garbada Avenue in Atascadero. The yard houses four of the City's Public Works divisions: Wastewater, Parks, Streets and Operations and is 14,444 square feet. Approximately 13 staff members work out of the facility. The building shares a parcel with the Wastewater Treatment Facility. The parcel is about 75 acres in size. The building consists of five offices, a break room, a locker room, entry lobby, a wood shop and warehouse, storage, a sign shop, two vehicle repair shops, a welding shop and two small-tools shops. There are landscaped areas, a carport covered parking, and paved driveways, parking and roads.

## THE PROJECT

The Bonds are being issued to (a) ~~refund the 1997 Bonds,~~ (b) finance the Project, (b) fund a reserve fund for the Bonds, and (c) pay costs of issuance of the Bonds. The Project includes the following:

## THE BONDS

### General

The Bonds will be issued in fully registered form without coupons in denominations of \$5,000 or any integral multiple thereof. The Bonds will mature on October 1 in each of the years and in the amounts, and will bear interest (calculated on the basis of a 360-day year of twelve 30-day months) at the rates set forth on the cover page hereof.

Interest on the Bonds will be payable semiannually on each April 1 and October 1, commencing April 1, 2011 (each, an "Interest Payment Date"), to the person whose name appears on the Registration Books as the Owner thereof as of the fifteenth calendar day of the month immediately preceding each such Interest Payment Date (each, a "Record Date"), such interest to be paid by check of the Trustee mailed by first-class mail to the Owners at the respective addresses of such Owners as they appear on the Registration Books; provided, however, that payment of interest may be made by wire transfer in immediately available funds to an account in the United States of America to any Owner of Bonds in the aggregate principal amount of \$1,000,000 or more who furnishes written wire instructions to the Trustee at least five days before the applicable Record Date. Principal of any Bond and any premium upon redemption will be paid by check of the Trustee upon presentation and surrender thereof at the corporate trust office of the Trustee, except as provided in APPENDIX G—BOOK-ENTRY ONLY SYSTEM. Principal of and interest and premium (if any) on the Bonds will be payable in lawful money of the United States of America.

Each Bond will be dated as of its date of delivery and will bear interest from the Interest Payment Date next preceding such date of authentication thereof, unless (a) it is authenticated after a Record Date and on or before the following Interest Payment Date, in which event it will bear interest from such Interest Payment Date, or (b) it is authenticated on or before August 15, 2010, in which event it will bear interest from the Closing Date; provided, however, that if, as of the date of authentication of any Bond, interest thereon is in default, such Bond will bear interest from the Interest Payment Date to which interest has previously been paid or made available for payment thereon.

The Bonds, when issued, will be registered in the name of Cede & Co., as registered owner and nominee of The Depository Trust Company, New York, New York (“DTC,” and together with any successor securities depository, the “Securities Depository”). DTC will act as Securities Depository for the Bonds. Individual purchases of the Bonds will be made in book-entry form. Purchasers will not receive certificates representing their ownership interest in the Bonds. So long as Cede & Co. is the registered owner of the Bonds, as nominee of DTC, references herein to the Bondholders or registered owners thereof means Cede & Co. as aforesaid, and not the Beneficial Owners of the Bonds. So long as Cede & Co. is the registered owner of the Bonds, principal of and interest on the Bonds are payable by wire transfer of same day funds by the Trustee to Cede & Co., as nominee for DTC. DTC is obligated, in turn, to remit such amounts to the Participants for subsequent disbursement to the Beneficial Owners. See APPENDIX G—BOOK-ENTRY ONLY SYSTEM.

### **Transfer and Exchange of Bonds**

Any Bond may, in accordance with its terms, be transferred on the Registration Books by the person in whose name it is registered, in person or by his duly authorized attorney, upon surrender of such Bond for cancellation, accompanied by delivery of a written instrument of transfer, duly executed in a form acceptable to the Trustee. Transfer of any Bond will not be permitted by the Trustee during the period established by the Trustee for selection of Bonds for redemption or if such Bond has been selected for redemption pursuant to the Indenture. Whenever any Bond or Bonds are required to be surrendered for transfer, the Authority will execute and the Trustee will authenticate and will deliver a new Bond or Bonds for a like aggregate principal amount and of like maturity. The Trustee may require the Bond Owner requesting such transfer to pay any tax or other governmental charge required to be paid with respect to such transfer.

Any Bond may be exchanged at the corporate trust office of the Trustee for a like aggregate principal amount of Bonds of other authorized denominations and of like maturity. Exchange of any Bond will not be permitted during the period established by the Trustee for selection of Bonds for redemption or if such Bond has been selected for redemption. The Trustee may require the Bond Owner requesting such exchange to pay any tax or other governmental charge required to be paid with respect to such exchange.

### **Optional Redemption**

The Bonds maturing on or before October 1, \_\_\_\_, are not subject to optional redemption prior to their respective stated maturities. The Bonds maturing on or after October 1, \_\_\_\_, are subject to optional redemption prior to their respective stated maturities, at the written direction of the Authority, from moneys deposited by the Authority or the City, in whole or in part, in such order of maturity as the City designates (and, if no specific order of redemption is designated by the City, in inverse order of maturity), on any date on or after October 1, \_\_\_\_, from any available source of funds, at a redemption price equal to the principal amount of the Bonds to be redeemed, together with accrued interest thereon to the date fixed for redemption, without premium.

### Mandatory Sinking Account Redemption

The Bonds maturing on October 1, \_\_\_\_ (the “\_\_\_\_ Term Bonds”) are also subject to mandatory sinking fund redemption in part by lot on October 1, \_\_\_\_, and on each October 1 to and including October 1, \_\_\_\_, from sinking account payments made by the Authority at a redemption price equal to the principal amount thereof to be redeemed together with accrued interest thereon to the redemption date, without premium, in the aggregate respective principal amounts and on the respective dates as set forth in the following table; *provided, however*, that if some but not all of the \_\_\_\_ Term Bonds have been optionally redeemed, the total amount of all future sinking account payments will be reduced by the aggregate principal amount of \_\_\_\_ Term Bonds so redeemed, to be allocated among the sinking account payments as are thereafter payable on a *pro rata* basis in integral multiples of \$5,000 as determined by the Authority (notice of which determination shall be given by the Authority to the Trustee).

Sinking Account Redemption Date (October 1)	Principal Amount to be Redeemed or Purchased
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†Maturity

The Bonds maturing on October 1, \_\_\_\_ (the “\_\_\_\_ Term Bonds”) are also subject to mandatory sinking fund redemption in part by lot on October 1, \_\_\_\_, and on each October 1 to and including October 1, \_\_\_\_, from sinking account payments made by the Authority at a redemption price equal to the principal amount thereof to be redeemed together with accrued interest thereon to the redemption date, without premium, in the aggregate respective principal amounts and on the respective dates as set forth in the following table; *provided, however*, that if some but not all of the \_\_\_\_ Term Bonds have been optionally redeemed, the total amount of all future sinking account payments will be reduced by the aggregate principal amount of \_\_\_\_ Term Bonds so redeemed, to be allocated among the sinking account payments as are thereafter payable on a *pro rata* basis in integral multiples of \$5,000 as determined by the Authority (notice of which determination shall be given by the Authority to the Trustee).

Sinking Account Redemption Date (October 1)	Principal Amount to be Redeemed or Purchased
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†Maturity

### Extraordinary Redemption from Insurance or Condemnation Proceeds

The Bonds are also subject to redemption as a whole, or in part on a pro rata basis among maturities, on any date, in integral multiples of \$5,000, to the extent of prepayments made by the City from insurance proceeds or condemnation proceeds not used to repair, reconstruct or replace any portion of the Property damaged or destroyed or elected by the City to be used for such purpose, at a redemption price equal to 100% of the principal amount thereof plus interest accrued thereon to the date fixed for redemption, without premium.

## **Selection of Bonds for Redemption**

Whenever provision is made for the redemption of less than all of the Bonds of a particular maturity, the Trustee will select the Bonds to be redeemed from all Bonds of such maturity or such given portion thereof not previously called for redemption, by lot in any manner which the Trustee in its sole discretion deems appropriate. For purposes of such selection, the Trustee will treat each Bond as consisting of separate \$5,000 portions and each such portion will be subject to redemption as if such portion were a separate Bond.

## **Notice of Redemption**

Notice of redemption will be mailed by first-class mail, postage prepaid, not less than 30 nor more than 60 days before any redemption date, to the respective Owners of any Bonds designated for redemption at their addresses appearing on the Registration Books maintained by the Trustee, and to the Municipal Securities Rulemaking Board, the Securities Depositories and the Information Services. Each notice of redemption will state the date of the notice, the redemption date, the place or places of redemption, whether less than all of the Bonds (or all Bonds of a single maturity) are to be redeemed, the CUSIP numbers and (in the event that not all Bonds within a maturity are called for redemption) Bond numbers of the Bonds to be redeemed, the maturity or maturities of the Bonds to be redeemed and in the case of Bonds to be redeemed in part only, the respective portions of the principal amount thereof to be redeemed. Each such notice will also state that on the redemption date there will become due and payable on each of said Bonds the redemption price thereof, and that from and after such redemption date interest thereon will cease to accrue and will require that such Bonds be then surrendered. Neither the failure to receive any notice nor any defect therein will affect the sufficiency of the proceedings for such redemption or the cessation of accrual of interest from and after the redemption date. Notice of redemption of Bonds will be given by the Trustee, at the expense of the Authority, for and on behalf of the Authority.

So long as the book-entry system is used for the Bonds, the Trustee will give any notice of redemption or any other notices required to be given to registered Owners of Bonds only to DTC. Any failure of DTC to advise any Participant, or of any Participant to notify the Beneficial Owner, of any such notice and its content or effect will not affect the validity of the redemption of the Bonds called for redemption or any other action premised on such notice. Beneficial Owners may desire to make arrangements with a Participant so that all notices of redemption or other communications to DTC which affect such Beneficial Owners, and notification of all interest payments, will be forwarded in writing by such Participant. See APPENDIX G—BOOK-ENTRY ONLY SYSTEM.

## **Partial Redemption of Bonds**

Upon surrender of any Bonds redeemed in part only, the Authority will execute and the Trustee will authenticate and deliver to the Owner thereof, at the expense of the Authority, a new Bond or Bonds of authorized denominations equal in aggregate principal amount to the unredeemed portion of the Bonds surrendered.

## **Effect of Redemption**

If notice of redemption has been given, and moneys for payment of the redemption price of, together with interest accrued to the date fixed for redemption on, the Bonds (or portions thereof) so called for redemption are being held by the Trustee, on the redemption date designated in such notice, the Bonds (or portions thereof) so called for redemption will become due and payable, interest on the Bonds so called for redemption will cease to accrue, said Bonds

(or portions thereof) will cease to be entitled to any benefit or security under the Indenture, and the Owners of said Bonds will have no rights in respect thereof except to receive payment of the redemption price thereof.

All Bonds redeemed pursuant to the provisions of the Indenture will be canceled by the Trustee upon surrender thereof and destroyed.

## **SECURITY FOR THE BONDS**

### **General**

The Bonds are special limited obligations of the Authority payable solely from and secured solely by the Revenues pledged therefor under the Indenture, together with amounts on deposit from time to time in the funds and accounts held by the Trustee, including proceeds of the sale of the Bonds.

Under the Indenture, the Authority assigns to the Trustee, for the benefit of the Owners from time to time of the Bonds, all of the Revenues and all of the rights of the Authority in the Lease Agreement (except for the right to receive any Additional Payments to the extent payable to the Authority and certain rights to indemnification set forth therein). The Trustee is entitled to collect and receive all of the Revenues, and any Revenues collected or received by the Authority are required to be held, and to have been collected or received, by the Authority as the agent of the Trustee and must be paid by the Authority to the Trustee.

THE BONDS ARE SPECIAL LIMITED OBLIGATIONS OF THE AUTHORITY PAYABLE SOLELY FROM AND SECURED SOLELY BY THE REVENUES AND OTHER MONEYS PLEDGED THERETO IN THE INDENTURE. THE BONDS ARE NOT A DEBT OF THE AUTHORITY, THE CITY, THE STATE OR ANY OF ITS POLITICAL SUBDIVISIONS AND NEITHER THE AUTHORITY, THE CITY, THE STATE NOR ANY OF ITS POLITICAL SUBDIVISIONS, EXCEPT THE AUTHORITY TO THE EXTENT DESCRIBED HEREIN, IS LIABLE THEREON. IN NO EVENT WILL THE BONDS OR ANY INTEREST OR REDEMPTION PREMIUM THEREON BE PAYABLE OUT OF ANY FUNDS OR PROPERTIES OTHER THAN THOSE OF THE AUTHORITY AS SET FORTH IN THE INDENTURE. THE BONDS DO NOT CONSTITUTE AN INDEBTEDNESS WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMITATION OR RESTRICTION. NEITHER THE MEMBERS OF THE AUTHORITY NOR ANY PERSONS EXECUTING THE BONDS ARE LIABLE PERSONALLY ON THE BONDS BY REASON OF THEIR ISSUANCE.

### **Lease Payments and Additional Payments**

The Lease Agreement requires the City, subject to abatement as provided therein, to deposit with the Trustee, as assignee of the Authority, on each March 15 and September 15, commencing on March 15, 2011 (the "Lease Payment Dates"), an amount equal to the aggregate Lease Payment coming due and payable on each such Lease Payment Date. The Lease Payments payable in any fiscal year of the City constitute payment for the use and possession of the Property during such fiscal year. The City will receive a credit towards payment of Lease Payments for amounts on deposit in the Revenue Fund (including the Interest Account and the Principal Account therein) on each Lease Payment Date.

The obligation of the City to make Lease Payments is subject to annual appropriations of the City from funds lawfully available therefor. The obligation of the City to make Lease Payments under the Lease Agreement does not constitute an obligation of the City for which the City is obligated to levy or pledge any form of taxation or for which the City has levied or



pledged any form of taxation. Neither the full faith and credit nor the taxing power of the City, the State or any of its political subdivisions is pledged to make Lease Payments under the Lease Agreement. The Authority has no taxing power. The Lease Payments are calculated to be sufficient to pay, when due, the principal of and interest on the Bonds.

In addition to the Lease Payments, the City is required to pay when due the following Additional Payments: (a) any fees and expenses incurred by the Authority in connection with or by reason of its leasehold estate in the Property as and when the same become due and payable; (b) any amount due to the Trustee pursuant to the terms of the Indenture; (c) any reasonable fees and expenses of such accountants, consultants, attorneys, and other experts as may be engaged by the Authority or the Trustee to prepare audits, financial statements, reports, opinions or provide such other services required under the Lease Agreement or the Indenture; and (d) any reasonable out-of-pocket expenses of the Authority in connection with the execution and delivery of the Lease Agreement, the Indenture or the Continuing Disclosure Certificate or in connection with the issuance of the Bonds.

Pursuant to the Lease Agreement, the City covenants to take such action as may be necessary to include all Lease Payments and Additional Payments due thereunder in its annual budgets and to make annual appropriations therefor. As provided in the Lease Agreement, the covenants of the City thereunder are duties imposed by law, and it is the duty of each and every public official of the City to take such action and to do such things as are required by law in the performance of the official duty of such officials to enable the City to carry out and perform the covenants and agreements in the Lease Agreement agreed to be carried out and performed by the City.

California law requires, and the Lease Agreement provides, that Lease Payments are required to be abated in whole or in part during any period in which there is substantial interference with the use and occupancy of the Property by the City due to damage, destruction or taking in eminent domain proceedings. Under these circumstances, failure to make any Lease Payment will not be an event of default under the Lease Agreement. See "SECURITY FOR THE BONDS—Abatement" below.

Lease Payments made by the City to the Authority are payable from any revenues lawfully available to the City therefor. The Lease Agreement and the Indenture require that Lease Payments be deposited in the Revenue Fund maintained by the Trustee, which fund is held for the benefit of the owners of the Bonds.

### **Insurance and Condemnation Awards**

In the event of any damage to or destruction of any part of the Property covered by insurance, the Authority, except as hereinafter provided, is required to cause the proceeds of such insurance to be utilized for the repair, reconstruction or replacement of the damaged or destroyed portion of the Property, and the Trustee is required to hold said proceeds in a fund established by the Trustee for such purpose separate and apart from all other funds, to the end that such proceeds are required to be applied to the repair, reconstruction or replacement of the Property to at least the same good order, repair and condition as was the case prior to the damage or destruction, insofar as the same may be accomplished by the use of said proceeds. The Trustee is required to invest said proceeds in Permitted Investments pursuant to the Written Request of the City, as agent for the Authority under the Lease Agreement, and withdrawals of said proceeds are required to be made from time to time upon the filing of a Written Request of the City with the Trustee, stating that the City has expended moneys or incurred liabilities in an amount equal to the amount therein stated for the purpose of the repair, reconstruction or replacement of the Property, and specifying the items for which such moneys were expended, or such liabilities were incurred, in reasonable detail. The City is required to file a written certificate



with the Trustee to the effect that sufficient funds from insurance proceeds or from any funds legally available to the City, or from any combination thereof, are available in the event it elects to repair, reconstruct or replace the Property. Any balance of such proceeds not required for such repair, reconstruction or replacement and the proceeds of use and occupancy insurance are required to be treated by the Trustee as Lease Payments. Alternatively, the City, at its option, if the proceeds of such insurance together with any other moneys then available for such purpose are sufficient to prepay all, in case of damage or destruction in whole of the Property, or that portion, in the case of partial damage or destruction of the Property, of the Lease Payments relating to the damaged or destroyed portion of the Property, may elect not to repair, reconstruct or replace the damaged or destroyed portion of the Property and thereupon is required to cause said proceeds to be used for the redemption of Outstanding Bonds. The City is not required to apply the proceeds of insurance to redeem the Bonds in part due to damage or destruction of a portion of the Property unless the Trustee receives a written certificate of the Authority to the effect that the Lease Payments on the undamaged portion of the Property will be sufficient to pay the initially-scheduled principal and interest on the Bonds remaining unpaid after such redemption.

No assurance can be given that the proceeds of any insurance or condemnation award will be sufficient under all circumstances to repair or replace any damaged or taken Property or to prepay all Lease Payments with respect to the Property. Also, the City makes no representation as to the sufficiency of any insurance awards or the adequacy of any self-insurance to pay, when and as due, amounts payable under the Lease Agreement or the Bonds.

### **Reserve Account**

The Reserve Account is established under the Indenture in an amount equal to the Reserve Requirement, which is \$\_\_\_\_\_. As defined in the Indenture, the term "Reserve Requirement" means a fixed amount equal to the least of (a) maximum annual debt service on the Bonds, (b) 125% of average annual debt service on the Bonds, and (c) 10% of the par amount of the Bonds, determined on the Closing Date. All amounts in the Reserve Account are required to be used and withdrawn by the Trustee solely for the purpose of (x) paying principal of or interest on the Bonds when due and payable to the extent that moneys deposited in the Interest Account or the Principal Account are not sufficient for such purpose, and (y) making the final payments of principal of and interest on Bonds on the date on which such Bonds are required to be retired or provision made therefor.

### **Abatement**

The Lease Agreement provides for the abatement of Lease Payments during any period in which by reason of damage to or destruction of the Property (other than by eminent domain which may cause abatement of Lease Payments as described below), which causes substantial interference with the use and occupancy by the City of the Property or any portion thereof. The amount of such abatement will be an amount agreed upon by the City and the Authority such that the resulting Lease Payments represent fair consideration for the use and occupancy of the portions of the Property not damaged or destroyed or the portion of the Property completed and available for use and possession by the City. Such abatement will continue for the period commencing with such damage or destruction and ending with the substantial completion of the work of repair or reconstruction. In the event of any such damage or destruction, the Lease Agreement will continue in full force and effect and the City waives any right to terminate the Lease Agreement by virtue of any such damage and destruction. There will be no abatement of the Lease Payments to the extent that moneys derived from any person as a result of such damage or destruction are available to pay the amount which would otherwise be abated or if there is any money available in the Bond Fund or the Reserve Account to pay the amount which would otherwise be abated. See "—Insurance—Rental Interruption Insurance."

If all of the Property is taken permanently under the power of eminent domain or sold to a government threatening to exercise the power of eminent domain, the Lease Agreement will terminate with respect to the Property as of the day possession is so taken. If less than all of the Property is taken permanently, or if all of the Property or any part thereof is taken temporarily under the power of eminent domain, (a) the Lease Agreement will continue in full force and effect, and (b) there will be a partial abatement of Lease Payments in an amount to be agreed upon by the City and the Authority such that the resulting Lease Payments for the Property represent fair consideration for the use and occupancy of the remaining usable portion of the Property.

## **Insurance**

*Fire and Extended Coverage Insurance.* The City is required under the Lease Agreement to procure and maintain or cause to be procured and maintained, throughout the term of the Lease Agreement, insurance against loss or damage to any structures constituting any part of the Property by fire and lightning, with extended coverage insurance, vandalism, malicious mischief insurance and sprinkler system leakage insurance. Said extended coverage insurance is required to, as nearly as practicable, cover loss or damage by explosion, windstorm, riot, aircraft, vehicle damage, smoke and such other hazards as are normally covered by such insurance. Such insurance is required to be in an amount equal to the replacement cost (without deduction for depreciation) of all structures constituting any part of the Property, excluding the cost of excavations, of grading and filling, and of the land (except that insurance may be subject to deductible clauses for any one loss of not to exceed two hundred fifty thousand dollars (\$250,000) or a comparable deductible adjusted for inflation), or, in the alternative, is required to be in an amount and in a form sufficient, in the event of total or partial loss, to enable a portion of all Bonds then Outstanding equal to the amount of such Bonds to be paid from Lease Payments to be redeemed. ~~The City currently carries earthquake insurance on the Property although the Lease Agreement does not require it to do so. The City plans to continue to purchase earthquake insurance on the Property so long as such insurance can be obtained on the open market at reasonable rates. See "CERTAIN RISK FACTORS—Earthquakes."~~ The net proceeds of such insurance will be applied as provided under the caption "SECURITY FOR THE BONDS—Insurance and Condemnation Awards" above.

*Rental Interruption Insurance.* The Lease Agreement requires the City to procure and maintain or cause to be procured and maintained rental interruption or use and occupancy insurance to cover loss, total or partial, of the use of the Property as a result of certain hazards, in an amount at least equal to the maximum Lease Payments coming due and payable during any future 24-month period. Such insurance may be maintained as part of or in conjunction with any other property insurance coverage carried by the City, and may be maintained in whole or in part in the form of the participation by the City in a joint powers agency or other program providing pooled insurance; provided that such insurance may not be maintained in the form of self-insurance except for a time element deductible not to exceed sixty days in duration. The proceeds of such insurance, if any, will be paid to the Trustee and deposited in the Revenue Fund, and will be credited towards the payment of the Lease Payments as the same become due and payable.

*Title Insurance.* The City is required to obtain upon the execution and delivery of the Lease Agreement, title insurance on the Property, in an amount not less than the aggregate principal amount of Bonds issued by a company of recognized standing duly authorized to issue the same, subject only to Permitted Encumbrances. Proceeds of such insurance are required to be delivered to the Trustee as a prepayment of rent and are required to be applied by the Trustee to the redemption of Bonds.

## Debt Service Schedule

The following table sets forth the debt service due on the Bonds.

<b>Debt Service Schedule</b>			
<u>Year Ending October 1</u>	<u>Principal and Mandatory Sinking Fund Installments</u>	<u>Interest</u>	<u>Total</u>
<u>2011</u>			
<u>2012</u>			
<u>2013</u>			
<u>2014</u>			
<u>2015</u>			
<u>2016</u>			
<u>2017</u>			
<u>2018</u>			
<u>2019</u>			
<u>2020</u>			
<u>2021</u>			
<u>2022</u>			
<u>2023</u>			
<u>2024</u>			
<u>2025</u>			
<u>2026</u>			
<u>2027</u>			
<u>2028</u>			
<u>2029</u>			
<u>2030</u>			
<u>2031</u>			
<u>2032</u>			
<u>2033</u>			
<u>2034</u>			
<u>2035</u>			
<u>2036</u>			
<u>2037</u>			
<u>2038</u>			
<u>2039</u>			
<u>2040</u>			

Pursuant to the Lease Agreement, the City is required to make Lease Payments which have been calculated to be sufficient to make the interest and principal payments due on the Bonds. The City's Lease Payments are due on the fifteenth calendar day of the month preceding each Interest Payment Date.

### **Additional Bonds**

Pursuant to the Indenture, the Authority may not issue additional bonds, notes or other indebtedness which would be payable out of the Revenues in whole or in part. See "THE AUTHORITY."

### **THE AUTHORITY**

The Authority is a public agency duly organized and existing pursuant to a Joint Exercise of Powers Agreement (the "JPA Agreement") between the City and the Agency, dated

November 9, 2004. The Authority is governed by a board of directors comprised of the five member City Council of the City. The Authority is statutorily authorized by Article 4 of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California and is empowered under the JPA Agreement to issue its bonds for, among other things, the purposes of the plan of financing described herein. The Authority is administered by the City staff.

## THE CITY

The City is located 17 miles inland from the Pacific coast and is midway between Los Angeles and San Francisco on Highway 101, about 220 miles from each city. The City was founded as California's first planned community in 1913 by E.G. Lewis and was incorporated in 1979.

The City is governed by a five-member City Council elected at large with four-year alternating terms. ~~The Mayor is elected directly by the voters. The City Treasurer and the City Clerk are elected by voters. Additionally, the positions of City Clerk, City Treasurer, The City Manager and City Attorney are filled by appointments of the City Council.~~

See APPENDIX A—GENERAL, ECONOMIC AND DEMOGRAPHIC INFORMATION RELATING TO THE CITY for a general description of the City as well as certain demographic and statistical information.

## CITY FINANCIAL INFORMATION

### Financial Statements

The City's accounting policies conform to generally accepted accounting principles. The audited financial statements also conform to the principles and standards for public financial reporting established by the Governmental Accounting Standards Board.

