

Supplemental Agenda Item No. 39

Board of Directors Meeting

**March 6, 2019
10:30 a.m.**

Location:

San Bernardino County Transportation Authority
First Floor Lobby Board Room
Santa Fe Depot, 1170 W. 3rd Street
San Bernardino, CA 92410

DISCUSSION CALENDAR

Project Delivery

39. Interstate 10 Corridor Contract 1 - Financial Close

That the Board, acting as the San Bernardino County Transportation Authority:

A. Approve the revised Interstate 10 (I-10) Corridor Contract 1 Plan of Finance included as Attachment A; and

B. Approve the updated Draft Term Sheet for Transportation Infrastructure Finance and Innovation Act (TIFIA) Loan (Term Sheet) as may be supplemented and revised, included as Attachment B; and

C. Adopt Resolution No. 19-109 authorizing: execution and delivery of a Master Indenture, a First Supplemental Indenture, and a Loan Agreement (19-1002087) relating to the I-10 Corridor Contract 1 TIFIA Toll Revenue Bond financing and of related documents; execution and delivery of a Third Supplemental Measure I Sales Tax Indenture; and taking of all other actions necessary in connection therewith.

This agenda item was made available after the posting of the agenda.

Minute Action

SUPPLEMENTAL AGENDA ITEM: 39

Date: March 6, 2019

Subject:

Interstate 10 Corridor Contract 1 - Financial Close

Recommendation:

That the Board, acting as the San Bernardino County Transportation Authority:

- A. Approve the revised Interstate 10 (I-10) Corridor Contract 1 Plan of Finance included as Attachment A; and
- B. Approve the updated Draft Term Sheet for Transportation Infrastructure Finance and Innovation Act (TIFIA) Loan (Term Sheet) as may be supplemented and revised, included as Attachment B; and
- C. Adopt Resolution No. 19-109 authorizing: execution and delivery of a Master Indenture, a First Supplemental Indenture, and a Loan Agreement (19-1002087) relating to the I-10 Corridor Contract 1 TIFIA Toll Revenue Bond financing and of related documents; execution and delivery of a Third Supplemental Measure I Sales Tax Indenture; and taking of all other actions necessary in connection therewith.

Background:

The I-10 Corridor Contract 1 Project (Project) involves the design and construction of tolled Express Lanes on I-10 from the Los Angeles/San Bernardino County line to the I-10/Interstate 15 (I-15) interchange. Procurement of the Design Build (DB) and Toll Services Provider (TSP) contractors is complete, and both teams are completing initial mobilization and project administration activities. SBCTA issued Notice to Proceed 2 (NTP2), which authorizes full start of final design and construction activities, to the TSP on February 15, 2019. The DB is nearing completion of required Notice to Proceed 1 (NTP1) deliverables, and staff anticipates issuance of NTP2 on or by March 7, 2019.

Concurrently, staff has been working with United States Department of Transportation (USDOT) to finalize terms for the Transportation Infrastructure Finance and Innovation Act (TIFIA) loan in preparation for financial close, which is defined as the execution of all project, financial, and related agreements necessary to secure project financing outlined in the Plan of Finance. In support of this effort, the anticipated Plan of Finance, TIFIA Term Sheet, Loan Agreement and corresponding Resolution and Indentures were reviewed and approved by the San Bernardino County Transportation Authority (SBCTA) Board on December 5, 2018. During final negotiations with TIFIA since the December Board meeting, certain terms and conditions of the Loan Agreement and Bond Indentures have been modified, resulting in modifications to the above documents in order to achieve financial close.

Recommendations A through C pertain to revisions to the financial documents needed to achieve financial close for the I-10 Corridor Contract 1 Project, and are summarized below.

Entity: San Bernardino County Transportation Authority

Recommendation A:

As the Project has advanced through development, the Plan of Finance has been continuously updated to reflect updated project costs, funding sources, and market conditions, as well as the results of the ongoing TIFIA negotiations. On December 5, 2018, the SBCTA Board approved a Plan of Finance for the I-10 Corridor Contract 1 Project which formed the basis of the draft TIFIA Loan Agreement and corresponding financial documents presented at the December Board meeting.

The projected total capital costs for the I-10 Corridor Contract 1 Project, including financing costs and reserves, largely remains unchanged at approximately \$929 million with slight adjustments occurring from sizing of reserves. However, final negotiations with TIFIA have resulted in certain changes to the December 2018 Plan of Finance. Current updates to the Plan include revisions to the assumed interest rate, changes to the loan structure resulting from negotiations with TIFIA, and corresponding adjustments to the TIFIA loan size and funding sources.

The TIFIA loan amount is currently modeled at \$220.7 million, a \$27 million increase from the approved Plan of Finance. Lower than anticipated market interest rates accommodate the larger loan amount, while maintaining the existing loan terms and risk profile, including the level of SBCTA loan payments. Depending on the applicable interest rate at closing, the final TIFIA loan amount may increase, but will be capped at \$225 million.

As indicated in the Plan of Finance approved in December 2018, any increase in the TIFIA loan size would result in a like decrease in the commitment of Federal funds to the project due to TIFIA's limitation on the percentage of federal participation in a project receiving TIFIA credit assistance. Therefore, the total Federal funding for the Project has been reduced from \$292.6 million to \$265.4 million, comprised of \$123.5 million of Congestion Mitigation and Air Quality (CMAQ) funds and \$141.9 million of Surface Transportation Block Grant (STP) funds. All of the reduction is being taken from the STP funds as that is the most flexible Federal fund source available to other projects. Any further increase in the TIFIA amount at financial close would continue to decrease the Federal fund commitment to the Project so that those funds can be made available for other eligible projects throughout the County. The updated Plan of Finance reflecting these changes is included as Attachment A.

Recommendation B:

The Term Sheet approved at the December 5, 2018, Board meeting summarized the provisions to be included in the TIFIA Loan Agreement.

The Term Sheet, TIFIA Loan Agreement and related documents approved in December 2018 included the following key provisions:

- The TIFIA loan will have a subordinate lien on toll revenues;
- Minimum 1.25x coverage for TIFIA Debt Service;
- Additional senior bonds secured by toll revenues can be issued if the TIFIA lender approves;
- An estimated \$15.4 million TIFIA loan reserve will be established from net toll revenues;
- A Measure I Investment will be provided until the year 2040 up to a cumulative total of \$93 million to fund Operation & Maintenance (O&M) expenses, lifecycle expenses,

deposits to the TIFIA Debt Service Reserve Account and Measure I Cash Supplement payments. The amount needed for Measure I Cash Supplement payments will be between \$2 million and \$46 million, depending on actual toll revenues received through the year 2040;

- Repayment of the Measure I Investment will accrue interest in accordance with SBCTA's Investment Policy;
- If TIFIA loan payments are missed, or the project fails to meet required TIFIA loan coverage requirements for 3 years, then any available excess monies will be utilized to accelerate the TIFIA principal payments ahead of Measure I Investment interest or principal payments; and
- Net toll revenues remaining after payment on the TIFIA loan and SBCTA's Measure I Investment will, subject to meeting certain conditions, be applied equally to prepayment of the TIFIA loan and release to SBCTA for other projects in the I-10 Corridor. Such TIFIA loan prepayments would not start until the earlier of (1) the completion of I-10 Corridor and I-15 Corridor projects or (2) the 15th anniversary of the project's substantial completion.
- Two public investment grade ratings from nationally recognized rating agencies annually.
- Reporting to TIFIA of events such as substantial completion, changes to the substantial completion date, litigation, delayed government approvals, project changes and other items.
- SBCTA's facility and project records are subject to inspection by TIFIA and its public accountants at SBCTA expense until 5 years after the loan has been repaid in full.
- Preparing annual program-specific audits for TIFIA.
- Providing TIFIA with SBCTA's annual financial plans.
- Quarterly Traffic and Operating Reports.
- Monthly Construction Progress Reports.
- SBCTA must retain a consulting engineer throughout the term of the loan agreement to advise TIFIA on technical matters related to SBCTA's performance of its obligations under the agreement.
- After 5 years of operations, a maintenance report must be produced and certified by an independent engineer for submittal to TIFIA. This report is then due annually.
- Payment to TIFIA of annual loan service fee.

The loan agreement requires the following reserves:

- O&M reserve of \$4.017 million will be funded at substantial completion with capital sources. Additional amounts required during operations will be funded with toll revenues.
- Debt Service reserve of \$10 million required by June 2026 to be funded with toll revenues.
- Major maintenance reserve determined by five year formula to cover major maintenance expenses. First deposit is required in 2032.
- Sweep reserve of \$10 million funded with toll revenues.

Since the December Board Meeting, staff has held extensive discussions with the TIFIA team related to the finalization of the provisions to be reflected in the Loan Agreement. Key changes are summarized here, and are reflected in the revised Term Sheet included as Attachment B.

- Interest earnings on amounts held in the Measure I Reserve (prior to their use in the waterfall) will be invested in Permitted Investments as defined in the Toll Bond Indenture.
- Measure I funds used in the cash flow waterfall will be repaid with interest accruing at the TIFIA Loan Rate plus 125 basis points (bps).
- Cash Supplement and Measure I Backstop payments will be made periodically from the Sales Tax Trustee to the Toll Trustee.
- The Measure I Investment consists of \$45 million of Measure I Cash Supplement payments and \$48 million of contingent Measure I Backstop.
- Estimated initial balance requirement of the TIFIA Debt Service Reserve Account has decreased from \$15.4 million to approximately \$10 million.
- Measure I Backstop will provide up to \$48 million of contingent support for Project Expenditures, including O&M, Debt Service, Required Reserve Deposits, and Major Maintenance; annual Backstop amounts remain capped at the sum of O&M, Major Maintenance, and required TIFIA Debt Service Reserve Account deposits. Biannual calculations will be performed to project that toll revenues are anticipated to be sufficient to appropriately fund operations one year in advance. If a shortfall in toll revenues is projected, Measure I Backstop may be used, even if there are adequate revenues in the sweep fund (reserve).
- SBCTA's Measure I Sales Tax Bond Indenture will be supplemented to add a subordinate debt coverage ratio of 1.50x. Currently SBCTA has no limit.
- The draft Loan Agreement and draft Master Toll Indenture may need to be further revised to reflect prioritization of use of Measure I Backstop, and other final changes to the related documents that TIFIA requires.

Recommendation C:

At the December 5, 2018, Board Meeting, SBCTA approved Resolution 19-061 authorizing the toll revenue financing of the I-10 Corridor Contract 1 Project through the issuance of Toll Revenue Bonds in the form of a TIFIA Bond. The TIFIA Bond evidences the principal and interest repayment obligation of the TIFIA Loan Agreement. Unlike a traditional bond, the TIFIA Bond principal amounts are not issued at financial close but will be incurred only when the principal is drawn upon to pay project costs. Interest on the TIFIA Bond begins to accrue upon such draw but is not paid as current interest. The interest is compounded until approximately five years after Project completion when current interest and principal repayments commence. Resolution 19-061 authorized the execution and delivery of the Toll Revenue Bond Indenture (Master Toll Indenture), First Supplemental Indenture, the TIFIA Loan Agreement, and related documents, and approved the Measure I Investment which will support the financing and will be repaid on a subordinate basis with interest from toll revenues.

Resolution 19-109 currently before the Board approves the more recent versions of the documents approved previously at the December Board meeting, including the TIFIA Loan Agreement which has been revised to incorporate the Term Sheet refinements and the negotiations of loan terms with TIFIA over the last two months. While these documents are near final, further edits are expected to be made upon TIFIA's requests or requirements. In addition, Resolution 19-109 authorizes the execution and delivery of a Third Supplemental Sales Tax Indenture (the "Sales Tax Supplemental Indenture") supplementing and amending SBCTA's sales tax revenue bond Indenture. The Sales Tax Supplemental Indenture is required to San Bernardino County Transportation Authority

document the TIFIA requirement that Measure I Cash Supplements and Backstop amounts be transferred directly from the Sales Tax Trustee to the Toll Trustee for deposit in the Measure I Reserve Fund preserving the priority of such Measure I Investments in the I-10 Corridor Contract 1 Project over other potential uses of such funds. The Sales Tax Supplemental Indenture also gives effect to TIFIA's requirement that additional Sales Tax debt that may be issued by SBCTA be limited by imposing an additional coverage test on such debt.

The Master Toll Indenture between SBCTA and the Toll Trustee is the agreement that pledges the toll revenues and other express lane assets as security for repayment of the Toll Revenue Bonds and other obligations payable from the toll revenues. It establishes a framework in which additional bonds, on a senior, second lien or subordinate basis may be issued in the future if certain conditions are met; specifies how the revenues will be allocated for operations, maintenance, and debt service; and contains covenants, the events of defaults, and remedies.

The First Supplemental Indenture is the instrument detailing the provisions of the TIFIA Bond and specific reserves and other provisions applicable to the TIFIA Bond, including the form of bond. Any additional series of bonds issued in the future will be issued pursuant to separate supplemental indentures.

The Third Supplemental Sales Tax Indenture, by and between SBCTA and the Sales Tax Trustee, amends and supplements the Sales Tax Indenture in order to limit, by way of an additional coverage test of 1.5x coverage on subordinate debt, the amount of additional sales tax debt that may be issued by SBCTA and to provide for transfer directly from the Sales Tax Trustee to the Toll Trustee of a portion of SBCTA's sales tax revenues for authorized investment in the project.

Staff recommends approval of the recommendations listed above.

Financial Impact:

This item is consistent with the Fiscal Year 2018/2019 Budget, under Task No. 0820 Freeway Projects, Sub-Task No. 0823 I-10 Corridor Phase 1.

Reviewed By:

This item has not received prior policy committee or technical advisory committee review. SBCTA General Counsel has reviewed this item, the draft Loan Agreement, draft Master Toll Indenture, draft supplemental indentures, and draft Resolution.

Responsible Staff:

Paula Beauchamp, Director of Project Delivery and Toll Operations

Approved
Board of Directors
Date: March 6, 2019

Witnessed By:

THE I-10 CORRIDOR CONTRACT 1 PROJECT

Financial Plan
Update

San Bernardino County
Transportation Authority

March 6, 2019



Construction Sources & Uses

- Financial plan assumes TIFIA interest rate of 3.02% as of February 19, 2019
- Sources may vary based on prevailing market conditions at the time of financial close

Project Sources & Uses (amounts in 000s)	November 2018	February 2019
Projected TIFIA Interest Rate	3.90%	3.02%
Sources		
TIFIA Loan Proceeds	\$193,700	\$220,700*
Measure I Contribution ¹	89,000	89,000
Measure I Investment during Construction	--	--
State and Local Funding	353,900	353,900
Federal Funds (CMAQ and STP)	292,600	265,400
Total Sources	\$929,200	\$929,000
Uses		
Pre-development/Design/Construction Costs	921,500	921,500
Financial Closing and Issuance Costs	3,400	3,400
Project Reserves ²	4,300	4,100
Total Uses	\$929,200	\$929,000

¹ TIFIA loan size and contribution amount from state/federal sources is based on an assumed interest rate of 3.02%. As market conditions and cash flows permit, it is the intent of SBCTA to substitute a portion of the state/federal funding from increased TIFIA proceeds (the maximum TIFIA loan amount is capped at \$225 million)

¹ Excludes Measure I Investment amounts of up to \$93M; amounts (if drawn) are applied as a cash supplement (up to \$46M) and contingent operating support

² Includes O&M reserve and DSRAs (as applicable)

Summary of Financial Plan

■ Debt Structure

- Limited to a second lien TIFIA loan; issuance of senior toll revenue bonds is not contemplated for I-10 Corridor Contract 1 due to cash flow constraints
- Toll revenue indenture preserves ability for future issuance of senior lien (toll revenue bond) obligations for other Express Lane projects
- TIFIA loan size of up to \$225 million, though currently estimated at \$221 million based on market rate of 3.02%

■ Measure I Investment

- Maximum support of \$93 million during operations through 2040
- Provided in the form of a cash supplement and contingent backstop
 - Cash supplement for debt service coverage support – up to \$45 million
 - Contingent backstop in the event of a toll revenue shortfall – up to \$48 million
- Contingent backstop can be used to offset revenue shortfalls for all expenditure buckets; however, annual amounts capped at total O&M and major maintenance expenses, as well as TIFIA DSRA deposit requirements

■ Measure I Repayment

- Repayment of the Measure I Investment will accrue interest in accordance with SBCTA's Investment Policy

Attachment B

**San Bernardino County Transportation Authority
Term Sheet for TIFIA Loan
February 6, 2019**

Term Sheet Provisions	Description
TIFIA Lender	➤ United States Department of Transportation, acting by and through the Build America Bureau (the “TIFIA Lender”).
Estimated Amount	➤ Up to [\$225,000,000] (approximately [21] %) for Eligible Project Costs.
Purpose	➤ To provide financing for eligible project costs relating to the I-10 Corridor Contract 1 Project, San Bernardino County, California (the “Project”).
Project	➤ The Project will add two tolled express lanes in each direction from the Los Angeles County line to the I-15.
Borrower	➤ Borrower shall be the San Bernardino County Transportation Authority (“SBCTA”); SBCTA is a multi-modal regional transportation agency that serves San Bernardino County, California.
Eligible Project Costs	➤ Eligible Project Costs shall be those costs defined in the Act as eligible for Federal participation, including prior Project expenditures. Eligible Project Costs shall be verified by the TIFIA Lender and must be consistent with U.S.C. Title 23 for highways and Title 49, Chapter 53 for public transportation.
Initial Principal Amount of the TIFIA Loan	➤ The loan made pursuant to the TIFIA Loan Agreement (the “TIFIA Loan”) shall be in an amount not to exceed [\$225.0] million, provided that the maximum original principal amount of the TIFIA Loan (excluding any interest that is capitalized in accordance with the terms of the TIFIA Loan Agreement), together with the amount of any other credit assistance provided under the Act to SBCTA shall not exceed 33% of reasonably anticipated Eligible Project Costs, as defined in the Act, and the total federal assistance provided to the Project, including the maximum principal amount of the TIFIA Loan (excluding any interest that is capitalized in accordance with the terms of the TIFIA Loan Agreement), shall not exceed 80% of Eligible Project Costs.
Draw Schedule	➤ To be determined.

Attachment B

Term Sheet Provisions	Description
Priority of TIFIA Loan	➤ The TIFIA Loan will be a second lien obligation payable from the Trust Estate as defined in the Master Indenture.
TIFIA Disbursements	➤ Disbursements shall be made no more frequently than monthly to the SBCTA to pay Eligible Project Costs incurred in connection with the Project pursuant to requisition procedures set forth in the TIFIA Loan Agreement. All disbursement requests must be received by the TIFIA Lender on or before the first business day of a calendar month in order to obtain a disbursement by the fifteenth day of such calendar month or if such day is not a Business Day, the next succeeding Business Day.
Substantial Completion	➤ The Substantial Completion Date of the Project is expected to be [February 1, 2023]. Substantial Completion of the Project means the express lanes included in the Project are open to vehicular traffic.
Term	➤ The final maturity of the TIFIA Loan shall not be later than 35 years after the date of Substantial Completion of the Project.
Mandatory TIFIA Debt Service	➤ Sculpted to ensure that under the TIFIA Lender down side: (a) the TIFIA loan shall be fully repaid within the term; (b) the unpaid loan balance 10 years before the end of the term shall not exceed [70%] ¹ ; and (c) all Mandatory TIFIA Debt Service is covered in all periods in the Lenders' Downside Case.
Scheduled TIFIA Debt Service	<p>➤ Scheduled TIFIA Debt Service is interest and principal on the TIFIA loan payable from Project revenues after satisfaction of obligations that have a higher priority in the cash flow waterfall.</p> <p>➤ Sculpted to ensure that under the TIFIA Lender Base Case: (a) the TIFIA loan shall be fully repaid within the term; (b) the unpaid loan balance 10 years before the end of the term shall not exceed [50%]²; (c) the Second Lien DSCR³ shall be min 1.25X in each 12-month period,</p>

¹ **Note:** Percentage subject to change. The agreed percentage to be reflected in Base Case Financial Model.

² **Note:** See above.

³ **Note:** For all purposes hereof, Second Lien DSCR calculations shall (i) include both TIFIA Mandatory Debt Service and TIFIA Scheduled Debt Service for the applicable Calculation Period(s) in the denominator and (ii) take into account required deposits into any fund or account that has a higher priority than Second Lien Obligations in the cash flow waterfall.

Attachment B

Term Sheet Provisions	Description
	measured semi-annually; and (d) the Second Lien LLCR shall be min [____]x in each 12-month period, measured semi-annually. ⁴
Semi-Annual Payment Dates	➤ June 30 and December 31
Debt Service Payment Commencement Date	➤ Mandatory interest and principal amortization payment dates will commence on the Semi-Annual Payment that occurs on or most recently prior to the fifth anniversary of the Substantial Completion Date.
Interest Rate	➤ The TIFIA Loan shall bear interest at a fixed rate (the “TIFIA Interest Rate”) calculated by adding one basis point (.01%) to the rate of securities of a similar maturity as published on the execution date of the TIFIA Loan Agreement in the United States Treasury Bureau of Public Debt’s daily rate table for State and Local Government Series (SLGS) securities, currently located on the internet at https://www.treasurydirect.gov/GA-SL/SLGS/selectSLGSDate.htm ; provided that the TIFIA Interest Rate shall not be less than the yield on 30-year United States Treasury securities as of such date. Interest shall be computed on the outstanding TIFIA Loan balance (which shall include any past due interest and any capitalized interest) on the basis of a 365-day or 366-day year, as appropriate, for the actual number of days elapsed and will be compounded semi-annually. Interest shall accrue and be payable at the Default Rate as defined in and as provided in the template TIFIA loan agreement for public sector borrowers.
Credit Ratings	➤ Prior to the Effective Date, the TIFIA Loan must receive a public investment grade rating from at least two nationally recognized rating agencies. Commencing in 2020, no later than the last day of June annually, SBCTA must provide to the TIFIA Lender an updated public rating on the TIFIA Loan (plus the related rating report or letter), in each case prepared no earlier than June 1 of such year) until the maturity of the related debt instrument.
Security and Priority	➤ The TIFIA Loan shall be secured by a security interest in the Trust Estate comprised of Toll Revenues and liens and security interests in other project assets as specified in the Master Indenture. Debt service with respect to the TIFIA loan shall be paid on a subordinate basis to any outstanding senior lien obligations secured by Toll Revenues.

⁴ **Note:** The coverages and amortization profile will be dependent variables in whatever Base Case Financial Model is acceptable to the TIFIA Lender and will not be independent variables.

Attachment B

Term Sheet Provisions	Description
Anticipated Flow of Funds	<ul style="list-style-type: none"> ➤ The anticipated flow of funds is: <ol style="list-style-type: none"> 1. I-10 Toll Revenue Fund 2. Operations and Maintenance Fund; 3. Senior Bonds Debt Service; 4. Second Lien Obligations, including Mandatory TIFIA Debt Service; 5. Senior Debt Service Reserve; 6. TIFIA Debt Service Reserve 7. Scheduled TIFIA Debt Service; 8. Second Lien Obligations Reserve (other than TIFIA Debt Service Reserve); 9. Subordinate Bonds Debt Service;⁵ 10. Subordinate Bonds Debt Service Reserve; 11. Major Maintenance and Repair Fund; 12. Sweep Fund; and, 13. Residual Fund.
Sweep Fund	<ul style="list-style-type: none"> ➤ To support the Senior Lien Obligations and Second Lien Obligations, an additional \$10 million sweep fund will be available to provide an infusion of cash in the event that toll revenues are insufficient to cover semi-annual debt payments. The account will be funded from future excess toll revenues in accordance with the Flow of Funds. ➤ The Sweep Fund will be maintained at a balance of \$10 million for the duration of any outstanding Senior Lien Obligations and Second Lien Obligations and funded on a rolling basis. Eligible uses of the cash sweep are limited to the satisfaction of debt service with respect to Senior Lien Obligations and Second Lien Obligations in a given period. Replenishment of the Sweep Fund following any draws will occur as net revenue permits.
Residual Fund; Residual Release Conditions	<ul style="list-style-type: none"> ➤ To the extent any moneys in excess of \$10 million are on deposit in the Sweep Fund, such excess funds will be deposited into the Residual Fund. ➤ Amounts in the Residual Fund cannot be released to SBCTA unless each of the following conditions (the “Residual Release Conditions”) has been satisfied as of the applicable Calculation Date: <ul style="list-style-type: none"> • 2nd anniversary of TIFIA Loan debt service payment commencement date has occurred • no Event of Default or default that with the giving of notice, the passage of time or both

⁵ **Note:** SBCTA agrees not to issue Subordinate Obligations as long as the TIFIA loan agreement is in effect.

Attachment B

Term Sheet Provisions	Description
	<p>would result in an Event of Default in respect of the TIFIA Loan, any other obligation under the Master Indenture or under any Principal Project Contract</p> <ul style="list-style-type: none"> • all TIFIA Mandatory Debt Service, TIFIA Scheduled Debt Service and debt service payments with respect to any other obligations under the Master Indenture have been paid in full (including any amounts remaining unpaid from a prior period) • each debt reserve account and the Measure I Reserve Account is fully funded and the required deposit amounts are on deposit in the Operations and Maintenance Fund and in the Major Maintenance and Repair Fund; and, • SBCTA certifies (based on projections and model agreed to by TIFIA Lender): <ul style="list-style-type: none"> • Senior DSCR of at least 1.35X for six (6) trailing and projected time periods; • Second Lien DSCR of at least 1.25X for six (6) trailing and projected time periods; • 1.00X coverage of all payment obligations in the cash flow waterfall (e.g., all debt service and all required deposits to reserve accounts, etc.) for six (6) trailing and projected time periods; • TIFIA LLCR of at least [____]X through final maturity of the TIFIA Loan; and • compliance with the other requirements noted above <p>➤ If each of the Residual Release Conditions is satisfied as of a Calculation Date, SBCTA may use amounts in the Residual Fund as follows:</p> <ul style="list-style-type: none"> • First, to repay the Measure I Investments previously contributed to the Toll Revenue Fund; • Second, after all outstanding Measure I Investments have been repaid to SBCTA, to prepay the TIFIA Loan, in an amount not to exceed 50% of the amounts available for release from the Residual Fund (after repayment of Measure I Investments) as of such Calculation Date; provided, that such prepayments shall not commence until the earlier of (i) completion of both the I-10, Contract 2 and I-15 Corridor Projects or (ii) 15 years following Substantial Completion of I-10 Contract 1; and • Third, for any other purpose permitted by applicable law, permitted by the Master Indenture and not expressly prohibited by the TIFIA Loan Agreement <p>➤ If any of the Residual Release Conditions is not satisfied as of a Calculation Date, no amounts shall be released from the Residual Fund except (i) to pay higher priority expenses in the cash flow waterfall, as specified in the Master Indenture and (ii) to make mandatory prepayments of the TIFIA Loan, if any, attributable to extended non-compliance with the Rate Coverage Test, as that mandatory prepayment is described below under “Rate Coverage Test.”</p>
Rate Coverage Test	<p>➤ Pursuant to the Master Indenture and the TIFIA Loan Agreement, SBCTA will covenant to fix</p>

Attachment B

Term Sheet Provisions	Description
	<p>and prescribe toll rates and collect tolls for each type of vehicle and each time of day sufficient to produce Net Revenues for each Calculation Period at least equal to 1.35X Annual Debt Service on all Senior Lien Obligations, at least 1.25X Annual Debt Service on all Senior Lien Obligations and Second Lien Obligations and at least 1.00X coverage of all payment obligations in the cash flow waterfall (e.g., all debt service and all required deposits to reserve accounts, etc.).</p> <p>➤ The failure of toll rates to yield the amount described in the paragraph above on any six (6) consecutive Calculation Dates after the first anniversary of the Substantial Completion Date shall result in a mandatory prepayment of the TIFIA Loan but shall not be deemed to constitute an Event of Default under the Master Indenture so long as SBCTA complies with the mandatory prepayment requirements described above and implements a remedial plan as provided in the TIFIA Loan Agreement.</p>
Mandatory Prepayments	<p>➤ The TIFIA Loan Agreement shall include mandatory prepayments, including but not limited to the following</p> <ul style="list-style-type: none"> • Extended non-compliance with Rate Coverage Test (as noted above) • Net Loss Proceeds • Pro rata repayment in case of voluntary prepayment of any other Obligation (except refunding obligations and Measure I Investment Repayments) • after all outstanding Measure I Investments have been repaid to SBCTA, 50% of excess amounts available for release from the Residual Fund (described and limited above under “Residual Fund; Residual Release Conditions”); however, such prepayments shall not commence until the earlier of (i) completion of both the I-10, Contract 2 and I-15 Corridor Projects or (ii) 15 years following Substantial Completion of I-10 Contract 1
Voluntary Prepayment	<p>➤ SBCTA may prepay the TIFIA Loan in whole or in part (and, if in part, the principal installments and amounts thereof to be prepaid shall be determined by SBCTA; provided, however, that such prepayments shall be in the principal amounts of \$1,000,000 or any integral multiple of \$1 in excess thereof), at any time or from time to time, without penalty or premium, by paying to the TIFIA Lender such principal amount of the TIFIA Loan to be prepaid, together with the unpaid interest accrued on the amount of principal so prepaid to the date of such prepayment.</p>
TIFIA Debt Service Reserve Account Funding	<p>➤ TIFIA Debt Service Reserve Account will be funded in an amount equal to the greater of (i) TIFIA Mandatory Debt Service for the following twelve (12) months and (ii) the highest debt service reserve requirement for such twelve (12) month period provided to the holders of any</p>

Attachment B

Term Sheet Provisions	Description
	<p>Senior Lien Obligations.</p> <ul style="list-style-type: none"> ➤ SBCTA shall fund the TIFIA Debt Service Reserve Account in an initial amount equal to \$[____] by no later than six months prior to the Debt Service Payment Commencement Date. All revenue available at level sixth of the waterfall will accumulate in the TIFIA Debt Service Reserve Account until \$[____] is on deposit in such account. Failure to fund the TIFIA Debt Service Reserve Account as of six months prior to the Debt Service Payment Commencement Date to the level required as of such date shall be an Event of Default.
Measure I Investments	<ul style="list-style-type: none"> ➤ To support the TIFIA Loan, SBCTA will covenant in the TIFIA Loan Agreement and the Master Indenture to make investments in the Project, on a revolving basis, in the form of Measure I Backstop payments and Cash Supplement payments (collectively, “Measure I Investments”) in an aggregate maximum outstanding amount of \$93,000,000 through 2040. Cash Supplement payments may be used for any payment in the cash flow waterfall and will be deposited monthly into the Toll Revenue Fund. Measure I Backstop may be used to fund O&M expenses and lifecycle expenses, as well as the initial TIFIA Debt Service Reserve Account funding at least six months prior to the Debt Service Payment Commencement Date, in the event of a cash flow shortfall. Payments from the Measure I Backstop in a given period shall not exceed total estimated O&M expenses and Scheduled Major Maintenance and Repair Fund Required Deposits (as defined below) for that respective period and for the initial funding of the TIFIA Debt Service Reserve Account the amount required for such funding. Approximately \$[46]MM of the Measure I Investments shall be used to supplement toll revenues in order to achieve the minimum debt service coverage ratio required under the Lender’s Base Case (the “Measure I Cash Supplement”). Any uses of Measure I funds, including Cash Supplement Payments, will accrue interest at a rate equal to the interest rate charged on the TIFIA Loan (without reference to the Default Rate) plus 125 basis points. ➤ SBCTA will establish a Measure I Reserve Fund within the Toll Revenue Indenture. ➤ Measure I Cash Supplement Payments, when aggregated with toll revenues, shall be sufficient to achieve a 1.25x Second Lien DSCR in each semiannual payment period throughout the life of the TIFIA loan under the Lender’s Base Case. ➤ Measure I Cash Supplement payments as of each semiannual payment date will be determined using the Lender’s Base Case Financial Model at Financial Close and will be documented in a schedule to the executed TIFIA loan agreement (the “Measure I Cash Supplement Schedule”). The predetermined Measure I Cash Supplement amounts will be paid monthly and irrespective of