*Basis of Accounting and Financial Statement Presentation.* The government-wide financial statements are reported using the accrual basis of accounting. Revenues are recorded when earned and expenses are recorded when a liability is incurred, regardless of the timing of related cash flows. Property taxes are recognized as revenues in the year for which they are levied. Grants and similar items are recognized as revenue as soon as all eligibility requirements imposed by the provider have been met.

Governmental fund financial statements are reported using the modified accrual basis of accounting. Revenues are recognized as soon as they are both measurable and available. Revenues are considered to be available when they are collectible within the current period or soon enough thereafter to pay liabilities of the current period. Expenditures generally are recorded when a liability is incurred, as under accrual accounting. However, debt service expenditures are recorded only when payment is due.

*Audited Financial Statements.* The City retained the firm of Moss, Levy & Hartzheim LLP, Certified Public Accountants & Consultants, Santa Maria, California, to examine the general purpose financial statements of the City as of and for the year ended June 30, 2009. The audited financial statements for fiscal year ended June 30, 2009, are attached hereto as APPENDIX B—AUDITED FINANCIAL STATEMENTS OF THE CITY FOR THE FISCAL YEAR ENDED JUNE 30, 2009. The City has not requested, and the auditor has not provided, any review or update of such financial statements in connection with their inclusion in this Official Statement.

## **Budgetary Process**

The City Council adopts an annual budget with appropriations for all City funds prior to the beginning of the fiscal year, which begins on July 1 of each year. The City Council has the legal authority to amend the budget at any time during the fiscal year. The City maintains budgetary controls to ensure compliance with legal provisions embodied in the appropriated budget approved by the City Council. The level of budgetary control (that is, the level at which expenditures cannot legally exceed the appropriated amount) for the City's operating budget is the program area within each fund, and for the capital improvement budget it is each individual capital improvement project within each fund. For the operating budget, the City Manager has the authority to move appropriations between accounts (without dollar limitation) within a budget program and within the same fund as long as the transfers are within the same program area. For the capital improvement program, the City Manager has the authority to transfer appropriations (with no dollar limitation) between capital projects within the same fund as long as the transfers are within the responsibility of the same department. All other appropriation changes require the approval of the City Council.

All appropriations lapse at the end of the fiscal year unless specific carryovers are approved by the City Council.

The following table shows the City's budget and actual results for general fund revenues and expenditures for fiscal years 2007-08 and 2008-09 and the adopted budget for fiscal year 2009-10.

**City of Atascadero  
General Fund Budget Summary  
Fiscal Years 2007-08 through 2009-10  
(in thousands)**

	FY07-08 Budget	FY07-08 Actual	FY08-09 Budget	FY08-09 Actual	FY09-10 Budget
<b>REVENUES</b>					
Secured and unsecured property taxes	\$7,480,640	\$7,511,886	\$7,651,290	\$7,654,487	<u>\$7,465,010</u>
Taxes based on sales and use	3,544,600	3,547,696	3,404,200	3,019,523	<u>2,878,670</u>
Franchise tax	879,060	956,929	918,700	1,091,095	<u>1,087,380</u>
Other taxes	803,840	663,544	952,770	648,402	<u>640,970</u>
Licenses and permits	343,710	275,622	531,570	206,490	<u>208,200</u>
Intergovernmental revenues:					
Motor vehicle in lieu	190,400	123,310	195,160	97,153	<u>75,000</u>
Other governmental revenues	119,140	113,607	111,440	71,423	<u>93,540</u>
Grants	611,300	612,044	126,090	65,078	<u>6,910</u>
Charges for services:					
Public safety	1,019,030	1,044,268	1,147,870	1,182,906	<u>1,123,960</u>
Development	663,580	714,421	750,480	599,957	<u>480,550</u>
Recreation, parks, pavilion and zoo	637,770	590,606	669,250	569,707	<u>592,220</u>
Other services	87,200	69,381	84,260	62,380	<u>61,630</u>
Fines and forfeitures	136,200	127,765	137,000	137,375	<u>116,700</u>
Use of money and property	573,480	467,963	419,030	311,177	<u>216,900</u>
Other revenues	1,174,810	1,213,303	1,177,600	1,143,414	<u>1,285,320</u>
<b>TOTAL REVENUES</b>	<u>\$18,264,760</u>	<u>\$18,032,345</u>	<u>\$18,276,710</u>	<u>\$16,860,567</u>	<u>\$16,332,960</u>
<b>EXPENDITURES:</b>					
Employee services	\$13,540,800	\$13,321,051	\$14,035,540	\$13,169,188	<u>\$12,999,150</u>
Operating supplies & services	5,604,280	5,213,311	6,001,170	4,895,085	<u>4,372,390</u>
Special purchases, projects and community funding	290,760	179,692	344,820	264,504	<u>91,630</u>
Capital Outlay	128,410	103,363	31,530	31,082	<u>19,000</u>
<b>TOTAL EXPENDITURES</b>	<u>\$19,564,250</u>	<u>\$18,817,417</u>	<u>\$20,413,060</u>	<u>\$18,359,859</u>	<u>\$17,482,170</u>

Source: City of Atascadero Finance Department.

### City Financial Management Policies

The City Council has adopted a comprehensive set of financial management policies to provide for: (i) establishing targeted general fund reserves; (ii) the prudent investment of City funds; and (iii) establishing parameters for issuing and managing debt supported by the general fund, Enterprise Funds and any other related funding entity of the City.

[*General Fund Reserve Policy.* The City Council has adopted a general fund reserve policy, confirmed annually, that established the goal of achieving reserve balances of \_\_\_% of revenues for budgetary/economic uncertainty and asset replacement. Appropriations from these reserves require approval by the City Council. At the time of adoption of this reserve policy the City Council voiced a commitment to fund these reserve levels over the subsequent future years. ]

*Investment Policy.* The investment of funds of the City (except pension and retirement funds) is made in accordance with the City's 2009-10 Investment Policy, as approved on February 23, 2010 (the "Investment Policy"), and section 53601 *et seq.* of the California

Government Code. The Investment Policy is subject to revision at any time and is reviewed at least annually to ensure compliance with the stated objectives of safety, liquidity, yield, and current laws and financial trends. All amounts held under the Trust Agreement are invested at the direction of the City in Permitted Investments, as defined in the Trust Agreement, and are subject to certain limitations contained therein. See APPENDIX C—CITY INVESTMENT POLICY and APPENDIX D—SUMMARY OF CERTAIN PROVISIONS OF THE PRINCIPAL LEGAL DOCUMENTS—TRUST AGREEMENT—Investments.

### Current Investments

The assets of the City’s investment portfolio, as of June 30, 2010, are shown in the following table:

<u>City of Atascadero</u> <u>Investment Portfolio</u> <u>(As of June 30, 2010)</u>					
Type	Par Value	Market Value	Book Value	% of Portfolio	Days to Maturity
Federal Agency Issues—Coupon					
Local Agency Inv. Fund (LAIF)					
Medium Term Notes					
Money Market Account					
Total investments					
Cash and accrued interest					
Accrued interest at purchase					
Subtotal					
Total cash and investments					

Source: City of Atascadero.

### Reliance on State Budget

Approximately 51.2% of the City’s general fund revenues for fiscal year 2008-09 consisted of payments collected by the State and passed-through to local governments or collected by the County and allocated to local governments by State law. Approximately 50.9% of the City’s general fund revenues for fiscal year 2009-10 are expected to come from such sources. There can be no assurance that current or future State budget difficulties will not adversely affect the City’s revenues or its ability to make payments under the Lease Agreement. See “RISK FACTORS—State Budgets.”

### Principal Sources of General Fund Revenues

Property taxes were the single largest revenue source to the general fund in fiscal year 2008-09, representing approximately 45.4% of revenues, followed by sales taxes representing approximately 17.9%. These sources represented an aggregate of approximately 63.3% of the general fund revenues for fiscal year 2008-09 and represent an aggregate of approximately 63.3% of general fund revenues in the City’s fiscal year 2009-10 adopted budget. For a discussion of potential State Budget impacts on general fund revenues, see “—State Budgets.” For a discussion of sales tax revenues and property taxes, see “—Sales Tax” and “—Ad valorem Property Taxation.”

In addition, the City receives the following local taxes:

*Franchise Taxes.* The City levies a franchise tax on its gas, electric, cable television and trash collection franchises.



*Transient Occupancy Taxes.* The City levies a 10% transient occupancy tax on hotel and motel bills.

*Property Transfer Taxes.* A documentary stamp tax is assessed for recordation of real property transfers.

The following table shows the City's general fund tax revenues by source for the most recent five fiscal years:

**City of Atascadero  
Tax Revenues By Source  
(in thousands)**

Source	Actual 2005-06	Actual 2006-07	Actual 2007-08	Actual 2008-09	Budget 2009-10
Property Taxes	<u>\$ 6,000,412</u>	<u>\$ 7,107,002</u>	<u>\$ 7,511,886</u>	<u>\$ 7,654,487</u>	<u>\$ 7,465,010</u>
Sales and Use Tax	<u>3,989,425</u>	<u>3,982,903</u>	<u>3,547,696</u>	<u>3,019,523</u>	<u>2,878,670</u>
Utility Taxes	<u>811,195</u>	<u>855,132</u>	<u>956,929</u>	<u>1,091,095</u>	<u>1,087,380</u>
Other Taxes	<u>877,741</u>	<u>800,457</u>	<u>663,544</u>	<u>648,402</u>	<u>640,970</u>
Total Tax Revenues	<u><u>\$11,678,773</u></u>	<u><u>\$12,745,494</u></u>	<u><u>\$12,680,055</u></u>	<u><u>\$12,413,507</u></u>	<u><u>\$12,072,030</u></u>

Source: City of Atascadero Finance Department.

In addition, the City receives the following general fund revenues:

*Licenses and Permits.* These revenues consist primarily of building construction permit fees.

*Fines, Forfeitures and Penalties.* These revenues include parking citations and other fines for municipal code violations.

*Use of Money and Property.* These revenues consist primarily of investment earnings and rental/concession income.

*Charges for Services.* The City charges fees for plan checking, building inspection and a variety of other municipal services.

The following table illustrates other revenue sources:

**City of Atascadero  
Other Revenue Sources  
(in thousands)**

Source	Actual 2005-06	Actual 2006-07	Actual 2007-08	Actual 2008-09	Budget 2009-10
Licenses and Permits	<u>\$ 984,249</u>	<u>\$ 655,407</u>	<u>\$ 275,622</u>	<u>\$ 206,490</u>	<u>\$ 208,200</u>
Fines and Forfeitures	<u>103,029</u>	<u>169,259</u>	<u>127,765</u>	<u>137,375</u>	<u>116,700</u>
Use of Money and Property	<u>324,636</u>	<u>622,337</u>	<u>467,963</u>	<u>311,177</u>	<u>216,900</u>
From Other Agencies	<u>1,103,973</u>	<u>956,280</u>	<u>848,961</u>	<u>233,654</u>	<u>175,450</u>
Charges for Services	<u>1,908,058</u>	<u>2,532,862</u>	<u>2,418,676</u>	<u>2,414,950</u>	<u>2,258,360</u>
Total Other Revenues	<u><u>\$1,195,515</u></u>	<u><u>\$1,252,200</u></u>	<u><u>\$1,213,303</u></u>	<u><u>\$1,143,414</u></u>	<u><u>\$1,285,320</u></u>

Source: City of Atascadero Finance Department.

## General Fund Revenues and Expenditures

The following two tables summarize the General Fund Balance Sheet and Statement of Revenues, Expenditures and Changes in Fund Balance of the City's general fund for the fiscal years 2005-06 through 2008-09.

**City of Atascadero**  
**General Fund Balance Sheet**  
**Fiscal Years 2005-06 through 2008-09**  
**(in thousands)**

	Fiscal Year Ended October 30,			
	2006	2007	2008	2009
<b>ASSETS</b>				
Cash and Investments	\$7,701,968	\$8,935,868	\$6,131,722	\$5,214,965
Restricted cash and investments:				
Cash and investments with fiscal agent	-	-	-	
Certificates of Deposit	86,742	86,742	133,723	133,723
Receivables:				
Federal distributions due	88,036	335,966	363,965	58,608
Due from State of California	585,201	516,203	536,706	457,605
Due from County of San Luis Obispo	336,108	563,151	553,438	394,218
Accrued interest	74,492	113,052	49,335	26,023
Other receivables	192,009	201,203	202,476	201,976
Due from other funds	1,694,668	960,279	2,243,530	1,715,096
Prepaid expenditures	22,117	21,532	17,860	5,419
Notes receivable	300,000	-	-	
Interfund advances receivable	1,375,175	1,375,175	1,375,175	1,375,175
Total assets	<u>12,456,516</u>	<u>13,109,171</u>	<u>11,607,930</u>	<u>9,582,808</u>
<b>LIABILITIES AND FUND BALANCES</b>				
<b>Liabilities:</b>				
Accounts payable	560,400	956,586	518,452	395,155
Accrued salaries and benefits	244,369	290,708	515,229	443,408
Due to other funds	-	-	-	
Deferred revenue	502,475	354,852	259,842	142,244
Deposits	608,014	458,214	416,221	358,115
Other payables	18,315	14,299	11,054	10,538
Total Liabilities	<u>1,933,573</u>	<u>2,074,659</u>	<u>1,720,798</u>	<u>1,349,460</u>
<b>Fund Balances:</b>				
Reserved for encumbrances	11,521	9,693	387,113	-
Reserved for debt service	-	-	-	-
Reserved for advances to other funds	1,375,175	1,375,175	1,375,175	1,375,175
Reserved for prepaids	22,117	21,532	17,860	5,419
<b>Unreserved:</b>				
Designated for due from other funds	1,694,668	960,279	996,100	
Designated for cash flow	1,500,000	4,500,000	4,500,000	
Designated for PERS rate fluctuation	1,000,000			
Designated for economic uncertainties	1,000,000	1,500,000	1,500,000	
Designated for road projects	445,000	445,000	445,000	
Designated for capital commitments	196,647	-	122,778	-
Designated for Library	50,515	52,650	54,633	55,627
General Fund - undesignated	3,227,300	2,170,183	488,473	6,797,127
Debt service funds - undesignated	-	-	-	-
Total Fund equity	<u>10,522,943</u>	<u>11,034,512</u>	<u>9,887,132</u>	<u>8,233,348</u>
Total liabilities and fund equity	<u>\$12,456,516</u>	<u>\$13,109,171</u>	<u>\$11,607,930</u>	<u>\$9,582,808</u>

Source: City of Atascadero.

**City of Atascadero  
General Fund  
Statement of Revenues, Expenditures and Changes in Fund Balance  
For the year ended October 30,  
(in thousands)**

	Fiscal Year Ended October 30,			
	2006	2007	2008	2009
<b>Revenues:</b>				
Secured and unsecured property taxes	\$6,000,412	\$7,107,002	\$7,511,886	\$7,654,487
Taxes based on sales and use	3,989,425	3,982,903	3,547,696	3,019,523
Franchise tax	811,195	855,132	956,929	1,091,095
Other taxes	877,741	800,457	663,544	648,402
Licenses and permits	984,249	655,407	275,622	206,490
Intergovernmental revenues:				
Motor vehicle in lieu	634,003	171,128	123,310	97,153
Other governmental revenues	110,235	228,255	113,607	71,423
Grants	359,735	556,897	612,044	65,078
Charges for services:				
Public safety	248,946	928,865	1,044,268	1,182,906
Development	1,061,840	948,099	714,421	599,957
Recreation, parks, pavilion and zoo	504,724	579,095	590,606	569,707
Other services	92,548	76,803	69,381	62,380
Fines and forfeitures	103,029	169,259	127,765	137,375
Use of money and property	324,636	622,337	467,963	311,177
Other revenues	1,195,515	1,252,200	1,213,303	1,143,414
Total Revenues	<u>17,298,233</u>	<u>18,933,839</u>	<u>18,032,345</u>	<u>16,860,567</u>
<b>Expenditures:</b>				
Current:				
General government	2,696,307	2,574,715	3,144,685	2,962,243
Public safety	7,482,154	8,654,723	10,076,812	10,143,503
Community development	1,742,567	1,703,412	1,655,346	1,538,793
Community, recreation, and zoo services	1,582,299	1,771,442	2,164,882	2,106,617
Parks and open space	620,217	710,427	667,817	662,519
Public Works	794,926	896,750	1,004,512	915,102
Capital outlay	301,504	738,040	103,363	31,082
Total expenditures	<u>15,219,974</u>	<u>17,049,509</u>	<u>18,817,417</u>	<u>18,359,859</u>
Excess of revenues over (under) expenditures	<u>2,078,259</u>	<u>1,884,330</u>	<u>(785,072)</u>	<u>(1,499,292)</u>
Other Financing Sources (Uses):				
Transfers in	49,766	57,552	289,760	302,952
Transfers out	(1,027,297)	(1,541,636)	(652,068)	(457,444)
Total other financing sources and uses	<u>(977,531)</u>	<u>(1,484,084)</u>	<u>(362,308)</u>	<u>(154,492)</u>
Net changes in fund balances	1,100,728	400,246	(1,147,380)	(1,653,784)
Fund balances - June 30, Beginning	9,422,215	10,522,943	11,034,512	9,887,132
Prior year adjustment		111,323		
Fund balances - June 30, End	<u>\$10,522,943</u>	<u>\$11,034,512</u>	<u>\$9,887,132</u>	<u>\$8,233,348</u>

Source: City of Atascadero Audit Financial Statements.

**Sales and Use Taxes**

A sales tax is imposed on retail sales or consumption of personal property. The tax rate is established by the State Legislature. Effective April 1, 2009, the statewide tax rate is 8.250%. The

City's share of sales tax is approximately 1% when one considers the combined City share of 0.75% and the State's 0.250% Fiscal Recovery Funding (Triple-Flip swap) explained below. With the enactment of the Triple Flip, the City now receives the 0.250% as reclassified revenue through property tax as an in lieu remittance, the payment of which heretofore coincides with the County property tax calendar. The State collects and administers the tax, and makes distributions on taxes collected within the City as follows:

**City of Atascadero**  
**Sales Tax Rates**

State General Fund .....	6.000%
State Fiscal Recovery .....	0.250
State Local Public Safety Fund .....	0.500
State Local Revenue Fund .....	0.500
County <u>Transportation</u> .....	<u>0.250</u>
City .....	<u>0.750</u>
Total .....	<u>8.250%</u>

The State's actual administrative costs with respect to the portion of sales taxes allocable to the City are deducted before distribution and are determined on a quarterly basis.

On March 2, 2004, voters approved a bond initiative formally known as the "California Economic Recovery Act." This act authorized the issuance of \$15 billion of Economic Recovery Bonds to finance ongoing State budget deficits, which are payable from a fund established by the redirection of tax revenues known as the "Triple Flip." The State issued \$11.3 billion of Economic Recovery Bonds prior to June 30, 2004. Under the "Triple Flip," one-quarter of local governments' one percent share of the sales tax imposed on taxable transactions within their jurisdiction is being redirected to the State. In an effort to eliminate the adverse impact of the sales tax revenue redirection on local government, State legislation provides for certain property taxes to be redirected to local government. Because these property tax monies were previously earmarked for schools, the legislation provides for schools to receive other State general fund revenues. It is expected that the swap of sales taxes for property taxes will terminate once the Economic Recovery Bonds are repaid, which is currently expected to occur in approximately 9 to 13 years. See "RISK FACTORS—State Budget Information" herein.

During calendar year 2008, total taxable transactions in the City amounted to \$295,766,000, a 9.1 percent decrease over the \$325,558,000 of taxable transactions that occurred during calendar year 2007. For more detail, see APPENDIX A—GENERAL, ECONOMIC AND DEMOGRAPHIC INFORMATION RELATING TO THE CITY.

**Motor Vehicle In-Lieu Tax**

Vehicle license fees are assessed in the amount of 2% of a vehicle's depreciation market value for the privilege of operating a vehicle on California's public highways. A program to offset (or reduce) a portion of the vehicle license fees ("VLF") paid by vehicle owners was established by Chapter 322, Statutes of 1998. Beginning January 1, 1999, a permanent offset of 25% of the VLF paid by vehicle owners became operative. Various pieces of legislation increased the amount of the offset in subsequent years to the existing statutory level of 67.5% of 2% (resulting in the current effective rate of 0.65%). This level of offset was estimated to provide tax relief of \$3.95 billion in the fiscal year 2003-04. Beginning in fiscal year 2004-05, the State-local agencies agreement permanently reduced the VLF rate to 0.65% and eliminated the VLF offset program.

In connection with the offset of the VLF, the Legislature authorized appropriations from the State general fund to “backfill” the offset so that the local governments, which receive all of the vehicle license fee revenues, would not experience any loss of revenues. The legislation that established the VLF offset program also provided that if there were insufficient general fund moneys to fully backfill the VLF offset, the percentage offset would be reduced proportionately (i.e., the license fee payable by drivers would be increased) to assure that local governments would not be disadvantaged. In June 2003, the State Director of Finance ordered the suspension of VLF offsets due to a determination that insufficient general fund moneys would be available for this purpose, and, beginning in October 2003, VLF paid by vehicle owners were restored to the 1998 level. However, the offset suspension was rescinded by the Governor on November 17, 2003, and offset payments to local governments resumed. Local governments received backfill payments totaling \$3.80 billion in fiscal year 2002-03. Backfill payments totaling \$2.65 billion were expected to be paid to local governments in fiscal year 2003-04. The State-local agreement also provided for the repayment in August 2006 of approximately \$1.2 billion that was not received by local governments during the time period between the suspension of the offsets and the implementation of higher fees. This repayment obligation was codified by Proposition 1A, which was approved by voters in the November 2004 general election and was repaid early by the State in August 2005. For a description of Proposition 1A, see “CONSTITUTIONAL AND STATUTORY LIMITATIONS ON TAXES, REVENUES AND APPROPRIATIONS—Proposition 1A.”

The following table sets forth the Motor Vehicle In-Lieu Tax received by the City for the last four fiscal years.

<b>City of Atascadero In-Lieu Payments</b>				
	<u>2005-06</u>	<u>2006-07</u>	<u>2007-08</u>	<u>2008-09</u>
<u>Motor Vehicle In-Lieu of VLF</u>	<u>\$169,305</u>	<u>\$171,128</u>	<u>\$123,310</u>	<u>\$97,153</u>
<u>Payments In-Lieu of VLF</u>	<u>464,698</u>	<u>≡</u>	<u>≡</u>	<u>≡</u>
<u>TOTAL</u>	<u>\$634,003</u>	<u>\$171,128</u>	<u>\$123,310</u>	<u>\$97,153</u>

Source: City of Atascadero Finance Department.

### **Transient Occupancy Taxes**

The City levies a 10% transient occupancy tax on hotel and motel bills. Revenues from transient occupancy taxes represented approximately 2.5% of the City’s general fund revenues in fiscal year 2008-09.

## **PROPERTY TAXES**

### ***Ad Valorem Property Taxes***

*Tax Levies, Collections and Delinquencies.* Property taxes are levied by the County for each fiscal year on taxable real and personal property which is situated in the County. Property taxes collected in advance are recorded as deferred revenue and recognized as revenue in the year they become available. The County levies, bills and collects property taxes for the City. Property taxes paid to the City by the County within 60 days after the end of the fiscal year are “available” and are, therefore, recognized as revenue.

For assessment and collection purposes, property is classified either as “secured” or “unsecured” and is listed accordingly on separate parts of the assessment roll. The “secured roll” is that part of the assessment roll containing State/assessed public utilities property and property the taxes on which are a lien on real property sufficient, in the opinion of the County Assessor, to secure payment of the taxes. Other property is assessed on the “unsecured roll.”

Secured and unsecured property taxes are levied based on the assessed value as of January 1, the lien date, of the preceding fiscal year. Secured property tax is levied on October 1 and due in two installments, on November 1 and March 1. Collection dates are December 10 and April 10 which are also the delinquent dates. At that time, delinquent accounts are assessed a penalty of 10%. Accounts that remain unpaid on June 30 are charged an additional 1.5 % per month. Such property may thereafter be redeemed by payment of a penalty of 1.5% per month to the time of redemption, plus costs and a redemption fee. If taxes are unpaid for a period of five years or more, the property is deeded to the State and then is subject to sale by the County Treasurer.

Unsecured property tax is levied on July 1 and due on July 31, and has a collection date of August 31 which is also the delinquent date. A 10% penalty attaches to delinquent unsecured taxes. If unsecured taxes are unpaid at 5:00 p.m. on October 31, an additional penalty of 1.5% attaches to them on the first day of each month until paid. The taxing authority has four ways of collecting delinquent unsecured personal property taxes: (1) bringing a civil action against the taxpayer; (2) filing a certificate in the office of the County Clerk specifying certain facts in order to obtain a lien on certain property of the taxpayer; (3) filing a certificate of delinquency for record in the County Clerk and County Recorder’s office in order to obtain a lien on certain property of the taxpayer; and (4) seizing and selling personal property, improvements, or possessory interests belonging or assessed to the assessee.

*Assessed Valuation.* All property is assessed using full cash value as defined by Article XIII A of the State Constitution. State law provides exemptions from ad valorem property taxation for certain classes of property such as churches, colleges, nonprofit hospitals and charitable institutions.

Future assessed valuation growth allowed under Article XIII A (new construction, certain changes of ownership, 2% inflation) will be allocated on the basis of “situs” among the jurisdictions that serve the tax rate area within which the growth occurs. Local agencies and schools will share the growth of “base” revenues from the tax rate area. Each year’s growth allocation becomes part of each agency’s allocation in the following year. The availability of revenue from growth in tax bases to such entities may be affected by the establishment of redevelopment agencies which, under certain circumstances, may be entitled to revenues resulting from the increase in certain property values.

The passage of Assembly Bill 454 in 1987 changed the manner in which unitary and operating nonunitary property is assessed by the State Board of Equalization. The legislation deleted the formula for the allocation of assessed value attributed to such property and imposed a State-mandated local program requiring the assignment of the assessment value of all unitary and operating non-unitary property in each county of each State assessee other than a regulated railway company. The legislation established formulas for the computation of applicable county-wide rates for such property and for the allocation of property tax revenues attributable to such property among taxing jurisdictions in the county beginning in fiscal year 1988-89. This legislation requires each County to issue each State assessee, other than a regulated railway company, a single tax bill for all unitary and operating nonunitary property.