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Term Sheet Provisions	Description
	<p>the actual total DSCR achieved in those semiannual periods.</p> <ul style="list-style-type: none"> ➤ On each calculation date, SBCTA shall transfer monthly required amounts of its Measure I funds, net of any prior deposits into the Measure I Reserve Fund to maintain a balance equal to the sum of (i) the next two semi-annual Measure I Cash Supplement amounts and (ii) Measure I Backstop draws estimated to be required during the next two semiannual payment periods to fund O&M costs and the Scheduled Major Maintenance and Repair Fund Required Deposits (as defined below) in order to achieve 1.00X coverage of all payment obligations in the cash flow waterfall (e.g., all debt service and all required deposits to reserve accounts, etc.) for the applicable Calculation Period.] SBCTA may use excess toll revenues generated by the Project in prior periods to offset Measure I funds on deposit in or required to be deposited into the account, provided that such excess revenue amounts have been released from the Residual Fund after satisfaction of each of the Residual Release Conditions. ➤ The Measure I Cash Supplement will be injected at the top of the flow of funds together with toll revenues each month in accordance with the Measure I Cash Supplement Schedule. Measure I Cash Supplement must flow through the flow of funds each month for which the Measure I Cash Supplement Schedule shows a non-zero value. Measure I Cash Supplement payments will be considered to be contributed after toll revenues for purposes of cash flow waterfall mechanics. ➤ Measure I Cash Supplement payments that fall to the Residual Fund shall not be subject to Residual Fund provisions related to mandatory TIFIA prepayment under upside revenue conditions but shall instead flow back into the Measure I Repayment Fund, subject to the Residual Release Conditions. ➤ Measure I Cash Supplement and Measure I Backstop payments may be repaid on a revolving basis from excess revenues in the Residual Fund, subject to satisfaction of each of the Residual Release Conditions (see “Residual Fund; Residual Release Conditions” above). ➤ The Measure I Cash Supplement (currently estimated to be \$[46]MM) will be part of SBCTA’s \$93MM Measure I Investment commitment and will be funded from Measure I revenues. Any Measure I Cash Supplement monies contributed through the cash waterfall that are not repaid to SBCTA will count against (and therefore reduce) the \$93MM Measure I Investment aggregate cap. ➤ In the event that the sum of toll revenues and the required Measure I Cash Supplement is projected to be inadequate to cover all of SBCTA’s obligations under the toll revenue indenture and the TIFIA Loan Agreement in any semiannual payment period, the Measure I Backstop shall

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Term Sheet Provisions	Description
	<p>be applied to cover O&M costs and Major Maintenance and Scheduled Major Maintenance and Repair Fund Required Deposits (as defined below) in order achieve 1.00X coverage of all payment obligations in the cash flow waterfall (e.g., all debt service and all required deposits to reserve accounts, etc.) for each semiannual payment period through 2040, subject to 1) an overall cap of \$93MM and 2) an annual cap equal to the applicable annual O&M and Scheduled Major Maintenance and Repair Fund Required Deposit (as defined below) funding needs and initial funding requirement of the TIFIA Loan Reserve Account.</p> <p>➤</p>
O&M Fund Minimum Balance Requirement	<p>➤ The O&M Fund Minimum Balance Requirement is the next anticipated semi-annual O&M expense amount. At Substantial Completion, the O&M Fund will be funded in an amount equal to the next six months of projected O&M expenses, estimated at \$4,068,000.</p>
Major Maintenance and Repair Fund Required Amount	<p>➤ On or prior to Substantial Completion and for each Calculation Date thereafter, the Major Maintenance and Repair Fund Required Amount will be the sum of 100% of the next year’s budgeted R&R expenses, 80% of the following year’s R&R Expenses, 60% of the next succeeding year’s R&R expenses, 40% of the next succeeding year’s R&R expenses, and 20% of the next succeeding year’s R&R expenses.</p> <p>➤ On each Monthly Funding Date, an amount equal to the current shortfall in the Major Maintenance and Repair Fund (the “Scheduled Major Maintenance and Repair Fund Required Deposit”) shall be deposited to the Major Maintenance and Repair Fund.</p>
Additional Debt Test – General Requirements	<p>The issuance of any Additional Obligations is subject to requirements including but not limited to:</p> <ul style="list-style-type: none"> • No default or event of default under TIFIA Loan Agreement or Indenture Documents • Investment grade rating on Additional Bonds • No downgrade of TIFIA Loan or outstanding Senior Lien Obligations below lower of the rating as of the closing date for such obligations and the then-current rating • Except for Completion Bonds and Refinancings as described below, approval of the TIFIA Lender
Additional Debt Test – Refinancings	<p>The issuance of any Additional Senior Lien Obligations used to refinance outstanding Senior Lien Obligations is subject to the following requirements:</p>

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Term Sheet Provisions	Description
	<ul style="list-style-type: none"> ➤ no such issuance until after 2nd anniversary of Debt Service Payment Commencement Date; ➤ the par principal amount of the refinancing obligations shall not exceed the principal amount of the Senior Lien Obligations being refinanced; ➤ the maturity date of the refinancing obligations shall not be later than the maturity date of the Senior Lien Obligations being refinanced; ➤ proceeds of the refinancing obligations will be used solely to refinance other Senior Lien Obligations, pay fees related to the issuance of such refinancing obligations and to fund reasonable reserves required under such refinancing obligations; and ➤ Annual Debt Service in respect of such refinancing obligations, in each year while the TIFIA Loan is outstanding must be projected to be equal to or less than Annual Debt Service for the refinanced obligations for each such year.
Conditions Precedent	<p>The TIFIA Loan Agreement shall not become effective, nor shall the TIFIA Lender have any obligation to make disbursements of TIFIA Loan proceeds to SBCTA, until each condition precedent set forth in the TIFIA Loan Agreement is satisfied, in form and substance satisfactory to the TIFIA Lender. Conditions Precedent to the effectiveness of the TIFIA Loan Agreement shall include, but not be limited to, the following issues:</p> <ul style="list-style-type: none"> • Evidence of executed finance and security documents; • Delivery of non-debarment certificate; • Evidence and satisfaction of 23 USC §§ 134 & 135 requirements; • Two public investment grade ratings on the TIFIA Loan; • Delivery of copies of executed Principal Project Documents; • Delivery of certified schedule as to sufficient cash flows for TIFIA Debt Service; • Completed arrangements to pay TIFIA lender for its fees and expenses; • Evidence of compliance with NEPA; • Delivery by TIFIA of the TIFIA Lender’s authorized representative certificate; • Delivery of draw schedule and evidence of sufficient funds for the Project;

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Term Sheet Provisions	Description
	<ul style="list-style-type: none"> • Delivery of insurance certificates meeting TIFIA requirements; • Delivery of legal opinions and other certificates, reports, reliance letters, etc.; and • Delivery of the Project base case financial model and supporting assumptions.
<p>Representations and Warranties of SBCTA</p>	<p>TIFIA’s standard Loan Agreement representations and warranties. Representations and warranties shall be made as of the date of execution of the TIFIA Loan Agreement and as of each disbursement of the TIFIA Loan and shall include, but not be limited to, the following:</p> <ul style="list-style-type: none"> • Organization, valid existence and good standing; • Authorization of signatory; • Corporate authorization; due execution and delivery; enforceability; • No conflicts; compliance with laws; • Required consents; authorizations and permits; • Except as otherwise disclosed, no project-related litigation; no litigation that could reasonably be expected to result in a Material Adverse Effect (as defined in the TIFIA Loan Agreement); • Valid pledge of revenues; • No suspension or debarment; • Accuracy of representations and warranties; • NEPA requirements; • State and metropolitan transportation improvement plans; • Credit ratings; • No default under the Loan Agreement; • Effectiveness of and no defaults under Principal Project Contracts; • Accuracy of information furnished; • Compliance with applicable laws; OFAC regulations;

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Term Sheet Provisions	Description
	<ul style="list-style-type: none"> • Environmental matters; • Sufficiency of rights and utilities; sufficiency of funds • Insurance; • Financial statements; • Taxes; and • Total federal assistance does not exceed 80% of Eligible Project Costs.
<p>Covenants; Events of Default</p>	<p>TIFIA's standard Loan Agreement covenants and events of default, subject to any extraordinary structuring issues on diligence findings. The TIFIA Loan Agreement will include a negative covenant prohibiting certain material changes to the scope of work under the Design Build Contract. Failure to fund the reserves or meet minimum balance requirements would NOT be Events of Default except if such failure to fund reserves or meet minimum balance requirements occurs either (i) as of the Substantial Completion Date (with respect to O&M and MM&R), (ii) as of six months prior to the Debt Service Payment Commencement Date (with respect to the TIFIA Loan Reserve Account) or (iii) on any other date, if the failure to fund such reserve results from any reason other than insufficient Toll Revenues available for such purpose in accordance with the waterfall provisions of the Master Indenture.</p> <p>Failure to meet the Rate Coverage Test would NOT be an Event of Default unless the Borrower fails to comply with the remedial plan requirements of the Rate Coverage Test provisions.</p>
<p>Monitoring and Reporting Obligations</p>	<p>The TIFIA Loan Agreement shall include, inter alia, monitoring and reporting requirements consistent with TIFIA's standard requirements.</p>

RESOLUTION NO. 19-109

RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A MASTER INDENTURE, A FIRST SUPPLEMENTAL INDENTURE AND A LOAN AGREEMENT RELATING TO THE TOLL REVENUE BOND FINANCING OF THE I-10 CORRIDOR CONTRACT 1 PROJECT IN CONNECTION WITH THE TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT PROGRAM CREDIT ASSISTANCE, THE EXECUTION AND DELIVERY OF A THIRD SUPPLEMENTAL SALES TAX INDENTURE AND THE TAKING OF ALL OTHER ACTIONS NECESSARY IN CONNECTION THEREWITH

WHEREAS, the San Bernardino County Transportation Authority (the “Authority”) is a county transportation authority duly organized and existing pursuant to the San Bernardino County Transportation Authority Consolidation Act of 2017, being Chapter 7 of Division 12 of the Public Utilities Code of the State of California (Section 130800 *et seq.*) (as amended from time to time hereafter, the “Authority Act”);

WHEREAS, pursuant to Streets and Highways Code Sections 149.7 and 149.11 (the “Toll Act”), the Authority is authorized to set, levy and collect tolls, user fees, or other similar charges, payable for use of high-occupancy toll (“HOT”) lanes and other toll facilities in the Interstate 10 (the “I-10”) and Interstate 15 (the “I-15”) corridors in the County of San Bernardino (the “Toll Road”), and to issue one or more series of bonds or other obligations (the “Toll Revenue Bonds”) pursuant to the terms and conditions of a resolution adopted by a majority vote of the Authority, which Toll Revenue Bonds may be payable from the proceeds of such tolls (the “Toll Revenues”) and any other source of revenues available to the Authority and pledged as security for the Toll Revenue Bonds;

WHEREAS, the Toll Act authorizes Toll Revenue Bonds to be issued for the purpose of financing the (1) development, including the costs of design, construction, right-of-way acquisition, and utilities adjustment, (2) operations and maintenance, including but not limited to, insurance, collection, and enforcement of tolls, fees, and charges, (3) repair, rehabilitation, and reconstruction, (4) indebtedness incurred and internal loans and advances, including related financial costs, (5) administration, which shall not exceed three percent of the revenues of toll facilities and associated transportation facilities, (6) reserves, for the purposes described in (1) through (5) of this paragraph, (7) expenditures to enhance transit service designed to reduce traffic congestion within the I-10 and I-15 Corridors, including but not limited to, transit operating assistance, the acquisition of transit vehicles, and transit capital improvements otherwise eligible to be funded under the state transportation improvement program pursuant to Section 164 of the Toll Act, and (8) expenditures to make operational or capacity improvements designed to reduce traffic congestion or improve the flow of traffic in the I-10 and I-15 Corridors, including but not limited to, any phase of project delivery to make capital improvements to on ramps, off ramps, connector roads, roadways, bridges, or other structures

that are necessary for or related to the tolled or nontolled transportation facilities in the I-10 or I-15 Corridors (collectively, “Toll Revenue Bond Purposes”);

WHEREAS, pursuant to Resolution 19-061, adopted by the Authority on December 5, 2018 (“Resolution 19-061”), the Authority has authorized a Toll Revenue Bond financing for such Toll Revenue Bond Purposes for the 10-mile segment of the I-10 from the border of the County of Los Angeles to the I-10/I-15 interchange and the installation of an electronic toll enforcement and collection system (the “I-10 Corridor Contract 1 Project”);

WHEREAS, the estimated cost of accomplishing such purposes related to the I-10 Corridor Contract 1 Project was as set forth in the Plan of Finance submitted to the Authority in connection with Resolution 19-061 together with any modifications thereto submitted herewith;

WHEREAS, pursuant to Resolution 19-061, the Authority authorized the issuance of its San Bernardino County Transportation Authority Toll Revenue Second Lien Obligation, 2019 TIFIA Series (the “TIFIA Toll Bond” and collectively, with the other obligations related thereto, the “Toll Obligation”) in a principal amount not to exceed two hundred thirty million dollars (\$230,000,000) (excluding compounded interest) to evidence the principal and interest obligations payable on the TIFIA Loan from the Toll Revenues;

WHEREAS, the forms of documents approved pursuant to Resolution 19-061 have been revised to address requests of the Department of Transportation, acting by and through the Executive Director of the Build America Bureau (the “TIFIA Lender”) and are submitted herewith for further approval;

WHEREAS, the Authority has submitted an application to the United States Department of Transportation (the “Department of Transportation”) for Federal project credit assistance under the Transportation Infrastructure Finance and Innovation Act, codified under Sections 601-609 of title 23 of the United States Code, and the Authority anticipates full approval for project credit assistance in an original aggregate principal amount (excluding compounded interest) of not to exceed two hundred twenty-five million dollars (\$225,000,000) (the “TIFIA Loan”), to fund a portion of the I-10 Corridor Contract 1 Project;

WHEREAS, that certain Master Indenture, expected to be dated as of April 1, 2019 (the “Toll Revenue Bond Indenture”), by and between the Authority and U.S. Bank National Association (the “Toll Trustee”), will secure the Authority’s obligation to repay the TIFIA Loan from Toll Revenues pursuant to the terms of the Toll Revenue Bond Indenture as supplemented by a First Supplemental Indenture (the “First Supplemental Indenture”) and a loan agreement (the “TIFIA Loan Agreement”) to be entered into by and between the Authority and the TIFIA Lender;

WHEREAS, on June 6, 2018, and on December 7, 2016, the Board of Directors of the Authority (the “Board”) previously authorized the allocation of its Measure I sales tax revenues for the I-10 Corridor Contract 1 Project;

WHEREAS, pursuant to Resolution 19-061, the Board authorized, in connection with the TIFIA Loan, an allocation of Measure I sales tax revenues as an investment of such funds in an aggregate amount of not to exceed ninety-three million dollars (\$93,000,000) outstanding from time to time for the financing, operations and maintenance of the I-10 Corridor Contract 1 Project (the “Measure I Investment”) to be repaid on a subordinate basis with interest thereon from Toll Revenues as needed to support the Toll Bond financing of the I-10 Corridor Contract 1 Project, in accordance with the terms of the TIFIA Loan Agreement and the Toll Revenue Bond Indenture, in order to obtain federal support in the form of the TIFIA Loan and to provide for operations;

WHEREAS, the Authority has previously issued its sales tax revenue bonds pursuant to a Master Indenture, dated as of March 1, 2012, by and between the Authority and Wells Fargo Bank, National Association (the “Sales Tax Trustee”), as supplemented by a First Supplemental Indenture, dated as of March 1, 2012, and as further supplemented by a Second Supplemental Indenture, dated as of March 1, 2014 (collectively, the “Sales Tax Indenture”), in order to finance capital outlay expenditures for transportation purposes, including, without limitation, the carrying out of transportation projects, the construction, maintenance, improvement and operation of local streets, roads, and highways, state highways and freeways, and public transit systems including rail, and related purposes permitted by the sales tax Measure I (as more fully described in the Sales Tax Indenture);

WHEREAS, in order to obtain federal support in the form of the TIFIA Loan, the Authority will execute and deliver a Third Supplemental Indenture, expected to be dated as of April 1, 2019 (the “Third Supplemental Sales Tax Indenture”), amending and supplementing the Sales Tax Indenture in order to limit, by way of an additional coverage test, the amount of additional sales tax debt that may be issued by the Authority and to provide for the transfer directly from the Sales Tax Trustee to the Toll Trustee of a portion of the Authority’s sales tax revenues for the authorized investment in the I-10 Corridor Contract 1 Project;

WHEREAS, in compliance with Government Code Section 5852.1, Montague DeRose and Associates, LLC and Ernst & Young Infrastructure Advisors, LLC, as municipal advisors under Section 15B of the Securities Exchange Act of 1934 (collectively, the “Municipal Advisors”), previously provided the Authority with estimates of the costs associated with the TIFIA Toll Bond, which were disclosed in Exhibit A to Resolution 19-061 and which estimates have not changed;

WHEREAS, pursuant to Resolution 19-061, Orrick, Herrington & Sutcliffe, LLP, as bond counsel to the Authority for the Toll Revenue Bond financing, was authorized, on behalf of the Authority, to file required notices with respect to such financing with CDIAC which financing will be in compliance with any adopted Debt Policy of the Authority;

WHEREAS, the following documents have been prepared and presented to the Authority (collectively, the “Project Financing Documents”):

- (1) a proposed form of Toll Revenue Bond Indenture and First Supplemental Indenture, each by and between the Authority and the Toll Trustee;

- (2) a proposed form of TIFIA Loan Agreement, by and between the Authority and the Department of Transportation; and
- (3) a proposed form of Third Supplemental Sales Tax Indenture, by and between the Authority and the Sales Tax Trustee; and

WHEREAS, the Authority has been presented with proposed forms of the Project Financing Documents relating to the financings described herein (the “Project Financing”), and the Authority has examined and approved each document and desires to authorize and direct the execution of such documents as are specified herein and such other documents as are necessary in connection with the Project Financing and to authorize and direct the consummation of such financings;

NOW THEREFORE, THE SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY RESOLVES:

Section 1. The Authority finds and determines that the foregoing recitals are true and correct and makes them an effective part of this Resolution by incorporating them herein by reference.

Section 2. The Toll Revenue Bond Indenture and the First Supplemental Indenture, including the form of the TIFIA Toll Bond, in substantially the forms as presented to and described at this meeting, and the terms and conditions thereof are hereby approved. The structure, date, series designation, maturity date or dates (not to exceed 35 years following substantial completion of the Toll Road), fixed or variable interest rate or rates (such rates not to exceed the maximum allowable by law of 8% per annum for fixed and 12% per annum for variable rates), or methods of determining the same, interest payment dates, forms, denomination of the TIFIA Toll Bond (which shall not be less than \$5,000), registration privileges, place or places of payment, terms of redemption, tender, mandatory purchase, additional series designation and number thereof and other terms of the TIFIA Toll Bond and other Toll Obligations, shall be as provided in the Toll Revenue Bond Indenture, First Supplemental Indenture and TIFIA Toll Bond, as finally executed and delivered.

The President of the Board, the Vice-President of the Board, the Executive Director of the Authority or the Chief Financial Officer of the Authority, acting singly (each an “Authorized Representative”) is hereby authorized and directed, for and in the name and on behalf of the Authority, to execute and deliver the Toll Revenue Bond Indenture, including the Master Indenture and the First Supplemental Indenture, in substantially said forms, with such additional changes therein as the official executing the same may require or approve and to assign, pledge or mortgage the Authority’s right, title and interest, to the extent permitted by law, in any agreements relating to the Toll Road, including, without limitation, the design, construction, operation and maintenance thereof, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 3. The TIFIA Loan Agreement, in substantially the form presented to this meeting, and the terms and conditions thereof are hereby approved.

Each Authorized Representative, acting singly, is hereby authorized and directed, for and in the name and on behalf of the Authority, to execute and deliver the TIFIA Loan Agreement, in substantially said form, with such changes therein as the official executing the same may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 4. The Third Supplemental Indenture, in substantially the form presented to this meeting, and the terms and conditions thereof are hereby approved.

Each Authorized Representative, acting singly, is hereby authorized and directed, for and in the name and on behalf of the Authority, to execute and deliver the Third Supplemental Indenture, in substantially said form, with such changes therein as the official executing the same may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 5. All approvals, consents, directions, notices, orders, requests and other actions permitted or required by any of the documents authorized by this Resolution, including, without limitation, any amendment of any of the documents authorized by this Resolution, or other agreements related thereto or the TIFIA Loan, or Toll Obligation, or any agreements with consultants, paying agents, the removal or replacement of the Toll Trustee or any similar action may be given or taken by each Authorized Representative, acting singly, without further authorization or direction by the Authority, and each Authorized Representative, acting singly, is hereby authorized and directed to give any such approval, consent, direction, notice, order, request, or other action and to execute such documents and take any such action which such Authorized Representative may deem necessary or desirable to further the purposes of this Resolution.

Section 6. All actions heretofore taken by the officers and agents of the Authority with respect to the Project Financing, including the Measure I Investment, the Project Financing Documents and the issuance and sale of the TIFIA Toll Bond, are hereby ratified, confirmed and approved. The President of the Board or, in the absence of such official, the Vice-President of the Board, is hereby authorized to execute and deliver the TIFIA Toll Bond, and the Chief Financial Officer of the Authority is hereby authorized to countersign the TIFIA Toll Bond. The Clerk of the Board is hereby authorized to attest to the execution by an Authorized Representative of any of such documents as said official deems appropriate.

The officers and agents of the Authority are hereby authorized and directed, jointly and severally, for and in the name and on behalf of the Authority, to adopt or amend written procedures relating to its bonds and to do any and all things and to take any and all actions and to execute and deliver any and all agreements, certificates, notices and documents, including, without limitation, signature certificates, certificates concerning the contents of the Project Financing Documents, any agreements or certificates, which they, or any of them, may deem necessary or advisable in order to consummate the Project Financing, the execution and delivery of the Project Financing Documents and otherwise to carry out, give effect to and comply with the terms and intent of this Resolution, the Act, the Toll Obligation or the TIFIA Loan and the other documents approved hereby.

Section 7. This Resolution shall take effect immediately upon its adoption and approval.

APPROVED AND ADOPTED by the San Bernardino County Transportation Authority at its meeting on March 6, 2019.

By: _____
Darcy McNaboe, President of the Board of Directors
San Bernardino County Transportation Authority

ATTEST:

By: _____
Vicki Watson, Clerk of the Board of Directors
San Bernardino County Transportation Authority

CERTIFICATE OF THE CLERK OF THE BOARD OF DIRECTORS OF THE
SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY

I, Vicki Watson, Clerk of the Board of Directors of the San Bernardino County Transportation Authority (the "Authority"), hereby certify that the foregoing is a full, true and correct copy of a resolution duly adopted by at least a majority vote of the Authority at a meeting of the governing board of said Authority duly and regularly held in San Bernardino, California, on March 6, 2019, of which meeting all of the members of said Authority had due notice.

I further certify that I have carefully compared the foregoing copy with the original minutes of said meeting on file and of record in my office; that said copy is a full, true and correct copy of the original resolution adopted at said meeting and entered in said minutes; and that said resolution has not been amended, modified, rescinded or revoked in any manner since the date of its adoption, and the same is now in full force and effect.

I further certify that an agenda of said meeting was posted at least 72 hours before said meeting at a location in San Bernardino, California, freely accessible to the public and a brief general description of the resolution to be adopted at said meeting appeared on said agenda.

IN WITNESS WHEREOF, I have executed this certificate hereto as of this date, March 6, 2019.

By _____
Vicki Watson, Clerk of the Board of Directors
San Bernardino County Transportation Authority

MASTER INDENTURE

between

SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY

and

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

Dated as of _____ 1, 2019

San Bernardino County Transportation Authority
Toll Revenue Bonds (I-10 Corridor Contract 1 Project)

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This MASTER INDENTURE, dated as of _____ 1, 2019 (this “Master Indenture”), between the SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY, a public entity duly existing under the laws of the State of California (as further defined herein, the “Authority”), and U.S. BANK NATIONAL ASSOCIATION, a national banking association duly organized and existing under the laws of the United States of America, as trustee (together with any successor thereto the “Trustee”);

WITNESSETH:

WHEREAS, the Authority is a county transportation authority duly organized and existing pursuant to the San Bernardino County Transportation Authority Consolidation Act of 2017, being Chapter 7 of Division 12 of the Public Utilities Code of the State of California (Section 130800 *et seq.*) (as amended from time to time hereafter, the “Authority Act”);

WHEREAS, pursuant to Streets and Highways Code Sections 149.7 and 149.11 (collectively, the “Toll Act”), the Authority is authorized to conduct, administer, and operate a value-pricing program in the Interstate 10 corridor (together with certain connecting facilities, as applicable, the “I-10 Corridor”), and Interstate 15 corridor (together with certain connecting facilities, as applicable, the “I-15 Corridor” and, collectively, the “Toll Corridors”), each in the County of San Bernardino and, as applicable, as extended into other counties pursuant to law, including setting, levying and collecting tolls, user fees, or other similar charges, and incidental or related fees or charges, payable for use of high-occupancy toll lanes or other toll facilities (the “Toll Program”);

WHEREAS, the Authority has determined, in its Resolution No. 19-061 adopted December 5, 2018, that the I-10 Corridor Contract 1 Project (the “I-10 Corridor Contract 1 Project” and as further defined herein, the “Toll Road”) and the resulting facilities will improve the performance of the affected I-10 Corridor, including, but not limited to, by increasing passenger throughput or improving travel times;

WHEREAS, the Toll Act authorizes the Authority to issue bonds (as further defined herein, the “Obligations”) at any time to finance any costs necessary to implement the Toll Program and certain other expenditures, pursuant to the terms and conditions of a resolution adopted by a majority vote of the Authority, including, as applicable, for the purpose of financing the following expenditures relating to the Toll Program: (1) development, including the costs of design, construction, right-of-way acquisition, and utilities adjustment, (2) operations and maintenance, including but not limited to, insurance, collection, and enforcement of tolls, fees, and charges, (3) repair, rehabilitation, and reconstruction, (4) indebtedness incurred and internal loans and advances, including related financial costs, (5) administration, which shall not exceed three percent of the revenues of toll facilities and associated transportation facilities, (6) expenditures to enhance transit service designed to reduce traffic congestion within the Toll Corridors, and (7) expenditures to make operational or capacity improvements designed to reduce traffic congestion or improve the flow of traffic in the Toll Corridors;

WHEREAS, the Toll Act provides that such Obligations may be payable from the revenues generated from the Toll Road, including the Toll Revenues (as such term is defined herein) and certain other sources of revenues available to the Authority;

WHEREAS, pursuant to the Toll Act, the Authority's maximum bonded indebtedness for its outstanding Toll Revenue Bonds shall not exceed an amount that may be serviced from the projected Toll Revenues and any other source of revenues available to the Authority and pledged as security for the Toll Revenue Bonds;

WHEREAS, Caltrans served as lead agency for environmental review, analysis and approval of the I-10 Corridor Project (as defined herein) pursuant to the requirements of the California Environmental Quality Act ("CEQA");

WHEREAS, Caltrans adopted the EIR/EIS and the Environmental Commitments Record ("Mitigation Monitoring and Reporting Program") and approved the I-10 Corridor Project on May 4, 2016;

WHEREAS, the Federal Highway Administration assigned, and Caltrans assumed, environmental responsibilities for the I-10 Corridor Contract 1 Project, under the National Environmental Policy Act ("NEPA"), and Caltrans approved the Record of Decision (ROD) on July 6, 2017, and published a notice of this approval in the Federal Register on August 1, 2017;

WHEREAS, the Authority has completed the EIR/EIS for the I-10 Corridor Project following consideration of the environmental report and related Mitigation Monitoring and Reporting Program, and has approved Resolution No. 18-014 on July 12, 2017, adopting the Mitigation Monitoring and Reporting Program and approving the I-10 Corridor Project;

WHEREAS, Caltrans and SBCTA have entered into the Cooperative Agreement No. 17-1001736 for Design-Build of the I-10 Corridor Contract 1 Project, the first contract for the I-10 Corridor Project, on July 28, 2017, as required by Public Contract Code Section 6821, by and between the Authority and Caltrans (as further defined herein, the "Caltrans DB Cooperative Agreement");

WHEREAS, the Authority has previously issued its sales tax revenue bonds pursuant to a Master Indenture, dated as of March 1, 2012, as supplemented by a First Supplemental Indenture, dated as of March 1, 2012, and as further supplemented by a Second Supplemental Indenture, dated as of March 1, 2014, in order to finance capital outlay expenditures for transportation purposes, including, without limitation, the carrying out of transportation projects, the construction, maintenance, improvement and operation of local streets, roads, and highways, state highways and freeways, and public transit systems including rail, and related purposes permitted by the sales tax Measure I (as more fully described in such sales tax revenue bond indentures);

WHEREAS, the Obligations issued hereunder are issued and secured separately from the sales tax revenue bonds;

WHEREAS, the Authority has determined to enter into this Master Indenture and one or more Supplemental Indentures (collectively, the "Indenture") to provide for (i) the issuance of Obligations entitled "San Bernardino County Transportation Authority Toll Revenue Bonds Senior Lien Bonds" (the "Senior Lien Bonds"), to establish and declare the terms and conditions upon which the Senior Lien Bonds and other Obligations secured by Toll Revenues and other sources of funds shall be issued and secured and to secure the payment of the principal, premium

(if any), and interest on the Senior Lien Bonds and Parity Obligations (together, as further defined below, the “Senior Lien Obligations”); (ii) the issuance of Obligations entitled “San Bernardino County Transportation Authority Toll Revenue Second Lien Obligations” (the “Second Lien Obligations”), to establish and declare the terms and conditions upon which the Second Lien Obligations shall be issued and secured and to secure the payment of the principal, premium (if any), and interest on the Second Lien Obligations, and (iii) when no TIFIA Loan is outstanding, the issuance of Obligations entitled “San Bernardino County Transportation Authority Toll Revenue Subordinate Obligations” (the “Subordinate Obligations”), to establish and declare the terms and conditions upon which the Subordinate Obligations shall be issued and secured and to secure the payment of the principal, premium (if any), and interest on the Subordinate Obligations;