*Assessment Appeals.* Property tax values determined by the County Assessor may be subject to appeal by property owners. Assessment appeals are annually filed with the



Assessment Appeals Board for a hearing and resolution. The resolution of an appeal may result in a reduction to the County Assessor’s original taxable value and a tax refund to the applicant/property owner.

Each assessment appeal could result in a reduction of the taxable value of the real property, personal property or possessory interest of the property which is the subject of the appeal. Alternatively, an appeal may be withdrawn by the applicant or the Assessment Appeals Board may deny or modify the appeal at a hearing or by stipulation.

*Effect of Delinquencies and Foreclosures on Property Tax Collections.* As described above, once an installment of property tax becomes delinquent, penalties are assessed commencing on the applicable delinquency date until the delinquent installment(s) and all assessed penalties are paid. In the event of foreclosure and sale of property by a mortgage holder, all past due property taxes, penalties and interest are required to be paid before the property can be transferred to a new owner.

The level of default and foreclosure activity has affected certain homeowners nationwide. Within the State, the greatest impacts to date are in regions of the Central Valley, the Inland Empire, and other areas in the State where the large numbers of new mortgages were originated in more affordable areas. The increased level of default and foreclosure activity has resulted in downward pressure on home prices in the affected areas.

Set forth in the tables below are assessed valuation for secured and unsecured property within the City of Atascadero and tax levies and collections (as of the close of each fiscal year) for the five most recent fiscal years.

**City of Atascadero**  
**Gross Assessed Value of All Taxable Property**  
**(in thousands)**

Fiscal Year	Local Secured	Utility	Unsecured	Total Before Rdv. Increment	Total After Rdv. Increment
2005-06	2,366,652,752	333,415	57,578,503	2,424,564,670	2,193,224,109
2006-07	2,734,018,443	208,088	62,467,779	2,796,694,310	2,496,307,377
2007-08	3,028,940,832	38,123	61,485,651	3,090,464,606	2,736,719,191
2008-09	3,089,522,126	56,636	64,341,246	3,153,920,008	2,783,001,795
2009-10	2,983,034,400	56,636	65,268,847	3,048,359,883	2,693,564,450

Source: California Municipal Statistics, Inc.

The City is located within a county that is following the “Teeter Plan” (defined below) with respect to property tax collection and disbursement procedures. Under this plan, a county can implement an alternate procedure for the distribution of certain property tax levies on the secured roll pursuant to Chapter 3, Part 8, Division 1 of the Revenue and Taxation Code of the State of California (comprising Section 4701 through 4717, inclusive), commonly referred to as the “Teeter Plan.”

Generally, the Teeter Plan provides for a tax distribution procedure by which secured roll taxes and assessments are distributed to taxing agencies within a county included in the Teeter Plan on the basis of the tax levy, rather than on the basis of actual tax collections. The County then receives all future delinquent tax payments, penalties and interest, and a complex tax redemption distribution system for all taxing agencies is avoided. In connection with the Teeter Plan, a county can advance to the participating taxing agencies an amount equal to 95% of the total then-prior years’ delinquent secured property taxes and 100% of the total then-prior years’



delinquent secured assessments, including the associated penalties and interest, and 100% of the then-current year's secured roll levy.

The Board of Supervisors of the County may discontinue the procedures under the Teeter Plan altogether, or with respect to any tax or assessment levying agency in the County, if the rate of secured tax and assessment delinquency in that agency in any year exceed 3% of the total of all taxes and assessment levied on the secured rolls for that agency.

Thus, so long as the County maintains its policy of collecting taxes pursuant to said procedures and the City meets the Teeter Plan requirements, the City will receive 100% of the annual installments levied without regard to actual collections in the City. There is no assurance, however, that the County Board of Supervisors will maintain its policy of apportioning taxes pursuant to the aforementioned procedures.

**General Fund Property Tax Levies and Collections  
Secured Taxes  
(in thousands)**

Fiscal Year	Total Levy	Total Collections	Delinquency Amount	Delinquency Percent
2004-05				
2005-06				
2006-07				
2007-08				
2008-09				

Source: California Municipal Statistics, Inc.

In 1978, the voters of the State passed Proposition 8, a constitutional amendment to Article XIII A that allows a temporary reduction in assessed value when real property suffers a decline in value. A decline in value occurs when the current market value of real property is less than the current assessed (taxable) factored base year value as of the lien date, January 1.

See also "CONSTITUTIONAL AND STATUTORY LIMITATIONS ON TAXES AND APPROPRIATIONS—Article XIII A of the California Constitution."

*Principal Taxpayers.* The following table sets forth the principal secured property taxpayers in the City as of fiscal year 2009-10, the most current information available.

**City of Atascadero**  
**Principal Secured Property Taxpayers**  
**Fiscal Year 2009-10**  
**(dollars in thousands)**

Property Owner	Primary Land Use	2009-10 Assessed Valuation	% of Total (1)
1. Bordeaux House LP	Apartments	\$ 23,304,247	0.78%
2. Wal-Mart Stores Inc.	Commercial	19,367,041	0.65
3. Carlton Hotel Investments LLC	Hotel	13,812,689	0.46
4. Trimark Pacific-La Terraza LLC	Residential Development	13,495,000	0.45
5. Corona Dove Creek LLC	Residential Development	11,340,360	0.38
6. New Albertsons Inc.	Commercial	10,309,017	0.35
7. HD Development of Maryland Inc.	Commercial	8,162,546	0.27
8. Mission Oaks Annex LLC	Shopping Center	8,103,940	0.27
9. Romaldo & Janice Martin	Commercial	7,696,515	0.26
10. Vons Companies Inc.	Commercial	7,590,548	0.25
11. Denver Gardens Co. LLC	Commercial	7,583,284	0.25
12. Adobe Plaza LLC	Shopping Center	7,413,891	0.25
13. 9401 Jornada II LLC	Apartments	7,375,951	0.25
14. BLT-Atascadero 7210 LLC	Commercial	7,375,257	0.25
15. Albert C. Holland, Trustee	Hotel	7,165,856	0.24
16. Colony Square LLC	Commercial	7,033,583	0.24
17. MP Paso LLC	Office Building	6,966,720	0.23
18. Hidden Oaks Apartments Inc.	Apartments	6,834,847	0.23
19. Atascadero North LLC	Commercial	6,716,613	0.23
20. Atascadero 101 Associates et. al.	Shopping Center	6,029,600	0.20
		\$193,677,505	6.49%

Source: California Municipal Statistics, Inc.

(1) 2009-10 Local Secured Assessed Valuation: \$2,983,034,400

**OTHER FINANCIAL INFORMATION**

**Labor Relations**

City employees are represented by four labor union associations, the principal one being Service Employees International Union Local 620 which represents approximately 42% of all City employees. Currently approximately 82% of all permanent City employees are covered by negotiated agreements. Negotiated agreements have the following expiration dates:

**City of Atascadero**  
**Negotiated Employee Agreements**

Bargaining Unit	Contract Expiration Date	Number of Employees
<u>Service Employees International Union Local 620</u>	<u>June 30, 2011</u>	<u>39</u>
<u>Atascadero Police Association</u>	<u>June 30, 2011</u>	<u>32</u>
<u>Atascadero Firefighters' Bargaining Unit</u>	<u>June 30, 2011</u>	<u>18</u>
<u>Mid Management / Professional Employees</u>	<u>June 30, 2011</u>	<u>4</u>

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Source: City of Atascadero Finance Department.

Expired contracts are currently under negotiation. The City has never had an employee work stoppage.

## **Risk Management**

The City is a member of the California Joint Powers Insurance Authority (Authority). The Authority is composed of 122 California public entities and is organized under a joint powers agreement pursuant to California Government Code §6500 *et seq.* The purpose of the Authority is to arrange and administer programs for the pooling of self-insured losses, to purchase excess insurance or reinsurance, and to arrange for group purchased insurance for property and other coverages. The Authority's pool began covering claims of its members in 1978. Each member government has an elected official as its representative on the Board of Directors. The Board operates through a 9-member Executive Committee.

Separate financial statements for the Authority can be obtained by writing California JPIA, Administrative Services Director, 8081 Moody Street, La Palma, CA 90623.

### *Self-Insurance*

*General Liability.* Each member government pays a primary deposit to cover estimated losses for a fiscal year (claims year). After the close of a fiscal year, outstanding claims are valued. A retrospective deposit computation is then made for each open claims year. Claims are pooled separately between police and non-police. Costs are allocated to members by the following methods within each of the four layers of coverage: (1) the first \$30,000 of each occurrence is charged directly to the member's primary deposit; (2) costs from \$30,000 to \$750,000 and the loss development reserves associated with losses up to \$750,000 are pooled based on the member's share of losses under \$30,000; (3) losses from \$750,000 to \$2,000,000 and the associated loss development reserves are pooled based on payroll; (4a) costs of covered claims from \$2,000,000 to \$50,000,000 are paid under reinsurance and excess insurance policies (4b) subject to a \$3,000,000 annual aggregate deductible (4c) and a quota-sharing agreement whereby the Authority is financially responsible for 40% of losses occurring within the \$2,000,000 to \$10,000,000 layer. The costs associated with 4a-c are estimated using actuarial models and pre-funded as part of the primary and retrospective deposits.

The overall policy limit for each member including all layers of coverage is \$50,000,000 per occurrence. Costs of covered claims for subsidence losses are paid by excess insurance with the following sub-limits per member: \$25,000,000 per occurrence with a \$15,000,000 annual aggregate.

*Workers' Compensation.* The City also participates in the workers' compensation pool administered by the Authority. Each member pays a primary deposit to cover estimated losses for a fiscal year (claims year). After the close of a fiscal year, outstanding claims are valued. A retrospective deposit computation is then made for each open claims year. Claims are pooled separately between public safety and non-public safety. Costs are allocated to members by the following methods within each of the four layers of coverage: (1) the first \$50,000 of each loss is charged directly to the member's primary deposit; (2) losses from \$50,000 to \$100,000 and the loss development reserve associated with losses up to \$100,000 are pooled based on the member's share of losses under \$50,000; (3) losses from \$100,000 to \$2,000,000 and the loss development reserves associated with those losses are pooled based on payroll; (4) losses from \$2,000,000 up to

statutory limits are paid under an excess insurance policy. Protection is provided per statutory liability under California Workers' Compensation law.

Employer's Liability losses are pooled among members to \$2,000,000, coverage from \$2,000,000 to \$4,000,000 is purchased as part of an excess insurance policy, and losses from \$4,000,000 to \$10,000,000 are pooled among members.

#### *Purchased Insurance*

*Environmental Insurance.* The City participates in the pollution legal liability and remediation legal liability insurance which is available through the Authority. The policy covers sudden and gradual pollution of scheduled property, streets, and storm drains owned by the City. Coverage is on a claims-made basis. There is a \$50,000 deductible. The Authority has a limit of \$50,000,000 for the 3-year period from July 1, 2008 through July 1, 2011. Each member of the Authority has a \$10,000,000 sub-limit during the 3-year term of the policy.

*Property Insurance.* The City participates in the all-risk property protection program of the Authority. This insurance protection is underwritten by several insurance companies. The City property is currently insured according to a schedule of covered property submitted by the City to the Authority. The City property currently has all-risk property insurance protection in the amount of \$41,836,271. There is a \$5,000 deductible per occurrence except for non-emergency vehicle insurance which has a \$1,000 deductible. Premiums for the coverage are paid annually and are not subject to retroactive adjustments.

*Crime Insurance.* The City purchases crime insurance coverage in the amount of \$1,000,000 with a \$2,500 deductible. The fidelity coverage is provided through the Authority. Premiums are paid annually and are not subject to retroactive adjustments.

*Special Event Tenant User Liability Insurance.* The City further protects against liability damages by requiring tenant users of certain property to purchase low-cost tenant user liability insurance for certain activities on City property. The insurance premium is paid by the tenant user and is paid to the City according to a schedule. The City then pays for the insurance. The insurance is arranged by the Authority.

During the past three fiscal (claims) years, none of the above programs of protection have had settlements or judgments that exceeded pooled or insured coverage. There have been no significant reductions in pooled or insured liability coverage from coverage in the prior year.

The City is fully self-insured for unemployment claims.

The City retains the risk for losses incurred prior to joining the California Joint Powers Insurance Authority. Several member agencies of the now dissolved Central Coast Cities Self-Insurance Fund continue to participate in a non-risk sharing arrangement for claims management and the purchase of excess insurance for claims prior to joining CJPIA. Losses are debited and investment income is credited to specific member accounts. The City has not incurred any losses in excess of insurance coverage.

## **Employee Retirement Plans**

### *Public Employees' Retirement System (PERS)*

Plan Description - The City's defined benefit pension plan, Public Employees' Retirement System (PERS), provides retirement and disability benefits, annual cost-of-living adjustments, and death benefits to plan members and beneficiaries. The City contributes to a risk pool under PERS which is part of the Public Agency portion of the California Public Employees' Retirement System, (CalPERS), an agent multiple-employer plan administered by CalPERS, which acts as a common investment and administrative agent for participating public employers within the State of California. A menu of benefit provisions, as well as other requirements, is established by State statutes with the Public Employees' Retirement Law. The City selects optional benefit provisions from the benefit menu by contract with CalPERS and adopts those benefits through local ordinance (other local methods). CalPERS issues a separate comprehensive annual financial report. Copies of the CalPERS' annual financial report may be obtained from the CalPERS Executive Office, Post Office Box 942701, Sacramento, CA 94229- 2701.

Funding Policy - Active plan members in the PERS are required to contribute 8% for miscellaneous members or 9% for safety members of their annual covered salary. The City makes 5.85% of the contributions required of miscellaneous City employees and 100% of the contributions required of safety employees on their behalf and for their account. The City of Atascadero is required to contribute the actuarially determined remaining amounts necessary to fund the benefits for its members. The actuarial methods and assumptions used are those adopted by the CalPERS Board of Administration. The required employer contribution rate for the fiscal year 2008-2009 was 12.826% for miscellaneous employees and 25.869% for safety employees. The contribution requirements of the plan members are established by State statute, and the employer contribution rate is established and may be amended by CalPERS. The City's contributions to CalPERS for the fiscal year ending June 30, 2009, 2008, and 2007 were \$1,696,714, \$1,680,239, and \$1,388,590, respectively and equal 100% of the required contributions for each year.

### *Defined Contribution Plan*

The City offers a defined contribution plan, Nationwide Retirement Solutions, for those employees that are excluded from CalPERS membership due to part-time or elected status. The plan is approved as an FICA substitute. Members contribute 5% and the City contributes 2.5%. Total employee contributions for Fiscal Year 2008-09 were \$17,508, and total contributions from the City were \$8,754. Nationwide Retirement Solutions is the public employee plan subsidiary of Nationwide Financial Services, Inc. (NYSE: NFS).

## **Other Post Employment Benefits**

Plan Description. In addition to the PERS pension benefits described above, the City provides post-retirement health benefits for Executive Management (City Council, City Manager, and Department Heads). The City agreed to reimburse the retiree for retiree and/or retiree's dependent health (medical/dental/vision) insurance premiums, disability insurance, long-term health care or life insurance premiums up to a maximum of \$200 per month. The benefit is available upon retirement from PERS or other similar retirement program after age 50, and the employee must have served for eight years with the City. The benefit extends between the date of retirement and age 65. Currently, there is one person receiving benefits and thirteen other people that may become eligible for benefits under this program.

Funding Policy. The City accounts for this benefit on a pay-as-you-go basis. Postemployment expenditures are made from the General Fund, which is maintained on the

modified accrual basis of accounting. No funds are set aside to pay for benefits and administrative costs. These expenditures are paid as they come due. In fiscal year ended, June 30, 2009, the City's total contributions were \$2,400.

*Annual OPEB Cost and Net OPEB Obligation.* The City's annual other postemployment benefit (OPEB) cost (expense) is calculated based on the annual required contribution of the employer (ARC). The City has elected to calculate the ARC and related information using the alternative measurement method permitted by GASB Statement 45 for employers in plans with fewer than one hundred total plan members. The ARC represents a level of funding that, if paid on an ongoing basis, is projected to cover normal cost each year and amortize any unfunded actuarial liabilities (or funding excess) over a period not to exceed thirty years.

The following table shows the components of the City's annual OPEB cost for Fiscal Year 2008-09, the amount actually contributed to the plan, and changes in the City's net OPEB obligation for the postemployment healthcare benefits:

Annual required contribution	\$ 20,130
Interest on net OPEB obligation	604
Adjustment to annual required contribution	-
Annual OPEB cost (expense)	<u>20,734</u>
Contributions made	<u>(2,400)</u>
Increase (decrease) in net OPEB obligation	18,334
Net OPEB obligation, beginning of year	<u>124,904</u>
Net OPEB obligation, end of year	<u>\$ 143,238</u>

The City's annual OPEB cost, the percentage of annual OPEB cost contributed to the plan, and the net OPEB obligation for Fiscal Year 2008-09 were as follows:

<u>For Year Ended June 30</u>	<u>Annual OPEB Cost</u>	<u>% of Annual OPEB Cost Contributed</u>	<u>Net OPEB Obligation</u>
2009	\$ 18,334	13.1%	\$ 143,238

*Funded Status and Funding Progress.* As of June 30, 2009, the actuarial accrued liability for benefits was \$143,238, all of which was unfunded. The covered payroll (annual payroll of active employees covered by the plan) was \$1,110,962, and the ratio of the unfunded actuarial accrued liability to the covered payroll was 12.9 percent.

The projection of future benefit payments for an ongoing plan involves estimates of the value of reported amounts and assumptions about the probability of occurrence of events far into the future. Amounts determined regarding the funded status of the plan and the annual required contributions of the employer are subject to continual revision as actual results are compared with past expectations and new estimates are made about the future. The schedule of funding progress, presented as required supplementary information following the notes to the financial statements, presents information about the actuarial value of plan assets and the actuarial accrued liabilities for benefits.

*Actuarial Methods and Assumptions.* Projections of benefits for financial reporting purposes are based on the substantive plan (the plan as understood by the employer and the plan members) and include the types of benefits provided at the time of each valuation and the historical pattern of sharing of benefit costs between the employer and plan members at that point. The actuarial methods and assumptions used include techniques that are designed to reduce the effects of short-term volatility in actuarial accrued liabilities and the actuarial value assets, consistent with the long-term perspective of the calculations.



The following simplifying assumptions were made:

Retirement age for active employees - Based on the historical average retirement age for the covered group, public safety active plan members were assumed to retire at age 50, or at the first subsequent year in which the member would qualify for benefits and other active plan members were assumed to retire at age 55, or at the first subsequent year in which the member would qualify for benefits.

Mortality - All active and inactive plan members were expected to live through age 65 (the age that benefits terminate)

Turnover - Non-group-specific age-based turnover data from GASB Statement 45 were used as the basis for assigning active members a probability of remaining employed until the assumed retirement age and for development of an expected future working lifetime assumption for purposes of allocating to periods the present value of total benefits to be paid.

Based on the historical and expected returns of the City's short-term investment portfolio, a discount rate of 3.0 percent was used. In addition, a simplified version of the projected unit credit and level cost method was used. The remaining amortization period at June 30, 2009, was thirty years.

### **Short-Term Obligations**

The City currently has no outstanding short-term obligations.

### **Long-Term Obligations**

*General Obligation Debt.* As of June 30, 2009, the City had no long-term general obligation bonded indebtedness outstanding and has never defaulted on any of its bonded indebtedness previously issued. The City has no authorized but unissued debt.

*Lease Obligations.* As of June 30, 2009 the City had no long-term general fund secured indebtedness.

### **Overlapping Debt**

Set forth below is a direct and overlapping debt report (the "Debt Report") prepared by California Municipal Statistics, Inc. and effective August 1, 2010. The Debt Report is included for general information purposes only. The City has not reviewed the Debt Report for completeness or accuracy and makes no representation in connection therewith.

The Debt Report generally includes long-term obligations sold in the public credit markets by public agencies whose boundaries overlap the boundaries of the City in whole or in part. Such long-term obligations generally are not payable from revenues of the City (except as indicated) nor are they necessarily obligations secured by land within the City. In many cases, long-term obligations issued by a public agency are payable only from the general fund or other revenues of such public agency.

The contents of the Debt Report are as follows: (1) the first column indicates the public agencies which have outstanding debt as of the date of the Debt Report and whose territory overlaps the City; (2) the second column shows the respective percentage of the assessed valuation of the overlapping public agencies identified in column 1 which is represented by property located in the City; and (3) the third column is an apportionment of the dollar amount



of each public agency's outstanding debt (which amount is not shown in the table) to property in the City, as determined by multiplying the total outstanding debt of each agency by the percentage of the City's assessed valuation represented in column 2.

**City of Atascadero**  
**Direct and Overlapping Bonded Debt as of August 1, 2010**

2009-10 Assessed Valuation: \$3,048,359,883  
 Redevelopment Incremental Valuation: 354,795,433  
 Adjusted Assessed Valuation: \$2,693,564,450

<u>OVERLAPPING TAX AND ASSESSMENT DEBT:</u>	<u>% Applicable</u>	<u>Debt 6/1/10</u>
Atascadero Unified School District Lease Tax Obligations	70.607%	\$4,667,123
City of Atascadero 1915 Act Bonds	100.	<u>590,000</u>
TOTAL OVERLAPPING TAX AND ASSESSMENT DEBT		\$5,257,123
 <u>DIRECT AND OVERLAPPING GENERAL FUND DEBT:</u>		
San Luis Obispo County Certificates of Participation	6.942%	\$ 2,765,346
San Luis Obispo County Pension Obligations	6.942	8,708,350
San Luis Obispo Community College District Certificates of Participation	6.915	2,745,947
City of Atascadero General Fund Obligations	100.	<u>- (1)</u>
TOTAL DIRECT AND OVERLAPPING GENERAL FUND DEBT		\$14,219,643
 COMBINED TOTAL DEBT		 \$19,476,766 (2)

- (1) Excludes issue to be sold.  
 (2) Excludes tax and revenue anticipation notes, enterprise revenue, mortgage revenue and tax allocation bonds and non-bonded capital lease obligations.

Ratios to 2009-10 Assessed Valuation:  
 Total Overlapping Tax and Assessment Debt .....0.17%

Ratios to Adjusted Assessed Valuation:  
 Combined Direct Debt..... - %  
 Combined Total Debt .....0.72%

STATE SCHOOL BUILDING AID REPAYABLE AS OF 6/30/09: \$0

Source: California Municipal Statistics, Inc. and City of Atascadero Finance Department.

## CONSTITUTIONAL AND STATUTORY LIMITATIONS ON TAXES, REVENUES AND APPROPRIATIONS

### Article XIII A of the California Constitution

On June 6, 1978, California voters approved an amendment (commonly known as both Proposition 13 and the Jarvis-Gann Initiative) to the California Constitution. This amendment, which added Article XIII A to the California Constitution, among other things affects the valuation of real property for the purpose of taxation in that it defines the full cash property value to mean "the county assessor's valuation of real property as shown on the 1975-76 tax bill under "full cash value," or thereafter, the appraised value of real property newly constructed, or when a change in ownership has occurred after the 1975 assessment." The full cash value may be adjusted annually to reflect inflation at a rate not to exceed 2% per year, or a reduction in the consumer price index or comparable local data at a rate not to exceed 2% per year, or reduced in the event of declining property value caused by damage, destruction or other factors including a general economic downturn. The amendment further limits the amount of any ad valorem tax on real property to one percent of the full cash value except that additional taxes may be levied to pay debt service on indebtedness approved by the voters prior to July 1, 1978, and bonded indebtedness for the acquisition or improvement of real property approved on or after July 1, 1978 by two-thirds of the votes cast by the voters voting on the proposition.

Legislation enacted by the California Legislature to implement Article XIII A provides that all taxable property is shown at full assessed value as described above. In conformity with this procedure, all taxable property value included in this Official Statement (except as noted) is shown at 100% of assessed value and all general tax rates reflect the \$1 per \$100 of taxable value. Tax rates for voter approved bonded indebtedness and pension liability are also applied to 100% of assessed value.

The voters of the State subsequently approved various measures which further amended Article XIII A. One such amendment generally provides that the purchase or transfer of (i) real property between spouses or (ii) the principal residence and the first \$1,000,000 of the Full Cash Value of other real property between parents and children, do not constitute a "purchase" or "change of ownership" triggering reappraisal under Article XIII A. Other amendments permitted the State Legislature to allow persons over the age of 55 who meet certain criteria or "severely disabled homeowners" who sell their residence and buy or build another of equal or lesser value within two years in the same county, to transfer the old residence's assessed value to the new residence. Other amendments permit the State Legislature to allow persons who are either 55 years of age or older, or who are "severely disabled," to transfer the old residence's assessed value to their new residence located in either the same or a different county and acquired or newly constructed within two years of the sale of their old residence.

In the November 1990 election, the voters approved an amendment of Article XIII A to permit the State Legislature to exclude from the definition of "new construction" certain additions and improvements, including seismic retrofitting improvements and improvements utilizing earthquake hazard mitigation technologies constructed or installed in existing buildings after November 6, 1990.

Article XIII A has also been amended to provide that there would be no increase in the Full Cash Value base in the event of reconstruction of the property damaged or destroyed in a disaster.

Section 51 of the Revenue and Taxation Code permits county assessors who have reduced the assessed valuation of a property as a result of natural disasters, economic downturns or other factors, to subsequently "recapture" such value (up to the pre-decline value of the property) at

an annual rate higher than 2%, depending on the assessor's measure of the restoration of value of the damaged property.

Section 4 of Article XIII A also provides that cities, counties and special districts cannot, without a two-thirds vote of the qualified electors, impose special taxes, which has been interpreted to include special fees in excess of the cost of providing the services or facility for which the fee is charged, or fees levied for general revenue purposes.