WHEREAS, the execution and delivery of this Master Indenture has in all respects been duly and validly authorized by resolution duly passed and approved by the Authority; and

WHEREAS, the Authority certifies that all acts that are necessary to make the Obligations, when executed by the Authority and authenticated and delivered by the Trustee, duly issued and the valid, legal and binding obligations of the Authority payable in accordance with their terms, and to constitute this Master Indenture a valid and binding agreement of the parties hereto, have been done and taken, and the execution and delivery of this Master Indenture have been duly authorized;

NOW, THEREFORE, THIS INDENTURE WITNESSETH:

The Authority, to secure the payment of the Obligations as the same become due and payable, whether at maturity or by prior redemption, and the performance and observance of all of the covenants and conditions herein contained, and in consideration of the premises and the acceptance by the Trustee of the trusts hereby created and of the purchase and acceptance of the Obligations by the Holders thereof and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Authority does hereby grant, mortgage, grant a security interest in, assign, transfer in trust, and pledge to the Trustee, and to its successors in trust hereunder, and to them and their assigns forever, all rights, title, interest and privileges of the Authority in, to and under (i) the Toll Revenues, (ii) all interest or other income from investment of money in the Funds and Accounts established hereunder (excluding the Rebate Fund and any Fund or Account established to hold the proceeds of a drawing on any Credit Support Instrument), (iii) all Swap Revenues, (iv) the amounts of the Measure I Investment transferred to the Trustee and (v) all amounts (including the proceeds of Obligations) held in each Fund and Account established under this Indenture (except for amounts on deposit in the Rebate Fund and amounts on deposit in any Fund or Account established to hold the proceeds of a drawing on any Credit Support Instrument);

TO HAVE AND TO HOLD all the same (herein called the “Trust Estate”) with all privileges and appurtenances hereby granted and assigned, or agreed or intended so to be, to the Trustee and its successors in trust and to them and their assigns forever;

IN TRUST NEVERTHELESS, upon the terms and trusts herein set forth,

FIRST: for the equal and proportionate benefit and security of all Senior Lien Obligations, all of which, regardless of the time or times of their delivery, maturity or other due date, shall be of equal rank without preference, priority or distinction as to lien or otherwise of any Senior Lien Obligation over any other Senior Lien Obligation, except as otherwise permitted by or provided for in this Indenture or in a Supplemental Indenture; provided, that any funds held by the Trustee for the payment of specific Senior Lien Obligations which are deemed to have been paid pursuant to the provisions of Article X and any funds deposited with the Trustee hereunder specifically to be held in escrow or otherwise to provide additional security or an additional source of payment for specified Senior Lien Obligations shall be held and used only to pay or provide security for the Senior Lien Obligations for which such deposit was made and shall not be held as security on a parity for any other Senior Lien Obligations; and provided further, that the Trustee shall apply the Trust Estate hereunder to the payment of the principal of, and interest on, or Maturity Value of, and other payments with respect to the Senior Lien Obligations and for the purposes and uses and in the order of priority set forth herein prior to the payment of the principal of, and interest on, or Maturity Value of, and other payments with respect to Second Lien Obligations, Subordinate Obligations or other Obligations; and

SECOND: subject to the security interest in the Trust Estate pledged for the security and payment of the Senior Lien Obligations, for the equal and proportionate benefit and security of all Second Lien Obligations, all of which, regardless of the time or times of their delivery, maturity or other due date, shall be of equal rank without preference, priority or distinction as to lien or otherwise of any Second Lien Obligation over any other Second Lien Obligation, except as otherwise permitted by or provided for in this Indenture or in a Supplemental Indenture; provided, that any funds held by the Trustee for the payment of specific Second Lien Obligations that are deemed to have been paid pursuant hereto and any funds deposited with the Trustee hereunder specifically to be held in escrow or otherwise to provide additional security or an additional source of payment for specified Second Lien Obligations shall be held and used only to pay or provide security for the Second Lien Obligations for which such deposit was made and shall not be held as security on a parity for any other Second Lien Obligations; and provided further, that the Trustee shall apply the Trust Estate hereunder to the payment of the principal of, and interest on, or Maturity Value of, and other payments with respect to the Second Lien Obligations and for the purposes and uses and in the order of priority set forth herein subordinate to the payment of the Senior Lien Obligations but prior to the payment of the principal of, and interest on, or Maturity Value of, and other payments with respect to Subordinate Obligations and other Obligations; and

THIRD: subject to the security interest in the Trust Estate pledged for the security and payment of the Senior Lien Obligations and the Second Lien Obligations, for the equal and proportionate benefit and security of all Subordinate Obligations, all of which, regardless of the time or times of their delivery, maturity or other due date, shall be of equal rank without preference, priority or distinction as to lien or otherwise of any Subordinate Lien Obligation over any other Subordinate Lien Obligation, except as otherwise permitted by or provided for in this Indenture or in a Supplemental Indenture; provided, that any funds held by the Trustee for the payment of specific Subordinate Obligations which are deemed to have been paid pursuant to the provisions hereof and any funds deposited with the Trustee hereunder specifically to be held in escrow or otherwise to provide additional security or an additional source of payment for specified Subordinate Obligations shall be held and used only to pay or provide security for the

Subordinate Obligations for which such deposit was made and shall not be held as security on a parity for any other Subordinate Obligations; and provided further, that the Trustee shall apply the Trust Estate hereunder to the payment of the principal of, and interest on, or Maturity Value of, and other payments with respect to the Subordinate Obligations and for the purposes and uses and in the order of priority set forth herein subordinate to the payment of the Senior Lien Obligations and the Second Lien Obligations but prior to the payment of the principal of and interest on, or Maturity Value of, and other payments with respect to other Obligations;

PROVIDED, HOWEVER, that if the Authority, its successors or assigns, shall well and truly pay, or cause to be paid, or provide fully for payment as herein provided of the principal of the Obligations and the interest due or to become due thereon (together with premium, if any), at the time and in the manner set forth in the Obligations according to the true intent and meaning thereof, or shall provide, as permitted hereby, for the payment thereof by depositing with the Trustee sums sufficient for payment of the entire amount due or to become due thereon as herein provided, and shall well and truly keep, perform and observe all the covenants and conditions pursuant to the terms of this Indenture to be kept, performed and observed by it, and shall pay to the Trustee all sums of money due or to become due to it in accordance with the terms and provisions hereof, then this Indenture and the rights hereby granted shall cease, terminate and be void except as otherwise provided herein.

THIS INDENTURE FURTHER WITNESSETH, and it is expressly declared, that all Obligations issued and secured hereunder are to be issued, authenticated and delivered and all payments, revenues, income and funds hereby pledged and assigned, and are subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as hereinafter expressed, and the Authority has agreed and covenanted, and does hereby covenant and agree with the Trustee, for the benefit of the Owners from time to time of the Obligations issued hereunder and the Secured Creditors, as follows:

ARTICLE I

DEFINITIONS

Section 1.01 Definitions. In addition to terms elsewhere defined in this Indenture, the following terms shall have the following meanings unless the context or use clearly indicates another meaning. These definitions shall apply to the singular and plural forms of these defined terms.

“**Acceptable Credit Rating**” means, with respect to any Reserve Facility Provider and any Credit Provider, (i) the rating of its unsecured, senior long-term indebtedness (or, if such Person has no such rating, then its issuer rating or corporate credit rating) is no lower than (a) at the time such Reserve Facility Provider or Credit Provider executes, delivers or issues a Credit Support Instrument, ‘A’, ‘A2’ or the equivalent rating from each Rating Agency that provides a rating on such Reserve Facility Provider’s or Credit Provider’s unsecured, senior long-term indebtedness or that provides an issuer rating or corporate credit rating for such Reserve Facility Provider or Credit Provider, as applicable, and (ii) while the Obligation in the form of the TIFIA Loan is Outstanding, the additional requirements in the definition of Acceptable Credit Rating set forth in the TIFIA Loan Agreement.

“**Account**” means each account established in accordance with the terms of this Indenture.

“**Accreted Value**” means, with respect to any Capital Appreciation Obligations or Convertible Capital Appreciation Obligations, the principal amount thereof plus the interest accrued thereon at and prior to the maturity or earlier redemption thereof, in the case of a Capital Appreciation Obligation, or at and prior to the date of conversion of such Obligation to a Current Interest Obligation, in the case of a Convertible Capital Appreciation Obligation, compounded on the basis of a 360-day year of twelve 30-day months at the approximate interest rate thereon on each compounding date specified therein. The Accreted Value of an Obligation at any date of computation shall be an amount equal to the principal amount of such Obligation plus interest accrued thereon from the date of issuance, such interest to accrue at the rate per annum established as provided in a Supplemental Indenture and be compounded periodically, plus, if such date of computation shall not be a compounding date, the ratable portion of the difference between the Accreted Value computed as of the immediately preceding compounding date (or the date of issuance thereof if the date of computation is prior to the first compounding date succeeding the date of issuance) and the Accreted Value computed as of the immediately succeeding compounding date, calculated based on the assumption that the Accreted Value increases during any period in equal daily amounts (with straight-line interpolation between compounding dates). Notwithstanding the foregoing, interest on the TIFIA Loan shall accrue and compound in accordance with the terms of the TIFIA Loan Agreement.

“**Act**” means, collectively, the Authority Act, the Toll Act, Articles 10 and 11 of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code of the State, and such other provisions of law applicable to the Authority’s authority to issue Obligations, to conduct, administer and operate the Toll Program including setting, levying and collecting tolls and other charges, and to construct the Toll Road.

“**Additional Project**” means the I-10 Corridor Contract 2 Project, the I-15 Corridor Project and the I-15 Corridor Future Project; and any addition, acquisition, improvement, betterment, extension or equipping of or relating to the Toll Road or any additional capital project extending, improving or otherwise related to the Toll Program that the Authority determines to finance pursuant to this Indenture, provided that, any financing of any such addition that will be repaid in whole or in part with Revenues must comply with (i) the terms of Section 3.01(b) hereof, and (ii) for so long as any Obligation in the form of the TIFIA Loan is Outstanding, the requirements of the TIFIA Loan Agreement.

“**Annual Debt Service**” means, for any Calculation Period, the amount of payments due on the applicable Outstanding Obligations and all Hedging Obligations (net of any scheduled amounts payable to the Authority with respect to such scheduled Hedging Obligations) for such Calculation Period, as calculated by the Authority, utilizing the following assumptions about payments on such Obligations (and if more than one such assumption may apply, using the relevant assumptions selected by the Authority); provided that while the TIFIA Loan is outstanding Annual Debt Service shall be calculated in accordance with the TIFIA Loan Agreement:

(i) in determining the principal amount of an Obligation due in each year, payment shall be assumed to be made in accordance with the amortization schedule established for such principal, including any minimum sinking fund or account payments;

(ii) if the Obligation is supported by a line of credit or a letter of credit, the amount of principal paid or to be paid by a draw under such line of credit or letter of credit may be treated as if it were due based upon the level amortization of such principal (or such other method of amortization required under such line of credit or letter of credit) over the maximum term of repayment of borrowings permitted under such line of credit or letter of credit;

(iii) if an Outstanding Obligation bears a variable interest rate, the interest rate shall be assumed to be the greater of (a) the daily average interest rate during the 12 months ending with the month preceding the date of calculation, or during such shorter period that the Obligation has been Outstanding, or (b) the rate of interest on that Obligation on the date of calculation; provided, however, while the Obligation in the form of the TIFIA Loan is Outstanding, if an Outstanding Obligation bears a variable interest rate, the interest rate shall be calculated in accordance with the TIFIA Loan Agreement;

(iv) if Obligations proposed to be issued will be variable interest rate obligations and there is no Swap with respect to such Obligations, the interest on which is excluded from gross income for federal income tax purposes, then such obligations shall be assumed to bear interest at an interest rate equal to the average SIFMA Index during the three months preceding the month of calculation, or if SIFMA Index is no longer published, at an interest rate equal to 75% of the average Federal Funds Rate during that three month period, or if the Federal Funds Rate is not available for such period, another similar rate or index selected by the Authority and, for so long as the TIFIA Lender is the holder of an Outstanding Obligation, acceptable to the TIFIA Lender; provided, however, while the Obligation in the form of the TIFIA Loan is Outstanding, if an Outstanding Obligation bears a variable interest rate, the interest on which is excluded from gross income for federal income tax purposes, then such obligations shall be assumed to bear interest at an interest rate calculated in accordance with the TIFIA Loan Agreement;

(v) if Obligations proposed to be issued will be variable interest rate obligations the interest on which is included in gross income for federal income tax purposes and there is no Swap with respect to such Obligations, then such obligations shall be assumed to bear interest at an interest rate equal to the average Federal Funds Rate during the three months preceding the month of calculation, or if the Federal Funds Rate is not available for such period, another similar rate or index selected by the Authority and, for so long as the TIFIA Lender is the holder of an Outstanding Obligation, acceptable to the TIFIA Lender; provided, however, while the Obligation in the form of the TIFIA Loan is Outstanding, if an Outstanding Obligation bears a variable interest rate, the interest on which is included in gross income for federal income tax purposes, then such obligations shall be assumed to bear interest at an interest rate calculated in accordance with the TIFIA Loan Agreement;

(vi) if Obligations proposed to be issued are part of a Commercial Paper Program, the principal of such Obligations may be treated as if such principal were due based upon a 30-year level amortization of principal from the date of calculation and the interest on

such Obligations shall be calculated as if such Obligations were variable interest rate Obligations;

(vii) if the variable interest on any Obligation plus the variable payments due to the Authority and fixed payments due from the Authority under a Swap designated by the Authority are treated by the Authority as synthetic fixed rate debt, the variable interest rate Obligation may be treated as bearing such synthetic fixed rate for the duration of the synthetic fixed rate;

(viii) if the fixed interest on any Obligation plus the fixed payments due to the Authority and variable payments due from the Authority under a Swap designated by the Authority are treated by the Authority as synthetic variable rate debt, the fixed interest rate Obligation may be treated as bearing such synthetic variable rate for the duration of the synthetic variable rate and such synthetic variable rate shall be calculated using the principles of clauses (iii), (iv) or (v) hereof;

(ix) if any of the Obligations are Short-Term Put Obligations, the principal of such obligations may be treated as if such principal were due based upon a 30-year level amortization of principal from the date of calculation and the interest on such obligations may be calculated as if such obligations were variable interest rate Obligations;

(x) principal and interest payments on Obligations may be excluded to the extent such payments are to be paid from amounts (from sources other than Revenues or collateral in the Trust Estate) then currently on deposit with the Trustee or another fiduciary in escrow specifically and irrevocably therefor and interest payments on any Obligations may be excluded to the extent that such interest payments are to be paid from capitalized interest held by the Trustee or another fiduciary specifically to pay such interest (from sources other than Revenues), including amounts held on deposit to pay capitalized interest on one or more Series of Obligations;

(xi) if any of the Obligations are, or upon issuance will be, obligations for which the Authority is entitled to receive Subsidy Payments, as evidenced by an Opinion of Bond Counsel delivered with respect to such Obligations, such Obligations may be treated as bearing an interest rate equal to the rate of interest borne or assumed to be borne, as applicable, by the Obligations for the period of determination minus a rate equal to the Subsidy Payments to which the Authority is entitled for such period divided by the Outstanding principal amount of such Obligations during such period; and

(xii) any payment obligation under an Obligation that was or is optional or contingent (such as the obligation to make a termination payment under a Swap), whether or not the option is exercised or the contingency occurs, and any payments that are not scheduled payments, may be excluded;

(xiii) with respect to the TIFIA Loan, Annual Debt Service on such Obligations shall include TIFIA Mandatory Debt Service and TIFIA Scheduled Debt Service.

“Annual Operating Budget” means the annual budget required by Section 6.04 hereof.

“**Authority**” means the San Bernardino County Transportation Authority, a public entity duly established and existing under the laws of the State of California, and any successor thereto.

“**Authority Act**” means the San Bernardino County Transportation Authority Consolidation Act of 2017, Chapter 7 of Division 12 of the Public Utilities Code of the State of California (Section 130800 *et seq.*), as such may be amended from time to time hereafter.

“**Authorized Denominations**” means, with respect to a Series of Obligations, the denomination or denominations designated as such in a Supplemental Indenture providing for the issuance of such Obligations.

“**Authorized Representative**” means the [Executive Director of the Authority, any Deputy Executive Director of the Authority, the Chief Financial Officer of the Authority,] or any other employee of the Authority at the time designated to act on behalf of the Authority in a Certificate of the Authority executed by any of the foregoing officers and filed with the Trustee, which Certificate shall contain such employee’s specimen signature.

“**Backstop Account**” means the account by the name created pursuant to Section 5.02.

“**Bankruptcy Related Event**” means (a) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization or other relief in respect of the Authority or any of its debts, or for a substantial part of the assets of the Authority, under any Insolvency Law, or (ii) the appointment of a receiver, trustee, liquidator, custodian, sequestrator, conservator or similar official for the Authority or for a substantial part of the assets of the Authority, and, in any case referred to in the foregoing subclauses (i) and (ii), such proceeding or petition shall continue undismissed for 60 days or an order or decree approving or ordering any of the foregoing shall be entered; (b) the Authority shall (i) apply for or consent to the appointment of a receiver, trustee, liquidator, custodian, sequestrator, conservator or similar official for the Authority or for a substantial part of the assets of the Authority, or (ii) generally not be paying its debts as they become due unless such debts are the subject of a bona fide dispute, or become unable to pay its debts generally as they become due, or (iii) make a general assignment for the benefit of creditors, or (iv) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition with respect to it described in clause (a) of this definition, or (v) commence a voluntary proceeding under any Insolvency Law, or file a voluntary petition seeking liquidation, reorganization, an arrangement with creditors or an order for relief under any Insolvency Law, or (vi) file an answer admitting the material allegations of a petition filed against it in any proceeding referred to in the foregoing subclauses (i) through (v), inclusive, of this clause (b), or (vii) take any action for the purpose of effecting any of the foregoing; or (c) (i) the Trustee shall commence a process pursuant to which all or a substantial part of the Trust Estate shall be sold or otherwise disposed of in a public or private sale or disposition pursuant to a foreclosure of the lien thereon securing any Obligations (including the TIFIA Loan), or (ii) the Trustee shall commence a process pursuant to which all or a substantial part of the Trust Estate may be sold or otherwise disposed of pursuant to a sale or disposition of such Trust Estate in lieu of foreclosure or (d) the Trustee shall transfer, pursuant to directions issued by the Bondholders (other than the

TIFIA Lender), funds on deposit in any of the Project Accounts upon the occurrence and during the continuation of an Event of Default under this Indenture for application to the prepayment or repayment of any principal amount of any Obligations (other than the TIFIA Loan) other than in accordance with Article V and, if applicable, Section 7.02.

“**Beneficial Owner**” means, with respect to any Book-Entry Obligation, the beneficial owner of such Book-Entry Obligation as determined in accordance with the applicable rules of the Securities Depository for such Book-Entry Obligations.

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

“**Bond Counsel**” means a firm of nationally-recognized attorneys-at-law experienced in legal work relating to the issuance of municipal bonds selected by the Authority.

“**Bond Obligation**” means, as of any given date of calculation, (a) with respect to any Outstanding Current Interest Obligation, the principal amount of such Obligation, and (b) with respect to any Outstanding Capital Appreciation Obligation or Convertible Capital Appreciation Obligation, the Accreted Value thereof.

“**Bond Register**” means the registration books for the ownership of Obligations maintained by the Trustee pursuant to Section 2.08.

“**Bondholder**” or “**Holder**” or “**Owner**” means the record owner of any Obligation shown on the books of registration kept by the Trustee, which, during any period when such Obligation is a Book-Entry Obligation, shall be the Securities Depository or its Nominee.

“**Book-Entry Obligations**” means Obligations issued under a book-entry only depository system as provided in Section 2.13.

“**Business Day**” means any day, other than a Saturday, Sunday or other day on which the Government or banks are authorized or obligated by law or executive order to be closed in the State of California or the State of New York or in any city in which the Principal Office of the Trustee or, with respect to any Obligations secured by a Credit Support Instrument, the office where draws are to be made on a Credit Provider is located.

“**Calculation Date**” means each June 30 and December 31, commencing with such date following the Substantial Completion Date.

“**Calculation Period**” means a period of consecutive twelve (12) months ending on a Calculation Date.

“**Caltrans**” means the California Department of Transportation.

“**Caltrans DB Cooperative Agreement**” means that certain Agreement 08-1645 (SBCTA 17-1001736) for Design-Build of the I-10 Corridor Contract 1 Project, dated July 28, 2017, by and between the Authority and Caltrans setting forth, among other things, the manner in

which the initial phase of the I-10 Corridor Contract 1 Project will be constructed using the design-build method of procurement as authorized by the CTC.

“Capital Appreciation Obligations” means the Obligations designated as Capital Appreciation Obligations in the Supplemental Indenture providing for the issuance of such Obligations and on which interest is compounded and paid at maturity or on prior redemption.

“Capital Expenditures” means expenditures made or liabilities incurred for the acquisition of any assets, improvements or replacements thereof that have a useful life of more than one (1) year and that are capitalized in accordance with generally accepted accounting principles as defined by the American Institute of Certified Public Accountants or such other nationally recognized professional body, in effect from time to time in the United States of America.

“Cash Supplement Account” means the account by the name created pursuant to Section 5.02.

“Certificate of the Authority” means an instrument in writing signed by an Authorized Representative of the Authority.

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

“Commercial Paper Program” means a program of short-term Obligations (secured, at the option of the Authority, on a parity with Senior Lien Obligations, Second Lien Obligations or Subordinate Obligations) having the characteristics of commercial paper in that (i) such Obligations have a stated maturity not later than 270 days from their date of issue and (ii) maturing Obligations of such program may be paid with the proceeds of renewal Obligations.

“Consulting Engineer” means, initially, Parsons Transportation Group, and at any time thereafter means an independent engineer or engineering firm, or an affiliate thereof, experienced with planning and estimating the costs of construction, operation, maintenance, repair, and/or replacement of facilities similar to the Project appointed by the Authority; provided, while the Obligation in the form of the TIFIA Loan is Outstanding, such appointment is not objected to in written notice to the Authority by the TIFIA Lender within 15 Business Days after receiving written notice from the Authority of the name of the proposed engineering firm and supporting information regarding the qualifications of the proposed engineering firm.

“Continuing Disclosure Agreement” means, with respect to each Series of Obligations requiring an undertaking regarding disclosure under Rule 15c2-12, the continuing disclosure undertaking entered into by the Authority and, if applicable, the Trustee or a Dissemination Agent or both, as the same may be supplemented, modified or amended in accordance with its terms.

“Convertible Capital Appreciation Obligations” means Obligations that initially are issued as Capital Appreciation Obligations (including the Obligation in the form of the TIFIA Loan), but later convert to Obligations on which interest is paid periodically.

Convertible Capital Appreciation Obligations shall be Capital Appreciation Obligations until the conversion date and from and after such conversion date shall no longer be Capital Appreciation Obligations, but shall be treated as Current Interest Obligations having a principal amount equal to their Accreted Value on the conversion date; provided that the principal amount of the TIFIA Loan at conversion shall be determined as provided in the TIFIA Loan Agreement.

“**Cooperative Agreement**” means the Cooperative Agreement, dated as of June 13, 2018 by and between the Authority and the Toll Operator to implement and operate a toll collection system through a toll services contract for the I-10 Corridor Contract 1 Project, as amended, modified, supplemented in accordance with the terms of the TIFIA Loan Agreement and the Cooperative Agreement, and all related or ancillary agreements, or any other operating agreement relating to the Toll Road entered into by the Authority and one or more entities in accordance with the terms hereof.

“**Costs of Issuance**” means all items of expense directly or indirectly payable by or reimbursable to the Authority and related to the authorization, execution, sale and delivery of Obligations, including, but not limited to, advertising and printing costs, costs of preparation and reproduction of documents, filing and recording fees, initial fees and charges of the Trustee, legal fees and charges, fees and disbursements of consultants and professionals, financial advisor fees and expenses, underwriting fees and discounts, rating agency fees, fees and charges for preparation, execution, transportation and safekeeping of such Obligations, surety, insurance, liquidity and credit enhancements costs, and any other cost, charge or fee incurred in connection with the issuance of Obligations.

“**County**” means the County of San Bernardino.

“**Coverage Calculation Date**” has the meaning assigned in Section 6.03(b).

“**Coverage Ratio**” has the meaning assigned in Section 6.03(b).

“**Credit Provider**” means any municipal bond insurance company, bank or other financial institution or organization or group of financial institutions or organizations that provides a Credit Support Instrument for a Series of Obligations and, that has an Acceptable Credit Rating.

“**Credit Support Instrument**” means a policy of insurance, letter of credit, line of credit, standby purchase agreement, revolving credit agreement or other credit arrangement pursuant to which a Credit Provider provides credit or liquidity support with respect to, or available for, the payment of interest, principal or Purchase Price of any Series of Obligations, as the same may be amended from time to time pursuant to its terms, and any replacement therefor.

“**CTC**” means the California Transportation Commission.

“**Current Interest Obligations**” means Obligations designated as Current Interest Obligations in the Supplemental Indenture providing for the issuance of such Obligations and that pay interest to the Holders thereof on a periodic basis prior to maturity. Current Interest Obligations also include Convertible Capital Appreciation Obligations after their conversion date.

“**DBRS**” means DBRS Limited, and its successors and assigns, except that if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, then the term “DBRS” shall be deemed to refer to any other nationally recognized statistical rating organization identified as such by the Securities and Exchange Commission and selected by the Authority.

“**Deemed Event of Default**” means an Event of Default as such term is defined in the TIFIA Loan Agreement.

“**Defeasance Securities**” means noncallable: (i) U.S. Treasury certificates, notes, bills and bonds, including State and Local Government Series securities; (ii) direct obligations of the U.S. Treasury which have been stripped by the U.S. Treasury itself; (iii) Resolution Funding Corp. securities (“REFCORP”), provided, however, only the interest component of REFCORP strips which have been stripped by request to the Federal Reserve Bank of New York in book entry form are acceptable; (iv) pre-refunded municipal bonds rated the same level as U.S. Treasury Notes and Bonds by Moody’s and by S&P, provided, however, that if such municipal bonds are rated only by S&P, then such pre-refunded municipal bonds must have been pre-refunded with cash, direct United States or United States guaranteed obligations; (v) obligations issued by the following agencies, which are backed by the full faith and credit of the United States: (a) Farmers Home Administration (FmHA) - certificates of beneficial ownership; (b) General Services Administration - participation certificates; (c) U.S. Maritime Administration - Guaranteed Title XI financing; (d) Small Business Administration guaranteed participation certificates and guaranteed pool certificates; (e) GNMA guaranteed MSB and participation certificates; and (f) U.S. Department of Housing and Urban Development (HUD) Local Authority Bonds, or (vi) certain obligations of government-sponsored agencies that are not backed by the full faith and credit of the United States limited to: (a) Federal Home Loan Mortgage Corp. (FHLMC) debt obligations; (b) Farm Credit System (formerly Federal Land Banks, Federal Intermediate Credit Banks, and Banks for Cooperatives) consolidated system-wide bonds and notes; (c) Federal Home Loan Banks (FHL Banks) consolidated debt obligations; (d) Federal National Mortgage Association (FNMA) debt obligations; (e) Student Loan Marketing Association (SLMA) debt obligations; and (f) Financing Corp. (FICO) debt obligations; and (g) other obligations approved by the Rating Agencies for defeasance escrows rated in the highest Rating Category.

“**Design-Build Contract**” means, initially, the Design-Build Contract for the I-10 Corridor Contract 1 Project, dated August 16, 2018, between the Authority and the Design-Build Contractor and, thereafter, any additional, supplemental or replacement design-build contracts entered into by the Authority relating to the Toll Road, each in a form approved by the TIFIA Lender.

“**Design-Build Contractor**” means the contractor under any Design-Build Contract and, initially, Lane Security Paving Joint Venture and any successor thereto.

“**Design-Build Contractor Payments Account**” means the Account by that name created within the Project Fund pursuant to Section 5.02.

“**Dissemination Agent**” means, with respect to each Series of Obligations requiring an undertaking regarding disclosure under Rule 15c2-12, the party (which may be the Authority) acting as dissemination agent under the applicable Continuing Disclosure Agreement, or any successor dissemination agent designated in writing by the Authority and which has filed a written acceptance with the Authority and the Trustee.

“**DTC**” means The Depository Trust Company, New York, New York or any successor thereto.

“**Electronic**” means, with respect to notice, notice through the internet or through a time-sharing terminal.

“**EMMA**” means the Electronic Municipal Market Access website of the MSRB located at <http://emma.msrb.org>.

“**Event of Default**” means any of the events specified in Section 7.01.

“**Federal Funds Rate**” means, for any day, the rate per annum equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day.

“**Financial Plan**” means (a) the initial financial plan submitted by the Authority within 60 days after the effective date of the TIFIA Loan as set forth in [Section 22(a)] of such TIFIA Loan Agreement, and (b) the annual updates thereto required pursuant to such [Section 22(a)] of the TIFIA Loan Agreement.

“**Financing Documents**” means this Indenture, any Swaps, and any documents and/or instruments evidencing, documenting, securing or otherwise relating to any or all of the Obligations (including each TIFIA Loan Agreement), all as the same may from time to time be amended, modified, extended, renewed and/or restated, and each other document or instrument required to be executed and delivered by the aforementioned agreements.

“**Fiscal Year**” means the period of twelve months terminating on June 30 of each year, or any other annual period hereafter selected and designated by the Authority as its Fiscal Year in accordance with applicable law and, if applicable, the applicable TIFIA Loan Agreement.

“**Fitch**” means Fitch Ratings, Inc., and its successors and assigns, except that if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, then the term “Fitch” shall be deemed to refer to any other nationally recognized statistical rating organization identified as such by the Securities and Exchange Commission and selected by the Authority.

“**Fund**” means each fund established in accordance with the terms of this Indenture.

“**Funds Transfer Certificate**” means a certificate prepared by the Authority in accordance with the terms of this Indenture substantially in the form of Exhibit A attached hereto containing the certifications by the Authority required by this Indenture with respect to a requested transfer of funds from a Fund or Account.

“**Government**” means the United States of America and its departments and agencies.

“**Hedging Obligations**” means, collectively, the payment of (a) all scheduled amounts payable to the Swap Parties by the Authority under the Swaps (including interest accruing after the date of any filing by the Authority of any bankruptcy, insolvency or similar proceeding with respect to the Authority), and (b) all other indebtedness, fees, indemnities and other amounts payable by the Authority to the Swap Parties under such Swaps; provided, that Hedging Obligations shall not include Hedging Termination Obligations. For the avoidance of doubt, all calculations of such amounts payable under the Swaps shall be made in accordance with the terms of the applicable Swaps.