Both the California State Supreme Court and the United States Supreme Court have upheld the validity of Article XIII A.

### **Article XIII B of the California Constitution**

On November 6, 1979, California voters approved Proposition 4, the Gann Initiative, which added Article XIII B to the California Constitution. In June 1990, Article XIII B was amended by the voters through their approval of Proposition 111. Article XIII B of the California Constitution limits the annual appropriations of the State and any city, county, school district, authority or other political subdivision of the State to the level of appropriations for the prior fiscal year, as adjusted annually for changes in the cost of living, population and services rendered by the governmental entity. The "base year" for establishing such appropriation limit is fiscal year 1978-79. Increases in appropriations by a governmental entity are also permitted (1) if financial responsibility for providing services is transferred to the governmental entity, or (2) for emergencies so long as the appropriations limits for the three years following the emergency are reduced to prevent any aggregate increase above the Constitutional limit. Decreases are required where responsibility for providing services is transferred from the government entity.

Appropriations subject to Article XIII B include generally any authorization to expend during the fiscal year the proceeds of taxes levied by the State or other entity of local government, exclusive of certain State subventions, refunds of taxes, benefit payments from retirement, unemployment insurance and disability insurance funds. Appropriations subject to limitation pursuant to Article XIII B do not include debt service on indebtedness existing or legally authorized as of January 1, 1979, on bonded indebtedness thereafter approved according to law by a vote of the electors of the issuing entity voting in an election for such purpose, appropriations required to comply with mandates of courts or the Federal government, appropriations for qualified outlay projects, and appropriations by the State of revenues derived from any increase in gasoline taxes and motor vehicle weight fees above January 1, 1990 levels. "Proceeds of taxes" include, but are not limited to, all tax revenues and the proceeds to any entity of government from (1) regulatory licenses, user charges, and user fees to the extent such proceeds exceed the cost of providing the service or regulation, (2) the investment of tax revenues and (3) certain State subventions received by local governments. As amended by Proposition 111, the appropriations limit is tested over consecutive two-year periods. Any excess of the aggregate "proceeds of taxes" received by the City over such two-year period above the combined appropriations limits for those two years is to be returned to taxpayers by reductions in tax rates or fee schedules over the subsequent two years.

As amended in June 1990, the appropriations limit for the City in each year is based on the limit for the prior year, adjusted annually for changes in the costs of living and changes in population, and adjusted, where applicable, for transfer of financial responsibility of providing services to or from another unit of government. The change in the cost of living is, at the City's option, either (1) the percentage change in California per capita personal income, or (2) the percentage change in the local assessment roll for the jurisdiction due to the addition of nonresidential new construction. The measurement of change in population is, at the City's option, either (1) the percentage change in City population, or (2) the percentage change in County population.

Article XIII B permits any government entity to change the appropriations limit by vote of the electorate in conformity with statutory and Constitutional voting requirements, but any such voter-approved change can only be effective for a maximum of four years.

The City's appropriation limit was \$17,285,548 for fiscal year 2008-2009 and \$20,685,244 for fiscal year 2009-10 which is well above the total City budget amounts for both years. Therefore the City did not need to calculate the appropriations subject to limitation.

### **Proposition 218**

On November 5, 1996, the voters of the State approved Proposition 218, a constitutional initiative, entitled the "Right to Vote on Taxes Act" ("Proposition 218"). Proposition 218 added Articles XIII C and XIII D to the California Constitution and contained a number of interrelated provisions affecting the ability of local governments, including the City, to levy and collect both existing and future taxes, assessments, fees and charges. The City is unable to predict whether and to what extent Proposition 218 may be held to be constitutional or how its terms will be interpreted and applied by the courts. Proposition 218 could substantially restrict the City's ability to raise future revenues and could subject certain existing sources of revenue to reduction or repeal, and increase the City's costs to hold elections, calculate fees and assessments, notify the public and defend its fees and assessments in court. However, the City does not presently believe that the potential financial impact on the City as a result of the provisions of Proposition 218 will adversely affect the City's ability to pay its debt obligations and perform its other obligations payable from the General Fund as and when due.

Article XIII C requires that all new local taxes be submitted to the electorate before they become effective. Taxes for general governmental purposes of the City require a majority vote and taxes for specific purposes, even if deposited in the City's General Fund, require a two-thirds vote. Further, any general purpose tax that the City imposed, extended or increased without voter approval after December 31, 1994 may continue to be imposed only if approved by a majority vote in an election held within two years of November 5, 1996. The City has not enacted, imposed, extended or increased any tax without voter approval since January 1, 1995. These voter approval requirements of Proposition 218 reduce the flexibility of the City to raise revenues through General Fund taxes, and no assurance can be given that the City will be able to impose, extend or increase such taxes in the future to meet increased expenditure requirements.

Article XIII C also expressly extends to voters the power to reduce or repeal local taxes, assessments, fees and charges through the initiative process, regardless of the date such taxes, assessments, fees or charges were imposed. This extension of the initiative power is not limited by the terms of Proposition 218 to fees imposed after November 6, 1996 and absent other legal authority could result in retroactive reduction in any existing taxes, assessments or fees and charges. SB 919 provides that the initiative powers extended to voters under Article XIII C likely excludes actions construed as impairment of contracts under the contract clause of the United States Constitution. SB 919 provides that the initiative power provided for in Proposition 218 "shall not be construed to mean that any owner or beneficial owner of a municipal security, purchased before or after November 6, 1998, assumes the risk of, or in any way consents to, any action by initiative measure that constitutes an impairment of contractual rights" protected by the United States Constitution. However, no assurance can be given that the voters of the City will not, in the future, approve an initiative which reduces or repeals local taxes, assessments, fees or charges that currently are deposited into the City's General Fund. Further, "fees" and "charges" are not defined in Article XIII C or SB 919, and it is unclear whether these terms are intended to have the same meanings for purposes of Article XIII C as they do in Article XIII D. Accordingly, the scope of the initiative power under Article XIII C could include all sources of

General Fund monies not received from or imposed by the federal or State government or derived from investment income.

The initiative power granted under Article XIII C of Proposition 218, by its terms, applies to all local taxes, assessments, fees and charges. The City is unable to predict whether the courts will ultimately interpret the initiative provision to be limited to property related local taxes, assessments, fees and charges. No assurance can be given that the voters of the City will not, in the future, approve an initiative which reduces or repeals local taxes, assessments, fees or charges which are deposited into the City's General Fund. The City believes that in the event that the initiative power was exercised so that all local taxes, assessments, fees and charges which may be subject to the provisions of Proposition 218 are reduced or substantially reduced, the financial condition of the City, including its General Fund, would be materially adversely affected. As a result, there can be no assurances that the City would be able to pay the Certificates as and when due or any of its other obligations payable from the General Fund.

Article XIII D of Proposition 218 adds several new requirements to make it more difficult for local agencies to levy and maintain "assessments" for municipal services and programs. "Assessment" is defined in Proposition 218 and SB 919 as any levy or charge upon real property for a special benefit conferred upon the real property. This includes maintenance assessments imposed in City service areas and in special districts. In most instances, in the event that the City is unable to collect assessment revenues relating to specific programs as a consequence of Proposition 218, the City will curtail such services rather than use amounts in the General Fund to finance such programs. Accordingly, the City anticipates that any impact Proposition 218 may have on existing or future taxes, fees, and assessments will not adversely affect the ability of the City to pay the Certificates as and when due. However, no assurance can be given that the City may or will be able to reduce or eliminate such services in the event the assessments that presently finance them are reduced or repealed.

Article XIII D also adds several provisions, including notice requirements and restrictions on use, affecting "fees" and "charges" which are defined as "any levy other than an ad valorem tax, a special tax, or an assessment, imposed by a local government upon a parcel or upon a person as an incident of property ownership, including a user fee or charge for a property related service." The annual amount of revenues that are received by the City and deposited into its General Fund which may be considered to be property related fees and charges under Article XIII D of Proposition 218 is not substantial. Accordingly, presently the City does not anticipate that any impact Proposition 218 may have on future fees and charges will not adversely affect the ability of the City to pay the principal of and interest on the Certificates as and when due. However, no assurance can be given that the City may or will be able to reduce or eliminate such services in the event the fees and charges that presently finance them are reduced or repealed.

Additional implementing legislation respecting Proposition 218 may be introduced in the State legislature from time to time that would supplement and add provisions to California statutory law. No assurance may be given as to the terms of such legislation or its potential impact on the City.

### **Proposition 1A of 2004**

The California Constitution and existing statutes give the legislature authority over property taxes, sales taxes and the vehicle license fee (the "VLF"). The legislature has authority to change tax rates, the items subject to taxation and the distribution of tax revenues among local governments, schools, and community college districts. The State has used this authority for many purposes, including increasing funding for local services, reducing State costs, reducing taxation, addressing concerns regarding funding for particular local governments, and restructuring local finance.



The California Constitution generally requires the State to reimburse the local governments when the State “mandates” a new local program or higher level of service. Due to the ongoing financial difficulties of the State, it has not provided in recent years reimbursements for many mandated costs. In other cases, the State has “suspended” mandates, eliminating both responsibility of the local governments for complying with the mandate and the need for State reimbursements.

The 2004 Budget Act, related legislation and the enactment of Proposition 1A of 2004 (described below) dramatically changed the State-local fiscal relationship. These constitutional and statutory changes implemented an agreement negotiated between the Governor and local government officials (the “State-local agreement”) in connection with the 2004 Budget Act.

One change related to the reduction of the VLF rate from 2% to 0.65% of the market value of the vehicle. In order to protect local governments, which had previously received all VLF revenues, the 1.35 percent reduction in VLF revenue to cities and counties from this rate change was backfilled by an increase in the amount of property tax revenues they receive. This worked to the benefit of local governments, because the backfill amount annually increases in proportion to the growth in secured roll property tax revenues, which has historically grown at a higher rate than VLF revenues. Proposition 1A of 2004 requires the State to provide local governments with equal replacement revenues.

On November 3, 2004 the voters of the State approved Proposition 1A (“Proposition 1A of 2004”). Proposition 1A of 2004 amended the State Constitution to, among other things, reduce the Legislature’s authority over local government revenue sources by placing restrictions on the State’s access to local governments’ property, sales, and VLF revenues as of November 3, 2004. Pursuant to Proposition 1A of 2004, the State is able to borrow up to 8% of local property tax revenues but only if the Governor proclaims such action is necessary due to a severe State fiscal hardship and two-thirds of both houses of the State Legislature approve the borrowing. Any amounts borrowed are required to be repaid within three years. Proposition 1A of 2004 also permits the State to borrow from local property tax revenues for no more than two fiscal years within a period of 10 fiscal years, and only if previous borrowings have been repaid. In addition, the State cannot reduce the local sales tax rate or restrict the authority of the local governments to impose or change the distribution of the Statewide local sales tax. Proposition 1A of 2004 generally prohibits the State from mandating activities on cities, counties, or special districts without providing the funding needed to comply with the mandates, and if the State does not provide funding for the activity that has been determined to be mandated, the requirement on cities, counties, or special districts to abide by the mandate is suspended. Proposition 1A of 2004 also expanded the definition of what constitutes a mandate to encompass State action that transfers to cities, counties, and special districts financial responsibility for a required program for which the State previously had partial or complete responsibility. The State mandate provisions of Proposition 1A of 2004 do not apply to schools or community colleges or to mandates relating to employee rights.

Pursuant to statutory changes made in conjunction with amendments to the fiscal year 2008-09 State Budget Act, the fiscal year 2009-10 State Budget Act and related budget legislation adopted by the State Legislature and signed by the Governor in February 2009 (collectively, the “February 2009 Budget Package”), the VLF rate increased from 0.65% to 1.15% effective May 19, 2009. Of this 0.50% increase, 0.35% will flow to the State General Fund, and 0.15% will support various law enforcement programs previously funded by the State General Fund. This increased VLF rate will be effective through fiscal year 2010-11.

See “RISK FACTORS—State Budgets” for information relating to Proposition 1A and the suspension of Proposition 1A in the State’s 2009-10 budget.

## **Future Initiatives**

Article XIII A, Article XIII B, Proposition 218 and Proposition 1A were each adopted as measures that qualified for the ballot pursuant to the State's initiative process. From time to time, other initiative measures could be adopted, which may place further limitations on the ability of the State, the City or local districts to increase revenues or to increase appropriations which may affect the City's revenues or its ability to expend its revenues.

## **RISK FACTORS**

*This section provides a general overview of certain risk factors which should be considered, in addition to the other matters set forth in this Official Statement, in evaluating an investment in the Bonds. This section is not meant to be a comprehensive or definitive discussion of the risks associated with an investment in the Bonds, and the order in which this information is presented does not necessarily reflect the relative importance of various risks. Potential investors in the Bonds are advised to consider the following factors, among others, and to review this entire Official Statement to obtain information essential to the making of an informed investment decision. Any one or more of the risk factors discussed below, among others, could lead to a decrease in the market value and/or in the marketability of the Bonds. There can be no assurance that other risk factors not discussed herein will not become material in the future.*

### **Limited Obligation**

The Bonds are not City debt and are limited obligations of the Authority. Neither the full faith and credit of the Authority nor the City is pledged for the payment of the interest on or principal of the Bonds nor for the payment of Lease Payments. The Authority has no taxing power. The obligation of the City to pay Lease Payments when due is an obligation payable from amounts in the general fund of the City. The obligation of the City to make Lease Payments under the Lease Agreement does not constitute an obligation of the City for which the City is obligated to levy or pledge any form of taxation or for which the City has levied or pledged any form of taxation. Neither the Bonds nor the obligation of the City to make Lease Payments under the Lease Agreement constitute a debt or indebtedness of the Authority, the City, the State or any of its political subdivisions, within the meaning of any constitutional or statutory debt limitation or restrictions.

### **Lease Payments Are Not Debt**

The obligation of the City to make the Lease Payments under the Lease does not constitute an obligation of the City for which the City is obligated to levy or pledge any form of taxation or for which the City has levied or pledged any form of taxation. Neither the Bonds nor the obligation of the City to make Lease Payments constitute a debt of the City, the State of California or any political subdivision thereof (other than the Authority) within the meaning of any constitutional or statutory debt limitation or restriction.

The Bonds are not general obligations of the Authority, but are limited obligations payable solely from and secured by a pledge of Revenues and amounts held in the funds and accounts created under the Indenture, consisting primarily of Lease Payments. The Authority has no taxing power.

Although the Lease does not create a pledge, lien or encumbrance upon the funds of the City, the City is obligated under the Lease to pay the Lease Payments from any source of legally available funds and the City has covenanted in the Lease that, for so long as the Property is



available for its use, it will make the necessary annual appropriations within its budget for the Lease Payments. The City is currently liable and may become liable on other obligations payable from general revenues, some of which may have a priority over the Lease Payments, or which the City, in its discretion, may determine to pay prior to the Lease Payments.

The City has the capacity to enter into other obligations payable from the City's general fund, without the consent of or prior notice to the Owners of the Bonds. To the extent that additional obligations are incurred by the City, the funds available to make Lease Payments may be decreased. In the event the City's revenue sources are less than its total obligations, the City could choose to fund other municipal services before making Lease Payments. The same result could occur if, because of State constitutional limits on expenditures, the City is not permitted to appropriate and spend all of its available revenues. The City's appropriations, however, have never exceeded the limitations on appropriations under Article XIII B of the California Constitution. For information on the City's current limitations on appropriations, see "CONSTITUTIONAL AND STATUTORY LIMITATIONS ON TAXES, REVENUES AND APPROPRIATIONS—Article XIII B of the California Constitution."

### **Valid and Binding Covenant to Budget and Appropriate**

Pursuant to the Lease Agreement, the City covenants to take such action as may be necessary to include Lease Payments due in its annual budgets and to make necessary appropriations for all such payments. Such covenants are deemed to be duties imposed by law, and it is the duty of the public officials of the City to take such action and do such things as are required by law in the performance of the official duty of such officials to enable the City to carry out and perform such covenants. A court, however, in its discretion may decline to enforce such covenants. Upon issuance of the Bonds, Bond Counsel will render its opinion (substantially in the form of APPENDIX E—"PROPOSED FORM OF BOND COUNSEL OPINION") to the effect that, subject to the limitations and qualifications described therein, the Lease Agreement constitutes a valid and binding obligation of the City. As to the Authority's practical realization of remedies upon default by the City, see "—Limitations on Remedies."

### **Abatement**

In the event of loss or substantial interference in the use and possession by the City of all or any portion of the Property caused by material damage, title defect, destruction to or condemnation of the Property, Lease Payments will be subject to abatement. In the event that such component of the Property, if damaged or destroyed by an insured casualty, could not be replaced during the period of time that proceeds of the City's rental interruption insurance will be available in lieu of Lease Payments, or in the event that casualty insurance proceeds or condemnation proceeds are insufficient to provide for complete repair or replacement of such component of the Property or prepayment of the Bonds, there could be insufficient funds to make payments to Owners in full. Reduction in Lease Payments due to abatement as provided in the Lease does not constitute a default thereunder.

It is not possible to predict the circumstances under which such an abatement of rental may occur. In addition, there is no statute, case or other law specifying how such an abatement of rental should be measured. For example, it is not clear whether fair rental value is established as of commencement of the lease or at the time of the abatement. If the latter, it may be that the value of the Property is substantially higher or lower than its value at the time of the execution and delivery of the Bonds. Abatement, therefore, could have an uncertain and material adverse effect on the security for and payment of the Bonds.

## **Risk of Uninsured Loss**

The City covenants under the Lease to maintain certain insurance policies on the Property. See "SECURITY FOR THE BONDS—Insurance." These insurance policies do not cover all types of risk, and the City need not obtain insurance except as available on the open market from reputable insurers. For instance, the City does not covenant to maintain earthquake insurance. ~~The City currently carries earthquake insurance on the Property although the Lease Agreement does not require it to do so. The City plans to continue to purchase earthquake insurance on the Property so long as such insurance can be obtained on the open market at reasonable rates.~~ The Property could be damaged or destroyed due to earthquake or other casualty for which the Property is uninsured. Additionally, the Property could be the subject of an eminent domain proceeding. Under these circumstances an abatement of Lease Payments could occur and could continue indefinitely. There can be no assurance that the providers of the City's liability and rental interruption insurance will in all events be able or willing to make payments under the respective policies for such loss should a claim be made under such policies. Further, there can be no assurances that amounts received as proceeds from insurance or from condemnation of the Property will be sufficient to redeem the Bonds.

Under the Lease the City may obtain casualty insurance which provides for a deductible up to \$250,000. Should the City be required to meet such deductible expenses, the availability of general fund revenues to make Lease Payments may be correspondingly affected.

The City is not obligated under the Lease Agreement to procure and maintain, or cause to be procured and maintained, earthquake insurance on the Property. ~~The City currently carries earthquake insurance on the Property although the Lease Agreement does not require it to do so. The City plans to continue to purchase earthquake insurance on the Property so long as such insurance can be obtained on the open market at reasonable rates.~~ Depending on its severity, an earthquake could result in abatement of Lease Payments under the Lease. See "—Abatement."

## **Eminent Domain**

If the Property is taken permanently under the power of eminent domain or sold to a government threatening to exercise the power of eminent domain, the term of the Lease will cease as of the day possession is taken. If less than all of the Property is taken permanently, or if the Property or any part thereof is taken temporarily, under the power of eminent domain, (a) the Lease will continue in full force and effect and will not be terminated by virtue of such taking, and (b) there will be a partial abatement of Lease Payments as a result of the application of net proceeds of any eminent domain award to the prepayment of the Lease Payments, in an amount to be agreed upon by the City and the Authority such that the resulting Lease Payments represent fair consideration for the use and occupancy of the remaining usable portion of the Property. The City covenants in the Lease to contest any eminent domain award which is insufficient to either: (i) prepay the Lease Payments in whole, if all the Property is condemned; or (ii) prepay a pro rata share of Lease Payments, in the event that less than all of the Property is condemned.

## **Hazardous Substances**

The existence or discovery of hazardous materials may limit the beneficial use of the Property. In general, the owners and lessees of the Property may be required by law to remedy conditions of such parcel relating to release or threatened releases of hazardous substances. The federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, sometimes referred to as "CERCLA" or the "Superfund Act," is the most well known and widely applicable of these laws, but California laws with regard to hazardous substances are also similarly stringent. Under many of these laws, the owner or lessee is obligated to remedy a

hazardous substance condition of the property whether or not the owner or lessee had anything to do with creating or handling the hazardous substance.

Further it is possible that the beneficial use of the Property may be limited in the future resulting from the current existence on the Property of a substance currently classified as hazardous but which has not been released or the release of which is not presently threatened, or may arise in the future resulting from the current existence on the Property of a substance not presently classified as hazardous but which may in the future be so classified. Further, such liabilities may arise not simply from the existence of a hazardous substance but from the method in which it is handled. All of these possibilities could significantly limit the beneficial use of the Property.

The City is unaware of the existence of hazardous substances on the Property site which would materially interfere with the beneficial use thereof.

### **Earthquakes**

~~Generally, within the State, some level of seismic activity occurs on a regular basis. During the past 150 years, the Southern California area has experienced several major and numerous minor earthquakes. The most recent major earthquake in the Southern California area was the Northridge earthquake, which occurred on January 17, 1994. The Northridge earthquake, with an epicenter approximately 50 miles north of the City, measured 6.5 on the Richter scale.~~

The City is not legally obligated under the Lease Agreement to maintain, or cause to be maintained, earthquake insurance on the Property and no assurance is made that any earthquake insurance will be maintained. If there were to be an occurrence of severe seismic activity in the City, there could be substantial damage to and interference with the City's right to use and occupy all or a portion of the Property, which could result in Lease Payments being subject to abatement. Additionally, severe seismic activity in the City could impact the City's general fund expenditures. See "CERTAIN RISK FACTORS—Abatement" above.

### **Bankruptcy**

The City is a unit of State government and therefore is not subject to the involuntary procedures of the United States Bankruptcy Code (the "Bankruptcy Code"). However, pursuant to Chapter 9 of the Bankruptcy Code, the City may seek voluntary protection from its creditors for purposes of adjusting its debts. In the event the City were to become a debtor under the Bankruptcy Code, the City would be entitled to all of the protective provisions of the Bankruptcy Code as applicable in a Chapter 9 proceeding. Among the adverse effects of such a bankruptcy might be: (i) the application of the automatic stay provisions of the Bankruptcy Code, which, until relief is granted, would prevent collection of payments from the City or the commencement of any judicial or other action for the purpose of recovering or collecting a claim against the City; (ii) the avoidance of preferential transfers occurring during the relevant period prior to the filing of a bankruptcy petition; (iii) the existence of unsecured or court-approved secured debt which may have a priority of payment superior to that of Owners of Bonds; and (iv) the possibility of the adoption of a plan for the adjustment of the City's debt (a "Plan") without the consent of the Trustee or all of the Owners of Bonds, which Plan may restructure, delay, compromise or reduce the amount of any claim of the Owners if the Bankruptcy Court finds that the Plan is fair and equitable.

In addition, the City could either reject the Lease or assume the Lease despite any provision of the Lease which makes the bankruptcy or insolvency of the City an event of default thereunder. In the event the City rejects the Lease, the Trustee, on behalf of the Owners of the

Bonds, would have a pre-petition claim that may be limited under the Bankruptcy Code and treated in a manner under a Plan over the objections of the Trustee or Owners of the Bonds. Moreover, such rejection would terminate the Lease and the City's obligations to make payments thereunder.

The Authority is a public agency and, like the City, is not subject to the involuntary procedures of the Bankruptcy Code. The Authority may also seek voluntary protection under Chapter 9 of the Bankruptcy Code. In the event the Authority were to become a debtor under the Bankruptcy Code, the Authority would be entitled to all of the protective provisions of the Bankruptcy Code as applicable in a Chapter 9 proceeding. Such a bankruptcy could adversely affect the payments under the Indenture. Among the adverse effects might be: (i) the application of the automatic stay provisions of the Bankruptcy Code, which, until relief is granted, would prevent collection of payments from the Authority or the commencement of any judicial or other action for the purpose of recovering or collecting a claim against the Authority; (ii) the avoidance of preferential transfers occurring during the relevant period prior to the filing of a bankruptcy petition; (iii) the existence of unsecured or court-approved secured debt which may have priority of payment superior to that of the Owners of the Bonds; and (iv) the possibility of the adoption of a plan for the adjustment of the Authority's debt without the consent of the Trustee or all of the Owners of the Bonds, which plan may restructure, delay, compromise or reduce the amount of any claim of the Owners if the Bankruptcy Court finds that the Plan is fair and equitable. However, the bankruptcy of the Authority, and not the City, should not affect the Trustee's rights under the Lease. The Authority could still challenge the assignment, and the Trustee and/or the Owners of the Bonds could be required to litigate these issues in order to protect their interests.

### **Limitations on Remedies**

The rights of the Owners of Bonds are subject to the limitations on legal remedies against counties in the State, including applicable bankruptcy, insolvency, reorganization, moratorium and similar laws affecting the enforcement of creditors' rights generally, now or hereafter in effect, and to the application of general principles of equity, including concepts of materiality, reasonableness, good faith and fair dealing and the possible unavailability of specific performance or injunctive relief, regardless of whether considered in a proceeding in equity or at law.

Under Chapter 9 of the Bankruptcy Code (Title 11, United States Code), which governs the bankruptcy proceedings for public agencies such as the City, there are no involuntary petitions in bankruptcy. If the City were to file a petition under Chapter 9 of the Bankruptcy Code, the Owners of Bonds, the Trustee and the Authority could be prohibited from taking any steps to enforce their rights under the Lease Agreement, and from taking any steps to collect amounts due from the City under the Lease Agreement.

All legal opinions with respect to the enforcement of the Lease Agreement and the Indenture will be expressly subject to a qualification that such agreements may be limited by bankruptcy, reorganization, insolvency, moratorium or other similar laws affecting creditors' rights generally and by applicable principles of equity if equitable remedies are sought.