“**Hedging Termination Obligations**” means the aggregate amount payable to the Swap Parties by the Authority upon the early unwind of all or a portion of the Swaps, net of all amounts payable to the Authority by such Swap Parties upon the early unwind of all or a portion of such Swaps. For the avoidance of doubt, all calculations of such amounts payable under the Swaps shall be made in accordance with the terms of the applicable Swaps.

“**Highest Priority Obligations**” means, as of any date, any Senior Lien Obligations and/or Second Lien Obligations that are Outstanding, unless and until there are no Senior Lien Obligations or Second Lien Obligations Outstanding hereunder, in which case it means Subordinate Obligations.

“**I-10**” means Interstate 10.

“**I-10 Corridor Contract 1 Project**” means the development, design, construction, right-of-way acquisition, utilities adjustment, operation and maintenance, repair, rehabilitation, reconstruction, financing, administration, or any combination of these including the establishment of reserves for such purposes, with respect to the I-10 express lanes in the County, including the construction of tolled express lanes extending approximately 10 miles from the border of the County of Los Angeles to the I-10/I-15 interchange and the installation of an electronic toll enforcement and collection system.

“**I-10 Corridor Contract 2 Project**” means the development, design, construction, right-of-way acquisition, utilities adjustment, operation and maintenance, repair, rehabilitation, reconstruction, financing, administration, or any combination of these including the establishment of reserves for such purposes, with respect to the I-10 express lanes in the County, including the construction of tolled express lanes extending approximately 23 miles from the I-10/I-15 interchange to Ford Street in the City of Redlands and the installation of an electronic toll enforcement and collection system.

“**I-10 Corridor Project**” means collectively the I-10 Corridor Contract 1 Project, the I-10 Corridor Contract 2 Project and any Additional Project relating to the I-10 express lanes in the County.

“**I-15**” means Interstate 15.

“**I-15 Corridor Future Project**” means the development, design, construction, right-of-way acquisition, utilities adjustment, operation and maintenance, repair, rehabilitation, reconstruction, financing, administration, or any combination of these including the establishment of reserves for such purposes, with respect to the I-15 express lanes in the County, including the construction of tolled express lanes extending approximately 20 miles from Duncan Canyon Road in the City of Fontana to US-395 in the City of Hesperia and the installation of an electronic toll enforcement and collection system.

“**I-15 Corridor Project**” means the development, design, construction, right-of-way acquisition, utilities adjustment, operation and maintenance, repair, rehabilitation, reconstruction, financing, administration, or any combination of these including the establishment of reserves for such purposes, with respect to the I-15 Express Lanes in the County, including the construction of tolled express lanes extending approximately 14 miles from Cantu-Galleano Ranch Road in Riverside County to Duncan Canyon Road in the City of Fontana and the installation of an electronic toll enforcement and collection system.

“**Indenture**” means this Master Indenture as the same may be amended or supplemented from time to time as permitted hereby.

“**Independent Certified Public Accountant**” means any certified public accountant or firm of such accountants appointed by the Authority, and who, or each of whom, is independent with respect to the Authority, pursuant to the Statement on Auditing Standards No. 1 of the American Institute of Certified Public Accountants.

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

“**Insurance and Condemnation Proceeds Account**” means the Account by that name created within the Project Fund pursuant to Section 5.02.

“**Interest Payment Date**” means, with respect to a Series of Obligations, the date or dates for the payment of interest on such Obligations set forth in a Supplemental Indenture providing for the issuance of such Obligations.

“**Kroll**” means Kroll Bond Rating Agency, Inc., and its successors and assigns, except that if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, the term “Kroll” shall be deemed to refer to any other nationally recognized statistical rating organization identified as such by the Securities and Exchange Commission and selected by the Authority.

“Major Maintenance and Repair Fund” means the Fund by that name created pursuant to Section 5.02.

“Major Maintenance and Repair Fund Permitted Expenditures” means Capital Expenditures reasonably necessary to repair or rehabilitate the Toll Road so that it remains in a condition that meets the performance and maintenance standards established by Caltrans for existing State-operated transportation facilities of substantially equivalent size, location and character.

“Major Maintenance and Repair Fund Required Amount” means, for any Calculation Date, an amount equal to the aggregate of (a) one hundred percent (100%) of expected Major Maintenance and Repair Fund Permitted Expenditures for the following 12 month period, (b) eighty percent (80%) of expected Major Maintenance and Repair Fund Permitted Expenditures for the next succeeding 12 month period (i.e., year 2), (c) sixty percent (60%) of expected Major Maintenance and Repair Fund Permitted Expenditures for the next succeeding 12 month period (i.e., year 3), (d) forty percent (40%) of expected Major Maintenance and Repair Fund Permitted Expenditures for the next succeeding 12 month period (i.e., year 4) and (e) twenty percent (20%) of expected Major Maintenance and Repair Fund Permitted Expenditures for the next succeeding 12 month period (i.e., year 5), in each case initially based on the forecast of estimated life cycle maintenance costs with respect to the I-10 Corridor Contract 1 Project set forth in the base case financial model delivered to the TIFIA Lender on the effective date of the TIFIA Loan Agreement and thereafter based on the information regarding Major Maintenance and Repair Fund Permitted Expenditures included in the then-current Annual Operating Budget prepared by the Authority and certified by the Consulting Engineer (as may be updated pursuant to the TIFIA Loan Agreement) and, for any Monthly Funding Date after a Calculation Date until the Monthly Funding Date of the next Calculation Date, the amount for such most recent Calculation Date less the Major Maintenance and Repair Fund Permitted Expenditures made after such most recent Calculation Date, plus the additional amount projected to be needed for deposit to the Major Maintenance and Repair Fund by the succeeding Calculation Date in order for the Major Maintenance and Repair Fund Required Amount for such succeeding Calculation Date to be on deposit therein by such Calculation Date.

“Master Indenture” has the meaning assigned in the first paragraph hereof.

“Maturity Value,” with respect to any Capital Appreciation Obligation, shall mean the Accreted Value of such Obligation at the maturity thereof and, with respect to a Convertible Capital Appreciation Obligation, shall mean the Accreted Value of such Obligation on the conversion date.

“Maximum Annual Debt Service” means the highest amount of Annual Debt Service due on all Obligations of the Authority of the same lien ranking as the applicable Additional Obligations for any Calculation Period during the period from the date of such determination through the final maturity date of the applicable Obligations then Outstanding and proposed to be issued.

“**Measure I**” means Ordinance No. 04-01, named “An Ordinance Providing for the Continuation of a One-Half of One Percent Retail Transactions and Use Tax by the San Bernardino County Transportation Authority for Local Transportation Purposes and the Transportation Expenditure Plan” (the “Ordinance”) adopted by the Authority on June 2, 2004 pursuant to the provisions of the Sales Tax Act, providing for the continued imposition of a retail transactions and use tax applicable in the incorporated and unincorporated territory of the County in accordance with Chapter 5 of the Sales Tax Act and Part 1.6 (commencing with Section 7251) of Division 2 of the California Revenue and Taxation Code, at the rate of one-half of one percent (1/2%) for a period not to exceed thirty (30) years beginning April 1, 2010, which ordinance became effective at the close of the polls on November 2, 2004, the day of the election at which the proposition providing for the continued imposition of the Sales Tax, entitled Measure I, was approved by more than two-thirds of the electors voting on the measure.

“**Measure I Backstop**” means Measure I sales tax revenues invested by the Authority in the I-10 Corridor Contract 1 Project and transferred by the Authority to the Measure I Reserve Fund in order to fund projected Toll Revenue shortfalls in clauses First through Fifteenth in Section 5.03(b), pursuant to Section 5.05 hereof; provided, that, (i) the amount of such deposit shall not exceed in any Fiscal Year the budgeted total aggregate Operation and Maintenance Expenses and the Scheduled Major Maintenance and Repair Fund Required Deposits for the I-10 Corridor Contract 1 Project for such Fiscal Year plus, for the Fiscal Year during which the TIFIA Loan Reserve Account is required to be initially funded, the TIFIA Loan Reserve Requirement and (ii) the maximum aggregate outstanding principal amount of such invested amounts when combined with the Measure I Cash Supplement investments made and not repaid and scheduled to be made shall not exceed an aggregate principal amount of ninety-three million dollars (\$93,000,000).

“**Measure I Backstop Repayment Account**” means the account by the name created pursuant to Section 5.02.

“**Measure I Cash Supplement**” means Measure I sales tax revenues transferred by the Authority to the Measure I Reserve Fund for deposit in the Toll Revenue Fund pursuant to Section 5.05 hereof and Schedule [___] of the TIFIA Loan Agreement.

“**Measure I Cash Supplement Repayment Account**” means the account by the name created pursuant to Section 5.02.

“**Measure I Investment**” means the Measure I Backstop and the Measure I Cash Supplement paid by the Authority for the I-10 Corridor Contract 1 Project in an aggregate outstanding principal amount not to exceed ninety-three million (\$93,000,000), to be repaid with interest from Toll Revenues pursuant to Sections 5.03(c) and 5.05 hereof.

“**Measure I Repayment Fund**” means the account by the name created pursuant to Section 5.02.

“**Measure I Reserve Fund**” means the account by the name created pursuant to Section 5.02.

“**Monthly Funding Date**” means the second to last day of each calendar month or, if such day is not a Business Day, the next preceding Business Day.

“**Moody’s**” means Moody’s Investors Service, and its successors and assigns, except that if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, the term “Moody’s” shall be deemed to refer to any other nationally recognized statistical rating organization identified as such by the Securities and Exchange Commission and selected by the Authority.

“**MSRB**” means the Municipal Securities Rulemaking Board, and its successors and assigns. Until otherwise designated by the MSRB, filings with the MSRB are to be made through EMMA.

“**Net Revenue**” means, for any applicable time period, without duplication, (a) Revenue received by the Authority during such period plus (b) Measure I Cash Supplement amounts transferred to the Revenue Fund from the Measure I Reserve Fund during such period, plus (c) solely for historical ratio calculations, Measure I Backstop amounts transferred to the Toll Revenue Fund from the Measure I Reserve Fund during such period, less (d) Operation and Maintenance Expenses for such period (excluding, in such calculations, (i) any extraordinary or one-time Revenues for such period, and (ii) any extraordinary or one-time Operation and Maintenance Expenses for such period, but only if and to the extent such extraordinary or one-time expenses are paid or payable from extraordinary or one-time Revenues being excluded above), less (e) any deposits to the Rebate Fund made from Revenues during such period and less (f) deposits into any Fund or Account made from Revenues during such period (other than the Toll Revenue Fund and the Measure I Reserve Fund) to the extent that disbursements from such Fund or Account will be treated as Revenues. When calculating projected Net Revenue for purposes of Section 3.01(b), Sections 3.03 (b) and Section 6.03, Revenue shall only include the amounts received under clauses (a), (b) and (f) of the definition of Toll Revenues and shall not include Measure I Backstop.

“**Nominee**” means the nominee of the Securities Depository for the Book-Entry Obligations, in whose name such Book-Entry Obligations are to be registered. The initial Nominee shall be Cede & Co., the partnership nominee of DTC.

“**Obligations**” means all indebtedness of the Authority payable from Revenue and other collateral in the Trust Estate incurred or assumed by the Authority for borrowed money (including indebtedness arising under Credit Support Instruments or Hedging Obligations) and all other financing obligations of the Authority relating to the Toll Road that, in accordance with generally accepted accounting principles, are included as a liability on a balance sheet for the Toll Road books and records, including any bonds, notes, certificates or other obligations, as the case may be, authenticated and delivered under and pursuant to this Indenture as Senior Lien Obligations, Second Lien Obligations or Subordinate Obligations. For the purpose of determining the “Obligations” payable from Revenue, Obligations that are no longer Outstanding shall be excluded. The Measure I Investment will not constitute an Obligation hereunder for purposes of the covenants in Article VI.

“Operation and Maintenance Expenses” means all reasonable current expenses incurred and paid or payable by the Authority for the operation and maintenance of the Toll Road payable from Revenue, including, without limitation, payments with respect to financing leases and installment purchase agreements, all amounts paid or payable under the Cooperative Agreement, the Police Services Agreement and similar agreements, costs for operation, maintenance and repair, consumables, payments under any lease or rental payments properly considered to be operating expenses, payments pursuant to agreements for the management of the Toll Road, taxes, premiums paid or payable on any insurance, payments for oversight services, all administrative, engineering and policing costs, costs for any security, toll collection and enforcement expenses, fees and expenses of the Traffic Consultant, the Trustee, each trustee of Obligations and the TIFIA Lender, any other Secured Creditor (for the avoidance of doubt, such fees, administrative costs and expenses do not include any commitment fees, termination fees, fines or other penalties or any payments to be made to Swap Parties including Hedging Obligations and Hedging Termination Obligations), any rating agency, any insurance consultant, legal and accounting expenses, and any other reasonable and necessary expense paid or payable for the operation and maintenance of the Toll Road, but excluding Capital Expenditures, expenditures for rehabilitation and operational improvement projects on the Toll Road, Reserve Facility Costs, any costs, fees or reimbursements in respect of any Credit Support Instrument, depreciation or obsolescence charges or reserves therefore, debt service for Obligations, and any non-cash charges, such as depreciation, amortization of intangibles and other bookkeeping entries of a similar nature.

“Operation and Maintenance Fund” means the Fund by that name created pursuant to Section 5.02.

“Operation and Maintenance Fund Required Amount” means the amount described in and required to be maintained pursuant to Section 5.06(a).

“Opinion of Bond Counsel” means a written opinion of Bond Counsel.

“Outstanding,” when used with reference to Obligations hereunder means all Obligations that have been issued by the Authority hereunder or pursuant hereto, except such Obligations: (i) canceled or delivered for cancellation; (ii) deemed to be paid in accordance with Section 10.02 or any similar provisions in the constituent instruments defining the rights of the holders of such Obligations; (iii) in lieu of which other Obligations have been authenticated under Sections 2.07 or 2.08 or any similar provisions in the constituent instruments defining the rights of the holders of such Obligations; and (iv) to the extent described in Section 9.05, Obligations held by or for the account of the Authority.

“Parity Obligations” means obligations of the Authority that are secured by the Trust Estate on a parity with the Senior Lien Bonds, including payments to the holders of obligations of the Authority entered into pursuant to California Government Code section 5922 (or any similar statute), in each case to the extent the Authority has contracted to make those payments as Parity Obligations.

“Participating Underwriter” means any of the original underwriters of any Series of Obligations required to comply with Rule 15c2-12.

“**Permitted Investments**” means (i) with respect to the TIFIA Loan Reserve Account and the TIFIA Loan Prepayment Account for any time while an Obligation in the form of the TIFIA Loan remains Outstanding, Permitted Investments as defined in the TIFIA Loan Agreement and (ii) for all other times, the following:

(a) any bonds or other obligations which as to principal and interest constitute direct obligations of, or are fully and unconditionally guaranteed as to the payment of principal and interest by, the United States of America, including obligations of any federal agency or federal government-sponsored enterprise;

(b) any certificates, receipts, securities or other obligations evidencing ownership of, or the right to receive, a specified portion of one or more interest payments or principal payments, or any combination thereof, to be made on any bond, note, or other obligation described above in clause (a);

(c) obligations of the Federal National Mortgage Association, the Government National Mortgage Association, Federal Home Loan Banks, Farmers Home Administration and Federal Home Loan Mortgage Corporation, including mortgage pass-through securities, collateralized mortgage obligations, mortgage-backed or other pay-through bonds guaranteed by such agencies;

(d) housing authority bonds issued by public agencies or municipalities and fully secured as to the payment of both principal and interest by a pledge of annual contributions under an annual contributions contract or contracts with the United States of America; or project notes issued by public agencies or municipalities and fully secured as to the payment of both principal and interest by a requisition or payment agreement with the United States of America;

(e) obligations of any state, territory or commonwealth of the United States of America or any political subdivision thereof or any agency or department of the foregoing; provided that at the time of their purchase such obligations have a Threshold Rating;

(f) any bonds or other obligations of any state of the United States of America or any political subdivision thereof (1) (A) which are not callable prior to maturity or (B) which are pre-refunded prior to maturity and as to which irrevocable instructions have been given to the trustee of such bonds or other obligations by the obligor to give due notice of redemption and to call such bonds for redemption on the date or dates specified in such instructions, (2) which are secured as to principal and interest and redemption premium, if any, by a fund consisting only of cash or bonds or other obligations of the character described above in clause (a) or (b) which fund may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the interest payment dates and the maturity date or dates thereof or the specified redemption date or dates pursuant to such irrevocable instructions, as appropriate, (3) as to which the principal of and interest on the bonds and obligations of the character described above in clause (a) or (b) which have been deposited in such fund along with any cash on deposit in such fund are sufficient to pay the principal of and interest and redemption premium, if any, on the bonds or other obligations described in this clause (f) on the interest payment dates and the maturity date or dates thereof or on the redemption date or dates specified in the irrevocable instructions referred to in subclause (1) of

this clause (f), as appropriate, and (4) which have a long-term Threshold Rating at the time of their purchase;

(g) bonds, notes, debentures or other evidences of indebtedness issued or guaranteed by any corporation provided that at the time of their purchase such obligations have a Threshold Rating;

(h) demand or time deposits, including trust accounts, trust funds, interest-bearing deposits, overnight banking deposits, interest bearing money market accounts or certificates of deposit (including those placed by a third party pursuant to an agreement between the Authority and the Trustee), whether negotiable or nonnegotiable, issued by any bank or trust company organized under the laws of any state of the United States of America or any national banking association (including the Trustee or any of its affiliates), provided that such certificates of deposit shall be issued by an institution, the senior debt obligations of which have a Threshold Rating;

(i) any repurchase or reverse repurchase agreement with any bank or trust company organized under the laws of any state of the United States or any national banking association (including the Trustee or any of its affiliates) having a minimum permanent capital of one hundred million dollars (\$100,000,000) or government bond dealer reporting to, trading with, and recognized as a primary dealer by the Federal Reserve Bank of New York, which agreement is secured by any one or more of the securities and obligations described in clauses (a), (b), (c) or (d) above, which shall have a market value (exclusive of accrued interest and valued at least monthly) at least equal to 102% of the principal amount of such investment and shall be lodged with the Trustee or other fiduciary, as custodian for the Trustee, by the bank, trust company, national banking association or bond dealer executing such repurchase agreement, and the entity executing each such repurchase agreement required to be so secured shall furnish the Trustee with an undertaking satisfactory to it that the aggregate market value of all such obligations securing each such repurchase agreement (as valued at least monthly) will be an amount equal to 102% of the principal amount of each such repurchase agreement and the Trustee shall be entitled to rely on each such undertaking;

(j) any cash sweep or similar account arrangement of or available to the Trustee, the investments of which are limited to investments described in clauses (a), (b), (c), (d), (e) and (k) of this definition of Permitted Investments and any money market fund, the entire investments of which are limited to investments described in clauses (a), (b), (c), (d), (e) and (i) of this definition of Permitted Investments; provided that as used in this clause (j) and clause (k) investments will be deemed to satisfy the requirements of clause (i) if they meet the requirements set forth in clause (i) ending with the words “clauses (a), (b), (c) or (d) above” and without regard to the remainder of such clause (i);

(k) any investment agreement with a financial institution or insurance company or whose obligations are guaranteed by a financial institution or insurance company which: (1) has at the date of execution thereof an outstanding issue of unsecured, uninsured and unguaranteed debt obligations or a claims paying ability assigned a Threshold Rating; or (2) is fully secured by obligations described in items (a), (b), (c) or (d) of the definition of Permitted Investments which are (A) valued not less frequently than monthly and have a fair market value,

exclusive of accrued interest, at all times at least equal to the principal amount of the investment, (B) held by the Trustee or other custodian acceptable to the Trustee, (C) subject to a perfected first lien in the Trustee, and (D) free and clear from all third party liens;

(l) shares in a common law trust established pursuant to Title 1, Division 7, Chapter 5 of the Government Code of the State which invests exclusively in investments permitted by Section 53601 or Section 53635, as applicable, of Title 5, Division 2, Chapter 4 of the Government Code of the State, as it may be amended, including the California Asset Management Program (CAMP);

(m) the pooled investment fund of the County, which is administered in accordance with the investment policy of the County as established by the Treasurer/Tax Collector thereof, as permitted by Section 53601 of the Government Code of the State, copies of which policy are available upon written request to said Treasurer/Tax Collector;

(n) the Local Agency Investment Fund or similar pooled fund operated by or on behalf of the State of California and which is authorized to accept investments of moneys held in any of the Funds or Accounts established pursuant to this Indenture;

(o) obligations of the Resolution Trust Corporation and interest obligations of the Resolution Funding Corporation;

(p) investment in money market mutual funds having a rating in the highest investment category granted thereby from S&P or Moody's, including, without limitation any mutual fund for which the Trustee or an affiliate of the Trustee serves as investment manager, administrator, shareholder servicing agent, and/or custodian or subcustodian, notwithstanding that (1) the Trustee or an affiliate of the Trustee receives fees from funds for services rendered, (2) the Trustee collects fees for services rendered pursuant to this Indenture, which fees are separate from the fees received from such funds, and (3) services performed for such funds and pursuant to this Indenture may at times duplicate those provided to such funds by the Trustee or an affiliate of the Trustee; and

(q) any investments authorized pursuant to California Government Code Section 53601 provided that at the time of their purchase such obligations have a Threshold Rating.

“Person” means any natural person, firm, partnership, association, corporation, or public body.

“Police Services Agreement” means the Police Services Agreement to be entered into prior to Substantial Completion by and between the State of California, acting by and through the California Highway Patrol, and the Authority, as amended, modified and supplemented in accordance with its terms.

“Principal Office” means, with respect to the Trustee, the corporate trust office of the Trustee at Los Angeles, California, Attention: Linda Verstuyft, and solely for purposes of the presentation of Obligations for transfer, exchange or payment, such other or additional offices as may be designated by the Trustee from time to time.

“**Project**” means the I-10 Corridor Contract 1 Project.

“**Project Costs**” means all or any part of the following with respect to the Project:

(a) the cost of program and project management, design, construction, right-of-way acquisition, and utilities adjustment, repair, rehabilitation and reconstruction, including, but not limited to:

(1) construction, expansion, enlargement, extension, reconstruction, restoration, repair and rehabilitation of the Project or portion thereof (including, but not limited to, indemnity and surety bonds, permits, taxes, licenses, insurance premiums, or other municipal or governmental charges lawfully levied or assessed during construction);

(2) the cost of acquisition of all real or personal property, rights, rights-of-way, franchises, easements and interests acquired or used for the Project or portion thereof,

(3) the cost of site preparation, including demolishing or removing any structures on land so acquired and the cost of acquiring any land to which the structures may be removed;

(4) any cost of borings and other preliminary investigations necessary or incident to determining the feasibility or practicability of constructing the Project or portion thereof and any cost necessary or desirable to satisfy conditions associated with the issuance of any permit for the construction thereof (including the costs of environmental related mitigation required in connection therewith);

(5) the cost of architectural, engineering, environmental feasibility, traffic and revenue, economic and demographic, appraisal, financial, and legal services;

(6) the cost of planning, investigations, studies, evaluations, plans, specifications, estimates, and administrative and other expenses that are necessary or incidental to the determination of the feasibility of constructing the Project or portion thereof or incidental to the obtaining of construction contracts or to the construction (including construction administration and inspection), acquisition or financing thereof and that constitute capital costs;

(7) the cost of all machinery and equipment, vehicles, materials and rolling stock;

(b) Costs of Issuance;

(c) interest on Obligations issued for the Project for the period prior to acquisition or completion of construction;

(d) Operation and Maintenance Expenses occurring during and for a period of up to one year after acquisition or completion of construction, as determined by the Authority,

provided that, if applicable, the Trustee has received an Opinion of Bond Counsel (which opinion may address either specific Operation and Maintenance Expenses or categories of Operation and Maintenance Expenses) to the effect that the treatment of such Operation and Maintenance Expenses as a Project Cost will not adversely affect the exclusion of interest on any Outstanding Obligations intended to be tax-exempt from gross income for federal income tax purposes;

(e) the repayment or reimbursement of any Obligation, loan or advance for any of the foregoing; and

(f) such other costs and expenses as are permitted by the Act or other applicable law at the time such Obligations are issued.

“Project Fund” means the Fund by that name established pursuant to Section 5.02.

“Purchase Price” means, with respect to Obligations, the amount set forth in this Indenture as the amount to be paid when such Obligations are tendered for purchase or deemed tendered for purchase in accordance with the provisions of this Indenture.

“Rating Agency” means, as and to the extent applicable to a Series of Obligations, each of DBRS, Fitch, Moody’s, S&P or Kroll then maintaining a rating on such Series of Obligations.

“Rating Category” means: (i) with respect to any long-term rating category, all ratings designated by a particular letter or combination of letters, without regard to any numerical modifier, plus or minus sign or other modifier; and (ii) with respect to any short-term or commercial paper rating category, all ratings designated by a particular letter or combination of letters and taking into account any numerical modifier, but not any plus or minus sign or other modifier.

“Rating Confirmation” means written evidence from each Rating Agency then rating any Series of Obligations to the effect that, following the event that requires the Rating Confirmation, the then current rating for such Series of Obligations will not be lowered to a lower Rating Category or suspended or withdrawn solely as a result of the occurrence of such event.

“Rebate Fund” means the Fund by that name created pursuant to Section 5.02.

“Redemption Fund” means the Fund by that name created pursuant to Section 5.18.

“Representation Letter” means the letter or letters of representation from the Authority to, or other instrument or agreement with, a Securities Depository for Book-Entry Obligations, in which the Authority, among other things, makes certain representations to the Securities Depository with respect to the Book-Entry Obligations, the payment thereof and delivery of notices with respect thereto.

“**Reserve Facility**” means a letter of credit, surety bond or insurance policy issued to the Trustee by a bank or company licensed to issue a surety bond or insurance policy in substitution or in lieu of cash deposits in a reserve fund guaranteeing the timely payment of the principal of and interest on the Obligations supported by the Reserve Facility.

“**Reserve Facility Costs**” means amounts owed with respect to repayment of draws on a Reserve Facility, including interest thereon at the rate specified in the agreement pertaining to such Reserve Facility and expenses owed to the Reserve Facility Provider in connection with such Reserve Facility.

“**Reserve Facility Provider**” means any provider of a Reserve Facility, any successor thereto or any replacement therefor.

“**Reserve Funds**” means the Senior Lien Obligations Reserve Fund, the TIFIA Loan Reserve Account, the Second Lien Obligations Reserve Fund, and the Subordinate Obligations Reserve Fund, including any accounts and sub-accounts under any of the foregoing.

“**Residual Fund**” means the Fund by that name created pursuant to Section 5.02.

“**Residual Release Conditions**” means the conditions set forth in Section 5.12(b).

“**Revenue**” means (i) Toll Revenues; (ii) all interest or other income from investment of money in the Funds and Accounts established hereunder (excluding the Rebate Fund, the Measure I Reserve Fund and any Fund or Account established to hold the proceeds of a drawing on any Credit Support Instrument); and (iii) all Swap Revenues; provided that for any calculations required by Article III hereof, “Revenue” shall not include Subsidy Payments or any amounts transferred to the Toll Revenue Fund from the Sweep Fund or from the Residual Fund.

“**Rule 15c2-12**” means Securities and Exchange Commission Rule 15c2-12, adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

“**S&P**” means Standard & Poor’s Ratings Services, a division of Standard & Poor’s Financial Services LLC, a subsidiary of The McGraw-Hill Companies, and its successors and assigns, except that if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, the term “S&P” shall be deemed to refer to any other nationally recognized statistical rating organization identified as such by the Securities and Exchange Commission and selected by the Authority.

“**Sales Tax Act**” means Division 19 of the Public Utilities Code of the State of California (Section 180000 *et seq.*), as such may be amended from time to time hereafter.

“**Sales Tax Revenue Bond Indenture**” means that certain Indenture, dated as of March 1, 2012, as amended and supplemented, by and between the Authority and Wells Fargo Bank, National Association, as successor trustee.

“**Sales Tax Trustee**” means the Trustee under the Sales Tax Revenue Bond Indenture.

“Scheduled Major Maintenance and Repair Fund Required Deposit” means for each Monthly Funding Date, any current shortfall in the Major Maintenance and Repair Fund Required Amount.

“Second Lien Debt Service Coverage Ratio” means, for any Calculation Period, the ratio of (a) Net Revenue for such Calculation Period to (b) aggregate Annual Debt Service with respect to all Senior Lien Obligations and Second Lien Obligations for such Calculation Period.

“Second Lien Obligations” means any Obligations issued or incurred hereunder that are subordinated in right of payment and lien priority to the Senior Lien Obligations and senior in right of payment and lien priority to the Subordinate Obligations, including Second Lien Obligations in the form of or securing payment of any TIFIA Loans prior to the occurrence of a Bankruptcy Related Event or a Springing Lien Event; provided, however, that upon the occurrence of a Bankruptcy Related Event or a Springing Lien Event, Second Lien Obligations in the form of or securing payment of a TIFIA Loan shall be Senior Lien Obligations.

“Second Lien Obligations Account” means the Account by that name created within the Project Fund pursuant to Section 5.02.

“Second Lien Obligations Fund” means the Fund by that name created pursuant to Section 5.02.

“Second Lien Obligations Interest Account” means the Account by that name created within the Second Lien Obligations Fund pursuant to Section 5.02.

“Second Lien Obligations Principal Account” means the Account by that name created within the Second Lien Obligations Fund pursuant to Section 5.02.

“Second Lien Obligations Reserve Fund” means the Fund by that name created pursuant to Section 5.02.

“Second Lien Obligations Reserve Requirement” for any Second Lien Obligations (other than the TIFIA Loan) means the amount, if any, specified by a Supplemental Indenture as the amount required to be held in the Second Lien Obligations Reserve Fund, or an Account thereof, for the payment of principal of and interest on the Outstanding Second Lien Obligations secured by such Fund or Account.

“Secured Creditors” means, collectively, (i) the Trustee on behalf of the Bondholders, (ii) any Swap Party, and (iii) any other trustee, holder or creditor of any Obligations, including the TIFIA Lender.

“Securities Depository” means DTC or any other trust company or other entity that provides a book-entry system for the registration of ownership interests in securities and which is acting as security depository for Book-Entry Obligations.

“Semi-Annual Calculation Period” means a period of six consecutive months within a Calculation Period ending on a Calculation Date.

“Senior Debt Service Coverage Ratio” means, for any Calculation Period, the ratio of (a) Net Revenue for such Calculation Period to (b) Annual Debt Service in respect of all Senior Lien Obligations for such Calculation Period.

“Senior Lien Bonds” means the bonds or commercial paper identified as the San Bernardino County Transportation Authority Toll Revenue Senior Lien Bonds authorized by, issued in accordance with, and at any time Outstanding pursuant to, this Indenture.

“Senior Lien Obligations” means collectively, Senior Lien Bonds, Parity Obligations, and, upon the occurrence of a Bankruptcy Related Event or a Springing Lien Event, Second Lien Obligations in the form of or securing payment of a TIFIA Loan.

“Senior Lien Obligations Account” means the Account by that name created within the Project Fund pursuant to Section 5.02.

“Senior Lien Obligations Fund” means the Fund by that name created pursuant to Section 5.02.

“Senior Lien Obligations Interest Account” means the Account by that name created within the Senior Lien Obligations Fund pursuant to Section 5.02.

“Senior Lien Obligations Principal Account” means the Account by that name created within the Senior Lien Obligations Fund pursuant to Section 5.02.

“Senior Lien Obligations Reserve Fund” means the Fund by that name created pursuant to Section 5.02.

“Senior Lien Obligations Reserve Requirement” for any Senior Lien Obligations means the amount, if any, specified by a Supplemental Indenture as the amount required to be held in the Senior Lien Obligations Reserve Fund, or an Account thereof, for the payment of principal of and interest on the Outstanding Senior Lien Obligations secured by such Fund or Account.

“Series” means all Obligations identified in this Indenture or any Supplemental Indenture as a separate Series.

“Short-Term Put Obligation” means an Obligation with a stated maturity of ten years or less, the principal of which the Authority determines on or before the date of issuance that it intends to pay from remarketing proceeds or proceeds of refunding obligations.

“SIFMA Index” means Securities Industry and Financial Markets Association Municipal Swap Index as of the most recent date such index was published by the Securities Industry and Financial Markets Association or any successor thereto, or in the event such index is no longer published by the Securities Industry and Financial Markets Association or any successor thereto, such comparable replacement index as shall be published by the Securities Industry and Financial Markets Association or any successor thereto. In the event that such comparable replacement index is no longer published by the Securities Industry and Financial

Markets Association or any successor thereto, an alternative index shall be selected by the Authority.

“Sinking Fund Installment” means, with respect to any Series of Obligations, each amount so designated for the Term Bonds of such Series in the Supplemental Indenture providing for the issuance of such Series of Obligations requiring payments by the Authority to be applied to the retirement of such Series of Obligations on and prior to the stated maturity date thereof.

“Springing Lien Event” means the Authority shall fail to make two (2) consecutive payments of TIFIA Mandatory Debt Service in accordance with the provisions of Section 9 of the TIFIA Loan Agreement.

“State” means the State of California.

“Subordinate Obligations” means any Obligations that are subordinated in right of payment and lien priority to the Senior Lien Obligations and the Second Lien Obligations.

“Subordinate Obligations Account” means the Account by that name created within the Project Fund pursuant to Section 5.02.

“Subordinate Obligations Fund” means the Fund by that name created pursuant to Section 5.02.

“Subordinate Obligations Interest Account” means the Account by that name created within the Subordinate Obligations Fund pursuant to Section 5.02.

“Subordinate Obligations Principal Account” means the Account by that name created within the Subordinate Obligations Fund pursuant to Section 5.02.

“Subordinate Obligations Reserve Fund” means the Fund by that name created pursuant to Section 5.02.

“Subordinate Obligations Reserve Requirement” for any Subordinate Obligations means the amount, if any, specified by a Supplemental Indenture as the amount required to be held in the Subordinate Obligations Reserve Fund, or an Account thereof, for the payment of principal of and interest on the Outstanding Subordinate Obligations secured by such Fund or Account.

“Subsidy Payments” means, (a) with respect to a Series of Obligations issued under Section 54AA of the Code, the amounts relating to such Series of Obligations which are payable by the Federal government under Section 6431 of the Code, which the Authority has elected to receive under Section 54AA(g)(1) of the Code, and (b) with respect to a Series of Obligations issued under any other provision of the Code that creates a substantially similar direct-pay subsidy program, the amounts relating to such Series of Obligations which are payable by the Federal government under the applicable provision of the Code which the Authority has elected to receive under the applicable provisions of the Code.

“Substantial Completion” means the opening of a Project to vehicular traffic.

“Substantial Completion Date” means, with respect to the I-10 Corridor Contract 1 Project, the date on which the Toll Road portion of the I-10 Corridor Contract 1 Project opens to vehicular traffic, and, with respect to any Additional Project, the Substantial Completion Date for such Project.

“Supplemental Indenture” means any indenture executed and delivered by the Authority and the Trustee in accordance with this Indenture that is stated to be a supplemental indenture hereto.

“Swap” means any interest rate swap agreement, currency swap agreement, forward payment conversion agreement or futures contract, any contract providing for payments based on levels of, or changes in, interest rates, currency exchange rates, stock or other indices, any contract to exchange cash flows or a series of payments, or any contract, including, without limitation, an interest rate floor or cap, or an option, put or call, to hedge payment, currency, rate, spread or similar exposure, between the Authority and a Swap Party, in each case as may be permitted pursuant to California Government Code section 5922 (or any similar statute); provided, that for so long as the TIFIA Loan is Outstanding, the Authority shall not enter into any type of Swap other than an interest rate swap agreement.

“Swap Party” means each entity that is a party to a Swap entered into with the Authority.

“Swap Revenues” means, with respect to any time period, any amount paid by a Swap Party to the Authority pursuant to any Swap, after netting out any payments due from the Authority to the Swap Counterparty under such Swap with respect to such time period, and any payments paid to the Authority by a Swap Party as consideration for termination or amendment of a Swap, after netting out any payments due from the Authority to the Swap Counterparty in connection with such termination or amendment.

“Sweep Fund” means the account by the name created pursuant to Section 5.02.

“Tax Certificate” means the Tax Certificate delivered by the Authority at the time of the issuance of a Series of Obligations, as the same may be amended and supplemented in accordance with its terms.

“Term Bonds” means Obligations of any Series that are payable on or before their specified maturity dates from Sinking Fund Installments established for that purpose in the Supplemental Indenture providing for the issuance of such Series of Obligations, which Sinking Fund Installments are calculated to retire such Obligations on or before their specified maturity dates.

“Threshold Rating” means a long term rating of either [A3] or [A-] (or their equivalents) or higher or a short term rating of either [P-2] or [A-2] (or their equivalents) or higher from DBRS, Moody’s, S&P or Fitch, respectively.

“**TIFIA Debt Service Payment Commencement Date**” means (a) the earlier of (i) the Calculation Date occurring on or immediately prior to the fifth anniversary of the Substantial Completion Date of the I-10 Corridor Contract 1 Project and (ii) June 30, 2028 or (b) if the Authority elects an earlier date pursuant to Section 9(c) of the TIFIA Loan Agreement, such earlier date.

“**TIFIA Lender**” means the United States Department of Transportation, acting by and through the Executive Director of the Build America Bureau.

“**TIFIA Loan**” means the loan made to the Authority by the TIFIA Lender pursuant to the TIFIA Loan Agreement and secured by the Trust Estate.

“**TIFIA Loan Agreement**” means the Loan Agreement, dated as of [_____], 2019, by and between the Authority and the TIFIA Lender, and any amendments or supplements thereto permitted hereby and thereby.

“**TIFIA Loan Prepayment Account**” means the account of such name created pursuant to Section 5.02.

“**TIFIA Loan Reserve Account**” means the account of such name created pursuant to Section 5.02.

“**TIFIA Loan Reserve Requirement**” means the amount set forth in Section 5.08(f) hereof.

“**TIFIA Mandatory Debt Service**” means with respect to any TIFIA Payment Date occurring on or after the TIFIA Debt Service Payment Commencement Date, the portion of the principal of the Outstanding Obligation in the form of the TIFIA Loan then due and payable on such Payment Date and any interest then due and payable on such Obligation (including interest accruing after the date of any filing by the Authority of any petition in bankruptcy or the commencement of any bankruptcy, insolvency or similar proceeding with respect to the Authority) on such TIFIA Payment Date that is designated as TIFIA Mandatory Debt Service pursuant to the terms of the TIFIA Loan Agreement and is required to be paid on such TIFIA Payment Date.

“**TIFIA Payment Date**” has the meaning specified for the term “Payment Date” (or any similar term) in the applicable TIFIA Loan Agreement.

“**TIFIA Scheduled Debt Service**” has the meaning set forth in the TIFIA Loan Agreement.

“**TIFIA Scheduled Prepayment Amount**” has the meaning set forth in the TIFIA Loan Agreement.

“**Toll Agreements**” means the Cooperative Agreement, the Design-Build Contract, the Toll Services Contract, the Caltrans DB Cooperative Agreement and the Toll Facility Agreement, and any amendments or supplements thereto permitted thereby and hereby.

“**Toll Corridors**” means the Interstate 10 corridor (together with certain connecting facilities, as applicable), and Interstate 15 corridor (together with certain connecting facilities, as applicable), each in the County of San Bernardino, together with any additional transportation corridor in which the Authority is authorized by law to operate the Toll Program.

“**Toll Facility Agreement**” means that certain Toll Facility Agreement, dated as of [____], 20[___], by and between the Authority and Caltrans relating to the Authority’s leasehold rights to Caltrans I-10 right-of-way in the County and Caltrans’ role in oversight of the Project, and any amendments or supplements thereto permitted thereby and hereby, and any additional toll facility agreements entered into by the Authority in connection with the Toll Road.

“**Toll Operator**” means initially Transportation Corridor Agencies, or any successor, as operator of the Toll Road responsible for the collection of tolls and fees and the establishment and maintenance of customer accounts and records, pursuant to the Cooperative Agreement.

“**Toll Program**” means a value-pricing program in any of the Toll Corridors and, as applicable, as extended into other counties pursuant to law, including setting, levying and collecting tolls, user fees, or other similar charges, and incidental or related fees or charges, payable for use of high-occupancy toll lanes or other toll facilities.

“**Toll Revenue Fund**” means the Fund by that name created pursuant to Section 5.02.

“**Toll Revenues**” means (a) toll revenues, user fees, fines, rents or other similar charges payable for use of the Toll Road, including receipts from the sale or rental of transponders, as well as fines and penalties and interest thereon collected as a result of a failure to pay any such amounts, (b) proceeds of insurance payable to or received by the Authority with respect to the Toll Road (whether by way of claims, return of premiums, ex gratia settlements or otherwise), including proceeds from business interruption insurance and loss of advance profits insurance, except for proceeds of fire and other casualty insurance, (c) proceeds of any condemnation awards with respect to the Toll Road, except to the extent deposited to the Insurance and Condemnation Proceeds Account of the Project Fund and actually applied or reserved for application to the replacement of the Toll Road, (d) liquidated damages for delayed completion of a Project paid to the Authority under a construction contract relating to the Toll Road or a portion thereof, including Design-Build Contract, (e) liquidated damages paid to the Authority by the Toll Operator pursuant to the Cooperative Agreement, and (f) any other incidental or related fees or charges; but excluding therefrom cash advances representing deposits against future toll payments from users or potential users of the Toll Road.

“**Toll Road**” means lanes of a street, road or highway upon which the Authority has all right, power and authority pursuant to the Toll Program to impose tolls, and upon which tolls are imposed by the Authority using any of the following tolling strategies: (a) general purpose or generally-applicable tolls, (b) tolls that may be levied and may vary according to levels of congestion anticipated or experienced or according to the occupancy of the vehicle, (c) any combination of (a) and (b), and (d) any other tolling strategy the Authority may

determine appropriate on a facility-by-facility basis; and the related tolling facilities, as such tolled lanes and related facilities may from time to time be expanded, improved, upgraded, enlarged, or enhanced, but only to the extent that: (i) the Authority irrevocably designates in writing that such toll lanes and related facilities, and any expansion, improvement, upgrade, enlargement or enhancement constitute a Toll Road generating Toll Revenues hereunder and (ii) that (x) the additional Operation and Maintenance Expenses associated with any such expansion, improvement, upgrade, enlargement or enhancement and (y) any additional Obligations issued to finance the costs of any such expansion, improvement, upgrade, enlargement or enhancements satisfy all of the requirements applicable thereto in the TIFIA Loan Agreement for so long as the TIFIA Loan is Outstanding. “Toll Road” initially means the I-10 Corridor Contract 1 Project, and shall include, upon Substantial Completion thereof, any project financed hereunder and designated as an Additional Project in accordance with this Indenture and the TIFIA Loan Agreement.

“**Toll Services Contract**” means that certain Toll Services Contract, dated as of June 6, 2018, between the Authority and TransCore, LP.

“**Total Debt Service Coverage Ratio**” means, for any Calculation Period, the ratio of (a) Net Revenue for such Calculation Period to (b) aggregate Annual Debt Service with respect to all Obligations for such Calculation Period.

“**Total Loan Life Coverage Ratio**” has the meaning specified for such term (or any similar term) in the TIFIA Loan Agreement.

“**Traffic Consultant**” means CDM Smith Inc. or such other traffic and revenue consultant or firm of traffic and revenue consultants experienced in performing the duties for which a Traffic Consultant is required to be employed pursuant to the provisions of this Indenture appointed by the Authority; provided that while the Obligation in the form of the TIFIA Loan is Outstanding, such appointment is not objected to in written notice to the Authority by the TIFIA Lender within 15 Business Days after receiving written notice from the Authority of the name of the proposed replacement traffic consulting firm and supporting information regarding the qualifications of the proposed replacement traffic consulting firm.

“**Trust Estate**” has the meaning specified in the Granting Clauses herein.

“**Written Request of the Authority**” means an instrument in writing signed by an Authorized Representative.

ARTICLE II

THE OBLIGATIONS

Section 2.01 Authorization and Purposes. Obligations in the form of Senior Lien Obligations, Second Lien Obligations or Subordinate Obligations may be issued hereunder, in book-entry form or otherwise, from time to time as the issuance thereof is approved by the Authority. The maximum Bond Obligation of Obligations that may be issued hereunder is not limited; subject, however, to any limitations contained in the Act and to the right of the Authority, which is hereby reserved, to limit the initial Bond Obligation of Obligations that may

be issued or Outstanding hereunder. The Senior Lien Bonds are designated generally as “San Bernardino County Transportation Authority Toll Revenue Senior Lien Bonds,” each Series thereof to bear such additional designation as may be necessary or appropriate to distinguish such Series from every other Series of Senior Lien Obligations. The Second Lien Obligations are designated generally as “San Bernardino County Transportation Authority Toll Revenue Second Lien Obligations,” each Series thereof to bear such additional designation as may be necessary or appropriate to distinguish such Series from every other Series of Second Lien Obligations. The Subordinate Obligations are designated generally as “San Bernardino County Transportation Authority Toll Revenue Subordinate Obligations,” each Series thereof to bear such additional designation as may be necessary or appropriate to distinguish such Series from every other Series of Subordinate Obligations. The Obligations may be issued in such Series as from time to time shall be established and authorized by the Authority, subject to the covenants, provisions and conditions herein. Each separate Series of Obligations shall be authorized by the Authority in a Supplemental Indenture. No Obligations may be issued under the provisions of this Indenture except in accordance with this Article and Article III.

Obligations may be issued for the purpose of financing the Toll Road using a design-build procurement process, or for any other purpose authorized by the Act.

Section 2.02 General Terms of Obligations. Each Obligation shall be secured hereby and shall bear interest and shall be payable and be additionally secured and have such other terms as shall be specified in its Supplemental Indenture, or if not specified therein, as specified by an Authorized Representative pursuant to Section 2.06.

The principal and Purchase Price of, premium, if any, and interest on the Obligations shall be payable in lawful currency of the United States of America. During any period in which any Obligations are Book-Entry Obligations, payment of debt service on such Book-Entry Obligations shall be made to the Securities Depository, or its Nominee, and in accordance with arrangements among the Authority, the Trustee and the Securities Depository. During any period in which any Obligations are not Book-Entry Obligations, unless otherwise specified in a Supplemental Indenture, the principal and Purchase Price of and premium, if any, on all such Obligations shall be payable by wire or check at the Principal Office of the Trustee upon the presentation and surrender of such Obligations (other than the TIFIA Loan) as the same become due and payable, and the interest on such Obligations shall be paid by wire or check drawn upon the Trustee and mailed on the applicable Interest Payment Date to the persons in whose names the Obligations are registered on the registration books maintained by the Trustee at the close of business on the record date for such interest payment.

Section 2.03 Execution. The Obligations shall be executed in the name and on behalf of the Authority by the facsimile or manual signature of the Executive Director, the President of the Board or any Vice-President of the Board and shall be countersigned by the facsimile or manual signature of the Chief Financial Officer of the Authority, and shall have the official seal of the Authority attached or affixed thereon in manual or facsimile form. Unless otherwise provided in any Supplemental Indenture, the Obligations shall then be delivered to the Trustee for authentication by the Trustee. In case any of the officers who shall have signed or attested any of the Obligations shall cease to be such officer or officers of the Authority before the Obligations so signed or attested shall have been authenticated or delivered by the Trustee or

issued by the Authority, such Obligations may nevertheless be authenticated, delivered and issued and, upon such authentication, delivery and issue, shall be as binding upon the Authority as though those who signed and attested the same had continued to be such officers of the Authority, and also any Obligation may be signed and attested on behalf of the Authority by such persons as at the actual date of execution of such Obligation shall be the proper officers of the Authority although at the nominal date of such Obligation any such person shall not have been such officer of the Authority.

Section 2.04 Certificate of Authentication. No Obligations shall be secured hereby or entitled to the benefit hereof or shall be or become valid or obligatory for any purpose unless there shall be endorsed thereon a certificate of authentication, substantially in the form set forth in the form of Obligation referred to in Section 2.05 hereof, executed by the Trustee; and such certificate on any Obligation issued by the Authority shall be conclusive evidence that such Obligation has been duly authenticated and delivered hereunder.

Section 2.05 Forms of Obligations. The Obligations, the Trustee's certificate of authentication and the form of assignment shall be in substantially the forms specified in a Supplemental Indenture or if not specified therein, as specified by an Authorized Representative pursuant to Section 2.06, and may have such letters, numbers or other marks of identification (including, but not limited to, the Series designation provided for in Section 2.01) and such legends and endorsements placed thereon as may be required to comply with any applicable laws or rules or regulations, or as may, consistent herewith, be determined by an Authorized Representative. The Obligations shall be in either typewritten or printed form, as an Authorized Representative shall direct, provided that any expenses incurred in connection therewith shall be paid by the Authority.

Section 2.06 Issuance, Sale and Delivery of Obligations; Application of Proceeds. The Obligations of each Series shall be delivered by the Trustee in accordance with a Written Request of the Authority, which may be Electronic, in the manner specified herein and the applicable Supplemental Indenture. Said Written Request of the Authority shall specify the following terms for the Obligations then being issued to the extent such terms are not set forth in the Supplemental Indenture creating such Series of Obligations and are applicable to such Obligations: whether such Obligation is a Senior Lien Obligation, Second Lien Obligation or Subordinate Obligation hereunder; Series designation; Authorized Denominations; form of such Obligation; book-entry provisions, if any; maturity date or dates or maturity determination method, which may vary for Obligations within such Series; principal amount; issue date; interest rate or interest rate determination method, which may vary for Obligations within such Series; record date for interest payments; sinking fund provisions, if any; required reserves, if any; redemption provisions, if any; tender provisions, if any; additional security, if any; and any other terms and conditions that are not inconsistent with this Indenture. Upon the delivery of each Series of Obligations, the proceeds shall immediately be applied and deposited as set forth in the applicable Supplemental Indenture.

Section 2.07 Mutilated, Lost, Stolen or Destroyed Obligations. If any Obligation is mutilated, lost, stolen or destroyed, the Authority shall execute and the Trustee shall authenticate and deliver a new Obligation of the same Series, maturity date, principal amount and tenor in lieu of and in substitution for the Obligation mutilated, lost, stolen or

destroyed; provided that there shall be first furnished to the Trustee evidence satisfactory to the Trustee of the ownership of such Obligation and of such loss, theft or destruction (or, in the case of a mutilated Obligation, such mutilated Obligation shall first be surrendered to the Trustee), together with indemnity satisfactory to the Trustee (subject to Section 8.01(c)) and compliance with such other reasonable regulations as the Authority and Trustee may prescribe. Subject to the proviso set forth in the preceding sentence, if any such Obligation shall have matured or a redemption date pertaining thereto shall have passed, instead of issuing a new Obligation, the Authority may pay the same without surrender thereof. Subject to Section 8.01(c), the Authority and the Trustee may charge the Holder of such Obligation with their reasonable fees and expenses in this connection.

Section 2.08 Exchangeability and Transfer of Obligations; Persons Treated as Holders. The Authority hereby directs the Trustee, which is hereby constituted and appointed the bond registrar for the Obligations, to keep books for the registration of the Obligations and for the registration of transfer of the Obligations as provided herein.

Any registered owner of an Obligation, in person or by its duly authorized attorney, may transfer title to its Obligation on the books of registration kept by the Trustee, upon surrender thereof at the Principal Office of the Trustee, together with a written instrument of transfer (in substantially the form of assignment attached to the Obligation or as provided in its Supplemental Indenture) executed by the registered owner or its duly authorized attorney, and upon surrender for registration of transfer of any Obligation, the Authority shall execute, and the Trustee shall authenticate and deliver in the name of the transferee or transferees, a new Obligation or Obligations of the same Series, maturity date, Bond Obligation and tenor as the Obligation surrendered.

Obligations may be exchanged upon surrender thereof at the Principal Office of the Trustee for Obligations of the same Series, maturity date, Bond Obligation and tenor as the Obligations being exchanged. The Authority shall execute and the Trustee shall authenticate and deliver Obligations that the registered owner making the exchange is entitled to receive, bearing numbers not contemporaneously then outstanding.

Such registrations of transfers or exchanges of Obligations shall be without charge to the registered owner of such Obligations, but any taxes or other governmental charges required to be paid with respect to the same shall be paid by the registered owner of the Obligation requesting such registration of transfer or exchange as a condition precedent to the exercise of such privilege. Any service charge made by the Trustee for any such registration, transfer or exchange shall be paid by the Authority.

The Trustee shall not register any transfer of any Obligation after notice calling such Obligation (or portion thereof) for redemption or partial redemption or notice of mandatory tender with respect thereto has been given and prior to such redemption or mandatory tender, as the case may be, except, in the case of any Obligation to be redeemed in part, the portion thereof not to be redeemed.

The person in whose name any Obligation shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of either

principal, premium, if any, or interest shall be made only to or upon the order of the registered owner thereof or his duly authorized attorney, but such registration may be changed as hereinabove provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Obligation to the extent of the sum or sums so paid.

All Obligations issued upon any transfer or exchange of Obligations shall be legal, valid and binding obligations of the Authority, evidencing the same debt, and entitled to the same security and benefits under this Indenture, as the Obligations surrendered upon such transfer or exchange.

Section 2.09 Cancellation. All Obligations that have been surrendered to the Trustee pursuant to Section 2.07 or 2.08 of this Indenture and all Obligations that have been paid or redeemed, either at or prior to maturity, except as otherwise provided in a Supplemental Indenture, shall be cancelled and destroyed by the Trustee and a certificate of destruction shall be delivered to the Authority upon its request.

Section 2.10 Senior Lien Obligations Ratably Secured. All Senior Lien Obligations issued hereunder that by their terms are stated to be equally and ratably secured by this Indenture without preference, priority or distinction on account of the Series or the actual time or times of the authentication, delivery or maturity of such Senior Lien Obligations shall be so equally and ratably secured so that, subject to any differences specified in this Indenture, all such Senior Lien Obligations at any time Outstanding hereunder shall have the same right, lien and preference under and by virtue of this Indenture and shall all be equally and ratably secured hereby with like effect as if they were of the same Series and they had all been executed, authenticated and delivered simultaneously on the date hereof, whether the same, or any of them, shall actually be disposed of at such date, or whether they, or any of them, shall be disposed of at some future date; provided, however, that the moneys in any Account within the Senior Lien Obligations Reserve Fund shall only secure the Series of Senior Lien Obligations to which such Account relates. Upon the occurrence of a Bankruptcy Related Event or a Springing Lien Event, any Account within the Second Lien Obligations Reserve Fund that secures payment of the principal and interest on a Second Lien Obligation in the form of or securing payment of a TIFIA Loan, will become an Account within the Senior Lien Obligations Reserve Fund, will be funded on a parity (ratably based on relative deficiency) with any other Accounts within the Senior Lien Obligations Reserve Fund and will be available only to pay principal and interest on the Senior Lien Obligation in the form of or securing payment of such TIFIA Loan. The Senior Lien Obligation in the form of or securing payment of a TIFIA Loan will not be secured by any other Account within the Senior Lien Obligations Reserve Fund.

Section 2.11 Second Lien Obligations Ratably Secured. All Second Lien Obligations issued hereunder that by their terms are stated to be equally and ratably secured by this Indenture without preference, priority or distinction on account of the Series or the actual time or times of the authentication, delivery or maturity of such Second Lien Obligations shall be so equally and ratably secured so that, subject to any differences specified in this Indenture, all such Second Lien Obligations at any time Outstanding hereunder shall have the same right, lien and preference under and by virtue of this Indenture and shall all be equally and ratably secured hereby with like effect as if they were of the same Series and they had all been executed, authenticated and delivered simultaneously on the date hereof, whether the same, or any of them,

shall actually be disposed of at such date, or whether they, or any of them, shall be disposed of at some future date; provided, however, that the moneys in any Account within the Second Lien Obligations Reserve Fund shall only secure the Series of Second Lien Obligations to which such Account relates. Upon the occurrence of a Bankruptcy Related Event or a Springing Lien Event, any Account within the Second Lien Obligations Reserve Fund that secures payment of the principal and interest on a Second Lien Obligation in the form of or securing payment of a TIFIA Loan, will become an Account within the Senior Lien Obligations Reserve Fund, will be funded on a parity with any other Accounts within the Senior Lien Obligations Reserve Fund and will be available only to pay principal and interest on the Second Lien Obligation in the form of or securing payment of such TIFIA Loan. The Second Lien Obligation in the form of or securing payment of a TIFIA Loan will not be secured by any other Account within the Senior Lien Obligations Reserve Fund.

Section 2.12 Subordinate Obligations Ratably Secured. All Subordinate Obligations issued hereunder that by their terms are stated to be equally and ratably secured by this Indenture without preference, priority or distinction on account of the Series or the actual time or times of the authentication, delivery or maturity of such Subordinate Obligations shall be so equally and ratably secured so that, subject to any differences specified in this Indenture, all such Subordinate Obligations at any time Outstanding hereunder shall have the same right, lien and preference under and by virtue of this Indenture and shall all be equally and ratably secured hereby with like effect as if they were of the same Series and they had all been executed, authenticated and delivered simultaneously on the date hereof, whether the same, or any of them, shall actually be disposed of at such date, or whether they, or any of them, shall be disposed of at some future date; provided, however, that the moneys in any Account within the Subordinate Obligations Reserve Fund shall only secure the Series of Subordinate Obligations to which such Account relates.

Section 2.13 Book-Entry Only System. Unless an Authorized Representative shall otherwise direct or unless otherwise specified in a Supplemental Indenture, all Obligations issued hereunder shall be issued as Book-Entry Obligations in fully registered form. Book-Entry Obligations shall be registered in the name of the Securities Depository or its Nominee as directed by such Securities Depository. DTC shall act as the initial Securities Depository and has designated Cede & Co. as its Nominee. Beneficial Owners of Obligations will not receive physical delivery of bond certificates except as provided hereinafter. For so long as DTC shall continue to serve as Securities Depository for the Obligations as provided herein, all transfers of beneficial ownership interests will be made by book-entry only, and no person purchasing, selling or otherwise transferring beneficial ownership of Obligations is to receive, hold or deliver any Obligation certificate.

With respect to Obligations registered in the name of Cede & Co., as Nominee of DTC, the Authority and the Trustee shall have no responsibility or obligation to any participant in DTC (each, a “DTC Participant”) or to any person on whose behalf a DTC Participant holds an interest in the Obligations. Without limiting the immediately preceding sentence, the Authority and the Trustee shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Obligations, (ii) the delivery to any DTC Participant or any other person, other than a registered owner of the Obligations, as shown on the registration books, of

any notice with respect to the Obligations, including any notice of redemption or mandatory tender, or (iii) the payment to any DTC Participant or any other person, other than a registered owner of the Obligations, as shown in the registration books, of any amount with respect to principal or Purchase Price of, or premium, if any, or interest on, the Obligations.

Replacement Obligations may be issued directly to Beneficial Owners of Obligations other than DTC, or its Nominee, but only in the event that: (i) DTC determines not to continue to act as Securities Depository for the Obligations (which determination shall become effective no less than 90 days after written notice to such effect to the Authority and the Trustee); or (ii) an Authorized Representative has advised DTC of its determination (which determination is conclusive as to DTC and Beneficial Owners of the Obligations) that DTC is incapable of discharging its duties as Securities Depository for the Obligations; or (iii) the Authority has determined (which determination is conclusive as to DTC and the Beneficial Owners of the Obligations) that the interests of the Beneficial Owners of the Obligations might be adversely affected if such book-entry only system of registration and transfer is continued. Upon occurrence of any of the foregoing events, the Authority shall use its best efforts to attempt to locate another qualified Securities Depository. If the Authority fails to locate another qualified Securities Depository to replace DTC, the Authority shall cause to be authenticated and delivered replacement Obligations, in certificate form, to the Beneficial Owners of the Obligations. In the event that the Authority makes the determination noted in (ii) or (iii) above (provided that the Authority undertakes no obligation to make any investigation to determine the occurrence of any events that would permit the Authority to make any such determination), and has made provisions to notify the Beneficial Owners of Obligations of such determination by mailing an appropriate notice to DTC and its Nominee, the Authority shall cause to be issued replacement Obligations in certificate form to Beneficial Owners of the Obligations as shown on the records of DTC provided to the Authority.

Whenever, during the term of the Obligations, the Beneficial Ownership thereof is determined by book-entry at DTC, (i) the requirements in this Indenture of holding, delivering or transferring Obligations shall be deemed modified to require the appropriate person or entity to meet the requirements of DTC as to registering or transferring the book entry to produce the same effect and (ii) delivery of the Obligations and notices to Bondholders will be in accordance with arrangements among the Authority, the Trustee and DTC notwithstanding any provision of this Indenture to the contrary.

The Trustee and the Authority, acting by and through an Authorized Representative, are authorized to enter into a letter of representations with DTC to implement the book-entry only system of Obligation registration described above and all payments of principal, Purchase Price, interest and premium, if any, shall be made in accordance with the letter of representations with DTC.

If at any time, DTC ceases to hold the Obligations in book-entry form, all references herein to DTC shall be of no further force or effect.

The provisions of this Section 2.13 shall not apply to the Obligation in the form of the TIFIA Loan.

ARTICLE III

ADDITIONAL OBLIGATIONS

Section 3.01 Restrictions on Issuance of Senior Lien Obligations.

Subsequent to the initial issuance of Obligations pursuant to this Indenture, Senior Lien Obligations may be issued if the requirements of clause (a) or (b) below, as applicable, and of Section 3.02 are met.