### **No Liability of Authority to the Owners**

Except as expressly provided in the Indenture, the Authority will not have any obligation or liability to the Owners of the Bonds with respect to the payment when due of the Lease Payments by the City, or with respect to the performance by the City of other agreements and covenants required to be performed by it contained in the Lease or the Indenture, or with respect

to the performance by the Trustee of any right or obligation required to be performed by it contained in the Indenture.

### **Risk of Tax Audit**

In December 1999, as a part of a larger reorganization of the Internal Revenue Service (the “IRS”), the IRS commenced operation of its Tax Exempt and Government Entities Division (the “TE/GE Division”), as the successor to its Employee Plans and Exempt Organizations division. The new TE/GE Division has a subdivision that is specifically devoted to tax-exempt bond compliance. Public statements by IRS officials indicate that the number of tax-exempt bond examinations (which would include the issuance of securities such as the Bonds) is expected to increase significantly under the new TE/GE Division. There is no assurance that if an IRS examination of the Bonds was undertaken that it would not adversely affect the market value of the Bonds. See “TAX MATTERS.”

The City has not been contacted by the IRS regarding the examination of any of its bond transactions.

### **State Budget Information**

The following information concerning the State’s budgets has been obtained from publicly available information which the City believes to be reliable; however, the City does not guarantee the accuracy or completeness of this information and has not independently verified such information. Furthermore, it should not be inferred from the inclusion of this information in this Official Statement that the principal of or interest due with respect to the Bonds is payable from any funds of the State.

*The Budget Process.* Through the State budget process, the State can enact legislation that significantly impacts the source, amount and timing of the receipt of revenues by local agencies including the City. As in recent years, State budget deficits can result in legislation that adversely impacts local agency budgets.

The State’s fiscal year begins on July 1 and ends on June 30. The annual budget is proposed by the Governor by January 10 of each year for the next fiscal year (the “Governor’s Budget”). Under State law, the annual proposed Governor’s Budget cannot provide for projected expenditures in excess of projected revenues and balances available from prior fiscal years. Following the submission of the Governor’s Budget, the Legislature takes up the proposal.

Under the State Constitution, money may be drawn from the Treasury only through an appropriation made by law. The primary source of the annual expenditure authorizations is the Budget Act as approved by the Legislature and signed by the Governor. The Budget Act must be approved by a two-thirds majority vote of each House of the Legislature. The Governor may reduce or eliminate specific line items in the Budget Act or any other appropriations bill without vetoing the entire bill. Such individual line-item vetoes are subject to override by a two-thirds majority vote of each House of the Legislature.

Appropriations also may be included in legislation other than the Budget Act. Bills containing appropriations (except for K-14 education) must be approved by a two-thirds majority vote in each House of the Legislature and be signed by the Governor. Bills containing K-14 education appropriations only require a simple majority vote. Continuing appropriations, available without regard to fiscal year may also be provided by statute or the State Constitution.

Funds necessary to meet an appropriation need not be in the State Treasury at the time such appropriation is enacted; revenues may be appropriated in anticipation of their receipt.



*Recent State Budgets.* Certain information about the State budgeting process and the State Budget is available through several State of California sources. A convenient source of information is the State's website, where recent official statements for State bonds are posted. The references to internet websites shown below are shown for reference and convenience only; the information contained within the websites has not been reviewed by the City and is not incorporated herein by reference.

The California State Treasurer's internet home page at [www.treasurer.ca.gov](http://www.treasurer.ca.gov), under the heading "Bond Finance — Public Finance Division — Bond Sales," posts various State of California Official Statements, many of which contain a summary of the current State Budget, past State Budgets, and the impact of those budgets on school districts in the State.

The California State Treasurer's internet home page at [www.treasurer.ca.gov](http://www.treasurer.ca.gov), under the heading "Financial Information," posts the State's audited financial statements. In addition, the "Financial Information" section includes the State's Rule 15c2-12 filings for State bond issues. The "Financial Information" section also includes the "Overview of the State Economy and Government, State Finances, State Indebtedness, Litigation" from the State's most current Official Statement, which discusses the State budget and its impact on school districts.

The California Department of Finance's internet home page at [www.dof.ca.gov](http://www.dof.ca.gov), under the heading "California Budget," includes the text of proposed and adopted State Budgets.

The State Legislative Analyst's Office prepares analyses of the proposed and adopted State budgets.

The analyses are accessible on the Legislative Analyst's internet home page at [www.lao.ca.gov](http://www.lao.ca.gov) under the heading "Products." For a number of years, the State Legislature has shifted property taxes from cities, counties and special districts to the Educational Revenue Augmentation Fund. The term "ERAF" is often used as a shorthand reference for this shift of property taxes. In 1992-93 and 1993-94, in response to serious budgetary shortfalls, the State Legislature and administration permanently redirected over \$3 billion of property taxes from cities, counties, and special districts to schools and community college districts. The 2004-05 California State Budget included an additional \$1.3 billion shift of property taxes from certain local agencies, including the City, to occur in Fiscal Years 2004-05 and 2005-06. The City's portion of such property tax shift for these two Fiscal Years was \$653,278. To date, over \$6.2 million has been shifted.

*Proposition 1A.* On November 2, 2004, California voters approved Proposition 1A, which amended the State Constitution to significantly reduce the State's authority over major local government revenue sources. Under Proposition 1A, the State may not (i) reduce local sales tax rates or alter the method of allocating the revenue generated by such taxes, (ii) shift property taxes from local governments to schools or community colleges, (iii) change how property tax revenues are shared among local governments without twothird approval of both houses of the State Legislature, or (iv) decrease Vehicle License Fees revenues without providing local governments with equal replacement funding. Under Proposition 1A, the State may shift to schools and community colleges a limited amount of local government property tax revenue if certain conditions are met, including (a) a proclamation by the Governor that the shift is needed due to a severe financial hardship of the State, and (b) approval of the shift by the State Legislature with a two-thirds vote of both houses. Under such a shift, the State must repay local governments for their property tax losses, with interest, within three years. Proposition 1A does allow the State to approve voluntary exchanges of local sales tax and property tax revenues among local governments within a county.

## 2009-10 and 2010-11 State Budget

The following information concerning the State's budgets has been obtained from publicly available information which the City believes to be reliable; however, the City does not guarantee the accuracy or completeness of this information and has not independently verified such information. Furthermore, it should not be inferred from the inclusion of this information in this Official Statement that the principal of or interest on the Bonds is payable by or the responsibility of the State of California.

The State of California is experiencing significant financial and budgetary stress. State budgets are affected by national and state economic conditions and other factors over which the City has no control. The State's financial condition and budget policies affect communities and local public agencies throughout 38 California. To the extent that the State budget process results in reduced revenues to the City, the City will be required to make adjustments to its budget. Each State budget, and notably the State's 2009-10 budget, contains a number of measures which impact the City's finances.

The State Budget Act for Fiscal Year 2008-09 was signed by the Governor on September 23, 2008—the latest in State history. Thereafter, on-going weak economic conditions resulted in significant revenue shortfalls and the Governor declared a fiscal emergency and called special sessions of the Legislature to consider budget actions to address the problems. The Governor's proposed budget for Fiscal Year 2009-10, released December 31, 2008, estimated there would be a budget gap of more than \$40 billion for the 18-month period ending June 30, 2010. Following lengthy budget negotiations, on February 19, 2009, the State Legislature passed revisions to the State Budget Act for the remainder of Fiscal Year 2008-09, as well as the State Budget Act for Fiscal Year 2009-10 and related legislation, which the Governor signed on February 20, 2009 after making additional line-item vetoes. On July 28, 2009, the Governor signed into law a series of amendments to the 2009-10 State Budget (the "2009-10 Budget Amendments").

The State's financial difficulties may affect the amount and timing of payments to or for the benefit of cities of funds provided by the State. From time to time, some of the State's budget solutions may increase the financial stress of cities and other local governments because they (1) decrease local revenues (particularly the property tax, road improvement funding, public safety or other categorical funded initiatives) or (2) directly or indirectly increase demand for local programs (such as public safety or indigent health programs). There can be no assurances that the State's financial difficulties will not materially adversely affect the financial condition of the City.

The 2009-10 Budget Amendments were designed to address the State's budget deficit. The 2009-10 Budget Amendments projected \$89.5 billion of General Fund revenues and authorized \$84.6 billion of expenditures. Since many of the actions taken to balance the State's Fiscal Year 2009-10 Budget were either one-time actions, or involve loans which have to be repaid, or are based on temporary revenue increases or the limited receipt of federal stimulus funds, budget gaps of several billions of dollars a year are expected to recur in 2010-11 and subsequent years. The State Department of Finance has projected that, using expenditure obligations under existing law and various assumptions concerning revenues in future years, the State would, in the absence of taking additional steps to balance its budget, face an "operating deficit" (expenditures exceeding revenues in the same fiscal year) of \$7.4 billion in Fiscal Year 2010-11, \$15.5 billion in 2011-12 and \$15.1 billion in 2012-13. These projections in turn are based on a number of assumptions.

The financial condition of the State is subject to a number of other risks in the future, including particularly potential significant increases in required state contributions to the Public



Employees' Retirement System, increased financial obligations related to other post-employment benefits, and increased debt service.

*City Impact.* The State's 2009-10 Budget includes an approximately \$2 billion borrowing of property tax funds from local government under the provisions of Proposition 1A. As a result of the Proposition 1A borrowing, the State withheld approximately \$663,498 of property tax revenues in Fiscal Year 2009-10, which the City would otherwise expect the State to repay within 3 years. However, the City and other local governments have elected to participate in a securitization financing offered by a joint powers authority in which they will receive, up front, property tax revenues being borrowed by the State. California Communities, the joint powers authority, issued bonds securitizing the future payments by the State and remitted the proceeds of the bonds to the local governments, including the City, which opted to participate in the securitization. The State will then repay the bondholders to pay off the outstanding bonds, including interest costs. As a participant in the financing, the City received the full amount of its property tax reduction in two equal installments of \$331,749 on January 15, 2010 and May 3, 2010.

The 2009-10 Budget Amendments include a total of \$2.05 billion to be taken from local redevelopment agencies through a seizure of \$1.7 billion in Fiscal Year 2009-10, and then an additional \$350 million in Fiscal Year 2010-11. These funds are to be deposited in county "Supplemental" Educational 39 Revenue Augmentation Funds ("SERAF") to be distributed to meet the State's constitutional minimum funding obligation to schools. The SERAF shift is similar to prior educational augmentation fund shifts which most recently have been invalidated by a local California Superior Court. While the legislative formulation of the SERAF shift is different from prior shifts in certain respects, the California Redevelopment Association believes the shift represents an unconstitutional diversion of redevelopment funds which are dedicated to redevelopment, and has filed suit to invalidate the provisions. On May 4, 2010 the Superior Court of the County of Sacramento issued a ruling upholding the diversion, and requests for a temporary stay of the payment have been denied. The California Redevelopment Association has indicated it will appeal the trial court ruling. The City made the SERAF payment for Fiscal Year 2009-10 on May 10, 2010, in the amount of \$1,335,322. The City estimates the share of this diversion assessed against the City's redevelopment agency is \$274,656 for Fiscal Year 2010-11. The 2009-10 Budget Amendments allow these funds to be paid by a redevelopment agency through the use of any available funds, and does not require the City to make the payments. However, significant penalties are imposed upon redevelopment agencies which do not make the payments. The City cannot predict the outcome of the currently pending or any future challenge to the SERAF shift or other legislative changes which may affect the City's redevelopment agency, or the impact of such changes on the City's General Fund.

The SERAF shift of redevelopment property tax increment funds is significant and, if upheld by the courts and repeated in future fiscal years by the Legislature, could affect the finances of the City's redevelopment agency for years to come. Nevertheless, the City expects that, if ultimately required to be paid, the City's redevelopment agency will fund its SERAF payment for Fiscal Year 2009-10 and 2010-11 from its own property tax increment and without direct impact on the City's General Fund.

The State's Fiscal Year 2009-10 Budget also deferred payments of certain gas tax revenues payable to the City in the total amount of \$195,692. If additional gas tax transfer deferrals are included in future state budgets the City would expect to apply other available special fund revenues to supplement general fund activities funded from these sources.

*2010-11 Budget.* On November 18, 2009, the State Legislative Analyst's Office estimated the State could face a budget deficit in excess of \$20 billion through Fiscal Year 2010-11. To the

extent that the State's annual budget process results in reduced revenues or increased expenses to the City, the City will be required to make adjustments to its budget.

On January 8, 2010 the Governor released his proposed State Budget for Fiscal Year 2010-11 and called for an emergency legislative session to enact budget changes for the remainder of the current fiscal year.

His budget estimates an immediate \$6.6 billion gap in the State Budget for the current fiscal year. Although the proposed budget does not contemplate any further SERAF or Proposition 1A shifts, it anticipates sizable budget shortfall absent federal budget support and other solutions. The City cannot predict whether the final budget solution will impose further adverse impact on the City's General Fund.

With the Governor's release of the May Budget Revise on May 14, 2010, the state's deficit is currently estimated at \$19.1 billion (comprised of a \$7.7 billion shortfall in the current year, a \$10.2 billion projected deficit in the budget year beginning July 1, and a reserve of \$1.2 billion). Tax receipts are less than projected and the State has not received even half of the \$7 billion in federal assistance requested by the Governor. Earlier this week, the Governor's spokesperson acknowledged to reporters that while the budget proposal doesn't include new taxes, it does have "terrible cuts." Redevelopment agencies are required to give the state an additional \$350 million in SERAF payments in FY 2010-11, unless the appellate court rules otherwise. While additional impacts to cities are indirect, county programs suffered severely. The May Revise drastically cuts social service programs, with the CalWORKS program proposed for elimination. State workers are facing a salary reduction of 5 percent, a monthly day of personal leave (unpaid), and increased employee retirement contributions. However, funding for education, including K-12, state universities and Cal-Grants, is protected.

The Legislative Analyst's Office (LAO) issued its overview of Gov. Arnold Schwarzenegger's May Revise on May 21, 2010 and addressed a number of alternatives to drastic cuts available to legislators as budget negotiations begin.

*Triple Flip.* Currently, a significant portion of City revenues which are treated as sales tax in fact represent State diversion of property taxes in replacement of lost sales tax revenues because of legislation, commonly referred to as the "Triple Flip," which was submitted to the voters on March 2, 2004, as part of a bond proposition formally known as the "Economic Bond Recovery Act." This act authorized the issuance of \$15 billion in bonds to finance the Fiscal Year 2002-03 and 2003-04 State budget deficits, which are payable from a fund established by the redirection of tax revenues through the Triple Flip.

Under the "Triple Flip" one-quarter of local governments' one percent share of the sales tax imposed on taxable transactions within their jurisdiction is redirected to the State. In an effort to eliminate the adverse impact of the sales tax revenue redirection on local government, the legislation provides for property taxes in the ERAF to be redirected to local government. Because the ERAF moneys were previously earmarked for schools, the legislation provides for schools to receive other state general fund revenues. It is expected that the swap of sales taxes for property taxes would terminate once the deficit financing bonds were repaid. The "Triple Flip" legislation was approved by voters at the election on March 2, 2004 and the bonds were sold in May 2004. See "FINANCIAL INFORMATION—Local Taxes" herein.

*Future State Budgets.* The City cannot predict what actions will be taken in the future by the State Legislature and the Governor to address the State's current and future budget deficits. Future State budgets could be affected by national economic conditions and other factors over which the City will have no control.

Further information about the State budget is available from the Public Finance Division of the State Treasurer's Office. In addition, information about the State budget is regularly available at various State-maintained websites, including [www.dof.ca.gov](http://www.dof.ca.gov) (Department of Finance), [www.lao.ca.gov](http://www.lao.ca.gov) (Office of the Legislative Analyst) and [www.treasurer.ca.gov](http://www.treasurer.ca.gov) (State Treasurer). The above-mentioned websites are included herein for informational purposes only. The Authority and the City make no representations concerning, and do not take any responsibility for, the accuracy or timeliness of information posted on such websites or the continued maintenance of such websites by the respective entities.

### **Loss of Tax Exemption**

As discussed under the caption "TAX MATTERS," in order to maintain the exclusion from gross income for federal income tax purposes of the interest on the Bonds, the City has covenanted in the Lease not to take any action, or fail to take any action, if such action or failure to take such action would adversely affect the exclusion from gross income of interest on the Bonds under section 103 of the Internal Revenue Code of 1986, as amended. Interest on the Bonds could become includable in gross income for purposes of Federal income taxation retroactive to the date the Bonds were issued, as a result of acts or omissions of the City in violation of the Code. Should such an event of taxability occur, the Bonds are not subject to early redemption and will remain outstanding to maturity or until prepaid under the optional redemption or mandatory sinking fund redemption provisions of the Indenture.

### **Limited Secondary Market**

As stated herein, investment in the Bonds poses certain economic risks which may not be appropriate for certain investors, and only persons with substantial financial resources who understand the risk of investment in the Bonds should consider such investment. There can be no guarantee that there will be a secondary market for purchase or sale of the Bonds or, if a secondary market exists, that the Bonds can or could be sold for any particular price.

### **Changes in Law**

There can be no assurance that the electorate of the State will not at some future time adopt additional initiatives or that the Legislature will not enact legislation that will amend the laws or the Constitution of the State resulting in a reduction of the general fund revenues of the City and consequently, having an adverse effect on the security for the Bonds.

## **TAX MATTERS**

Federal tax law contains a number of requirements and restrictions which apply to the Bonds, including investment restrictions, periodic payments of arbitrage profits to the United States, requirements regarding the proper use of bond proceeds and the facilities financed therewith, and certain other matters. The Authority and the City have covenanted to comply with all requirements that must be satisfied in order for the interest on the Bonds to be excludable from gross income for federal income tax purposes. Failure to comply with certain of such covenants could cause interest on the Bonds to become includable in gross income for federal income tax purposes retroactively to the date of issuance of the Bonds.

Subject to the Authority's and the City's compliance with certain covenants, interest on the Bonds (i) is excludable from gross income of the owners thereof for federal income tax purposes, (ii) is not included as an item of tax preference in computing the alternative minimum tax for individuals and corporations under the Internal Revenue Code of 1986, as amended (the "Code"), and (iii) interest on the Bonds is not taken into account in computing adjusted current

earnings, which is used as an adjustment in determining the federal alternative minimum tax for certain corporations. Failure to comply with certain of such covenants could cause interest on the Bonds to be includable in gross income for federal income tax purposes retroactively to the date of issuance of the Bonds.

In addition, subject to the Authority's and the City's compliance with certain covenants, in the opinion of Bond Counsel, the Bonds are "qualified tax-exempt obligations" under the small issuer exception provided under section 265(b)(3) of the Code, which affords banks and certain other financial institutions more favorable treatment of their deduction for interest expense than would otherwise be allowed under section 265(b)(2) of the Code.

Bond Counsel expects to deliver an opinion at the time of delivery of the Bonds in substantially the form set forth in APPENDIX E—"FORM OF BOND COUNSEL'S OPINION."

Bond Counsel's opinion represents its legal judgment based upon its review of the law and the facts that it deems relevant to render such opinion and is not a guarantee of a result.

The Internal Revenue Code of 1986, as amended (the "Code"), includes provisions for an alternative minimum tax ("AMT") for corporations in addition to the corporate regular tax in certain cases. The AMT, if any, depends upon the corporation's alternative minimum taxable income ("AMTI"), which is the corporation's taxable income with certain adjustments. One of the adjustment items used in computing the AMTI of a corporation (with certain exceptions) is an amount equal to 75% of the excess of such corporation's "adjusted current earnings" over an amount equal to its AMTI (before such adjustment item and the alternative tax net operating loss deduction). "Adjusted current earnings" would include certain tax exempt interest, including interest on the Bonds.

Ownership of the Bonds may result in collateral federal income tax consequences to certain taxpayers, including, without limitation, corporations subject to the branch profits tax, financial institutions, certain insurance companies, certain S corporations, individual recipients of Social Security or Railroad Retirement benefits and taxpayers who may be deemed to have incurred (or continued) indebtedness to purchase or carry tax exempt obligations. Prospective purchasers of the Bonds should consult their tax advisors as to applicability of any such collateral consequences.

The issue price (the "Issue Price") for each maturity of the Bonds is the price at which a substantial amount of such maturity of the Bonds is first sold to the public. The Issue Price of a maturity of the Bonds may be different from the price set forth, or the price corresponding to the yield set forth, on the cover page hereof.

If the Issue Price of a maturity of the Bonds is less than the principal amount payable at maturity, the difference between the Issue Price of each such maturity, if any, of the Bonds (the "OID Bonds") and the principal amount payable at maturity is original issue discount.

For an investor who purchases an OID Bond in the initial public offering at the Issue Price for such maturity and who holds such OID Bond to its stated maturity, subject to the condition that the Authority and the City comply with the covenants discussed above, (a) the full amount of original issue discount with respect to such OID Bond constitutes interest which is excludable from the gross income of the owner thereof for federal income tax purposes; (b) such owner will not realize taxable capital gain or market discount upon payment of such OID Bond at its stated maturity; (c) such original issue discount is not included as an item of tax preference in computing the alternative minimum tax for individuals and corporations under the Code, but is taken into account in computing an adjustment used in determining the alternative minimum tax for certain corporations under the Code, as described above; and (d) the accretion of original

issue discount in each year may result in an alternative minimum tax liability for corporations or certain other collateral federal income tax consequences in each year even though a corresponding cash payment may not be received until a later year. Owners of OID Bonds should consult their own tax advisors with respect to the state and local tax consequences of original issue discount on such OID Bonds.

Owners of Bonds who dispose of Bonds prior to the stated maturity (whether by sale, redemption or otherwise), purchase Bonds in the initial public offering, but at a price different from the Issue Price or purchase Bonds subsequent to the initial public offering should consult their own tax advisors.

If a Bond is purchased at any time for a price that is less than the Bond's stated redemption price at maturity or, in the case of an OID Bond, its Issue Price plus accreted original issue discount reduced by payments of interest included in the computation of original issue discount and previously paid (the "Revised Issue Price"), the purchaser will be treated as having purchased a Bond with market discount subject to the market discount rules of the Code (unless a statutory de minimis rule applies). Accrued market discount is treated as taxable ordinary income and is recognized when a Bond is disposed of (to the extent such accrued discount does not exceed gain realized) or, at the purchaser's election, as it accrues. Such treatment would apply to any purchaser who purchases an OID Bond for a price that is less than its Revised Issue Price even if the purchase price exceeds par. The applicability of the market discount rules may adversely affect the liquidity or secondary market price of such Bond. Purchasers should consult their own tax advisors regarding the potential implications of market discount with respect to the Bonds.

An investor may purchase a Bond at a price in excess of its stated principal amount. Such excess is characterized for federal income tax purposes as "bond premium" and must be amortized by an investor on a constant yield basis over the remaining term of the Bond in a manner that takes into account potential call dates and call prices. An investor cannot deduct amortized bond premium relating to a tax exempt bond. The amortized bond premium is treated as a reduction in the tax exempt interest received. As bond premium is amortized, it reduces the investor's basis in the Bond. Investors who purchase a Bond at a premium should consult their own tax advisors regarding the amortization of bond premium and its effect on the Bond's basis for purposes of computing gain or loss in connection with the sale, exchange, redemption or early retirement of the Bond.

There are or may be pending in the Congress of the United States legislative proposals, including some that carry retroactive effective dates, that, if enacted, could alter or amend the federal tax matters referred to above or affect the market value of the Bonds. It cannot be predicted whether or in what form any such proposal might be enacted or whether, if enacted, it would apply to bonds issued prior to enactment. Prospective purchasers of the Bonds should consult their own tax advisors regarding any pending or proposed federal tax legislation. Bond Counsel expresses no opinion regarding any pending or proposed federal tax legislation.

The Internal Revenue Service (the "Service") has an ongoing program of auditing tax exempt obligations to determine whether, in the view of the Service, interest on such tax exempt obligations is includable in the gross income of the owners thereof for federal income tax purposes. It cannot be predicted whether or not the Service will commence an audit of the Bonds. If an audit is commenced, under current procedures the Service may treat the Authority as a taxpayer and the Bondholders may have no right to participate in such procedure. The commencement of an audit could adversely affect the market value and liquidity of the Bonds until the audit is concluded, regardless of the ultimate outcome.



Payments of interest on, and proceeds of the sale, redemption or maturity of, tax exempt obligations, including the Bonds, are in certain cases required to be reported to the Service. Additionally, backup withholding may apply to any such payments to any Bond owner who fails to provide an accurate Form W 9 Request for Taxpayer Identification Number and Certification, or a substantially identical form, or to any Bond owner who is notified by the Service of a failure to report any interest or dividends required to be shown on federal income tax returns. The reporting and backup withholding requirements do not affect the excludability of such interest from gross income for federal tax purposes.

~~The Bonds are issued to refund bonds issued before January 1, 2009, and therefore are treated as issued before 2009 for purposes of section 265(b)(7) of the Code relating to interest expense deductibility for financial institutions. The treatment of interest expense for financial institutions owning such Bonds may be less favorable than the treatment provided to owners of tax exempt bonds treated as issued in 2009 or 2010. Financial institutions should consult their tax advisors concerning such treatment.~~

In the further opinion of Bond Counsel, interest on the Bonds is exempt from California personal income taxes.

Ownership of the Bonds may result in other state and local tax consequences to certain taxpayers. Bond Counsel expresses no opinion regarding any such collateral consequences arising with respect to the Bonds. Prospective purchasers of the Bonds should consult their tax advisors regarding the applicability of any such state and local taxes.

#### **CERTAIN LEGAL MATTERS**

Legal matters incident to the authorization, issuance, sale and delivery by the Authority of the Bonds are subject to the approval as to their validity of Quint & Thimmig LLP, San Francisco, California, Bond Counsel. Bond Counsel undertakes no responsibility for the accuracy, completeness or fairness of this Official Statement. Certain legal matters will be passed upon for the City and the Authority by the City Attorney, and by Quint & Thimmig LLP, San Francisco, California, Disclosure Counsel. Certain compensation of Bond Counsel and Disclosure Counsel is contingent upon the issuance and delivery of the Bonds.