(a) Refundings. Senior Lien Obligations may be issued for purposes of refunding Outstanding Senior Lien Obligations by providing funds for the payment of any or all of the following:

- (1) the Bond Obligation, redemption or purchase price (including premium, if any) of the Outstanding Senior Lien Obligations to be refunded;
- (2) all expenses incident to the calling, retiring or paying of such Outstanding Senior Lien Obligations, and the Costs of Issuance of such refunding Senior Lien Obligations;
- (3) interest on all Outstanding Senior Lien Obligations to be refunded to the date such Senior Lien Obligations will be called for redemption or paid at maturity;
- (4) interest on the refunding Senior Lien Obligations from the date thereof to the date of payment or redemption of the Senior Lien Obligations or to be refunded; and
- (5) amounts necessary to fund a Senior Lien Obligations Reserve Fund.

In connection with the issuance of Senior Lien Obligations pursuant to this Section 3.01(a), the Authority shall deliver a Certificate of the Authority to the effect that the Authority projects that the Annual Debt Service on all Outstanding Obligations after the issuance of the proposed additional Senior Lien Obligations will be less than the Annual Debt Service on all Outstanding Obligations prior to such issuance of such proposed Senior Lien Obligations in each year through the stated maturity date of the Senior Lien Obligations being refunded.

If the TIFIA Loan is outstanding, the Authority shall deliver a Certificate of the Authority demonstrating that each of the requirements set forth in paragraph (a) and in the proviso of the definition of Additional Obligations in the TIFIA Loan Agreement has been satisfied in connection with the issuance of Senior Lien Obligations pursuant to this Section 3.01(a).

(b) Additional Projects. Senior Lien Obligations may be issued to pay for improvements or expansions to the Toll Road, provided that the Authority delivers a Certificate of the Authority supported by a report of the Traffic Consultant to the effect that, as of the date of issuance of the additional Senior Lien Obligations:

(1) Net Revenue during the preceding Calculation Period ending not more than ninety (90) days prior to the date of delivery of the proposed additional Senior Lien Obligations, was sufficient to satisfy the requirements of Section 6.03(a) of this Indenture;

(2) projected Net Revenue for each Calculation Period over the term of the proposed Senior Lien Obligations is expected to be sufficient to produce (A) a Senior Debt Service Coverage Ratio for each Calculation Period from the date of issuance of such Senior Lien Obligations through the final maturity date of all outstanding Obligations of not less than 1.35:1.00 and (B) a Total Debt Service Coverage Ratio for each Calculation Period from the date of issuance of Senior Lien Obligations through the final maturity date of all outstanding Obligations of not less than 1.25:1.00. In calculating projected Net Revenue, the Traffic Consultant shall: (i) take into account (A) amounts projected to be received from any adopted toll increase or increases (provided that no additional approvals need to be obtained and no additional requirements need to be satisfied in order to implement any such increase or increases) and (B) any additional toll lanes and facilities to be designated as included within the definition of Toll Road;

(3) written evidence from the applicable Rating Agency or Rating Agencies that such Senior Lien Obligations will be rated at an investment grade rating by such Rating Agency; and

(4) if the TIFIA Loan is outstanding, the consent of the TIFIA Lender shall have been received and each of the requirements to the issuance of such Senior Lien Obligations set forth in the proviso of the definition of Additional Obligations in the TIFIA Loan Agreement and in Section 17(o) of the TIFIA Loan Agreement has been satisfied in connection with the issuance of Senior Lien Obligations pursuant to this Section 3.01(b) and the issuance of such Senior Lien Obligations shall have been approved in writing by the TIFIA Lender.

Section 3.02 Proceedings for and Conditions of Issuance of Senior Lien Obligations. Whenever the Authority determines to issue Senior Lien Obligations subsequent to the initial issuance of Obligations pursuant to this Indenture and all Supplemental Indentures executed as of the same date, the Authority shall, in addition to fulfilling the requirements of Article II and Section 3.01, file with or provide to the Trustee:

(a) a Certificate of the Authority stating that no Event of Default specified in Section 7.01 has occurred and is then continuing and, if the TIFIA Loan is outstanding, that no Event of Default specified under the TIFIA Loan Agreement has occurred and is then continuing;

(b) a Certificate of the Authority stating that the applicable requirements of Section 3.01 and, if the TIFIA Loan is outstanding and unless waived by the TIFIA Lender, the TIFIA Loan Agreement have been satisfied;

(c) if the TIFIA Loan is outstanding, each Reserve Fund established hereunder, including the Measure I Reserve Fund, shall be fully funded, and all Accounts or Funds with minimum required balances or target balances hereunder shall be funded to 100% of the minimum required balance or target balance, as applicable;

(d) such amount, in cash or in the form of a Reserve Facility, as shall equal the Senior Lien Obligations Reserve Requirement, if any, for such Senior Lien Obligations for deposit in the Senior Lien Obligations Reserve Fund, as calculated by the Authority;

(e) an Opinion of Bond Counsel to the effect that the Supplemental Indenture creating such Series of Senior Lien Obligations has been executed and delivered by the Authority in accordance with this Indenture and that such Series of Senior Lien Obligations, when duly executed by the Authority and authenticated and delivered by the Trustee, will be valid and binding obligations of the Authority;

(f) if the TIFIA Loan is outstanding, written evidence from the applicable Rating Agency or Rating Agencies that the issuance of such Senior Lien Obligations shall not result in a downgrade in the public credit ratings of the Obligations in the form of or securing payment of the TIFIA Loan or any other Senior Lien Obligations then Outstanding to the lower of (A) the then-existing credit ratings of the Obligations in the form of or securing payment of the TIFIA Loan or any such Outstanding Senior Lien Obligations, respectively, and (B) the credit ratings, respectively, of the Obligations in the form of or securing payment of the TIFIA Loan as of the respective issuance dates of the Obligations in the form of or securing payment of the TIFIA Loan and such other Senior Lien Obligations; and

(g) no such issuance shall occur until after the second (2nd) anniversary of the TIFIA Debt Service Payment Commencement Date.

Section 3.03 Restrictions on Issuance of Additional Second Lien Obligations or Subordinate Obligations. Subsequent to the initial issuance of Obligations pursuant to this Indenture, additional Second Lien Obligations or Subordinate Obligations may be issued if the requirements of clause (a) or (b) below, as applicable, and of Section 3.04 are met.

(a) The Second Lien Obligations or Subordinate Obligations, as applicable, are issued for purposes of refunding Outstanding Obligations by providing funds for the payment of any or all of the following:

(1) the Bond Obligation, redemption or purchase price (including premium, if any) of the Outstanding Obligations to be refunded;

(2) all expenses incident to the calling, retiring or paying of such Outstanding Second Lien Obligations or Outstanding Subordinate Obligations, the Costs of Issuance of such refunding Second Lien Obligations or Subordinate Obligations;

(3) interest on all Outstanding Obligations to be refunded to the date such Obligations will be called for redemption or paid at maturity;

(4) interest on the refunding Second Lien Obligations or Subordinate Obligations from the date thereof to the date of payment or redemption of the Obligations to be refunded; and

(5) any amounts necessary to fund a Second Lien Obligations Reserve Fund or Subordinate Obligations Reserve Fund, as applicable; and

the Authority delivers a Certificate of the Authority to the effect that the Annual Debt Service on all Outstanding Obligations after the issuance of the proposed additional Second Lien Obligations or Subordinate Obligations will be less than the Annual Debt Service on all Outstanding Obligations prior to the issuance of such proposed Second Lien Obligations or Subordinate Obligations in each year through the stated maturity date of the Obligations being refunded; and

if the TIFIA Loan is outstanding, the Authority shall deliver a Certificate of the Authority demonstrating that each of the requirements set forth in paragraph (a) and in the proviso of the definition of Additional Obligations in the TIFIA Loan Agreement has been satisfied in connection with the issuance of Second Lien Obligations or Subordinate Obligations, as applicable, pursuant to this Section 3.03(a).

(b) The Second Lien Obligations or Subordinate Obligations, as applicable, may be issued to pay for improvements or expansions to the Toll Road, provided that the Authority delivers a Certificate of the Authority supported by a report of the Traffic Consultant to the effect that, as of the date of issuance of the additional Second Lien Obligations or Subordinate Obligations, as applicable:

(1) Net Revenue during the preceding Calculation Period ending not more than ninety (90) days prior to the date of delivery of the proposed additional Second Lien Obligations or Subordinate Obligations, was sufficient to satisfy the requirements of Section 6.03(a) of this Indenture;

(2) projected Net Revenue for each Calculation Period over the term of the proposed additional Second Lien Obligations or Subordinate Obligations is expected to be sufficient to satisfy the requirements of Section 6.03(a)(2) and (3) of this Indenture and produce a Total Debt Service Coverage Ratio for each Calculation Period from the date of issuance of such Obligations through the final maturity date of all outstanding Obligations of not less than 1.25:1.00. In calculating projected Net Revenue, the Traffic Consultant shall take into account amounts projected to be received from any adopted toll increase or increases (provided that no additional approvals need to be obtained and no additional requirements need to be satisfied in order to implement any such increase or increases) and any additional toll lanes and facilities to be designated as included within the definition of Toll Road; and

(3) if the TIFIA Loan is outstanding, the consent of the TIFIA Lender shall have been received and each of the requirements to the issuance of such Second Lien Obligations or Subordinate Obligations, as applicable, set forth in the proviso of the definition of Additional Obligations in the TIFIA Loan Agreement has been satisfied in

connection with the issuance of such Second Lien Obligations or Subordinate Obligations, as applicable, pursuant to this Section 3.03(b) and the issuance of such Second Lien Obligations or Subordinate Obligations, as applicable, shall have been approved in writing by the TIFIA Lender.

Section 3.04 Proceedings and Additional Conditions for Issuance of Second Lien Obligations or Subordinate Obligations. Whenever the Authority determines to issue Second Lien Obligations or Subordinate Obligations subsequent to the initial issuance of Obligations pursuant to this Indenture and all Supplemental Indentures executed as of the same date, the Authority shall, in addition to fulfilling the requirements of Article II and Section 3.03, file with or provide to the Trustee:

(a) a Certificate of the Authority stating that no Event of Default specified in Section 7.01 has occurred and is then continuing and, if the TIFIA Loan is outstanding, that no Event of Default specified under the TIFIA Loan Agreement has occurred and is then continuing;

(b) a Certificate of the Authority stating that the applicable requirements of Section 3.03 and, if the TIFIA Loan is outstanding and unless waived by the TIFIA Lender, the TIFIA Loan Agreement have been satisfied;

(c) if the TIFIA Loan is outstanding, each Reserve Fund established hereunder, including the Measure I Reserve Fund, shall be fully funded, and all Accounts or Funds with minimum required balances or target balances hereunder (excluding the Sweep Fund) shall be funded to 100% of the minimum required balance or target balance, as applicable;

(d) such amount, in cash or in the form of a Reserve Facility, as shall equal the Second Lien Obligations Reserve Requirement or Subordinate Obligations Reserve Requirement, if any, as of the date of issuance of such Series of Second Lien Obligations or Subordinate Obligations, for deposit in the Second Lien Obligations Reserve Fund or Subordinate Obligations Reserve Fund as applicable, as calculated by the Authority;

(e) an Opinion of Bond Counsel to the effect that the Supplemental Indenture creating such Series of Second Lien Obligations or Subordinate Obligations, as applicable, has been executed and delivered by the Authority in accordance with this Indenture and that such Series of Second Lien Obligations or Subordinate Obligations, as applicable, when duly executed by the Authority and authenticated and delivered by the Trustee, will be valid and binding obligations of the Authority; and

(f) if the TIFIA Loan is outstanding, the following additional restrictions shall apply:

(1) no Subordinate Obligations shall be issued by the Authority without the prior written consent of the TIFIA Lender;

(2) no such issuance shall occur until after the second (2nd) anniversary of the TIFIA Debt Service Payment Commencement Date;

(3) the Authority shall provide written evidence from the applicable Rating Agency or Rating Agencies that the issuance of such Obligations shall not result in a downgrade in the public credit ratings of the Obligations in the form of or securing payment of the TIFIA Loan or any Senior Lien Obligations then Outstanding to the lower of (A) the then-existing credit ratings of the Obligations in the form of or securing payment of the TIFIA Loan or any such Outstanding Senior Lien Obligations, respectively, and (B) the credit ratings, respectively, of the Obligations in the form of or securing payment of the TIFIA Loan as of the respective issuance dates of the Obligations in the form of or securing payment of the TIFIA Loan or any such other Senior Lien Obligations;

(4) each Reserve Fund established hereunder shall be fully funded, and all Accounts or Funds with minimum required balances or target balances hereunder shall be funded to 100% of the minimum required balance or target balance, as applicable; and

(4) written evidence from the applicable Rating Agency or Rating Agencies that such Obligations will be rated at an investment grade rating by such Rating Agency.

Section 3.05 Second Lien Obligations; TIFIA Loans. Subsequent to the initial issuance of Second Lien Obligations in the form of or securing payment of a TIFIA Loan pursuant to this Indenture, the Authority may issue, pursuant to this Indenture, additional Second Lien Obligations in the form of or securing payment of a TIFIA loan pursuant under a TIFIA loan agreement that contains terms providing for such Second Lien Obligations to become Senior Lien Obligations having a lien on Revenue on parity with the Senior Lien Bonds upon the occurrence of a Bankruptcy Related Event or a Springing Lien Event.

ARTICLE IV

REDEMPTION

Section 4.01 Redemption and Purchase of Obligations. Each Series of Obligations may be made subject to mandatory or optional redemption or mandatory or optional tender and purchase prior to their respective stated maturities, as a whole or in part, at such time or times, upon such terms and conditions, at such prices, upon such notice and with such effect as may be provided in the Supplemental Indenture creating such Series of Obligations.

Section 4.02 Notice of Redemption. Unless otherwise specified in a Supplemental Indenture creating a Series of Obligations, each notice of redemption shall be mailed by the Trustee, not less than twenty (20) nor more than sixty (60) days prior to the redemption date, to each Owner and to the MSRB. Notice of redemption to the Owners shall be given by first class mail. Each notice of redemption shall state the date of such notice, the date of issue of the Series of Obligations to which such notice relates, the redemption date, the redemption price, the place or places of redemption (including the name and appropriate address or addresses of the Trustee), the CUSIP number (if any) of the maturity or maturities, and, in the case of a Series of Obligations to be redeemed in part only, the identity of the Obligations to be

redeemed. Except as provided in Section 4.03 in the case of conditional optional redemption, each such notice shall also state that on said date there will become due and payable on each of said Obligations the redemption price thereof, together with interest accrued thereon to the date fixed for redemption, and that from and after such redemption date interest thereon shall cease to accrue, and shall require that such Obligations be then surrendered at the address or addresses of the Trustee specified in the redemption notice. Neither the Authority nor the Trustee shall have any responsibility for any defect in the CUSIP number that appears on any Obligation or in any redemption notice with respect thereto, and any such redemption notice may contain a statement to the effect that CUSIP numbers have been assigned by an independent service for convenience of reference and that neither the Authority nor the Trustee shall be liable for any inaccuracy in such numbers. Failure of any Owner to receive any notice of redemption or any defect therein shall not affect the sufficiency of any proceedings for redemption. This Section 4.02 shall not apply to the TIFIA Bond.

Section 4.03 Conditional Notice of Redemption; Rescission. Any notice of optional redemption of the Obligations delivered in accordance with Section 4.02 may be conditional, and if any condition stated in the notice of redemption shall not have been satisfied on or prior to the redemption date, said notice shall be of no force and effect and the Authority shall not be required to redeem the Obligations thereby called for redemption, such Obligations shall not become due and payable, and the redemption shall be cancelled and the Trustee shall within a reasonable time thereafter give notice, to the persons and in the manner in which the notice of redemption was given, that such condition or conditions were not met and that the redemption was cancelled. In addition, the Authority may, at its option, on or prior to the date fixed for optional redemption in any notice of redemption of the Obligations, rescind and cancel such notice of redemption by Written Request of the Authority to the Trustee, and any optional redemption of Obligations and notice thereof shall be rescinded and cancelled and the Trustee shall mail notice of such cancellation to the recipients of the notice of redemption being cancelled pursuant to the provisions of Section 4.02. Any optional redemption of Obligations and notice thereof shall be rescinded and cancelled if for any reason on the date fixed for optional redemption moneys are not available in the Redemption Fund or otherwise held in trust for such purpose in an amount sufficient to pay in full on said date the principal of, interest, and any premium due on the Obligations called for optional redemption and such failure to optionally redeem the Obligations called for redemption shall not be a default hereunder.

Section 4.04 Effect of Redemption. Notice of redemption having been duly given as aforesaid or as otherwise provided in a Supplemental Indenture, and moneys for payment of the redemption price of, together with interest accrued to the redemption date on, the Obligations (or portions thereof) so called for redemption having been irrevocably deposited with the Trustee, on the redemption date designated in such notice, the Obligations (or portions thereof) so called for redemption shall become due and payable at the redemption price specified in this Indenture, together with interest accrued thereon to the date fixed for redemption, interest on the Obligations so called for redemption shall cease to accrue, said Obligations (or portions thereof) shall cease to be entitled to any benefit or security under this Indenture, and the Owners of said Obligations shall have no rights in respect thereof except to receive payment of said redemption price and accrued interest to the date fixed for redemption.

Section 4.05 Partial Redemption of Obligations. Upon surrender of any Obligation to be redeemed in part only, the Authority shall execute, and the Trustee shall authenticate and deliver to the Owner of such Obligation, at the expense of the Authority, a new Obligation or Obligations of Authorized Denominations equal in Bond Obligation to the unredeemed portion of the Obligation surrendered, of the same Series, maturity and terms as the surrendered Obligation.

ARTICLE V

PLEDGE; FUNDS AND ACCOUNTS

Section 5.01 Deposit of Revenue by Trustee; Toll Revenue Fund.

(a) All Toll Revenues received and receivable by the Authority and pledged and assigned by this Indenture to the Trustee, together with the balance of the Trust Estate, are to be paid directly to the Trustee and deposited by it in the Funds and Accounts described in this Article V and held in trust for the purposes set forth herein, and, except as otherwise provided herein, shall not be subject to any lien, levy, garnishment or attachment by any creditor of the Authority nor shall they be subject to any assignment or hypothecation by the Authority. Subject only to the provisions of this Indenture permitting the application thereof for or to the purposes and on the terms and conditions set forth herein, the Trustee shall be entitled to and shall collect and receive all of the Toll Revenues, and any Toll 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. Moneys on deposit in the Funds and Accounts described in this Article V (excluding the Rebate Fund and any Fund or Account established to hold the proceeds of a drawing on any Credit Support Instrument) shall be held by the Trustee or the Authority, as applicable, in trust, and pending application in accordance with the provisions of this Article V shall be subject to a lien and charge in favor of the Holders until applied as hereinafter provided. The Trustee shall at all times maintain accurate records of deposits into such Funds and Accounts and the sources and timing of such deposits.

(b) As long as any Obligations remain unpaid, the Authority hereby assigns and shall cause Toll Revenues to be transmitted by the Toll Operator on at least a weekly basis directly to the Trustee for deposit in a trust fund, designated as the "Toll Revenue Fund," which Fund the Trustee shall establish and maintain in trust. Investment income on amounts held by the Trustee in the Toll Revenue Fund shall also be deposited in the Toll Revenue Fund. All moneys at any time held in the Toll Revenue Fund shall be held in trust for the benefit of the holders of the Obligations and shall be disbursed, allocated and applied solely for the uses and purposes set forth in this Indenture.

Section 5.02 Establishment of Funds and Accounts.

(a) In addition to the Toll Revenue Fund established pursuant to Section 5.01, the following Funds and Accounts are hereby established and created and shall be maintained in trust by the Trustee:

(1) the Project Fund, and within the Project Fund, to be established when necessary, the Senior Lien Obligations Account, the Second Lien Obligations Account, the Subordinate Obligations Account, the Design-Build Contractor Payments Account and the Insurance and Condemnation Proceeds Account;

(2) the Rebate Fund;

(3) the Senior Lien Obligations Fund and, within the Senior Lien Obligations Fund, the Senior Lien Obligations Interest Account and the Senior Lien Obligations Principal Account;

(4) the Senior Lien Obligations Reserve Fund;

(5) the Second Lien Obligations Fund and, within the Second Lien Obligations Fund, the Second Lien Obligations Interest Account, the Second Lien Obligations Principal Account and the TIFIA Loan Prepayment Account;

(6) the Second Lien Obligations Reserve Fund and, within the Second Lien Obligations Reserve Fund, the TIFIA Loan Reserve Account;

(7) the Subordinate Obligations Fund and, within the Subordinate Obligations Fund, the Subordinate Obligations Interest Account and the Subordinate Obligations Principal Account;

(8) the Subordinate Obligations Reserve Fund;

(9) the Major Maintenance and Repair Fund;

(10) the Sweep Fund;

(11) the Measure I Repayment Fund and, within the Measure I Repayment Fund, the Measure I Backstop Repayment Account and the Measure I Cash Supplement Repayment Account;

(12) the Measure I Reserve Fund and, within the Measure I Reserve Fund, the Backstop Account and the Cash Supplement Account; and

(13) the Residual Fund.

and the following Funds are hereby established and created and shall be maintained by the Authority:

(14) the Operation and Maintenance Fund.

In addition, upon the written request of the Authority, the Trustee shall establish and maintain additional temporary Funds or Accounts or sub-accounts for the purposes specified in any such request.

(b) All of the Funds and Accounts (other than the Operation and Maintenance Fund) shall be held by the Trustee and, except as expressly provided herein, the Authority shall not have any right to withdraw funds from any Fund or Account established pursuant to Section 5.02(a). The Authority hereby irrevocably authorizes the Trustee to credit funds to or deposit funds in, and to withdraw and transfer funds from, each Fund or Account in accordance with the terms of this Indenture.

Section 5.03 Toll Revenue Fund; Priority of Deposits and Transfers.

(a) From and after the Substantial Completion Date for the I-10 Corridor Contract 1 Project, except for amounts to be deposited in other Funds or Accounts pursuant to this Article, the Authority shall promptly deposit or cause to be deposited into the Toll Revenue Fund (i) all Revenue and (ii) transfers from other Funds or Accounts as required by the terms of this Indenture. In addition, commencing on the Monthly Funding Date following the Calculation Date preceding the TIFIA Debt Service Payment Commencement Date and on each Monthly Funding Date thereafter, the Trustee shall transfer from the Measure I Reserve Fund (A) one-sixth of the Measure I Cash Supplement scheduled for the next Calculation Date and deposit that amount into the Toll Revenue Fund and (B) to the extent necessary, on such Calculation Date, the amount required to cause the initial TIFIA Loan Reserve Requirement to be on deposit in the TIFIA Loan Reserve Account.

(b) From and after the Substantial Completion Date for the I-10 Corridor Contract 1 Project, subject to Section 5.24 hereof, including the delivery of a Funds Transfer Certificate by the Authority (to the extent required by such Section 5.24), the Trustee shall make the following transfers and payments from the Toll Revenue Fund in the amounts, at the times and only for the purposes specified below and in the following order of priority (it being agreed that no amount shall be transferred on any date pursuant to any clause below until amounts sufficient as of the Monthly Funding Date falling on or most recently prior to such date (to the extent applicable) for all the purposes specified under the prior clauses shall have been transferred or set aside):

First, on each Monthly Funding Date, to the Operation and Maintenance Fund, the amount necessary to increase the balance of the Operation and Maintenance Fund to an amount equal to the Operation and Maintenance Expenses then due and payable or coming due and payable prior to the next Monthly Funding Date, plus an additional amount equal to 41.7% of the amount of Operation and Maintenance Expenses projected by the Authority at such time to be due and payable in the Fiscal Year continuing or commencing on the day after such Monthly Funding Date, as reflected in the Annual Operating Budget for such Fiscal Year, including any revisions thereto; provided, that if the requirements described in this paragraph cannot be fully funded with amounts available in the Toll Revenue Fund, funds available in the Residual Fund, the Sweep Fund and the Backstop Account of the Measure I Reserve Fund shall be transferred to the Operation and Maintenance Fund in an amount equal to such shortfall, to the extent sufficient funds are available in such Funds and Accounts to cover such shortfall;

Second, on each Monthly Funding Date, any payments then due and payable by the Authority to the Rebate Fund or any similar rebate fund established with respect to any future tax-exempt borrowing transaction under this Indenture;

Third, (x) on each Monthly Funding Date, to the Senior Lien Obligations Interest Account the sum of (A)(1) in the case of Outstanding Senior Lien Obligations with semiannual Interest Payment Dates, one-sixth (1/6) of the amount of the interest payable on such Senior Lien Obligations on the next Interest Payment Date; (2) in the case of Outstanding Senior Lien Obligations with quarterly Interest Payment Dates, one-third (1/3) of the amount of the interest payable on such Senior Lien Obligations on the next Interest Payment Date; and (3) in the case of Outstanding Senior Lien Obligations with monthly Interest Payment Dates, the amount of interest payable on such Senior Lien Obligations on the next Interest Payment Date; plus (B) the sum of any continuing shortfall in transfers required to have been made to the Senior Lien Obligations Interest Account on any preceding Monthly Funding Date; plus (C) if such Monthly Funding Date is also an Interest Payment Date or the last Monthly Funding Date before an Interest Payment Date on any Senior Lien Obligations, any other amount required to make the amount credited to the Senior Lien Obligations Interest Account equal to the amount payable on such Senior Lien Obligations on such Interest Payment Date and (y) on each Monthly Funding Date, to the applicable Swap Parties, scheduled payments (as described in clause (a) of the definition of Hedging Obligations) then due, if any, under any Swaps entered into in connection with such Senior Lien Obligations, net of any scheduled amounts then payable to the Authority under such Swaps; provided, that if the requirements described in this paragraph cannot be fully funded with amounts available in the Toll Revenue Fund, funds available in the Residual Fund, the Sweep Fund and in the applicable Account in the Senior Lien Obligations Reserve Fund (in that order) shall be transferred to the Senior Lien Obligations Interest Account in an amount equal to such shortfall, to the extent sufficient funds are available in such Funds and Accounts to cover such shortfall;

Fourth, on each Monthly Funding Date, commencing twelve (12) months before the first annual principal payment date (including any mandatory sinking fund redemption date) or six (6) months before the first semi-annual principal payment date (including any mandatory sinking fund redemption date), to the Senior Lien Obligations Principal Account, the sum of (A)(1) in the case of Outstanding Senior Lien Obligations with annual principal or mandatory sinking fund payment dates, one-twelfth (1/12) of the principal and mandatory sinking fund redemptions due on such Senior Lien Obligations; and (2) in the case of Outstanding Senior Lien Obligations with semi-annual principal or mandatory sinking fund payment dates, one-sixth (1/6) of the principal and mandatory sinking fund redemptions due on such Senior Lien Obligations; and (B) the sum of any shortfall in transfers required to have been made to the Senior Lien Obligations Principal Account on any previous Monthly Funding Date; and (C) if the Monthly Funding Date is also a principal payment date (or mandatory sinking fund redemption date) or the last Monthly Funding Date before a principal payment date (or mandatory sinking fund redemption date) on any Senior Lien Obligations, any other amount required to make the amount credited to the Senior Lien Obligations Principal Account equal to the amount of principal due on such Senior Lien Obligations on such principal payment date or mandatory sinking fund redemption date; provided, that in the event such requirements cannot be fully funded with amounts available in the Toll Revenue Fund, funds available in the Residual Fund, the Sweep Fund and in the applicable Account in the Senior Lien Obligations Reserve Fund (in that order) shall be transferred to the Senior Lien Obligations Principal Account in an amount equal to such shortfall, to the extent sufficient funds are available in such Funds and Accounts to cover such shortfall;

Fifth, (x) on each Monthly Funding Date, to the Second Lien Obligations Interest Account the sum of (A)(1) in the case of Outstanding Second Lien Obligations with semiannual Interest Payment Dates, one-sixth (1/6) of the amount of the interest payable on such Second Lien Obligations on the next Interest Payment Date; (2) in the case of Outstanding Second Lien Obligations with quarterly Interest Payment Dates, one-third (1/3) of the amount of the interest payable on such Second Lien Obligations on the next Interest Payment Date; and (3) in the case of Outstanding Second Lien Obligations with monthly Interest Payment Dates, the amount of interest payable on such Second Lien Obligations on the next Interest Payment Date; plus (B) the sum of any continuing shortfall in transfers required to have been made to the Second Lien Obligations Interest Account on any preceding Monthly Funding Date; plus (C) if such Monthly Funding Date is also an Interest Payment Date or the last Monthly Funding Date before an Interest Payment Date on any Second Lien Obligations, any other amount required to make the amount credited to the Second Lien Obligations Interest Account equal to the amount payable on such Second Lien Obligations on such Interest Payment Date and (y) on each Monthly Funding Date, to the applicable Swap Parties, scheduled payments (as described in clause (a) of the definition of Hedging Obligations) then due, if any, under any Swaps entered into in connection with such Second Lien Obligations, net of any scheduled amounts then payable to the Authority under such Swaps; provided, that with respect to Second Lien Obligations in the form of or securing payment of the TIFIA Loan, only the interest component of TIFIA Mandatory Debt Service shall be set aside pursuant to this clause Fifth; provided, further, that in the event such requirements cannot be fully funded with amounts available in the Toll Revenue Fund, funds available in the Residual Fund, the Sweep Fund and in the applicable Account in the Second Lien Obligations Reserve Fund (in that order) shall be transferred to the Second Lien Obligations Interest Account in an amount equal to such shortfall, to the extent sufficient funds are available in such Funds and Accounts to cover such shortfall;

Sixth, on each Monthly Funding Date, commencing twelve (12) months before the first annual principal payment date (including any mandatory sinking fund redemption date) or six (6) months before the first semi-annual principal payment date (including any mandatory sinking fund redemption date), to the Second Lien Obligations Principal Account, the sum of (A)(1) in the case of Outstanding Second Lien Obligations with annual principal or mandatory sinking fund payment dates, one-twelfth (1/12) of the principal and mandatory sinking fund redemptions due on such Second Lien Obligations; and (2) in the case of Outstanding Second Lien Obligations with semi-annual principal or mandatory sinking fund payment dates, one-sixth (1/6) of the principal and mandatory sinking fund redemptions due on such Second Lien Obligations; (B) the sum of any shortfall in transfers required to have been made to the Second Lien Obligations Principal Account on any previous Monthly Funding Date; and (C) if the Monthly Funding Date is also a principal payment date (or mandatory sinking fund redemption date) or the last Monthly Funding Date before a principal payment date (or mandatory sinking fund redemption date) on any Second Lien Obligations, any other amount required to make the amount credited to the Second Lien Obligations Principal Account equal to the amount of principal due on such Second Lien Obligations on such principal payment date or mandatory sinking fund redemption date; provided, that in the event such requirements cannot be fully funded with amounts available in the Toll Revenue Fund, funds available in the Residual Fund, the Sweep Fund and in the applicable Account in the Second Lien Obligations Reserve Fund (in that order) shall be transferred to the Second Lien Obligations Principal Account in an amount equal to such shortfall, to the extent sufficient funds are available in such Funds and Accounts to

cover such shortfall; provided, further, that with respect to Second Lien Obligations in the form of or securing payment of the TIFIA Loan, only the principal component of TIFIA Mandatory Debt Service shall be set aside pursuant to this clause Sixth;

Seventh, on each Monthly Funding Date, to the Senior Lien Obligations Reserve Fund (or the applicable Account therein), the amount, if any, necessary to increase the balance therein (taking into account amounts then on deposit therein) to the Senior Lien Obligations Reserve Requirement; provided, that in the event such requirements cannot be fully funded, the funds available shall be transferred to each Account in the Senior Lien Obligations Reserve Fund ratably in accordance with its respective shortfall;

Eighth, on each Monthly Funding Date, to the TIFIA Loan Reserve Account, the amount, if any, necessary to increase the balance therein (taking into account amounts then on deposit therein) to the TIFIA Loan Reserve Requirement; provided, that in the event such requirements cannot be fully funded with amounts available in the Toll Revenue Fund, commencing on the Calculation Date six (6) months prior to the TIFIA Debt Service Payment Commencement Date, funds available in the Residual Fund, the Sweep Fund and the Backstop Account in the Measure I Reserve Fund (in that order) shall be transferred to the TIFIA Loan Reserve Account up to an amount equal to such shortfall, to the extent sufficient funds are available in such Funds and Accounts to cover such shortfall;

Ninth, for so long as Second Lien Obligations in the form of or securing the TIFIA Loan are outstanding, on each Monthly Funding Date commencing on the Monthly Funding Date that is six (6) months prior to the date on which TIFIA Scheduled Debt Service is first due and payable, to the Second Lien Obligations Principal Account, an amount which equals the sum of (A) one-sixth (1/6) of the TIFIA Scheduled Debt Service due and payable on the immediately succeeding TIFIA Payment Date for the TIFIA Loan, plus (B) the sum of any continuing shortfall in transfers required to have been made to the Second Lien Obligations Principal Account in respect of TIFIA Scheduled Debt Service on any preceding Monthly Funding Date; plus (C) if such Monthly Funding Date is also an Interest Payment Date or the last Monthly Funding Date before an Interest Payment Date on the Second Lien Obligations in the form of or securing payment of the TIFIA Loan, any other amount required to make the amount credited to the Second Lien Obligations Principal Account equal to the amount payable on such Second Lien Obligations in respect of TIFIA Scheduled Debt Service on such Interest Payment Date; provided, that in the event such requirements cannot be fully funded with amounts available in the Toll Revenue Fund, funds available in the Residual Fund and the Sweep Fund (in that order) shall be transferred to the Second Lien Obligations Principal Account in an amount equal to such shortfall, to the extent sufficient funds are available in such Funds and Accounts to cover such shortfall;

Tenth, on each Monthly Funding Date, to the Second Lien Obligations Reserve Fund (or the applicable Account therein excluding the TIFIA Loan Reserve Account), the amount, if any, necessary to increase the balance therein (taking into account amounts then on deposit therein excluding the TIFIA Loan Reserve Account) to the Second Lien Obligations Reserve Requirement; provided, that in the event such requirements cannot be fully funded with amounts available in the Toll Revenue Fund, the funds available shall be transferred to each

Account in the Second Lien Obligations Reserve Fund (except for the TIFIA Loan Reserve Account) ratably in accordance with its respective shortfall;

Eleventh, (x) on each Monthly Funding Date, to the Subordinate Obligations Interest Account the sum of (A)(1) in the case of Outstanding Subordinate Obligations with semi-annual Interest Payment Dates, one-sixth (1/6) of the interest payable on such Subordinate Obligations on the next Interest Payment Date; (2) in the case of Outstanding Subordinate Obligations with quarterly Interest Payment Dates, one-third (1/3) of the amount of the interest payable on such Subordinate Obligations on the next Interest Payment Date; and (3) in the case of Outstanding Subordinate Obligations with monthly Interest Payment Dates, the interest payable on such Subordinate Obligations on the next Interest Payment Date; plus (B) the sum of any continuing shortfall in transfers required to have been made to the Subordinate Obligations Interest Account on any preceding Monthly Funding Date; plus (C) if such Monthly Funding Date is also an Interest Payment Date or the last Monthly Funding Date before an Interest Payment Date on any Subordinate Obligations, any other amount required to make the amount credited to the Subordinate Obligations Interest Account equal to the interest payable on such Subordinate Obligations on such Interest Payment Date; and (y) on each Monthly Funding Date, to the applicable Swap Parties, scheduled payments (as described in clause (a) of the definition of Hedging Obligations) then due, if any, under any Swaps entered into in connection with such Subordinate Obligations, net of any scheduled amounts then payable to the Authority under such Swaps;

Twelfth, on each Monthly Funding Date, commencing twelve (12) months before the first annual principal payment date (including any mandatory sinking fund redemption date) or six (6) months before the first semi-annual principal payment date (including any mandatory sinking fund redemption date), to the Subordinate Obligations Principal Account the sum of (A)(1) in the case of Outstanding Subordinate Obligations with annual principal payment date, one-twelfth (1/12) of the principal due on such Subordinate Obligations on the next principal payment date; and (2) in the case of Outstanding Subordinate Obligations with semi-annual principal payment dates, one-sixth (1/6) of the principal redemptions due on such Subordinate Obligation on the next principal payment date; plus (B) the sum of any shortfall in transfers required to have been made to the Subordinate Obligations Principal Account on any previous Monthly Funding Date; plus (C) if the Monthly Funding Date is also a principal payment date or the last Monthly Funding Date before a principal payment date (or mandatory sinking fund redemption date) on any Subordinate Obligations, any other amount required to make the amount credited to the Subordinate Obligations Principal Account equal to the amount of principal due on such Subordinate Obligation on such principal payment date or mandatory sinking fund redemption date;

Thirteenth, on each Monthly Funding Date, to the Subordinate Obligations Reserve Fund (or the applicable Account therein), the amount, if any, necessary to increase the balance therein (taking into account amounts then on deposit therein) to the Subordinate Obligations Reserve Requirement; provided, that in the event such requirements cannot be fully funded, the funds available shall be transferred to each Account in the Subordinate Obligations Reserve Fund ratably in accordance with its respective shortfall;

Fourteenth, on each Monthly Funding Date, to the Major Maintenance and Repair Fund, an amount equal to the Scheduled Major Maintenance and Repair Fund Required Deposit for such Monthly Funding Date; provided, that on each Calculation Date, in the event such requirements cannot be fully funded with amounts available in the Toll Revenue Fund, funds available from the Measure I Backstop in the Measure I Reserve Fund shall be transferred to the Major Maintenance and Repair Fund in an amount equal to the lesser of (i) the amount of such shortfall and (ii) the amount then on deposit in the Measure I Reserve Fund; provided, that in the event such requirements cannot be fully funded with amounts available in the Toll Revenue Fund, funds available in the Residual Fund, the Sweep Fund and the Measure I Reserve Fund (in that order) shall be transferred to the Major Maintenance and Repair Fund in an amount equal to such shortfall, to the extent sufficient funds are available in such Funds and Accounts to cover such shortfall;

Fifteenth, on each Monthly Funding Date, to the applicable Swap Parties, an amount equal to Hedging Termination Obligations then due or due prior to the next Monthly Funding Date with respect to a termination of any Swaps entered into with such Swap Parties and to any Credit Provider the fees and expenses due to such Credit Provider on or prior to the next Monthly Funding Date, in each case net of any other sources of funds available to the Authority to make such payments;

Sixteenth, on each Monthly Funding Date, to the Sweep Fund to cause the amount on deposit in the Sweep Fund to equal \$10,000,000; and

Seventeenth, on each Monthly Funding Date, any amount remaining after the deposits and transfers described in clauses First through Sixteenth above, including the full funding of any of the reserves described above, shall be deposited to the Residual Fund; provided that on each Calculation Date, if Toll Revenues on any prior Monthly Funding Date since the prior calculation Date have not been sufficient to make the required deposits in clauses First through Fifteenth above, any shortfall shall be made from amounts in the Residual Fund and the Sweep Fund (in that order), to the extent sufficient funds are available in such Funds and Accounts to cover such shortfall.

(c) On the Monthly Funding Date that is a Calculation Date as of which each of the Residual Release Conditions set forth in Section 5.12(b) has been satisfied, moneys on deposit in the Residual Fund as of such date, if any, shall be transferred first, to the Measure I Cash Supplement Repayment Account and will be applied to pay principal of, and interest accrued on, any Measure I Cash Supplement outstanding as of such Monthly Funding Date; and second, to the Measure I Backstop Repayment Account and will be applied to pay principal of, and interest accrued on, any Measure I Backstop outstanding as of such Monthly Funding Date; and third, in accordance with Sections 5.12(c), 5.12(d) and 5.12(e), as applicable. If any Residual Release Condition is not satisfied as of a Calculation Date, all amounts in the Residual Fund shall remain in the Residual Fund, subject to the mandatory prepayments described in Section 6.03(e) and in Section 10(a)(iv) of the TIFIA Loan Agreement.

(d) To the extent that on any Calculation Date or any other date of determination requested by the Authority, the Authority determines that (i) the amounts on deposit in the Senior Lien Obligations Reserve Fund are in excess of the then-applicable Senior

Lien Obligations Reserve Requirement with respect to all Outstanding Senior Lien Obligations, (ii) the amounts on deposit in the Second Lien Obligations Reserve Fund are in excess of the then-applicable Second Lien Obligations Reserve Requirement with respect to all Outstanding Second Lien Obligations, (iii) amounts on deposit in the Subordinate Obligations Reserve Fund are in excess of the then-applicable Subordinate Obligations Reserve Requirement with respect to all Outstanding Subordinate Obligations, or (iv) the amounts on deposit in the Major Maintenance and Repair Fund are certified by the Authority to be in excess of what is required for expected Major Maintenance and Repair Fund Permitted Expenditures and the then-applicable Major Maintenance and Repair Fund Required Amount, then in each such case, as applicable, the Trustee shall transfer the excess amounts to the Toll Revenue Fund.

Section 5.04 Project Fund.

(a) Accounts. Pursuant to Section 5.02(a) hereof, the Trustee is to establish when needed and thereafter maintain in trust the following separate Accounts within the Project Fund:

- (1) the Senior Lien Obligations Account;
- (2) the Second Lien Obligations Account;
- (3) the Subordinate Obligations Account;
- (4) the Design-Build Contractor Payments Account; and
- (5) the Insurance and Condemnation Proceeds Account.

Project Costs shall be paid from the Project Fund and its Accounts, including the Senior Lien Obligations Account, the Second Lien Obligations Account, the Subordinate Obligations Account, the Design-Build Contractor Payments Account and the Insurance and Condemnation Proceeds Account as described below. The Authority shall be entitled to open new Accounts of the Project Fund for such purposes as may be set forth in a Supplemental Indenture.

(b) Senior Lien Obligations Account. The net proceeds of each Series of the Senior Lien Obligations shall be deposited by the Trustee into the applicable sub-account of the Senior Lien Obligations Account as provided by the applicable Supplemental Indenture. The Senior Lien Obligations Account and all sub-accounts therein shall be maintained in order to account for the receipt and disbursement of proceeds (and all earnings thereon) of the Senior Lien Obligations, including but not limited to, the payment of, or reimbursement for a prior payment of, Costs of Issuance of Senior Lien Obligations and other Project Costs permitted to be paid with the proceeds of such Senior Lien Obligations. Funds therein shall be disbursed pursuant to a Funds Transfer Certificate in accordance with the provisions of Section 5.24. Notwithstanding anything to the contrary set forth herein, the amounts on deposit in any such sub-account of the Senior Lien Obligations Account (and all earnings thereon) shall secure only the Senior Lien Obligations issued to fund the initial deposit to such sub-account, and such amounts shall be held by the Trustee hereunder solely for the benefit of the holders of such Senior Lien Obligations until such funds have been disbursed in accordance with this Section.

(c) Second Lien Obligations Account. The net proceeds of Second Lien Obligations shall be deposited by the Trustee into the applicable sub-account of the Second Lien Obligations Account as provided by the applicable Supplemental Indenture. The Second Lien Obligations Account and all sub-accounts therein shall be maintained in order to account for the receipt and disbursement of proceeds (and all earnings thereon) of the Second Lien Obligations, including but not limited to, the payment of, or reimbursement for a prior payment of, Costs of Issuance of Second Lien Obligations and other Project Costs permitted to be paid with the proceeds of such Second Lien Obligations. Funds therein shall be disbursed pursuant to a Funds Transfer Certificate in accordance with the provisions of Section 5.24. Notwithstanding anything to the contrary set forth herein, the amounts on deposit in any such sub-account of the Second Lien Obligations Account (and all earnings thereon) shall secure only the Second Lien Obligations issued to fund the initial deposit to such sub-account, and such amounts shall be held by the Trustee hereunder solely for the benefit of the holders of such Second Lien Obligations until such funds have been disbursed in accordance with this Section.

(d) Subordinate Obligations Account. The net proceeds of Subordinate Obligations shall be deposited by the Trustee into the applicable sub-account of the Subordinate Obligations Account as provided by the applicable Supplemental Indenture. The Subordinate Obligations Account and all sub-accounts therein shall be maintained in order to account for the receipt and disbursement of proceeds (and all earnings thereon) of the Subordinate Obligations, including but not limited to, the payment of, or reimbursement for a prior payment of, Costs of Issuance of Subordinate Obligations and other Project Costs permitted to be paid with the proceeds of such Subordinate Obligations. Funds therein shall be disbursed pursuant to a Funds Transfer Certificate in accordance with the provisions of Section 5.24. Notwithstanding anything to the contrary set forth herein, the amounts on deposit in any such sub-account of the Subordinate Obligations Account (and all earnings thereon) shall secure only the Subordinate Obligations issued to fund the initial deposit into such sub-account, and such amounts shall be held by the Trustee hereunder solely for the benefit of the holders of such Subordinate Obligations until such funds have been disbursed in accordance with this Section.

(e) Design-Build Contractor Payments Account. Amounts, including but not limited to liquidated damages, payable to or received by the Authority from the Design-Build Contractor shall be transferred to the Trustee and deposited by the Trustee into the Design-Build Contractor Payments Account and used to pay Project Costs and, if applicable, Annual Debt Service with respect to Senior Lien Obligations and, if applicable, Second Lien Obligations and Subordinate Obligations. The Authority shall comply with Section 5.24, including the delivery of a Funds Transfer Certificate (to the extent required by such Section 5.24) in requesting a disbursement of funds from time to time from the Design-Build Contractor Payments Account.

(f) Insurance and Condemnation Proceeds Account. Proceeds of fire and other property and casualty insurance payable to or received by the Authority with respect to the Toll Road (whether by way of claims, return of premiums, ex gratia settlements or otherwise), and proceeds of any condemnation awards payable to or received by the Authority with respect to the Toll Road shall be transferred to the Trustee and deposited by the Trustee into the Insurance and Condemnation Proceeds Account; provided, that proceeds of any business interruption, delay in startup or loss of advance profits insurance paid to or for the benefit of the Authority shall be deposited to the Toll Revenue Fund. If received prior to the applicable

Substantial Completion Date, amounts on deposit in such Account shall be used to pay Project Costs (and, if applicable, a mandatory prepayment of the TIFIA Loan) and shall be transferred in accordance with subsection (h) below. If received after the applicable Substantial Completion Date, amounts on deposit in the Insurance and Condemnation Proceeds Account may be used by the Authority to pay the costs of restoration, repair or rehabilitation of the Toll Road or portion thereof to which such insurance or condemnation proceeds relate; provided, however, that any portion of such amounts that the Authority elects not to use for such restoration, repair or rehabilitation of the Toll Road or that are in excess of the amount needed for such restoration, repair or rehabilitation of the Toll Road, as evidenced by a Certificate of the Authority delivered to the Trustee, shall be transferred to the Redemption Fund and applied to the prepayment of principal of Outstanding Highest Priority Obligations and the TIFIA Loan, on a *pro rata* basis (based on relative outstanding principal amount). The Authority shall comply with Section 5.24, including the delivery of a Funds Transfer Certificate (to the extent required by such Section 5.24) in requesting a disbursement of funds from time to time from the Insurance and Condemnation Proceeds Account.

Section 5.05 Measure I Investment. If the TIFIA Loan is outstanding, the following deposits and transfers with respect to the Measure I Backstop, Measure I Cash Supplement, and Measure I Reserve Fund shall apply:

(a) **Measure I Backstop.** The Authority covenants to invest Measure I sales tax revenues in the I-10 Corridor Contract I Project by causing the Sales Tax Trustee to transfer funds (beginning on the Monthly Funding Date in July 2025 and continuing on each Monthly Funding Date thereafter until December 2039) to the Trustee for deposit in the Measure I Reserve Fund on each Monthly Funding Date in the amounts reflected in the then-current Annual Operating Budget (and, if applicable, the supplemental amounts appropriated to the Project by the Authority's board of directors), all as more fully described in Section 16(w) of the TIFIA Loan Agreement. Each monthly Measure I Backstop deposit to the Measure I Reserve Fund shall be held therein and transferred to the Toll Revenue Fund on a Calculation Date if there is any shortfall in Revenue required on such Calculation Date. Measure I Backstop amounts transferred from the Measure I Reserve Fund to the Toll Revenue Fund shall compensate for any shortfall in Toll Revenues needed to meet the Authority's funding obligations pursuant to clauses First through Fifteenth in Section 5.03(b) on such Calculation Date; provided that, the aggregate principal amount of such Measure I Backstop transfers from the Measure I Reserve Fund to the Toll Revenue Fund in any Fiscal Year shall not exceed the aggregate of total Operation and Maintenance Expenses and the Scheduled Major Maintenance and Repair Fund Required Deposits, in each case for such Fiscal Year, plus, with respect to Fiscal Year during which the TIFIA Loan Reserve Account must initially be funded, the TIFIA Loan Reserve Requirement as of the Calculation Date preceding the TIFIA Debt Service Payment Commencement Date; provided, further, that the maximum aggregate outstanding principal amount of such payments when combined with the Measure I Cash Supplement invested and not repaid and scheduled to be made shall not exceed an aggregate principal amount (excluding accrued and unpaid interest) of ninety-three million dollars (\$93,000,000).

(b) **Measure I Cash Supplement.** The Authority covenants to invest Measure I sales tax revenues in the I-10 Corridor Contract 1 Project, commencing eighteen (18) months prior to the TIFIA Debt Service Payment Commencement Date, by requiring the Sales Tax

Trustee to transfer directly to the Trustee for deposit into the Cash Supplement Account in the Measure I Reserve Fund the monthly pro-rata amounts required to be deposited to the Cash Supplement Account in the Measure I Reserve Fund such that on each Calculation Date, commencing with the second Calculation Date preceding the TIFIA Debt Service Payment Commencement Date, the Cash Supplement Account holds the amount required for such date pursuant to Schedule IV of the TIFIA Loan Agreement. The aggregate amount of the Measure I Cash Supplement investment pursuant to such Schedule is \$[_____].

(c) Transfers from Measure I Reserve Fund.

(1) *Transfers from Backstop Account of the Measure I Reserve Fund to Toll Revenue Fund.* In addition to the transfers described in clause First of Section 5.03(b) needed on Monthly Funding Dates that are not a Calculation Date, on each Calculation Date and subject to the funding limits set forth in Section 5.05(a) above, the Trustee shall transfer from the Backstop Account in the Measure I Reserve Fund to the Toll Revenue Fund the amount, if any, equal to the lesser of (1) the amount of shortfall in Toll Revenues needed for all payments required to be paid as of such Calculation Date pursuant to clauses First through Fifteenth in Section 5.03(b) to be paid in full and (2) the aggregate amount then on deposit in the Backstop Account of the Measure I Reserve Fund; including with respect to the Calculation Date occurring six (6) months prior to the TIFIA Debt Service Payment Commencement Date, the amount needed to cause the amounts on deposit in the TIFIA Loan Reserve Account to be equal to the TIFIA Loan Reserve Requirement as of such date. After any such transfers from the Backstop Account, the Authority will make any required deposit to the Toll Trustee of the Backstop Amount needed for the next Calculation Period as describe in Section 5.05 (a) above. On any Calculation Date, when no amounts are required to be on deposit in the Backstop Account in the Measure I Reserve Fund, any amounts therein shall be transferred to the Authority and credited to any amounts then outstanding on the Measure I Investment.

(2) *Transfers from Cash Supplement Account.* Commencing on the Calculation Date preceding the TIFIA Debt Service Payment Commencement Date and continuing on each Monthly Funding Date thereafter, the Borrower shall cause the Trustee to transfer from the Cash Supplement Account of the Measure I Reserve Fund to the Toll Revenue Fund an amount equal to one sixth (1/6th) of the amount of Measure I Cash Supplement required to be transferred to the Toll Revenue Fund during the semi-annual period ending on the next Calculation Date, as set forth in Schedule IV to the TIFIA Loan Agreement. On each date that the Trustee receives from the Sales Tax Trustee the monthly amount of the Cash Supplement required to be invested in such month, the Trustee shall deposit such amount into the Cash Supplement Account of the Measure I Reserve Fund. The Trustee shall keep a record of date of such investments. Measure I Cash Supplement amounts may be used to satisfy any of the Authority's funding obligations described in Section 5.03(b).

(3) *True-Up Procedure.* Ninety (90) days before each Calculation Date (beginning October 2026 and continuing to March 2040), the Borrower shall determine whether the Measure I Backstop on deposit in the Backstop Account and

available for transfer to the Toll Revenue Fund during the semi-annual period ending on the next Calculation Date is projected to be sufficient to enable the Authority to satisfy all of its funding obligations pursuant to clauses First through Fifteenth in Section 5.03(b) on or prior to the next Calculation Date, and shall notify the Trustee of its conclusion. If the Borrower determines that the actual shortfall in Toll Revenues is likely to exceed the amount on deposit in the Backstop Account and available for transfer to the Toll Revenue Fund during the semi-annual period ending on the next Calculation Date, the Authority shall promptly take all reasonable steps to seek and obtain approval from its board of directors to allocate additional Measure I sales tax revenues to the I-10 Corridor Contract I Project to supplement the amounts then available for transfer from the Backstop Account to the Toll Revenue Fund during such semi-annual period so that the Measure I Backstop amounts are sufficient to cover the Toll Revenue shortfall for the semi-annual period through the next Calculation Date. The Authority shall promptly notify the Trustee in writing of the board of directors' decision regarding the request for such additional Measure I Investment. The Authority shall promptly transfer (or cause the Sales Tax Trustee to transfer) to the Backstop Account any additional funds approved by the board of directors, and shall instruct the Trustee to deposit such funds into the Toll Revenue Fund as needed to meet the Authority's funding obligations payable pursuant to clauses First through Fifteenth in Section 5.03(b) on or prior to the next Calculation Date.

(4) *Excess Measure I Backstop.* If, as of a Calculation Date, amounts in the Backstop Account for such Calculation Date exceed the actual Toll Revenue shortfall for such semi-annual period, as determined by the Trustee with notice to the Borrower and the TIFIA Lender, the Trustee shall transfer such excess Measure I Backstop amounts to the Authority.

(d) Interest on Measure I Investment. Upon deposit into the Measure I Reserve Fund, each Measure I Cash Supplement payment and Measure I Backstop payment is considered an investment by the Authority in the Project and begins accruing interest at the yield at which Permitted Investments acquired with amounts deposited to the Measure I Reserve Fund earn interest. Such earned interest shall be paid to the Authority on each Calculation Date. When Measure I Backstop and Measure I Cash Supplement amounts are deposited into the Toll Revenue Fund, such investment begins accruing interest at the TIFIA Interest Rate plus 1.25%, compounded semi-annually, on a 360 day/30 day month basis, on each Calculation Date until paid. On each Calculation Date, the Trustee shall provide to the Authority and the TIFIA Lender a record of the principal amount of the Measure I Investment and the accrued and unpaid interest thereon.

Section 5.06 Operation and Maintenance Fund.

(a) The Authority shall establish and maintain the Operation and Maintenance Fund in accordance herewith. As provided in clause First in Section 5.03(b), the Authority shall maintain therein the amount necessary to increase the balance of the Operation and Maintenance Fund to an amount equal to the Operation and Maintenance Expenses then due and payable or coming due and payable prior to the next Monthly Funding Date, plus an additional amount equal to 41.7% of Operation and Maintenance expenses for the applicable Fiscal Year reflected

in the Annual Operating Budget for such Fiscal Year (as may be updated pursuant to the TIFIA Loan Agreement) (the “Operation and Maintenance Fund Required Amount”).

(b) The Authority shall apply the funds in the Operation and Maintenance Fund and the amounts transferred to the Operation and Maintenance Fund under Article V of this Indenture for the payment of Operation and Maintenance Expenses in accordance with the terms of this Indenture.

Section 5.07 Senior Lien Obligations Reserve Fund.

(a) On the date of issuance of any Series of Senior Lien Obligations that has a Senior Lien Obligations Reserve Requirement, the Authority shall cause the Senior Lien Obligations Reserve Requirement for those Senior Lien Obligations to be deposited in the Senior Lien Obligations Reserve Fund in an Account solely for the benefit of those Senior Lien Obligations. Alternatively, the Supplemental Indenture for any Series of Senior Lien Obligations may establish a pooled Senior Lien Obligations Reserve Requirement for that Series of Senior Lien Obligations and any one or more subsequently issued Series of Senior Lien Obligations with the same pooled Senior Lien Obligations Reserve Requirement, in which case the Senior Lien Obligations Reserve Requirement for the initial issue of such Senior Lien Obligations shall be deposited in the Senior Lien Obligations Reserve Fund in an Account solely for the benefit of those Senior Lien Obligations and any additional Senior Lien Obligations with the same pooled Senior Lien Obligations Reserve Requirement, and on the date of issuance of any such additional Senior Lien Obligations, there shall be deposited in the Account the amount necessary to increase the balance in the Account to an amount equal to the Senior Lien Obligations Reserve Requirement for all Senior Lien Obligations secured by that Account.

(b) Monies on deposit in each Account within the Senior Lien Obligations Reserve Fund shall be applied by the Trustee as follows:

(1) If on any (x) Interest Payment Date for Senior Lien Obligations secured by an Account within the Senior Lien Obligations Reserve Fund, (y) principal payment date for such Senior Lien Obligations or (z) redemption date on which such Senior Lien Obligations are subject to mandatory sinking fund redemption, the amount on deposit in the applicable Account of the Senior Lien Obligations Fund, determined after taking into account all amounts transferred to such Account of the Senior Lien Obligations Fund in accordance with clauses Third and Fourth of Section 5.03(b), is not sufficient to pay interest and/or principal and/or the redemption price (excluding any redemption premium) due on such Senior Lien Obligations, then moneys shall be transferred to the Senior Lien Obligations Interest Account and/or the Senior Lien Obligations Principal Account, as applicable, from the Residual Fund, the Sweep Fund and the applicable Account of the Senior Lien Obligations Reserve Fund (in that order) which, together with moneys then on deposit in the applicable Account of the Senior Lien Obligations Fund, will be sufficient to pay interest and/or principal and/or the redemption price (excluding any redemption premium) due on such Senior Lien Obligations on such date. Moneys shall be transferred first to the Senior Lien Obligations Interest Account until such Account, together with any available funds then on deposit in the Senior Lien Obligations Interest Account, is sufficiently funded with respect to such Senior Lien

Obligations and thereafter, to the Senior Lien Obligations Principal Account until such Account, together with any available funds then on deposit in the Senior Lien Obligations Principal Account, is sufficiently funded with respect to such Senior Lien Obligations.

(2) Upon the maturity of Senior Lien Obligations secured by funds on deposit in an Account of the Senior Lien Obligations Reserve Fund or upon the earlier redemption of all or any portion of such Senior Lien Obligations, the Authority may direct the Trustee to transfer amounts on deposit in the applicable Account within the Senior Lien Obligations Reserve Fund to the Senior Lien Obligations Principal Account for application to the final payment of principal of all or a portion of the Senior Lien Obligations secured thereby or to an escrow account established for defeasance of such Senior Lien Obligations pursuant to Article X hereof, provided that, if less than all of the Senior Lien Obligations mature or are redeemed, the amount remaining on deposit in such Account of the Senior Lien Obligations Reserve Fund following any such transfer shall not be less than the Senior Lien Obligations Reserve Requirement applicable to the Senior Lien Obligations secured thereby to remain Outstanding.

(3) Except as provided in paragraph (2) above, any amounts on deposit in an Account of the Senior Lien Obligations Reserve Fund in excess of the applicable Senior Lien Obligations Reserve Requirement shall be applied in accordance with Section 5.03(d) of this Indenture.

(c) The lien on the Senior Lien Obligations Reserve Fund (and all earnings thereon) shall apply only to the Senior Lien Obligations and the related interest of the Holder of such Senior Lien Obligations with respect to amounts on deposit in such Fund from time to time, and such amounts shall be solely for the benefit of such holder of Senior Lien Obligations until such funds have been disbursed in accordance with this Section. If necessary, the Authority shall instruct the Trustee to create Accounts within the Senior Lien Obligations Reserve Fund to facilitate compliance with the provisions of this paragraph.

(d) The Senior Lien Obligations Reserve Requirement for any Series of Senior Lien Obligations may be permitted or required by the Supplemental Indenture establishing the Senior Lien Obligations Reserve Requirement to be funded in whole or in part with a Reserve Facility. The terms and conditions for any Reserve Facility shall be set forth in the Reserve Facility or the Supplemental Indenture establishing the Senior Lien Obligations Reserve Requirement to be met in whole or in part by the Reserve Facility, provided that those terms and conditions shall conform to and be consistent with the provisions set forth in this Section 5.07 and, for so long as the TIFIA Loan Agreement remains in effect, the requirements for Credit Support Instruments under the TIFIA Loan Agreement. The Trustee shall withdraw cash (and liquidate investments to produce cash) and draw on Reserve Facilities in or with respect to any Account in the Senior Lien Obligations Reserve Fund to fund payments of principal of and interest on Senior Lien Obligations supported by such Account in the Senior Lien Obligations Reserve Fund in the manner and in the order specified herein and in the applicable Supplemental Indenture or Supplemental Indentures. This Indenture shall not be discharged until all Reserve Facility Costs owing to a Reserve Facility Provider have been paid in full from amounts available to the Authority that do not constitute Revenues.

(e) Upon the occurrence of a Bankruptcy Related Event or a Springing Lien Event, any Account within the Second Lien Obligations Reserve Fund that secures payment of the principal and interest on a Second Lien Obligation in the form of or securing payment of a TIFIA Loan, will become an Account within the Senior Lien Obligations Reserve Fund, will be funded on a parity (ratably based on relative deficiency) with any other Accounts within the Senior Lien Obligations Reserve Fund and will be available only to pay principal and interest on Senior Lien Obligations in the form of or securing payment of such TIFIA Loan. The Senior Lien Obligations in the form of or securing payment of a TIFIA Loan will not be secured by any other Account within the Senior Lien Obligations Reserve Fund.

Section 5.08 Second Lien Obligations Reserve Fund.