#### **FINANCIAL STATEMENTS**

The City's financial statements for the fiscal year ended June 30, 2009, included in APPENDIX B—AUDITED FINANCIAL STATEMENTS OF THE CITY FOR THE FISCAL YEAR ENDED JUNE 30, 2009, have been audited by Moss, Levy & Hartzheim, LLP, Certified Public Accountants & Consultants, Santa Maria, California, as stated in their reports appearing in such appendix. Moss, Levy & Hartzheim, LLP has not undertaken to update its reports or to take any action intended or likely to elicit information concerning the accuracy, completeness or fairness of the statements made in this Official Statement, and no opinion is expressed by Moss, Levy & Hartzheim, LLP with respect to any event subsequent to its report.

#### **LITIGATION**

To the best knowledge of the Authority and the City, except as otherwise disclosed in this Official Statement, there is no pending or threatened litigation concerning the validity of the Bonds or the pledge of the Revenues or challenging any action taken by the Authority or the City in connection with the authorization of the Indenture or the Lease Agreement, or any other

document relating to the Bonds or the defeasance and prepayment of the Bonds to which the Authority or the City is or is to become a party or the performance by the Authority or the City of any of their obligations under any of the foregoing.

## RATINGS

~~Moody's Investors Service ("Moody's") and Standard & Poor's Ratings Services ("S&P") have assigned its ratings of "\_\_\_\_" and "\_\_\_\_," respectively, to the Bonds. Such ratings reflects only the views of such organizations S&P and any desired explanation of the significance of such ratings should be obtained from the rating agency furnishing the same, S&P at the following addresses: Moody's Investors Service, Inc., 7 World Trade Center, 250 Greenwich Street, New York, New York 10007, and Standard & Poor's Ratings Services, 55 Water Street, New York, New York 10041. Generally, a rating agency bases its rating on the information and materials furnished to it and on investigations, studies and assumptions of its own. There is no assurance such ratings will continue for any given period of time or that such ratings will not be revised downward or withdrawn entirely by the rating agencies S&P, if in the judgment of the rating agencies S&P, circumstances so warrant. Any such downward revision or withdrawal of such ratings may have an adverse effect on the market price of the Bonds.~~

## UNDERWRITING

The Bonds are being purchased by Piper Jaffray & Co. (the "Underwriter"). The Underwriter has agreed to purchase the Bonds at a price of \$\_\_\_\_\_, which amount represents the principal amount of the Bonds of \$\_\_\_\_\_, less \$\_\_\_\_\_, representing the Underwriter's discount, plus \$\_\_\_\_\_, representing original issue premium. The contract of purchase pursuant to which the Bonds are being purchased by the Underwriter provides that the Underwriter will purchase all of the Bonds if any are purchased. The obligation of the Underwriter to make such purchase is subject to certain terms and conditions set forth in such contract of purchase. The Underwriter may offer and sell the Bonds to certain dealers and others at prices different from the prices stated on the inside cover page of this Official Statement. The offering prices may be changed from time to time by the Underwriter.

The Underwriter has entered into an agreement (the "Distribution Agreement") with Advisors Asset Management, Inc. ("AAM") for the distribution of certain municipal securities offerings allocated to the Underwriter at the original offering prices. Under the Distribution Agreement, if applicable to the Bonds, the Underwriter will share with AAM a portion of the fee or commission, exclusive of management fees, paid to the Underwriter.

## CONTINUING DISCLOSURE

The ultimate security for the payments of principal and interest on the Bonds comes from the Lease Payments to be made by the City and, therefore, the City, as an obligated person within the meaning of Rule 15c2-12 of the Securities and Exchange Commission (17 C.F.R. §240.15c-2-12) (the "Rule"), has agreed to undertake the disclosure responsibilities required by the Rule. The Authority has not undertaken to provide any continuing disclosure required by the Rule.

The City has covenanted to provide such annual financial statements and other information in the manner required by ~~the Rule 15c2-12 of the Securities and Exchange Commission (17 C.F.R. § 240.15c-2-12) (the "Rule")~~. These covenants have been made in order to assist the Underwriter in complying with the Rule. The City will execute a continuing disclosure



certificate (the “Continuing Disclosure Certificate”) for the benefit of the owners of the Bonds to provide certain financial information and operating data concerning the City to the Municipal Securities Rulemaking Board via its Electronic Municipal Market Access system of certain events, pursuant to the requirements of section (b)(5)(i) of Rule 15c2-12. See APPENDIX F—FORM OF CONTINUING DISCLOSURE CERTIFICATE for a description of the Continuing Disclosure Certificate. A failure by the City to provide any information required thereunder will not constitute an Event of Default under the Indenture or the Lease Agreement. The City has never failed to comply with any previous undertakings with regard to said Rule to provide annual reports or notices of material events.

### ADDITIONAL INFORMATION

Summaries and explanations of the Bonds and documents contained in this Official Statement do not purport to be complete, and reference is made to such documents for full and complete statements of their provisions.

The preparation and distribution of this Official Statement have been authorized by the Authority and the City.

ATASCADERO PUBLIC FINANCING  
AUTHORITY

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

CITY OF ATASCADERO

By \_\_\_\_\_  
City Manager

## APPENDIX A

### GENERAL, ECONOMIC AND DEMOGRAPHIC INFORMATION RELATING TO THE CITY

*The following information relating to the City of Atascadero and San Luis Obispo County, California, is supplied solely for purposes of information. Neither the City nor the County is obligated in any manner to pay principal of or interest on the Bonds or to cure any delinquency or default on the Bonds. The Bonds are payable solely from the Tax Revenues and other moneys as described in the Official Statement. The Project Area is located within the boundaries of the City.*

#### Location and Background Information

The City of Atascadero (the "City") is located 17 miles inland from the Pacific coast and is midway between Los Angeles and San Francisco on Highway 101, about 220 miles from each city.

The City was founded as California's first planned community in 1913 by E.G. Lewis and was incorporated in 1979. Atascadero is strategically located approximately 20 miles north of San Luis Obispo, benefiting from the nearby urban support while taking in the serenity of the local environment.

#### Organization

The City is governed by a five-member City Council elected at large with four-year alternating terms. The Mayor is elected directly by the voters. Additionally, the positions of City Clerk, City Treasurer, City Manager and City Attorney are filled by appointments of the City Council.

The members of the City Council, the expiration dates of their terms and key administrative personnel are set forth in the charts below.

#### CITY COUNCIL

<u>Council Member</u>	<u>Term Expires</u>
Roberta Fonzi, <i>Mayor</i>	November 2012
Tom O'Malley, <i>Mayor Pro Tem</i>	November 2010
Jerry Clay, Sr., <i>Member</i>	November 2012
Bob Kelley, <i>Member</i>	November 2012
Ellen Beraud, <i>Member</i>	November 2010

#### KEY ADMINISTRATIVE PERSONNEL

Wade G. McKinney	City Manager
James R. Lewis	<u>Assistant</u> City Manager
Rachelle Rickard	Administrative Services Director
Warren Frace	Community Development Director
Marcia McClure Torgerson	City Clerk
Brian Pierik, Esq.	City Attorney

#### Labor Relations

The City has 113 permanent, full-time employees. The City, pursuant to section 3500 of the California Government Code, provides for a meet-and-confer process with the City employees, individually or collectively, in order to negotiate on matters of wages, hours and working conditions. Matters involving merits, necessity or organization of any service or activity provided by law are excluded from this process. ~~The City currently has collective bargaining agreements with its police, fire and service employees. Each contract will expire on June 30, \_\_\_\_.~~ The City has never experienced work stoppages.

## Population

The following table provides a comparison of population growth for Atascadero and San Luis Obispo County between 2000 and 2010.

### Population City of Atascadero and San Luis Obispo County 2000-2010

Year	City of Atascadero	San Luis Obispo County
2000	26,411	246,681
2001	26,728	250,329
2002	27,025	253,824
2003	27,380	256,190
2004	27,767	258,902
2005	27,700	261,699
2006	27,700	263,939
2007	27,731	266,043
2008	27,899	268,636
2009	28,514	270,901
2010	28,488	273,231

Source: State of California Department of Finance, Population Research Unit, "Population Estimates for California Cities and Counties."

## Income

The following table is based on effective buying income as reported in the annual publication "Survey of Buying Power" published by *Sales and Marketing Management Magazine*. Effective buying income is defined as money income less personal tax and nontax payments. Money income is the aggregate of wages and salaries, net farm and nonfarm self employment income, interest, dividends, net rental and royalty income, Social Security and railroad retirement income, other retirement and disability income, public assistance income, unemployment compensation, Veterans Administration payments, alimony and child support, military family allotments, net winnings from gambling, and other periodic income. Deductions are then made for personal income taxes (federal, state and local), personal contributions for social insurance and taxes on owner-occupied nonbusiness real estate.

A yearly comparison of effective buying income and median household income totals for the City, County, the State and the nation is presented in the following table.

**CITY OF ATASCADERO, SAN LUIS OBISPO COUNTY,  
STATE OF CALIFORNIA AND UNITED STATES  
Median Household Effective Buying Income  
For Years 2004 through 2008  
(in Thousands)**

Year	City of Atascadero	San Luis Obispo County	State of California	United States
2004	\$45,606	\$41,156	\$43,915	\$39,324
2005	46,449	42,148	44,681	40,529
2006	48,157	43,514	46,275	41,255
2007	48,782	44,379	48,203	41,792
2008	51,689	46,758	48,952	42,303

Source: "Survey of Buying Power," Sales and Marketing Management Magazine (2004); Nielsen Claritas, Inc. (2005-2008)

NOTE: In 2005, Sales and Marketing Management ceased publishing the "Survey of Buying Power" report; however, subsequent years' data has been obtained from Nielsen Claritas, Inc., who had previously prepared the data each year for the "Survey of Buying Power."

### Commercial Activity

Taxable transactions by type of business for the City of Atascadero for 2004 through 2008 are summarized in the table below.

**CITY OF ATASCADERO  
Taxable Transactions by Type of Business  
(in Thousands)  
2004-2008**

	2004	2005	2006	2007	2008 (1)
Retail Stores					
Apparel Stores	\$ 8,183	\$ 6,627	\$ 4,326	\$ 3,688	\$ 2,597
General Merchandise Stores	22,578	23,354	24,163	24,636	23,320
Food Stores	24,390	29,648	31,040	32,056	32,270
Eating/Drinking Places	27,410	28,146	28,902	28,728	28,524
Home Furnishings/Appliances	12,654	13,464	13,332	12,689	10,173
Building Materials/Farm Implements	79,299	76,172	73,775	66,052	55,403
Auto Dealers/Suppliers	48,992	49,887	43,421	41,404	27,700
Service Stations	30,652	34,536	37,478	39,344	41,760
Other Retail Stores	36,021	44,366	47,346	33,959	28,292
Total Retail Stores	290,179	306,200	343,783	282,556	250,039
All Other Outlets	42,741	45,338	45,432	43,002	45,727
Total All Outlets	<u>\$332,920</u>	<u>\$351,538</u>	<u>\$349,215</u>	<u>\$325,558</u>	<u>\$295,766</u>

Source: State Board of Equalization, "Taxable Sales in California," published annually in November for prior year.

(1) Latest available full-year data.

### Employment

The economic base of the City has been oriented to service positions including staff at Cuesta Community College, California Polytechnic University at San Luis Obispo, Atascadero State Hospital and California Men's Colony. The unemployment rate has been historically low, but there has been significant out migration due to the lack of jobs. The work force has been relatively skilled and dependable.

As of April, 2010, unemployment in the City was 8.2%, while the County figure was 10.0%, both of which are less than the state average of 12.3% for the same period. The following table sets forth labor force, employment and unemployment for the period from 2005 to 2009, in the City, the County, the State and the United States:

**ATASCADERO LABOR MARKET**  
**Labor Force, Employment and Unemployment**  
**Annual Average**

Year and Area	Civilian Labor Force	Civilian Employment	Unemployment	Unemployment Rate (%)
<i>2005</i>				
City of Atascadero				
San Luis Obispo County				
California	17,544,800	16,592,200	952,600	5.4
United States	149,320,000	141,730,000	7,591,000	5.1
<i>2006</i>				
City of Atascadero				
San Luis Obispo County				
California	17,718,500	16,851,600	866,900	4.9
United States	151,427,583	144,427,000	7,000,583	4.6
<i>2007</i>				
City of Atascadero				
San Luis Obispo County				
California	17,970,800	17,011,000	959,800	5.3
United States	153,124,000	146,047,000	7,078,000	4.6
<i>2008</i>				
City of Atascadero	15,400	14,600	700	4.7%
San Luis Obispo County	137,200	129,400	7,800	5.7
California	18,251,600	16,938,300	1,313,200	7.2
United States	154,287,000	145,362,000	8,924,000	5.8
<i>2009</i>				
City of Atascadero	15,300	14,200	1,100	7.4%
San Luis Obispo County	137,600	125,300	12,300	9.0
California	18,250,200	16,163,900	2,086,200	11.4
United States	154,142,000	139,877,000	14,265,000	9.3

Source: California Employment Development Department; United States Department of Labor.

Wage and salary employment by industry for San Luis Obispo County is shown below. Data are not compiled separately for the City.

**SAN LUIS OBISPO COUNTY  
Industry Employment & Labor Force  
Annual Averages (In Thousands)**

	2005	2006	2007	2008	2009
Agricultural	4,300	4,300	4,500	4,400	3,900
Natural Resources, Mining and Construction	7,800	8,200	7,600	6,600	5,300
Manufacturing	6,400	6,300	6,100	6,200	5,500
Trade, Transportation & Utilities	20,100	20,800	20,900	20,300	19,000
Wholesale Trade	2,500	2,600	2,700	2,600	2,400
Retail Trade	13,900	14,300	14,200	13,800	12,800
Information	1,600	1,500	1,400	1,400	1,300
Financial Activities	4,800	4,900	4,600	4,200	4,000
Professional & Business Services	8,900	9,500	9,800	9,700	8,900
Educational & Health Services	10,800	10,800	11,100	11,400	11,300
Leisure & Hospitality	14,900	15,000	15,700	15,400	14,900
Other Services	4,300	4,300	4,500	4,500	4,500
Government	21,800	22,200	22,300	23,300	23,600
<b>TOTAL</b>	<b>105,600</b>	<b>107,600</b>	<b>108,500</b>	<b>107,400</b>	<b>102,200</b>

Source: State of California Employment Development Department Labor Market Information Division.

(1) "Total" may not be precise due to independent rounding.

**SAN LUIS OBISPO COUNTY  
Principal Employers  
as of —**

<u>Employer Name</u>	<u>Location</u>	<u>Industry</u>
----------------------	-----------------	-----------------

Source: State of California Employment Development Department Labor Market Information Division. This list of major employers was developed using the 2002 America's Labor Market Information System (ALMIS) Employer Database from infoUSA and is sorted in alphabetical order by company name. The industry shown is based upon the Standard Industrial Classification

## Construction Activity

The following charts summarize building activity valuations for the City of Atascadero for the five-year period from 2005 through 2009.

<b>CITY OF ATASCADERO</b>					
<b>Building Activity and Valuation</b>					
<b>(Valuation in Thousands of Dollars)</b>					
	2005	2006	2007	2008	2009
<b>Residential:</b>					
New Single-Family	\$43,229	\$33,800	\$17,090	\$ 4,467	\$ 1,856
New Multi-Family	6,593	8,005	6,310	0	0
Additions, alterations	5,127	3,020	3,142	2,638	1,578
<b>Total Residential</b>	<b>54,950</b>	<b>44,825</b>	<b>26,542</b>	<b>7,105</b>	<b>3,434</b>
<b>Commercial:</b>					
New Commercial	753	3,720	4,415	683	3,956
New Industrial	0	0	0	0	0
Other	2,259	2,814	1,268	863	8,147
Additions, alterations	15,826	2,876	4,463	2,617	2,089
<b>Total Nonresidential</b>	<b>4,836</b>	<b>9,409</b>	<b>10,146</b>	<b>4,163</b>	<b>6,859</b>
<b>Total Valuation</b>	<b>\$59,788</b>	<b>\$54,234</b>	<b>\$36,687</b>	<b>\$11,269</b>	<b>\$12,048</b>
<b>No. of New Dwelling Units:</b>					
Single-Dwelling	216	184	98	21	15
Multi-Dwelling	69	64	42	0	0
<b>Total New Units</b>	<b>285</b>	<b>248</b>	<b>140</b>	<b>21</b>	<b>15</b>

Source: Construction Industry Research Board, "Building Permit Summary."

Note: Totals may not add due to independent rounding.

## Utilities

Water is supplied to the City by the Atascadero Mutual Water Company. Electricity is provided by Pacific Gas & Electric, while Southern California Gas Company provides natural gas. Telephone service is provided by SBC. The Wastewater Division of the City maintains a 2.39 million gallon-per-day treatment facility, over 40 miles of pipeline and 13 wastewater-pumping stations.

## Transportation

Transportation modes in the Atascadero area provide for close proximity to major markets and raw material locations. Products can be moved by rail, air and ground transportation.

Highway 101 bisects the City in a north/south route connecting northern and southern California. Highway 46 is located 10 miles north and provides an easy connection to Interstate 5. Highway 41 bisects the City in an east/west direction providing access to the coast.

The San Luis Obispo Airport is located 20 minutes south, supporting commercial and commuter air travel. The Paso Robles Airport is located 10 miles north and is developing into a transportation hub. Rail service is easily accessible via both Southern Pacific and Amtrak routes.

Atascadero Transit provides both demand response door-to-door service and efficient hourly fixed route service along the El Camino Real corridor including Twin Cities Community Hospital and medical facilities in nearby Templeton.



## **Education**

Primary and high school education in the City is provided by the Atascadero Unified School District. Within the city limits there are six public elementary schools, one junior high school and one high school. In addition, the school district maintains a fine arts academy and provides opportunities for alternative and continuing education in various settings.

Cuesta Community College, with an annual enrollment of more than 8,000 students, is 20 minutes from the City and provides a wide variety of vocational, technical and undergraduate preparation programs. The College has recently opened a north county campus only minutes from Atascadero.

California Polytechnic University at San Luis Obispo is located approximately 20 minutes from the City. The University provides Bachelor and Master degree programs to more than 16,000 students annually.

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**APPENDIX B**

**AUDITED FINANCIAL STATEMENTS OF THE CITY  
FOR THE FISCAL YEAR ENDED JUNE 30, 2009**

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**CITY INVESTMENT POLICY**

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# **City of Atascadero**

## **Investment Policy**

**Dated February 23, 2010**



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# I. OVERVIEW

## INTRODUCTION

The purpose of this document is to provide guidelines for the prudent investment of funds not required for the immediate needs of the City, and outline policies for maximizing the efficiency of the City's cash management system. The ultimate goal is to enhance the economic status of the City while protecting its pooled cash.

## SCOPE

Included in the scope of the City's investment policy are the following major guidelines and practices, which are to be used in achieving the City's primary investment objectives:

- Investment Authority and Responsibilities
- Eligible Financial Institutions
- Authorized Investments
- Investment Parameters
- Cash Management
- Evaluation of Investment Performance
- Investment Reporting
- Investment Policy Review and Adoption

It is intended that this policy cover all funds and investment activities under the direct authority of the City. These funds are accounted for in the Annual Financial Report and include the general fund, special revenue funds, debt service funds, capital project funds, enterprise funds, internal service funds and agency funds, including any Redevelopment Agency funds in the City's pooled cash funds.

Subject to the prior written consent and approval of the City Treasurer and City Manager, financial assets held and invested by trustees or fiscal agents are excluded from this policy. However, such assets are nevertheless subject to the regulations established by the State of California pertaining to investments by local agencies as well as the related bond indentures.

## **I. OVERVIEW (continued)**

### **GENERAL OBJECTIVES**

The primary objectives, in priority order, of investment activities shall be safety, liquidity, and yield:

1. *Safety*

Safety of principal is the foremost objective of the investment program. Investments shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. The objective will be to mitigate credit risk and interest rate risk.

a. Credit Risk

The City will minimize credit risk, the risk of loss due to the failure of the security issuer or backer, by:

- Limiting investments to the safest types of securities.
- Pre-qualifying the financial institutions, broker/dealers, intermediaries, and advisers with which the City will do business.
- Diversifying the investment portfolio so that potential losses on individual securities will be minimized.

b. Interest Rate Risk

The City will minimize the risk that the market value of securities in the portfolio will fall due to changes in general interest rates, by:

- Structuring the investment portfolio so that securities mature to meet cash requirements for ongoing operations, thereby avoiding the need to sell securities on the open market prior to maturity.
- Investing operating funds primarily in shorter-term securities, money market mutual funds, or similar investment pools.

2. *Liquidity*

The investment portfolio shall remain sufficiently liquid to meet all operating requirements that may be reasonably anticipated. This is accomplished by structuring the portfolio so that securities mature concurrent with cash needs to meet anticipated demands (static liquidity). Furthermore, since all possible cash demands cannot be anticipated, the portfolio should consist largely of securities with active secondary or resale markets (dynamic liquidity). A portion of the portfolio will also be placed in money market mutual funds or local government investment pools, which offer same-day liquidity for short-term funds.

## I. OVERVIEW (continued)

### GENERAL OBJECTIVES (continued)

#### 3. *Yield*

The investment portfolio shall be designed with the objective of attaining a market rate of return throughout budgetary and economic cycles, taking into account the investment risk constraints and liquidity needs. Return on investment is of secondary importance compared to the safety and liquidity objectives described above. The core of investments is limited to relatively low risk securities in anticipation of earning a fair return relative to the risk being assumed. For purposes of comparing alternative investments all yields should be converted to a "money market" equivalent yield. Securities shall not be sold prior to maturity with the following exceptions:

- a. A security with declining credit may be sold early to minimize loss of principal.
- b. A security swap would improve the quality, yield, or target duration in the portfolio.
- c. Liquidity needs of the portfolio require that the security be sold.
- d. A capital gain would be realized that better positions the overall portfolio in achieving investment policy goals.

### STANDARDS OF CARE

The City operates its pooled idle cash investments under the "Prudent Person Rule" which obligates a fiduciary to ensure that investments shall be made:

*"using the judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital". (Uniform Prudent Investor Act)*

Investment officers acting in accordance with written procedures and this investment policy and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported in a timely fashion and the liquidity and the sale of securities are carried out in accordance with the terms of this policy.

## **II. INVESTMENT AUTHORITY AND RESPONSIBILITIES**

### **AUTHORIZED INVESTMENT OFFICERS**

The ultimate responsibility for investment activity shall reside with the City Council. Idle cash management and investment transactions are the responsibility of the City Treasurer or designee. The City Council has authorized the following officials to undertake investment transactions on behalf of the City:

City Treasurer  
City Manager  
Director of Administrative Services

It is the policy of the City for the Director of Administrative Services to manage the investment activity of the funds of the City. The City Manager and the City Treasurer shall supervise the activities of the Director of Administrative Services.

The Finance Review Committee, , shall meet to discuss the status of current investments, strategies for future investment, and other investment matters deemed relevant, and shall report to the City Council as necessary. The City Attorney shall, as required by Government Code section 36518, review the bonding requirement for the City Treasurer on an annual basis.

### **INVESTMENT PROCEDURES**

The authorized investment officers as stated above, in accordance with the City of Atascadero Investment Policy, are responsible for administering an investment program which:

- Adheres to the Statement of Investment Policy
- Prioritizes safety and liquidity
- Determines risk and optimizes return
- Provides for a system of due diligence in making investment decisions.

### **INTERNAL CONTROL**

The Director of Administrative Services is responsible for establishing and maintaining an internal control structure designed to ensure that the assets of the City are protected from loss, theft or misuse. The internal control structure shall be designed to provide reasonable assurance that these objectives are met. The concept of reasonable assurance recognizes that (1) the cost of a control should not exceed the benefits likely to be derived and (2) the valuation of costs and benefits requires estimates and judgments by management.



## **II. INVESTMENT AUTHORITY AND RESPONSIBILITIES (continued)**

### **INTERNAL CONTROL (continued)**

Accordingly, the Director of Administrative Services shall establish a process for an annual independent review by an external auditor to assure compliance with policies and procedures. The internal controls shall address the following points:

- Control of collusion
- Separation of transaction authority from accounting and record keeping
- Custodial safekeeping
- Avoidance of physical delivery securities
- Clear delegation of authority to subordinate staff members
- Written confirmation of transactions for investments and wire transfers
- Development of a wire transfer agreement with the lead bank and third party custodian

### **STATE OVERSIGHT**

The City shall comply with the regulations established by the State of California pertaining to investments.

### **CONFLICTS OF INTEREST**

The City adopts the following policy concerning conflicts of interest:

1. Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program or which could impair their ability to make impartial investment decisions.
2. Officers and employees involved in the investment process shall disclose to the City Clerk any material financial interest in financial institutions that conduct business with the City of Atascadero and they shall further disclose any large personal financial/investment positions that could be related to the performance of the City's portfolio.
3. Officers shall refrain from undertaking personal investment transactions with the same individual with which business is conducted on behalf of the City.
4. In making investment decisions, the Investment Officers shall be guided by the recommendations of the finance committee and avoid the undue influence of individual City officers and officials.
5. Investments are prohibited in certificates of deposit of state or federal credit unions if any city officer, city manager or city fiscal officer serves on the credit union board or in any key committee positions.

**II. INVESTMENT AUTHORITY AND RESPONSIBILITIES** (continued)

### **III. ELIGIBLE FINANCIAL INSTITUTIONS**

#### **SELECTION OF ELIGIBLE FINANCIAL INSTITUTIONS**

All financial institutions and broker/dealers and safekeeping/custodial agents who desire to become qualified for investment transactions must provide the following documents (as appropriate) for annual review by the City Treasurer:

- Audited financial statements
- Proof of National Association of Securities Dealers (NASD) certification
- Proof of state registration
- Completed broker/dealer questionnaire
- Certification of having read and understood and agreeing to comply with the City's investment policy.

In selecting financial institutions for deposit or investment of funds, the authorized Investment Officers shall consider the credit-worthiness of the institution.

- Deposits The City will only deposit funds with an institution that has a rating of at least "A" as assigned by an established rating service based on quarterly financial information provided by the Federal Reserve Board and the Federal Home Loan Bank Board (i.e., The Financial Directory). Ratings will be monitored on a quarterly basis and any downgrade in rating below "A" will be reported to the Finance Review Committee together with a recommendation for possible action.
- Brokers/Dealer Investments must be purchased directly from the issuer, from an institution licensed by the state as a broker-dealer, from a member of a federally regulated securities exchange, or from a brokerage firm designated as a primary government dealer by the Federal Reserve Bank. Broker/dealers shall be selected by creditworthiness (e.g., a minimum capital requirement of \$10,000,000 and at least five years of operation).
- Safekeeping and Custodial Institutions Safekeeping and custodial institutions shall be selected on the basis of credit worthiness with a minimum of capitalization of \$100,000,000 and at least 5 years of operation. Safekeeping and custodial institutions must be fiduciaries of the City and independent of any broker/dealers. All safekeeping and custodial arrangements shall require written agreements. All safekeeping and custodial agreements shall be reviewed by the City Treasurer and Director of Administrative Services and approved by the City Attorney prior to conducting any investment activities.

From time to time, the investment officer may choose to invest in instruments offered by minority and community financial institutions. In such situations, a waiver to the above criteria may be granted. All terms and relationships will be fully disclosed prior to purchase and will be reported to the appropriate entity on a consistent basis and should be consistent with state or local law. These types of investment purchases should be approved by City Council in advance.

### **III. ELIGIBLE FINANCIAL INSTITUTIONS (continued)**

#### **SELECTION OF ELIGIBLE FINANCIAL INSTITUTIONS (continued)**

The authorized Investment Officers will maintain a file of the broker/dealers and authorized safekeeping/custodial institutions with which it is currently doing business which will include the firm name, contact person, telephone number, and current audited financial statements.

#### **SAFEKEEPING AND CUSTODY**

All trades where applicable will be executed by delivery vs. payment (DVP) to ensure that securities are deposited in an eligible financial institution prior to the release of funds. A third-party custodian as evidenced by safekeeping receipts will hold securities.

## **IV. AUTHORIZED INVESTMENTS**

### **INVESTMENT TYPES**

The California Government Code Sections 16429.1 and 53601 govern investment of City funds. Investments may not have a term or maturity at the time of investment of longer than that authorized by Section 53601 or five years unless the City Council has granted prior express authority.

As previously stated, the City operates its investments under the prudent man rule (Civil Code Section 2261, et. seq.), except where more specifically restricted. This affords the City a broad spectrum of investments, so long as the investment is deemed prudent and is allowable under current legislation of the State of California (government Code Section 53600, et. seq.) and applicable City trust agreements, if any.

It should be noted that while the Government Code specifies the maximum percentage of the portfolio that may be held in each type of investment at any one time, fluctuations in the portfolio balance will prevent strict adherence to such restrictions. Therefore, percentage limitations shall apply to investments at the time of purchase.

Consistent with the GFOA Policy Statement on State and Local Laws Concerning Investment Practices, the following investments will be permitted by this policy and are those defined by state and local law where applicable:

**1. State Treasurer's Local Agency Investment Fund (LAIF)**

Government Code Section 16429.1: The City may invest in the Local Agency Investment Fund. LAIF is a diversified investment pool administered by the California State Treasurer. Monies invested with LAIF are pooled with State monies in order to earn the maximum rate of return consistent with safe and prudent treasury management.

The LAIF handbook including LAIF policies and restrictions shall be available in the City's Administrative Services Department. A thorough investigation of the pool is required on a continual basis. (See Due Diligence Requirement on page 10.)

**2. U.S. Government Issues**

Government Code Sections 53601 (b) and (f): A maximum forty percent (40%) of the City's portfolio may be invested in U.S. government obligations, U.S. government agency obligations, and U.S. government instrumentality obligations, which have a liquid market with a readily determinable market value.

**3. Bankers Acceptances**

Government Code Section 53601 (g): Up to forty percent (40%) of the City's portfolio may be invested in Bankers Acceptances which are defined as bills of exchange or time drafts, drawn on and accepted by a commercial

## **IV. AUTHORIZED INVESTMENTS (continued)**

### **INVESTMENT TYPES (continued)**

#### **3. Bankers Acceptances (continued)**

bank, which are eligible for purchase by the Federal Reserve System, although no more than thirty percent (30%) of the portfolio may be invested in Bankers Acceptances with any one commercial bank. Additionally, the maturity periods cannot exceed 180 days.

#### **4. Commercial Paper**

Government Code Section 53601 (h): A maximum of twenty five percent (25%) of the City's portfolio may be invested in highest tier (e.g. A-1, P-1, F-1 or D-1 or higher) commercial paper as rated by Moody's or Standard and Poor's rating service. Issuing corporations must be organized and operating in the United States, have in excess of \$500 million total assets, and have at least an "A" rating (by Moody's or Standard and Poor's) on debt other than commercial paper. The maturity period cannot exceed 270 days. Purchases of eligible commercial paper may not exceed ten percent (10%) of the outstanding paper of an issuing corporation.

#### **5. Certificates of Deposit and Passbook Savings Accounts**

Government Code Section 53601 (i): There is no limit as to the amount of the investment portfolio that may be deposited in certificates of deposit or passbook savings account. The minimum requirements for Certificate of Deposit investments shall be:

- Investments and accrued interest shall never exceed the FDIC insurance limit in any one institution.
- Qualified institutions must have a minimum equity ratio of 6% and a minimum capitalization of \$10,000,000.

Purchases of negotiable certificates of deposit, issued by a nationally or state-chartered bank or a state or federal association, or by a state licensed branch of a foreign bank, may not exceed 30 percent of the agency's surplus money, which may be invested pursuant to this section. Negotiable certificates of deposit may be purchased in the secondary market at a discounted but never at a premium, since the premium would not be FDIC insured.

California law requires that public funds be collateralized by maintaining with the agent of the depository government securities having a market value of at least one hundred ten percent (110%) of the value of the public fund accounts. The collateralization requirement may be waived to the extent that funds are federally insured. For deposits equivalent to the maximum insured amount, security may also be waived for interest accrued on the deposit provided the interest is computed by the depository on the average daily balance of the deposits, paid monthly and computed on a 360-day basis.

## **IV. AUTHORIZED INVESTMENTS (continued)**

### **INVESTMENT TYPES (continued)**

#### **6. Money Market Mutual Funds**

Government Code Section 53601 (l): Shares of beneficial interest issued by diversified management companies that are money market funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. Sec 80a-1 et seq.) shall not exceed twenty percent (20%) of the agency's surplus money that may be invested pursuant to this section. The fund shall be managed by a registered or exempt investment advisor with not less than 5 years experience managing money market mutual funds with assets under management in excess of five hundred million dollars (\$5,000,000). The fund shall have attained the highest ranking or the highest letter and numerical rating provided by not less than two nationally recognized statistical rating organizations. No more than ten percent (10%) of the agency's surplus funds may be invested in shares of beneficial interest of any one money market mutual fund

### **DUE DILIGENCE REQUIREMENT**

As stated, a thorough investigation of an investment pool or mutual fund is required prior to investing and on a continual basis. At a minimum, the following information shall be reviewed annually for each pool and/or mutual fund:

1. A description of eligible investment securities, and a written statement of investment policy and objectives.
2. A description of interest calculations, how interest is distributed, and how gains and losses are treated.
3. A description of how these securities are safeguarded (including the settlement process), and how often these securities are priced and the program audited.
4. A description of who may invest in the program, how often, and the size of deposits and withdrawals.
5. A schedule for receiving statements and portfolio listings.
6. Whether reserves, retained earnings, etc. are utilized by the pool/fund.
7. A fee schedule, and when and how fees are assessed.
8. Whether the pool/fund is eligible for bond proceeds and/or will it accept such proceeds.

### **PROHIBITED INVESTMENTS**

The City of Atascadero shall not invest in any investment instrument/pool/fund unless specifically allowed under the "Investment Types" section of this policy.



## **IV. AUTHORIZED INVESTMENTS (continued)**

### **PROHIBITED INVESTMENTS (continued)**

The City of Atascadero shall comply with Government Code Section 53601.6 that states in pertinent part, “(a) A local agency shall not invest any funds pursuant to this article in inverse floaters, range notes, or mortgage-derived interest-only strips. (b) A local agency shall not invest any funds pursuant to this article in any security that could result in zero interest accrual if held to maturity.”

### **LEGISLATIVE CHANGES**

Any State of California legislative action that further restricts allowable maturities, investment types or percentage allocations will be incorporated into the City of Atascadero Investment Policy and supersede any and all previous applicable language. If the City is holding an investment that is subsequently prohibited by a legislative change, the City may hold that investment, if it is deemed prudent by the Finance Review Committee, until the maturity date to avoid an unnecessary loss.

## **V. INVESTMENT PARAMETERS**

### **DIVERSIFICATION**

The investments shall be diversified by:

- Limiting investments to avoid over concentration in securities from a specific issuer or business sector (excluding Local Agency Investment Fund and U.S. Treasury securities),
- Limiting investment in securities that have higher credit risks,
- Investing in securities with varying maturities, and
- Continuously investing a portion of the portfolio in readily available funds such as local government investment pools (LAIF), or money market funds to ensure that appropriate liquidity is maintained in order to meet ongoing obligations.

### **MAXIMUM MATURITIES**

In order to minimize the impact of market risk, it is intended that all investments will be held to maturity.

To the extent possible, the City shall attempt to match its investments with anticipated cash flow requirements. Unless matched to a specific cash flow, the City will not directly invest in securities maturing more than five (5) years from the date of purchase or in accordance with state and local statutes and ordinances. The City Finance Committee shall meet to review weighted average maturity limitations (which often range from 90 days to 2 years), consistent with investment objectives and economic conditions.

Investments may be sold prior to maturity for cash flow, appreciation purposes or in order to limit losses; however, no investment shall be made based solely on earnings anticipated from capital gains.

Because of inherent difficulties in accurately forecasting cash flow requirements, a portion of the portfolio should be continuously invested in readily available funds.

## **VI. CASH MANAGEMENT**

In order to obtain a reasonable return on public funds, the following cash management practice will be followed:

1. Maintain maximum investment of all City funds not required to meet immediate cash flow needs.
2. Except for cash in certain restricted and special funds, the City will consolidate cash balances from all funds to maximize investment earnings. Investment income will be allocated to the various funds based on their respective participation and in accordance with generally accepted accounting principles.
3. Maximize the City's cash flow through immediate deposit of all receipts, use of direct deposit when available, and appropriate timing of payment to vendors.
4. Maximize cash flow information available through the use of only one operating bank account.
5. Daily cash flow management shall be the responsibility of the Director of Administrative Services in conjunction with the City Treasurer.

## **VII. EVALUATION OF INVESTMENT PERFORMANCE**

The investment portfolio will be designed to obtain a market average rate of return during budgetary and economic cycles, taking into account the City's investment risk constraints and cash flow needs.

### **BENCHMARK COMPARISON**

The investment portfolio shall be structured to optimize the return given the risk constraints and cash flow needs.

Investment performance shall be continually monitored and evaluated by the Finance Review Committee. Investment performance statistics and activity reports shall be generated on a monthly basis for presentation to the City Council.

In evaluating the performance of the City's portfolio in complying with this policy, it is expected that yields on City investments will regularly meet or exceed the average return on a two-year U.S. Treasury Note. However, the Finance Review Committee for evaluation purposes considers a variance of .5% positive or negative from the benchmark reasonable.

## **VIII. INVESTMENT REPORTING**

### **REPORTS TO CITY COUNCIL**

The City Treasurer shall prepare and submit a quarterly investment report to the City Council. This report will include the following elements relative to the investments held at quarter-end.

1. Face value.
2. Security description.
3. Coupon rate.
4. Maturity date.
5. Investment rating.
6. Investment type.
7. Purchase date.
8. Cost of security.
9. Yield-to-Maturity
10. Estimated market value.
11. Amortized premium/discount.
12. Unrealized Gain <Loss>.
13. Listing of investment by maturity.
14. Gains or Losses on the sale of securities not held to maturity.
15. Bank failures.
16. Investment ratings downgraded by Moody's or Standard and Poor's.
17. Statement relating the report to the Statement of Investment Policy.
18. Statement that there are sufficient funds to meet the next six months' obligations.

## **IX. INVESTMENT POLICY REVIEW AND ADOPTION**

The Statement of Investment Policy shall be submitted annually to the City Council for adoption. The policy shall be reviewed at least annually to ensure its consistency with the overall objectives of the City and its relevance to current law and financial and economic trends. Any modifications made thereto must be approved by the City Council.

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## **APPENDIX: Glossary**

The following is a glossary\* of key investing terms, many of which appear in GFOA'S Sample Investment Policy.

**Accrued Interest** - The accumulated interest due on a bond as of the last interest payment made by the issuer.

**Agency** - A debt security issued by a federal or federally sponsored agency. Federal agencies are backed by the full faith and credit of the U.S. Government. Federally sponsored agencies (FSAs) are backed by each particular agency with a market perception that there is an implicit government guarantee. An example of federal agency is the Government National Mortgage Association (GNMA). An example of a FSA is the Federal National Mortgage Association (FNMA).

**Amortization** - The systematic reduction of the amount owed on a debt issue through periodic payments of principal.

**Average Life** - The average length of time that an issue of serial bonds and/or term bonds with a mandatory sinking fund feature is expected to be outstanding.

**Basis Point** - A unit of measurement used in the valuation of fixed-income securities equal to 1/100 of 1 percent of yield, e.g., "1/4" of 1 percent is equal to 25 basis points.

**Bid** - The indicated price at which a buyer is willing to purchase a security or commodity.

**Book Value** - The value at which a security is carried on the inventory lists or other financial records of an investor. The book value may differ significantly from the security's current value in the market.

**Callable Bond** - A bond issue in which all or part of its outstanding principal amount may be redeemed before maturity by the issuer under specified conditions.

**Call Price** - The price at which an issuer may redeem a bond prior to maturity. The price is usually at a slight premium to the bond's original issue price to compensate the holder for loss of income and ownership.

**Call Risk** - The risk to a bondholder that a bond may be redeemed prior to maturity.

**Cash Sale/Purchase** - A transaction that calls for delivery and payment of securities on the same day that the transaction is initiated.

\*This glossary has been adapted from an article, entitled "Investment terms for everyday use," that appeared in the April 5, 1996, issue of *Public Investor*, GFOA's subscription investment newsletter.

**Cash Sale/Purchase** - A transaction that calls for delivery and payment of securities on the same day that the transaction is initiated.

**Collateralization** - Process by which a borrower pledges securities, property, or other deposits for the purpose of securing the repayment of a loan and/or security.

**Commercial Paper** - An unsecured short-term promissory note issued by corporations, with maturities ranging from 2 to 365 days.

**Convexity** - A measure of a bond's price sensitivity to changing interest rates. A high convexity indicates greater sensitivity of a bond's price to interest rate changes.

**Coupon Rate** - The annual rate of interest received by an investor from the issuer of certain types of fixed-income securities. Also known as the "interest rate".

**Credit Quality** - The measurement of the financial strength of a bond issuer. This measurement helps an investor to understand an issuer's ability to make timely interest payments and repay the loan principal upon maturity. Generally, the higher the credit quality of a bond issuer, the lower the interest rate paid by the issuer because the risk of default is lower. Credit quality ratings are provided by nationally recognized rating agencies.

**Credit Risk** - The risk to an investor that an issuer will default in the payment of interest and/or principal on a security.

**Current Yield (Current Return)** - A yield calculation determined by dividing the annual interest received on a security by the current market price of that security.

**Delivery Versus Payment (DVP)** - A type of securities transaction in which the purchaser pays for the securities when they are delivered either to the purchaser or his/her custodian.

**Derivative Security** - Financial instrument created from, or whose value depends upon, one or more underlying assets or indexes of asset values.

**Discount** - The amount by which the par value of a security exceeds the price paid for the security.

**Diversification** - A process of investing assets among a range of security types by sector, maturity, and quality rating.

**Duration** - A measure of the timing of the cash flows, such as the interest payments and the principal repayment, to be received from a given fixed-income security. This calculation is based on three variables: term to maturity, coupon rate, and yield to maturity. The duration of a security is a useful indicator of its price volatility for given changes in interest rates.

**Fair Value** - The amount at which an investment could be exchanged in a current transaction between willing parties, other than in a forced or liquidation sale.

**Federal Funds (Fed Funds)** - Funds placed in Federal Reserve banks by depository institutions in excess of current reserve requirements. These depository institutions may lend fed funds to each other overnight or on a longer basis. They may also transfer funds among each other on a same-day basis through the Federal Reserve banking system. Fed funds are considered to be immediately available funds.

**Federal Funds Rate** - Interest rate charged by one institution lending federal funds to the other.

**Government Securities** - An obligation of the U.S. government, backed by the full faith and credit of the government. These securities are regarded as the highest quality of investment securities available in the U.S. securities market. See "Treasury Bills, Notes, and Bonds."

**Interest Rate** - See "Coupon Rate".

**Interest Rate Risk** - The risk associated with declines or rises in interest rates that cause an investment in a fixed-income security to increase or decrease in value.

**Internal Controls** - An internal control structure designed to ensure that the assets of the entity are protected from loss, theft, or misuse. The internal control structure is designed to provide reasonable assurance that these objectives are met. The concept of reasonable assurance recognizes that 1) the cost of a control should not exceed the benefits likely to be derived and 2) the valuation of costs and benefits requires estimates and judgments by management. Internal controls should address the following points:

1. Control of collusion - Collusion is a situation where two or more employees are working in conjunction to defraud their employers.
2. Separation of transaction authority from accounting and record keeping - By separating the person who authorizes or performs the transaction from the people who record or otherwise account for the transaction, a separation of duties is achieved.
3. Custodial safekeeping - Securities purchased from any bank or dealer including appropriate collateral (as defined by state law) shall be placed with an independent third party for custodial safekeeping.
4. Avoidance of physical delivery securities - Book-entry securities are much easier to transfer and account for since actual delivery of a document never takes place. Delivered securities must be properly safeguarded against loss or destruction. The potential for fraud and loss increases with physically delivered securities.

**Internal Controls (continued)**

5. Clear delegation of authority to subordinate staff members - Subordinate staff members must have a clear understanding of their authority and responsibilities to avoid improper actions. Clear delegation of authority also preserves the internal control structure that is contingent on the various staff positions and their respective responsibilities.
6. Written confirmation of transactions for investments and wire transfers - Due to the potential for error and improprieties arising from telephone and electronic transactions, all transactions should be supported by written communications and approved by the appropriate person. Written communications may be via fax if on letterhead and if the safekeeping institution has a list of authorized signatures.
7. Development of a wire transfer agreement with the lead bank and third-party custodian - The designated official should ensure that an agreement will be entered into and will address the following points: controls, security provisions, and responsibilities of each party making and receiving wire transfers.

**Inverted Yield Curve** - A chart formation that illustrates long-term securities having lower yields than short-term securities. This configuration usually occurs during periods of high inflation coupled with low levels of confidence in the economy and a restrictive monetary policy.

**Investment Company Act of 1940** - Federal legislation which sets the standards by which investment companies, such as mutual funds, are regulated in the areas of advertising, promotion, performance reporting requirements, and securities valuations.

**Investment Policy** - A concise and clear statement of the objectives and parameters formulated by an investor or investment manager for a portfolio of investment securities.

**Investment-grade Obligations** - An investment instrument suitable for purchase by institutional investors under the prudent person rule. Investment-grade is restricted to those obligations rated BBB or higher by a rating agency.

**Liquidity** - An asset that can be converted easily and quickly into cash.

**Local Government Investment Pool (LGIP)** - An investment by local governments in which their money is pooled as a method for managing local funds.

**Mark-to-market** - The process whereby the book value or collateral value of a security is adjusted to reflect its current market value.

**Market Risk** - The risk that the value of a security will rise or decline as a result of changes in market conditions.

**Market Value** - Current market price of a security.

**Maturity** - The date on which payment of a financial obligation is due. The final stated maturity is the date on which the issuer must retire a bond and pay the face value to the bondholder. See “Weighted Average Maturity.”

**Money Market Mutual Fund** - Mutual funds that invest solely in money market instruments (short-term debt instruments, such as Treasury bills, commercial paper, bankers’ acceptances, repos and federal funds).

**Mutual Fund** - An investment company that pools money and can invest in a variety of securities, including fixed-income securities and money market instruments. Mutual funds are regulated by the Investment Company Act of 1940 and must abide by the following Securities and Exchange Commission (SEC) disclosure guidelines:

1. Report standardized performance calculations.
2. Disseminate timely and accurate information regarding the fund’s holdings, performance, management and general investment policy.
3. Have the fund’s investment policies and activities supervised by a board of trustees, which are independent of the adviser, administrator or other vendor of the fund.
4. Maintain the daily liquidity of the fund’s shares.
5. Value their portfolios on a daily basis.
6. Have all individuals who sell SEC-registered products licensed with a self-regulating organization (SRO) such as National Association of Securities Dealers (NASD).
7. Have an investment policy governed by a prospectus that is updated and filed by the SEC annually.

**Mutual Fund Statistical Services** - Companies that track and rate mutual funds, e.g., IBC/Donoghue, Lipper Analytical Services, and Morningstar.

**National Association of Securities Dealers (NASD)** - A self-regulatory organization (SRO) of brokers and dealers in the over-the-counter securities business. Its regulatory mandate includes authority over firms that distribute mutual fund shares as well as other securities.

**Net Asset Value** - The market value of one share of an investment company, such as a mutual fund. This figure is calculated by totaling a fund’s assets which includes securities, cash, and any accrued earnings, subtracting this from the fund’s liabilities and dividing this total by the number of shares outstanding. This is calculated once a day based on the closing price for each security in the fund’s portfolio. (See below.)

$$\frac{[(\text{Total assets}) - (\text{Liabilities})]}{(\text{Number of shares outstanding})}$$

**No Load Fund** - A mutual fund that does not levy a sales charge on the purchase of its shares.

**Nominal Yield** - The stated rate of interest that a bond pays its current owner, based on par value of the security. It is also known as the “coupon,” “coupon rate,” or “interest rate.”

**Offer** - An indicated price at which market participants are willing to sell a security or commodity. Also referred to as the “Ask price.”

**Par** - Face value or principal value of a bond, typically \$1,000 per bond.

**Positive Yield Curve** - A chart formation that illustrates short-term securities having lower yields than long-term securities.

**Premium** - The amount by which the price paid for a security exceeds the security’s par value.

**Prime Rate** - A preferred interest rate charged by commercial banks to their most creditworthy customers. Many interest rates are keyed to this rate.

**Principal** - The face value or par value of a debt instrument. Also may refer to the amount of capital invested in a given security.

**Prospectus** - A legal document that must be provided to any prospective purchaser of a new securities offering registered with the SEC. This can include information on the issuer, the issuer’s business, the proposed use of proceeds, the experience of the issuer’s management, and certain certified financial statements.

**Prudent Person Rule** - An investment standard outlining the fiduciary responsibilities of public funds investors relating to investment practices.

**Regular Way Delivery** - Securities settlement that calls for delivery and payment on the third business day following the trade date (T+3); payment on a T+1 basis is currently under consideration. Mutual funds are settled on a same day basis; government securities are settled on the next business day.

**Reinvestment Risk** - The risk that a fixed-income investor will be unable to reinvest income proceeds from a security holding at the same rate of return currently generated by that holding.

**Repurchase Agreement (Repo or RP)** - An agreement of one party to sell securities at a specified price to a second party and a simultaneous agreement of the first party to repurchase the securities at a specified price or at a specified later date.

**Reverse Repurchase Agreement (Reverse Repo)** - An agreement of one party to purchase securities at a specified price from a second party and a simultaneous agreement by the first party to resell the securities at a specified price to the second party on demand or at a specified date.

**Rule 2a-7 of the Investment Company Act** - Applies to all money market mutual funds and mandates such funds to maintain certain standards, including a 13-month maturity limit and a 90-day average maturity on investments, to help maintain a constant net asset value of one dollar (\$1.00).

**Safekeeping** - Holding of assets (e.g., securities) by a financial institution.

**Serial Bond** - A bond issue, usually of a municipality, with various maturity dates scheduled at regular intervals until the entire issue is retired.

**Sinking Fund** - Money accumulated on a regular basis in a separate custodial account that is used to redeem debt securities or preferred stock issues.

**Swap** - Trading one asset for another.

**Term Bond** - Bonds comprising a large part or all of a particular issue that come due in a single maturity. The issuer usually agrees to make periodic payments into a sinking fund for mandatory redemption of term bonds before maturity.

**Total Return** - The sum of all investment income plus changes in the capital value of the portfolio. For mutual funds, return on an investment is composed of share price appreciation plus any realized dividends or capital gains. This is calculated by taking the following components during a certain period.

$$(\text{Price appreciation}) + (\text{Dividends paid}) + (\text{Capital gains}) = \text{Total Return}$$

**Treasury Bills** - Short-term U.S. government non-interest bearing debt securities with maturities of no longer than one year and issued in minimum denominations of \$10,000. Auctions of three- and six-month bills are weekly, while auctions of one-year bills are monthly. The yields on these bills are monitored closely in the money markets for signs of interest rate trends.

**Treasury Notes** - Intermediate U.S. government debt securities with maturities of one to ten years and issued in denominations ranging from \$1,000 to \$1,000,000 or more.

**Treasury Bonds** - Long-term U.S. government debt securities with maturities of ten years or longer and issued in minimum denominations of \$1,000. Currently, the longest outstanding maturity for such securities is 30 years.

**Uniform Net Capital Rule** - SEC Rule 15C3-1 outlining capital requirements for broker/dealers.

**Volatility** - A degree of fluctuation in the price and valuation of securities.



**“Volatility Risk” Rating** - A rating system to clearly indicate the level of volatility and other non-credit risks associated with securities and certain bond funds. The rating for bond funds range from those that have extremely low sensitivity to changing market conditions and offer the greatest stability of the returns (“aaa” by S&P; “V-1” by Fitch) to those that are highly sensitive with currently identifiable market volatility risk (“ccc-“ by S&P, “V-10” by Fitch).

**Weighted Average Maturity (WAM)** - The average maturity of all the securities that comprise a portfolio. According to SEC rule 2a-7, the WAM for SEC registered money market mutual funds may not exceed 90 days and no one security may have a maturity that exceeds 397 days.

**When Issued (WI)** - A conditional transaction in which an authorized new security has not been issued. All “when issued” transactions are settled when the actual security is issued.

**Yield** - The current rate of return on an investment security generally expressed as a percentage of the security’s current price.

**Yield-to-call (YTC)** - The rate of return an investor earns from a bond assuming the bond is redeemed (called) prior to its nominal maturity date.

**Yield-to-maturity** - The rate of return yielded by a debt security held to maturity when both interest payments and the investor’s potential capital gain or loss are included in the calculation of return.

**Zero-coupon Securities** - Security that is issued at a discount and makes no periodic interest payments. The rate of return consists of a gradual accretion of the principal of the security and is payable at par upon maturity.

**APPENDIX D**

**SUMMARY OF CERTAIN PROVISIONS OF THE LEGAL DOCUMENTS**

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## APPENDIX E

### PROPOSED FORM OF BOND COUNSEL OPINION

[Letterhead of Quint & Thimmig LLP]

[Closing Date]

Atascadero Public Financing Authority  
6907 El Camino Real  
Atascadero, California 93422

OPINION:       \$\_\_\_\_\_ \* Atascadero Public Financing Authority Lease Revenue Bonds, 2010  
Series A

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#### Members of the Authority:

We have acted as bond counsel in connection with the delivery by the Atascadero Public Financing Authority (the "Authority") of \$\_\_\_\_\_ \* aggregate principal amount of the bonds of the Authority designated the "Atascadero Public Financing Authority Lease Revenue Bonds, 2010 Series A" (the "Bonds"), pursuant to the provisions of Article 4 (commencing with section 6584) of Chapter 5 of Division 7 of Title 1 of the California Government Code (the "Law"), and pursuant to an indenture of trust, dated as of August 1, 2010 (the "Indenture"), by and between the Authority and The Bank of New York Mellon Trust Company, N.A., as trustee, and a resolution of the Authority adopted on July 27, 2010. The Bonds are secured by Revenues (as defined in the Indenture), including certain payments made by the City of Atascadero (the "City") under a lease agreement, dated as of August 1, 2010 (the "Lease Agreement"), by and between the Authority and the City. We have examined the Law and such certified proceedings and other papers as we deem necessary to render this opinion.

As to questions of fact material to our opinion, we have relied upon representations of the Authority and the City contained in the Indenture and Lease Agreement, as applicable, and in the certified proceedings, and upon other certifications furnished to us, without undertaking to verify the same by independent investigation.

Based upon our examination we are of the opinion, under existing law, that:

1. The Authority is a duly constituted joint exercise of powers authority under the laws of the State of California with power to enter into the Indenture, to perform the agreements on its part contained therein and to issue the Bonds.
2. The Bonds constitute legal, valid and binding special obligations of the Authority enforceable in accordance with their terms and payable solely from the sources provided therefor in the Indenture.
3. The Indenture has been duly approved by the Authority and constitutes a legal, valid and binding obligation of the Authority enforceable against the Authority in accordance with its terms.
4. The Indenture establishes a valid first and exclusive lien on and pledge of the Revenues (as such term is defined in the Indenture) and other funds pledged thereby for the security of the Bonds, in accordance with the terms of the Indenture.
5. Subject to the Authority's and the City's compliance with certain covenants, interest on the Bonds (i) is excludable from gross income of the owners thereof for federal income tax purposes, (ii) is not

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\* Preliminary, subject to change.

included as an item of tax preference in computing the alternative minimum tax for individuals and corporations under the Internal Revenue Code of 1986, as amended (the "Code"), and (iii) interest on the Bonds is not taken into account in computing adjusted current earnings, which is used as an adjustment in determining the federal alternative minimum tax for certain corporations. Failure to comply with certain of such covenants could cause interest on the Bonds to be includable in gross income for federal income tax purposes retroactively to the date of issuance of the Bonds. It is also our opinion that the Bonds are "qualified tax exempt obligations" under section 265(b)(3) of the Code.

6. Interest on the Bonds is exempt from personal income taxation imposed by the State of California.

Ownership of the Bonds may result in other tax consequences to certain taxpayers, and we express no opinion regarding any such collateral consequences arising with respect to the Bonds.

The rights of the owners of the Bonds and the enforceability of the Bonds, the Indenture and the Lease Agreement may be subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted and also may be subject to the exercise of judicial discretion in accordance with general principles of equity.

In rendering this opinion, we have relied upon certifications of the Authority, the City and others with respect to certain material facts. Our opinion represents our legal judgment based upon such review of the law and the facts that we deem relevant to render our opinion and is not a guarantee of a result. This opinion is given as of the date hereof and we assume no obligation to revise or supplement this opinion to reflect any facts or circumstances that may hereafter come to our attention or any changes in law that may hereafter occur.

Respectfully submitted,

## APPENDIX F

### FORM OF CONTINUING DISCLOSURE CERTIFICATE

This CONTINUING DISCLOSURE CERTIFICATE (the "Disclosure Certificate") is executed and delivered by the CITY OF ATASCADERO (the "City") in connection with the issuance by the Atascadero Public Financing Authority (the "Authority") of \$\_\_\_\_\_ \* aggregate principal amount of Atascadero Public Financing Authority Lease Revenue Bonds, 2010 Series A (the "Bonds"). The Bonds are being issued pursuant to an indenture of trust, dated as of August 1, 2010 (the "Indenture"), by and between the Authority and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee"). The City covenants and agrees as follows:

Section 1. Purpose of the Disclosure Certificate. This Disclosure Certificate is being executed and delivered by the City for the benefit of the holders and beneficial owners of the Bonds and in order to assist the Participating Underwriter in complying with S.E.C. Rule 15c2-12(b)(5).

Section 2. Definitions. In addition to the definitions set forth in the Indenture, which apply to any capitalized term used in this Disclosure Certificate unless otherwise defined in this Section 2, the following capitalized terms shall have the following meanings:

"*Annual Report*" shall mean any Annual Report provided by the City pursuant to, and as described in, Sections 3 and 4 of this Disclosure Certificate.

"*Beneficial Owner*" shall mean any person which (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries), or (b) is treated as the owner of any Bonds for federal income tax purposes.

"*Dissemination Agent*" shall mean \_\_\_\_\_ or any successor Dissemination Agent designated in writing by the City and which has filed with the City a written acceptance of such designation. In the absence of such a designation, the City shall act as the Dissemination Agent.

"*EMMA*" or "*Electronic Municipal Market Access*" means the centralized on-line repository for documents filed with the MSRB, such as official statements and disclosure information relating to municipal bonds, notes and other securities as issued by state and local governments or similar medium should EMMA no longer exist.

"*Listed Events*" shall mean any of the events listed in Section 5(a) of this Disclosure Certificate.

"*MSRB*" means the Municipal Securities Rulemaking Board, which has been designated by the Securities and Exchange Commission as the sole repository of disclosure information for purposes of the Rule, or any other repository of disclosure information which may be designated by the Securities and Exchange Commission as such for purposes of the Rule in the future.

"*Participating Underwriter*" shall mean the original underwriter of the Bonds, required to comply with the Rule in connection with offering of the Bonds.

"*Rule*" shall mean Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

#### Section 3. Provision of Annual Reports.

(a) *Delivery of Annual Report to MSRB.* The City shall, or shall cause the Dissemination Agent to, not later than March 31 of each year (being the last day of the 9th month after the end of the City's fiscal year, which ends on June 30), commencing with the report for the 2009-2010 fiscal year, file with EMMA, in a readable PDF or other electronic format as prescribed by the MSRB, an Annual Report prepared by or

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\* Preliminary, subject to change.

on behalf of the City that is consistent with the requirements of Section 4 of this Disclosure Certificate. The Annual Report may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as provided in Section 4 of this Disclosure Certificate; provided that the audited financial statements of the City may be submitted separately from the balance of the Annual Report and later than the date required above for the filing of the Annual Report if they are not available by that date.

(b) *Change of Fiscal Year.* If the City's fiscal year changes, it shall give notice of such change in the same manner as for a Listed Event under Section 5(d).

(c) *Delivery of Annual Report to Dissemination Agent.* Not later than five (5) Business Days prior to the date specified in subsection (a) for providing the Annual Report to EMMA, the City shall provide the Annual Report to the Dissemination Agent (if other than the City). If by such date, the Dissemination Agent has not received a copy of the Annual Report, the Dissemination Agent shall notify the City.

(d) *Report of Non-Compliance.* If the City is unable to provide an Annual Report by the date required in subsection (a), the Dissemination Agent shall send a notice to EMMA in substantially the form attached as Exhibit A.

(e) *Annual Compliance Certification.* The Dissemination Agent shall, if the Dissemination Agent is other than the City, file a report with the City certifying that the Annual Report has been provided pursuant to this Disclosure Certificate, stating the date it was provided.

Section 4. Content of Annual Reports. The Annual Report shall contain or incorporate by reference the following:

(a) Audited financial statements of the City for the preceding fiscal year, prepared in accordance with the laws of the State and including all statements and information prescribed for inclusion therein by the Controller of the State. If the City's audited financial statements are not available by the time the Annual Report is required to be filed pursuant to Section 3(a), the Annual Report shall contain unaudited financial statements in a format similar to the financial statements contained in the final Official Statement, and the audited financial statements shall be filed in the same manner as the Annual Report when they become available.

(b) To the extent not included in the audited financial statements of the City, the Annual Report shall also include operating data with respect to the City for the preceding fiscal year, substantially similar to that provided in the corresponding tables and charts in the official statement for the Bonds, as follows:

- (i) general fund revenue sources by type (over \$1,000,000);
- (ii) assessed valuations and tax collection records;
- (ii) summary of investments, to the extent not summarized in the Audited Financial Statements, including types and amounts of investments;
- (iv) combined annual contribution (City's share and employees' share) to the Public Employees Retirement System;
- (v) adopted general fund budget; and
- (vi) to the extent not summarize in the Audited Financial Statements, a schedule of general fund long term debt, indicating type of issue, final maturity, interest rate range, original issue amount, outstanding principal amount, dollar amount maturing in the fiscal year to which the report relates and principal amount outstanding as of the end of the fiscal year to which the report relates.

(c) Any or all of the items listed above may be included by specific reference to other documents, including official statements of debt issues of the City or related public entities, which are available to the public on the MSRB's Internet web site or filed with the Securities and Exchange Commission. The City shall clearly identify each such other document so included by reference.

If the document included by reference is a final official statement, it must be available from EMMA.



(d) In addition to any of the information expressly required to be provided under paragraph (b) of this Section 4, the City shall provide such further information, if any, as may be necessary to make the specifically required statements, in the light of the circumstances under which they are made, not misleading.

#### Section 5. Reporting of Significant Events.

(a) *Listed Events.* Pursuant to the provisions of this Section 5, the City shall give, or cause to be given, notice of the occurrence of any of the following events with respect to the Bonds, if material:

- (i) Principal and interest payment delinquencies.
- (ii) Non-payment related defaults.
- (iii) Unscheduled draws on debt service reserves reflecting financial difficulties.
- (iv) Unscheduled draws on credit enhancements reflecting financial difficulties.
- (v) Substitution of credit or liquidity providers, or their failure to perform.
- (vi) Adverse tax opinions or events affecting the tax-exempt status of the security.
- (vii) Modifications to rights of security holders.
- (viii) Contingent or unscheduled bond calls.
- (ix) Defeasances.
- (x) Release, substitution, or sale of property securing repayment of the securities.
- (xi) Rating changes.

(b) *Determination of Materiality of Listed Events.* Whenever the City obtains knowledge of the occurrence of a Listed Event, the City shall as soon as possible determine if such event would be material under applicable federal securities laws.

(c) *Notice to Dissemination Agent.* If the City has determined that knowledge of the occurrence of a Listed Event would be material under applicable federal securities laws, the City shall promptly notify the Dissemination Agent (if other than the City) in writing. Such notice shall instruct the Dissemination Agent to report the occurrence pursuant to subsection (d).

(d) *Notice of Listed Events.* The City shall file, or cause the Dissemination Agent to file, a notice of the occurrence of a Listed Event, if material, with EMMA, in a readable PDF or other electronic format as prescribed by EMMA. Notwithstanding the foregoing, notice of Listed Events described in subsections (a)(viii) and (ix) (defeasances) need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to Bondholders of affected Bonds.

Section 6. Identifying Information for Filings with EMMA. All documents provided to EMMA under this Disclosure Certificate shall be accompanied by identifying information as prescribed by the MSRB.

Section 7. Termination of Reporting Obligation. The City's obligations under this Disclosure Certificate shall terminate upon the defeasance, prior redemption or payment in full of all of the Bonds. If such termination occurs prior to the final maturity of the Bonds, the City shall give notice of such termination in the same manner as for a Listed Event under Section 5.

#### Section 8. Dissemination Agent.

(a) *Appointment of Dissemination Agent.* The initial Dissemination Agent shall be \_\_\_\_\_. The City may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Certificate, and may discharge any such agent, with or without appointing a successor Dissemination Agent. If the Dissemination Agent is not the City, the Dissemination Agent shall not be responsible in any manner for the content of any notice or report prepared by the City pursuant to this Disclosure Certificate. It is understood and agreed that any information that the Dissemination Agent may be instructed to file with EMMA shall be prepared and provided to it by the City. The Dissemination Agent has undertaken no responsibility with respect to any reports, notices or disclosures provided to it under this Continuing Disclosure Certificate, and has no liability to any person, including any Owner, with respect to any such reports, notices or disclosures. The

fact that the Dissemination Agent or any affiliate thereof may have any fiduciary or banking relationship with the City shall not be construed to mean that the Dissemination Agent has actual knowledge of any event or condition except as may be provided by written notice from the City.

(b) *Compensation of Dissemination Agent.* The Dissemination Agent shall be paid compensation by the City for its services provided hereunder in accordance with its schedule of fees as agreed to between the Dissemination Agent and the City from time to time and all expenses, legal fees and advances made or incurred by the Dissemination Agent in the performance of its duties hereunder. The Dissemination Agent shall not be deemed to be acting in any fiduciary capacity for the City, Holders or Beneficial Owners, or any other party. The Dissemination Agent may rely and shall be protected in acting or refraining from acting upon any direction from the City or an opinion of nationally recognized bond counsel. The Dissemination Agent may at any time resign by giving written notice of such resignation to the City.

Section 9. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Certificate, the City may amend this Disclosure Certificate (and the Dissemination Agent shall agree to any amendment so requested by the City that does not impose any greater duties or risk of liability on the Dissemination Agent), and any provision of this Disclosure Certificate may be waived, provided that the following conditions are satisfied:

(a) *Change in Circumstances.* If the amendment or waiver relates to the provisions of Sections 3(a), 4 or 5(a), it may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature, or status of an obligated person with respect to the Bonds, or the type of business conducted;

(b) *Compliance as of Issue Date.* The undertaking, as amended or taking into account such waiver, would, in the opinion of a nationally recognized bond counsel, have complied with the requirements of the Rule at the time of the original issuance of the Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and

(c) *Consent of Holders; Non-impairment Opinion.* The amendment or waiver either (i) is approved by the Bondholders in the same manner as provided in the Indenture for amendments to the Indenture with the consent of Bondholders, or (ii) does not, in the opinion of nationally recognized bond counsel provided to the Dissemination Agent, materially impair the interests of the Bondholders or Beneficial Owners.

If this Disclosure Certificate is amended or any provision of this Disclosure Certificate is waived, the City shall describe such amendment or waiver in the next following Annual Report and shall include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or in the case of a change of accounting principles, on the presentation) of financial information or operating data being presented by the City. In addition, if the amendment relates to the accounting principles to be followed in preparing financial statements, (i) notice of such change shall be given in the same manner as for a Listed Event under Section 5(d), and (ii) the Annual Report for the year in which the change is made should present a comparison (in narrative form and also, if feasible, in quantitative form) between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

Section 10. Additional Information. Nothing in this Disclosure Certificate shall be deemed to prevent the City from disseminating any other information, using the means of dissemination set forth in this Disclosure Certificate or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Certificate. If the City chooses to include any information in any Annual Report or notice of occurrence of a Listed Event in addition to that which is specifically required by this Disclosure Certificate, the City shall have no obligation under this Disclosure Certificate to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

Section 11. Default. In the event of a failure of the City to comply with any provision of this Disclosure Certificate, any Bondholder or Beneficial Owner may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the City to

comply with its obligations under this Disclosure Certificate. The sole remedy under this Disclosure Certificate in the event of any failure of the City to comply with this Disclosure Certificate shall be an action to compel performance.

Section 12. Duties, Immunities and Liabilities of Dissemination Agent. The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Certificate, and the City agrees to indemnify and save the Dissemination Agent, its officers, directors, employees and agents, harmless against any loss, expense and liabilities which it may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs and expenses (including attorneys fees and expenses) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's negligence or willful misconduct. The obligations of the City under this Section shall survive resignation or removal of the Dissemination Agent and payment of the Bonds.

Section 13. Beneficiaries. This Disclosure Certificate shall inure solely to the benefit of the City, the Dissemination Agent, the Participating Underwriters and Holders and Beneficial Owners from time to time of the Bonds, and shall create no rights in any other person or entity.

Date: August 25, 2010

CITY OF ATASCADERO

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

ACKNOWLEDGED:

\_\_\_\_\_, as Dissemination Agent

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

EXHIBIT A

NOTICE TO EMMA OF FAILURE TO FILE ANNUAL REPORT

Name of Issuer: Atascadero Public Financing Authority  
Name of Obligor: City of Atascadero, California  
Name of Issue: Atascadero Public Financing Authority Lease Revenue Bonds, 2010 Series A  
Date of Issuance: [Closing Date]

NOTICE IS HEREBY GIVEN that the City of Atascadero has not provided an Annual Report with respect to the above-named Bonds as required by the Continuing Disclosure Certificate dated August 25, 2010, furnished by the City in connection with the Bond Issue. The City anticipates that the Annual Report will be filed by \_\_\_\_\_.

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

\_\_\_\_\_, as Dissemination Agent

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

cc: Trustee

## APPENDIX G

### BOOK-ENTRY ONLY SYSTEM

The following description of the procedures and record keeping with respect to beneficial ownership interests in the Bonds, payment of principal, redemption premium, if any, and interest with respect to the Bonds to The Depository Trust Company ("DTC"), New York, NY, its Participants or Beneficial Owners, confirmation and transfers of beneficial ownership interests in the Bonds and other related transactions by and between DTC, its Participants and the Beneficial Owners is based solely on the understanding of the Authority of such procedures and record keeping from information provided by DTC. Accordingly, no representations can be made concerning these matters and neither DTC, its Participants nor the Beneficial Owners should rely on the foregoing information with respect to such matters, but should instead confirm the same with DTC or its Participants, as the case may be. The City, the Authority, the Trustee and the Underwriter understand that the current "Rules" applicable to DTC are on file with the Securities and Exchange Commission and that the current "Procedures" of DTC to be followed in dealing with Participants are on file with DTC.

DTC will act as securities depository for the Bonds. The Bonds will be issued as fully-registered securities registered in the name of Cede & Co. (DTC's partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Bond certificate will be issued for each maturity of the Bonds, each in the aggregate principal amount of such maturity, and will be deposited with DTC.

DTC, the world's largest depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC's participants ("Direct Participants") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC"). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). DTC has Standard & Poor's highest rating: AAA. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com) and [www.dtc.org](http://www.dtc.org).

Purchases of the Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Bonds on DTC's records. The ownership interest of each actual purchaser of each Bond ("Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in the Bonds, except in the event that use of the book-entry system for the Bonds is discontinued.

To facilitate subsequent transfers, all Bonds deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of the Bonds with DTC and their

registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of the Bonds may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Bonds, such as redemptions, tenders, defaults, and proposed amendments to the Trust Agreement. For example, Beneficial Owners of the Bonds may wish to ascertain that the nominee holding the Bonds for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of notices be provided directly to them.

Redemption notices shall be sent to DTC, if less than all of the Bonds within a maturity are being redeemed. DTC's practice is to determine by lot the amount of the interest of each Direct Participant in each issue to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to the Bonds unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the Issuer as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts the Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Payments of principal of, premium, if any, and interest on the Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from the City, the Authority or the Trustee, on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, the Trustee, the City or the Authority, subject to any statutory or regulatory requirements as may be in effect from time to time. Payments of principal of, premium, if any, and interest on the Bonds by Cede & Co (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the City, the Authority or the Trustee, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

DTC may discontinue providing its services as depository with respect to the Bonds at any time by giving reasonable notice to the City, the Authority or the Trustee. Under such circumstances, in the event that a successor depository is not obtained, Bond certificates are required to be printed and delivered.

The Authority may decide to discontinue use of the system of book-entry transfers through DTC (or a successor securities depository). In that event, Bond certificates will be printed and delivered.

The foregoing information concerning DTC and DTC's book-entry system has been provided by DTC, and neither the Authority nor the Trustee takes any responsibility for the accuracy thereof.

NEITHER THE AUTHORITY NOR THE TRUSTEE WILL HAVE ANY RESPONSIBILITY OR OBLIGATION TO DTC PARTICIPANTS, INDIRECT PARTICIPANTS OR BENEFICIAL OWNERS WITH RESPECT TO THE PAYMENTS OR THE PROVIDING OF NOTICE TO DTC PARTICIPANTS, INDIRECT PARTICIPANTS OR BENEFICIAL OWNERS OR THE SELECTION OF BONDS FOR REDEMPTION.

Neither the Authority nor the Trustee can give any assurances that DTC, DTC Participants, Indirect Participants or others will distribute payments of principal of, premium, if any, and interest on the Bonds paid to DTC or its nominee, as the registered Owner, or any redemption or other notice, to the Beneficial Owners or that they will do so on a timely basis or that DTC will serve and act in a manner described in this Official Statement.

In the event that the book-entry system is discontinued as described above, the requirements of the Trust Agreement will apply.

The City, the Authority and the Trustee cannot and do not give any assurances that DTC, the Participants or others will distribute payments of principal, interest or premium, if any, evidenced by the Bonds paid to DTC or its nominee as the registered owner, or will distribute any redemption notices or other notices, to the Beneficial Owners, or that they will do so on a timely basis or will serve and act in the manner described in this Official Statement. Neither the Authority nor the Trustee are responsible or liable for the failure of DTC or any Participant to make any payment or give any notice to a Beneficial Owner with respect to the Bonds or an error or delay relating thereto.



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# ***Atascadero Public Financing Authority***

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## ***Staff Report – Treasurer***

### **2010 Series A Lease Revenue Bonds**

#### **RECOMMENDATION:**

Board adopt the draft Resolution authorizing the issuance and sale of lease revenue bonds to finance improvements to the City of Atascadero's Historic City Hall and the acquisition and development of other capital improvements throughout the geographic boundaries of the City, approving form and authorizing execution of related documents and approving official actions.

#### **DISCUSSION:**

The Atascadero Public Financing Authority (Authority), working together with the City of Atascadero (City) and the Community Redevelopment Agency of Atascadero, is preparing to issue up to \$18,000,000 in bonds to finance the City's portion of the rehabilitation of Historic City Hall and other projects (collectively, "Project").

To move forward, the Board is asked to adopt the attached draft Resolution approving the financing activities, which specifically includes the following:

1. Findings and consent that significant public benefits will arise from the financing;
2. Approval of the issuance of the Bonds by the Authority, possibly in multiple series, for the purpose of providing funds to finance the Project;
3. Approval of Indenture of Trust;
4. Approval of Site and Facility Lease by and between the City and the Authority;
5. Approval of the Lease Agreement;
6. Approval of the Sale of Bonds by the Authority to the Underwriter;
7. Approval of the Official Statement;

8. Authorization of Official Actions; and,
9. Authorization of the Resolution to take effect immediately.

In order to provide for the repayment of the bonds, the Authority will lease six properties to the City pursuant to a lease agreement under which the City will make payments to the Authority from the General Fund. The Community Redevelopment Agency (Agency) has agreed to reimburse the City for amounts paid from its General Fund from tax increment revenues available to the Agency. Because the 2003 San Simeon Earthquake was declared a natural disaster by the President of the United States, the Agency is able to financially assist the City with these costs to rehabilitate the City Hall.

The Atascadero City Council, at its May 11, 2010 regular meeting, authorized the City Manager to execute contracts with Piper Jaffray for bond underwriting and Quint & Thimmig for bond counsel. Mark Curran will represent Piper Jaffray and Brian Quint will represent Quint & Thimmig.

### **FISCAL IMPACT:**

Costs related to the bond issue are included in the financing. The City's General Fund will provide for the repayment of bonds.

### **ATTACHMENTS:**

1. [Draft resolution authorizing the issuance and sale of lease revenue bonds to finance improvements to the City of Atascadero's Historic City Hall and the acquisition and development of other capital improvements throughout the geographic boundaries of the City, approving form and authorizing execution of related documents and approving official actions](#)
2. [Indenture of Trust](#)
3. [Site and Facility Lease](#)
4. [Lease Agreement](#)
5. [Memorandum of Lease Agreement](#)
6. [Memorandum of Assignment of Lease](#)
7. [Continuing Disclosure Certificate](#)
8. [Bond Purchase Agreement](#)
9. [Form of Final Opinion of Bond Counsel](#)

ITEM NUMBER:  
DATE:

PFA C - 1  
7/27/10

10. [Authority Certificate regarding Preliminary Official Statement](#)
11. [Preliminary Official Statement](#)