(a) On the date of issuance of any Series of Second Lien Obligations that has a Second Lien Obligations Reserve Requirement, the Second Lien Obligations Reserve Requirement for those Second Lien Obligations shall be deposited in the Second Lien Obligations Reserve Fund in an Account solely for the benefit of those Second Lien Obligations; provided, that with respect to the TIFIA Loan, to the extent amounts on deposit in the TIFIA Loan Reserve Account do not equal the TIFIA Loan Reserve Requirement as of the Calculation Date that is six (6) months prior to the TIFIA Debt Service Payment Commencement Date, the Trustee shall transfer to the TIFIA Loan Reserve Account an amount equal to the lesser of (i) the amount of such shortfall and (ii) the amount then on deposit in the Measure I Reserve Fund. Alternatively, the Supplemental Indenture for any Series of Second Lien Obligations (other than a Second Lien Obligation in the form of a TIFIA Loan) may establish a pooled Second Lien Obligations Reserve Requirement for those Second Lien Obligations and any one or more subsequently issued Second Lien Obligations with the same pooled Second Lien Obligations Reserve Requirement, in which case the Second Lien Obligations Reserve Requirement for the initial issue of such Second Lien Obligations shall be deposited in the Second Lien Obligations Reserve Fund in an Account solely for the benefit of those Second Lien Obligations and any additional Second Lien Obligations with the same pooled Second Lien Obligations Reserve Requirement, and on the date of issuance of any such additional Second Lien Obligations, there shall be deposited in the Account the amount necessary to increase the balance in the Account to an amount equal to the Second Lien Obligations Reserve Requirement for all Second Lien Obligations secured by that Account.

(b) Monies on deposit in each Account within the Second Lien Obligations Reserve Fund shall be applied by the Trustee as follows:

(1) If on any (x) Interest Payment Date for Second Lien Obligations secured by an Account within the Second Lien Obligations Reserve Fund, (y) principal payment date for such Second Lien Obligations or (z) redemption date on which such Second Lien Obligations are subject to mandatory sinking fund redemption, the amount on deposit in the applicable Account of the Second Lien Obligations Fund, determined after taking into account all amounts transferred to such Account of the Second Lien Obligations Fund in accordance with clauses Fifth and Sixth of Section 5.03(b), is not sufficient to pay interest and/or principal and/or the redemption price (excluding any redemption premium) due on such Second Lien Obligations, then moneys shall be transferred to the Second Lien Obligations Interest Account and/or the Second Lien

Obligations Principal Account, as applicable, from the Residual Fund, the Sweep Fund and the applicable Account of the Second Lien Obligations Reserve Fund (in that order) which, together with moneys then on deposit in the applicable Account of the Second Lien Obligations Fund, will be sufficient to pay interest and/or principal and/or the redemption price (excluding any redemption premium) due on such Second Lien Obligations on such date. Moneys shall be transferred first to the Second Lien Obligations Interest Account until such Account, together with any available funds then on deposit in the Second Lien Obligations Interest Account, is sufficiently funded with respect to such Second Lien Obligations and thereafter, to the Second Lien Obligations Principal Account until such Account, together with any available funds then on deposit in the Second Lien Obligations Principal Account, is sufficiently funded with respect to such Second Lien Obligations.

(2) Upon the maturity of Second Lien Obligations secured by funds on deposit in an Account of the Second Lien Obligations Reserve Fund or upon the earlier redemption of all or any portion of such Second Lien Obligations, the Authority may direct the Trustee to transfer amounts on deposit in the applicable Account within the Second Lien Obligations Reserve Fund to the Second Lien Obligations Principal Account for application to the final payment of principal of all or a portion of the Second Lien Obligations secured thereby or to an escrow account established for defeasance of such Second Lien Obligations pursuant to Article X hereof, provided that, if less than all of the Second Lien Obligations mature or are redeemed, the amount remaining on deposit in such Account of the Second Lien Obligations Reserve Fund following any such transfer shall not be less than the Second Lien Obligations Reserve Requirement applicable to the Second Lien Obligations secured thereby to remain Outstanding.

(3) Except as provided in paragraph (2) above, any amounts on deposit in an Account of the Second Lien Obligations Reserve Fund in excess of the applicable Second Lien Obligations Reserve Requirement shall be applied in accordance with Sections 5.03(d) of this Indenture.

(c) The lien on the Second Lien Obligations Reserve Fund (and all earnings thereon) shall apply only to the Second Lien Obligations and the related interest of the Holder of such Second Lien Obligations with respect to amounts on deposit in such Fund from time to time, and such amounts shall be solely for the benefit of such holder of Second Lien Obligations until such funds have been disbursed in accordance with this Section. If necessary, the Authority shall instruct the Trustee to create Accounts within the Second Lien Obligations Reserve Fund to facilitate compliance with the provisions of this paragraph.

(d) The Second Lien Obligations Reserve Requirement for any Series of Second Lien Obligations may be permitted or required by the Supplemental Indenture establishing the Second Lien Obligations Reserve Requirement to be funded in whole or in part with a Reserve Facility. The terms and conditions for any Reserve Facility shall be set forth in the Reserve Facility or the Supplemental Indenture establishing the Second Lien Obligations Reserve Requirement to be met in whole or in part by the Reserve Facility, provided that those terms and conditions shall conform to and be consistent with the provisions set forth in this Section 5.08 and, for so long as the TIFIA Loan Agreement remains in effect, the requirements

for Credit Support Instruments under the TIFIA Loan Agreement. The Trustee shall withdraw cash (and liquidate investments to produce cash) and draw on Reserve Facilities in or with respect to any Account in the Second Lien Obligations Reserve Fund to fund payments of principal of and interest on Second Lien Obligations supported by such Account in the Second Lien Obligations Reserve Fund in the manner and in the order specified herein and in the applicable Supplemental Indenture or Supplemental Indentures. This Indenture shall not be discharged until all Reserve Facility Costs owing to a Reserve Facility Provider have been paid in full from amounts available to the Authority that do not constitute Revenues.

(e) Upon the occurrence of a Bankruptcy Related Event or a Springing Lien Event, any Account within the Second Lien Obligations Reserve Fund that secures payment of the principal and interest on a Second Lien Obligation in the form of or securing payment of a TIFIA Loan, will become an Account within the Senior Lien Obligations Reserve Fund, will be funded on a parity (ratably based on relative deficiency) with any other Accounts within the Senior Lien Obligations Reserve Fund and will be available only to pay principal and interest on Senior Lien Obligations in the form of or securing payment of such TIFIA Loan. The Senior Lien Obligations in the form of or securing payment of a TIFIA Loan will not be secured by any other Account within the Senior Lien Obligations Reserve Fund.

(f) If the TIFIA Loan is outstanding, on each Calculation Date, the amount on deposit in the TIFIA Loan Reserve Account shall be equal to (i) the first full year of TIFIA Mandatory Debt Service, which shall be deposited to the TIFIA Loan Reserve Account by no later than the Calculation Date preceding the TIFIA Debt Service Payment Commencement Date, and (ii) after the TIFIA Debt Service Payment Commencement Date the greater of (A) the aggregate amount of TIFIA Mandatory Debt Service for the following twelve (12) month period and (B) the highest amount that would result from applying each of the formulas used to calculate the Senior Lien Obligations Reserve Requirement to the TIFIA Loan; provided that the initial deposit to the TIFIA Loan Reserve Account in an amount equal to the first full year of TIFIA Mandatory Debt Service shall be funded from Toll Revenues, to the extent available, and otherwise from the Measure I Backstop and shall be on deposit in such account by no later than the Calculation Date preceding the TIFIA Debt Service Payment Commencement Date (collectively, the “TIFIA Loan Reserve Requirement”).

Section 5.09 Subordinate Obligations Reserve Fund.

(a) The Subordinate Obligations Reserve Requirement for those Subordinate Obligations secured by the Subordinate Obligations Reserve Fund or an Account therein shall be deposited in the Subordinate Obligations Reserve Fund in an Account solely for the benefit of those Subordinate Obligations on the dates and in the amounts set forth in the Supplemental Indenture authorizing the issuance of such Subordinate Obligations; provided, however, alternatively, the Supplemental Indenture for any Series of Subordinate Obligations may establish a pooled Subordinate Obligations Reserve Requirement for those Subordinate Obligations and any one or more subsequently issued Subordinate Obligations with the same pooled Subordinate Obligations Reserve Requirement, in which case the Subordinate Obligations Reserve Requirement for the initial issue of such Subordinate Obligations shall be deposited in the Subordinate Obligations Reserve Fund in an Account solely for the benefit of those Subordinate Obligations and any additional Subordinate Obligations with the same pooled

Subordinate Obligations Reserve Requirement, and on the date of issuance of any such additional Subordinate Obligations, there shall be deposited in the Account the amount necessary to increase the balance in the Account to an amount equal to the Subordinate Obligations Reserve Requirement for all Subordinate Obligations secured by that Account.

(b) Monies on deposit in each Account within the Subordinate Obligations Reserve Fund shall be applied by the Trustee as follows:

(1) If on any (x) Interest Payment Date for Subordinate Obligations secured by an Account within the Subordinate Obligations Reserve Fund, (y) principal payment date for such Subordinate Obligations or (z) redemption date on which such Subordinate Obligations are subject to mandatory sinking fund redemption, the amount on deposit in the applicable Account of the Subordinate Obligations Fund, determined after taking into account all amounts transferred to such Account of the Subordinate Obligations Fund in accordance with clauses Twelfth and Thirteenth of Section 5.03(b), is not sufficient to pay interest and/or principal and/or the redemption price (excluding any redemption premium) due on such Subordinate Obligations, then moneys shall be transferred to the Subordinate Obligations Interest Account and/or the Subordinate Obligations Principal Account, as applicable, from the applicable Account of the Subordinate Obligations Reserve Fund which, together with moneys then on deposit in the applicable Account of the Subordinate Obligations Fund, will be sufficient to pay interest and/or principal and/or the redemption price (excluding any redemption premium) due on such Subordinate Obligations on such date. Moneys shall be transferred first to the Subordinate Obligations Interest Account until such Account, together with any available funds then on deposit in the Subordinate Obligations Interest Account, is sufficiently funded with respect to such Subordinate Obligations and thereafter, to the Subordinate Obligations Principal Account until such Account, together with any available funds then on deposit in the Subordinate Obligations Principal Account, is sufficiently funded with respect to such Subordinate Obligations.

(2) Upon the maturity of Subordinate Obligations secured by funds on deposit in an Account of the Subordinate Obligations Reserve Fund or upon the earlier redemption of all or any portion of such Subordinate Obligations, the Authority may direct the Trustee to transfer amounts on deposit in the applicable Account within the Subordinate Obligations Reserve Fund to the Subordinate Obligations Principal Account for application to the final payment of principal of all or a portion of the Subordinate Obligations secured thereby or to an escrow account established for defeasance of such Subordinate Obligations pursuant to Article X hereof, provided that, if less than all of the Subordinate Obligations mature or are redeemed, the amount remaining on deposit in such Account of the Subordinate Obligations Reserve Fund following any such transfer shall not be less than the Subordinate Obligations Reserve Requirement applicable to the Subordinate Obligations secured thereby to remain Outstanding.

(3) Except as provided in paragraph (2) above, any amounts on deposit in an Account of the Subordinate Obligations Reserve Fund in excess of the applicable Subordinate Obligations Reserve Requirement shall be applied in accordance with Section 5.03(d) of this Indenture.

(c) The lien on the Subordinate Obligations Reserve Fund (and all earnings thereon) shall apply only to the Subordinate Obligations and the related interest of the Holder of such Subordinate Obligations with respect to amounts on deposit in such Fund from time to time, and such amounts shall be solely for the benefit of such holder of Subordinate Obligations until such funds have been disbursed in accordance with this Section. If necessary, the Authority shall instruct the Trustee to create Accounts within the Subordinate Obligations Reserve Fund to facilitate compliance with the provisions of this paragraph.

(d) The Subordinate Obligations Reserve Requirement for any Series of Subordinate Obligations may be permitted or required by the Supplemental Indenture establishing the Subordinate Obligations Reserve Requirement to be funded in whole or in part with a Reserve Facility. The terms and conditions for any Reserve Facility shall be set forth in the Reserve Facility or the Supplemental Indenture establishing the Subordinate Obligations Reserve Requirement to be met in whole or in part by the Reserve Facility, provided that those terms and conditions shall conform to and be consistent with the provisions set forth in this Section 5.09 and, for so long as the TIFIA Loan Agreement remains in effect, the requirements for Credit Support Instruments under the TIFIA Loan Agreement. The Trustee shall withdraw cash (and liquidate investments to produce cash) and draw on Reserve Facilities in or with respect to any Account in the Subordinate Obligations Reserve Fund to fund payments of principal of and interest on Subordinate Obligations supported by such Account in the Subordinate Obligations Reserve Fund in the manner and in the order specified herein and in the applicable Supplemental Indenture or Supplemental Indentures. This Indenture shall not be discharged until all Reserve Facility Costs owing to a Reserve Facility Provider have been paid in full from amounts available to the Authority that do not constitute Revenues.

Section 5.10 Major Maintenance and Repair Fund.

(a) The Trustee shall, in accordance with clause Fourteenth of Section 5.03(b), cause amounts in the Toll Revenue Fund, to the extent available, to be deposited into the Major Maintenance and Repair Fund on each Monthly Funding Date in an amount equal to the Scheduled Major Maintenance and Repair Fund Required Deposit as of such Monthly Funding Date. Any amounts on deposit in the Major Maintenance and Repair Fund certified by the Authority as no longer being needed for Major Maintenance and Repair Fund Permitted Expenditures shall be applied in accordance with the requirements of Section 5.03(d) of this Indenture.

(b) On any date on which Major Maintenance and Repair Fund Permitted Expenditures are due and payable or reasonably expected to become due and payable, monies on deposit in the Major Maintenance and Repair Fund shall be applied by the Trustee pursuant to a Written Request of Authority to pay such Major Maintenance and Repair Fund Permitted Expenditures.

Section 5.11 Sweep Fund.

(a) The Trustee shall, in accordance with clause Sixteenth of Section 5.03(b), cause amounts in the Toll Revenue Fund, to the extent available, to be deposited into the Sweep Fund on each Monthly Funding Date in the amount, if any, necessary to cause the amount on deposit

in the Sweep Fund to equal \$10,000,000.

(b) The Trustee shall transfer amounts from the Sweep Fund, as necessary, and in accordance with Sections 5.03(b), 5.07(b)(1) and 5.08(b)(1).

Section 5.12 Residual Fund.

(a) General. On each Monthly Funding Date, the Trustee shall make deposits to the Residual Fund from the Toll Revenue Fund in accordance with clause Seventeenth of Section 5.03(b). On each Calculation Date, if Toll Revenues on any preceding Monthly Funding Date were insufficient to make the required deposits pursuant to clauses First through Sixteenth of Section 5.03(b), amounts in the Residual Fund shall be used to cover such shortfall in numerical order to the extent such funds are available. On the Calculation Date as of which each of the Residual Release Conditions set forth in subsection (b) below has been satisfied, moneys on deposit in the Residual Fund as of such date, if any, shall be transferred first, to the Measure I Cash Supplement Repayment Account in accordance with Section 5.03(c); and second, to the Measure I Backstop Repayment Account in accordance with Section 5.03(c); and third, in accordance with subsections (c) and (d) below.

(b) Residual Release Conditions. Amounts deposited in the Residual Fund will be retained in such Fund until each of the following conditions has been satisfied as of a Calculation Date (the “Residual Release Conditions”):

(1) The second anniversary of the TIFIA Debt Service Payment Commencement Date has occurred;

(2) no payment default or default in the payment of any Outstanding Obligations shall have occurred and be continuing, and all amounts due on all Outstanding Obligations for all Payment Dates up to and including the current Calculation Date shall have been paid (including any amounts remaining unpaid from any prior period);

(3) all TIFIA Mandatory Debt Service and all TIFIA Scheduled Debt Service (as such term is defined in the TIFIA Loan Agreement) and all principal and interest in respect of all other Obligations for all TIFIA Payment Dates through such Calculation Date shall have been paid in full (including any amounts remaining unpaid from any prior period);

(4) no Event of Default (or event that with notice, the passage of time or both, would result in an Event of Default) shall have occurred and be continuing;

(5) no event of default (or event that with notice, the passage of time or both, would result in an event of default) shall have occurred and be continuing under the Police Services Agreement or any of the Toll Agreements;

(6) each Reserve Fund is fully funded, the amount on deposit in the Major Maintenance and Repair Fund is equal to the then applicable Major Maintenance and Repair Fund Required Amount, the amount on deposit in the Operation and

Maintenance Fund is equal to the then applicable Operation and Maintenance Fund Required Amount, all deposits to the Measure I Reserve Fund required to be made as of such date shall have been made in full and the Sweep Fund has \$10,000,000 on deposit therein;

(7) The Authority certifies that the Senior Debt Service Coverage Ratio (1) as of the current Calculation Date and as of each of the two (2) consecutive preceding Calculation Dates is or was, as applicable, in each case equal to at least 1.35:1.00 and (2) for each of the four (4) consecutive succeeding Calculation Dates is, in each case, projected to equal at least 1.35:1.00;

(8) The Authority certifies that the Second Lien Debt Service Coverage Ratio (1) as of the current Calculation Date and as of each of the two (2) consecutive preceding Calculation Dates is or was, as applicable, in each case equal to at least 1.25:1.00 and (2) for each of the four (4) consecutive succeeding Calculation Dates is, in each case, projected to equal at least 1.25:1.00;

(9) The Authority certifies that (1) the aggregate of Toll Revenues and Measure I Cash Supplement amounts deposited to the Toll Revenue Fund were sufficient to fund in full all amounts required pursuant to clauses First through Fifteenth of Section 5.03(b) as of the current Calculation Date and as of each of the two (2) consecutive preceding Calculation Dates and (2) the aggregate of Toll Revenues and Measure I Cash Supplement amounts projected to deposited to the Toll Revenue Fund are projected to be sufficient to fund in full amounts required pursuant to clauses First through Fifteenth of Section 5.03(b) for each of the four (4) consecutive succeeding Calculation Dates;

(c) Repayment of Measure I Investment After Residual Release Conditions Satisfied. If each of the Residual Release Conditions is satisfied as of a Calculation Date, the Authority shall deliver to the Trustee and the TIFIA Lender a Funds Transfer Certificate that demonstrates satisfaction of each of the Residual Release Conditions as of such Calculation Date. Thereafter, the Trustee shall, after the application of funds for the purposes specified in clauses First through Sixteenth of Section 5.03(b) on such Calculation Date (and prior to any payment made pursuant to clause (d) below), transfer funds deposited into the Residual Fund to the Authority to repay the principal amount of, and interest accrued on (at the rate specified in Section 5.05(d)), any Measure I Investment amounts deposited to the Measure I Reserve Fund or Toll Revenue Fund and not previously repaid.

(d) Mandatory Prepayment of TIFIA Loan After Residual Release Conditions Satisfied. If each of the Residual Release Conditions is satisfied as of a Calculation Date, then after the application of funds for the purposes specified in clauses First through Sixteenth of Section 5.03(b) and after any payment required under Section 5.12(c), the Trustee shall transfer funds on deposit in the Residual Fund to the TIFIA Lender to make mandatory prepayments of the TIFIA Loan pursuant to and in accordance with Section 10(a)(i) of the TIFIA Loan Agreement, subject to the following conditions:

(1) such mandatory prepayments of the TIFIA Loan shall not be made before the earlier of (a) the date as of which each of the I-10 Corridor Contract 1 Project,

the I-10 Corridor Contract 2 Project, the I-15 Corridor Project, and the I-15 Corridor Future Project has achieved substantial completion or (b) the date that is the fifteenth (15th) anniversary of the Substantial Completion Date of the I-10 Corridor Contract 1 Project;

(2) no such mandatory prepayments of the TIFIA Loan shall occur if there exists any outstanding, unpaid draw on the Measure I Investment; and

(3) the mandatory prepayment of the TIFIA Loan on any date shall not exceed 50% of the amounts remaining on deposit in the Residual Fund as of such date after the repayment of the Measure I Investment described in sub-clause (2) above.

(e) Release to Authority After Residual Release Conditions Satisfied. On each July 1, if (i) each of the Residual Release Conditions has been satisfied as of such date and (ii) the Authority has satisfied each of the requirements set forth in Section 5.12(c) and Section 5.12(d) above, the Authority will have the exclusive right to withdraw or otherwise dispose of or transfer funds then remaining on deposit in the Residual Fund to any account (or to such Person) as directed by the Authority in writing and, when so withdrawn, disposed of or transferred, such funds will not be subject to the lien and pledge of this Indenture.

(f) Residual Release Conditions Not Satisfied. On the Monthly Funding Date following any Calculation Date as of which any element of the Residual Release Conditions has not been satisfied, moneys on deposit in the Residual Fund as of such date, if any, shall be used solely to (i) eliminate shortfalls in any Fund or Account that is at a higher level of priority than the Residual Fund in the cash flow waterfall described in Section 5.03(b), and (ii) make mandatory prepayments of the TIFIA Loan then due and payable pursuant to Section 10(a)(iv) of the TIFIA Loan Agreement.

Section 5.13 Rebate Fund. There shall be deposited in the Rebate Fund amounts transferred in accordance with clause Second of Section 5.03(b). All money at any time deposited in the Rebate Fund shall be held by the Trustee to satisfy the Rebate Requirement (as defined in the Tax Certificate) for payment to the United States of America. The Trustee shall have no responsibility with respect to the Rebate Fund or the Rebate Requirement except to follow the written instructions of the Authority.

Section 5.14 Senior Lien Obligations Interest Account.

(a) On each Monthly Funding Date, the Trustee shall, in accordance with clause Third of Section 5.03(b), cause amounts in the Toll Revenue Fund to be deposited into the Senior Lien Obligations Interest Account, to the extent available after application of funds for the purposes specified in clauses First through Second of Section 5.03(b), and before making any transfers to the Senior Lien Obligations Fund from any other Fund or Account.

(b) On the Business Day when the interest portion of debt service on any Senior Lien Obligations shall be due and payable, monies on deposit in the Senior Lien Obligations Interest Account shall be applied pro rata to the payment of the interest due on such Senior Lien Obligations in accordance with this Indenture.

Section 5.15 Senior Lien Obligations Principal Account.

(a) On each Monthly Funding Date, the Trustee shall, in accordance with clause Fourth of Section 5.03(b), cause amounts in the Toll Revenue Fund to be deposited into the Senior Lien Obligations Principal Account, to the extent available after application of funds for the purposes specified in clauses First through Third of Section 5.03(b), and before making any transfers to the Senior Lien Obligations Fund from any other Fund or Account.

(b) On the Business Day when the principal portion of debt service (including any mandatory sinking fund redemption payments) on any Senior Lien Obligations shall be due and payable, monies on deposit in the Senior Lien Obligations Principal Account shall be applied pro rata to the payment of the principal portion of such Senior Lien Obligations in accordance with this Indenture.

Section 5.16 Second Lien Obligations Interest Account.

(a) On each Monthly Funding Date, the Trustee shall, in accordance with clause Fifth of Section 5.03(b), cause amounts in the Toll Revenue Fund to be deposited into the Second Lien Obligations Interest Account, to the extent available after application of funds for the purposes specified in clauses First through Fourth of Section 5.03(b), and before making any transfers to the Second Lien Obligations Fund from any other Fund or Account.

(b) On the Business Day when the interest portion of debt service on any Second Lien Obligations shall be due and payable, monies on deposit in the Second Lien Obligations Interest Account shall be applied pro rata to the payment of the interest due on such Second Lien Obligations in accordance with this Indenture.

Section 5.17 Second Lien Obligations Principal Account.

(a) On each Monthly Funding Date, the Trustee shall, in accordance with clause Sixth of Section 5.03(b), cause amounts in the Toll Revenue Fund to be deposited into the Second Lien Obligations Principal Account, to the extent available after application of funds for the purposes specified in clauses First through Fifth of Section 5.03(b), and before making any transfers to the Second Lien Obligations Fund from any other Fund or Account.

(b) On the Business Day when the principal portion of debt service (including any mandatory sinking fund redemption payments) on any Second Lien Obligations shall be due and payable, monies on deposit in the Second Lien Obligations Principal Account shall be applied pro rata to the payment of the principal portion of such Second Lien Obligations in accordance with this Indenture.

Section 5.18 Subordinate Obligations Interest Account.

(a) On each Monthly Funding Date, the Trustee shall, in accordance with clause Eleventh of Section 5.03(b), cause amounts in the Toll Revenue Fund to be deposited into the Subordinate Obligations Interest Account, to the extent available after application of funds for the purposes specified in clauses First through Tenth of Section 5.03(b), and before making any transfers to the Subordinate Obligations Fund from any other Fund or Account.

(b) On the Business Day when the interest portion of debt service on any Subordinate Obligations shall be due and payable, monies on deposit in the Subordinate Obligations Interest Account shall be applied pro rata to the payment of the interest due on such Subordinate Obligations in accordance this Indenture.

Section 5.19 Subordinate Obligations Principal Account.

(a) On each Monthly Funding Date, the Trustee shall, in accordance with clause Twelfth of Section 5.03(b), cause amounts in the Toll Revenue Fund to be deposited into the Subordinate Obligations Principal Account, to the extent available after application of funds for the purposes specified in clauses First through Eleventh of Section 5.03(b), and before making any transfers to the Subordinate Obligations Fund from any other Fund or Account.

(b) On the Business Day when the interest portion of debt service on any Subordinate Obligations shall be due and payable, monies on deposit in the Subordinate Obligations Principal Account shall be applied pro rata to the payment of the principal portion of such Subordinate Obligations in accordance this Indenture.

Section 5.20 Establishment and Application of the Redemption Fund. The Trustee shall establish, maintain and hold in trust a special Fund designated as the “Redemption Fund.” All moneys deposited by the Authority with the Trustee for the purpose of redeeming Obligations of any Series (other than pursuant to a mandatory sinking fund redemption or pursuant to the TIFIA Loan Agreement) shall, unless otherwise provided in the Supplemental Indenture establishing the terms and conditions for such Series Obligations, be deposited in the Redemption Fund. All amounts deposited in the Redemption Fund shall be used and withdrawn by the Trustee solely for the purpose of redeeming Obligations (other than the TIFIA Loan) of such Series and maturity as shall be specified by the Authority in a Written Request of the Authority delivered to the Trustee, in the manner, at the times and upon the terms and conditions specified in the Supplemental Indenture pursuant to which such Series of Obligations was issued. Such Written Request of the Authority may specify that amounts on deposit in the Redemption Fund that remain unclaimed for a specified period of time shall be paid to the Authority, and the Trustee shall pay such unclaimed amounts to the Authority in accordance with the Written Request of the Authority.

Section 5.21 Records. The Trustee shall cause to be kept and maintained records pertaining to each Fund and Account held by it and all disbursements therefrom and shall deliver monthly to the Authority and, for so long as the TIFIA Loan remains Outstanding, to the TIFIA Lender statements of activity with respect to such Funds and Accounts, provided that the Trustee shall not be obligated to report as to any Fund or Account that (a) has a balance of zero and (b) has not had any activity since the last reporting date.

In addition, the Authority shall cause to be kept and maintained records pertaining to each Fund and Account held by it and all disbursements therefrom and shall deliver monthly to the Trustee and, for so long as any Obligations in the form of or securing payment of the TIFIA Loan remain Outstanding, to the TIFIA Lender statements of activity with respect to such Funds and Accounts, provided that the Authority shall not be obligated to report as to any Fund

or Account that (a) has a balance of zero and (b) has not had any activity since the last reporting date.

Section 5.22 Investment by Trustee. Unless otherwise provided in a Supplemental Indenture and while Obligations in the form of or securing a TIFIA Loan are Outstanding, subject to the conditions in the TIFIA Loan Agreement, moneys held by the Trustee in the Funds and Accounts created hereunder shall be invested and reinvested in Permitted Investments in accordance with the written instructions of an Authorized Representative.

Unless otherwise specified in the Supplemental Indenture with respect to a Fund or Account created pursuant to such Supplemental Indenture, all Permitted Investments shall be held by or under the control of the Trustee and shall be deemed at all times to be a part of the Fund or Account that was used to purchase the Permitted Investment. Except as otherwise expressly stated in this Section 5.22, all interest, profits and other income received from the investment of moneys in any Fund or Account held by the Trustee, other than the Rebate Fund and the Accounts in the Project Fund, shall be transferred to the Toll Revenue Fund when received. All interest, profits and other income received from the investment of moneys in the Rebate Fund shall be deposited in the Rebate Fund. All interest, profits and other income received from the investment of monies in the Operation and Maintenance Fund shall be deposited in the Operation and Maintenance Fund. Unless otherwise provided in a Supplemental Indenture establishing an Account within the Project Fund, all interest, profits and other income received from the investment of moneys in an Account within the Project Fund shall be deposited in such Account. Notwithstanding anything to the contrary contained in this paragraph, an amount of interest received with respect to any Permitted Investment equal to the amount of accrued interest, if any, paid as part of the purchase price of such Permitted Investment shall be credited to the Fund or Account from which such accrued interest was paid.

The Trustee is authorized and directed to cause to be sold or redeemed and reduced to cash a sufficient amount of Permitted Investments whenever the cash balance in any Fund or Account is or will be insufficient to make any required disbursement. The Trustee shall not be responsible for any depreciation in the value of any Permitted Investments or for any loss resulting from such sale or redemption. Absent a Written Request of the Authority instructing the Trustee how to invest the cash balance in a Fund or Account held by the Trustee hereunder, the Trustee shall hold such cash balances uninvested pending its receipt of such a Written Request of the Authority.

All Permitted Investments credited to the Senior Lien Obligations Reserve Fund, the Second Lien Obligations Reserve Fund or the Subordinate Obligations Reserve Fund shall be valued by the Trustee as of each Calculation Date. All Permitted Investments credited to the Senior Lien Obligations Reserve Fund, the Second Lien Obligations Reserve Fund or the Subordinate Obligations Reserve Fund shall be valued at their fair market value determined to the extent practical by reference to the closing bid price thereof published in *The Wall Street Journal* or any other financial publication or generally recognized pricing information service selected by the Trustee in its discretion. The Trustee may use and rely conclusively and without liability upon any generally recognized pricing information service (including brokers and dealers in securities) available to it.

The Authority acknowledges that regulations of the Comptroller of the Currency grant the Authority the right to receive brokerage confirmations of the security transactions as they occur, at no additional cost. To the extent permitted by law, the Authority specifically waives compliance with 12 C.F.R. 12 and hereby notifies the Trustee that no brokerage confirmations need be sent relating to the security transactions as they occur.

The Trustee or its affiliates may act as sponsor, advisor, principal or agent in the acquisition or disposition of any investment with the prior written approval of an Authorized Representative. The Trustee may commingle any of the moneys held by it pursuant to this Indenture (except for amounts on deposit in the Rebate Fund and any Fund or Account established to hold the proceeds of a drawing on any Credit Support Instrument) for investment purposes only; provided, however, that the Trustee shall account separately for the moneys belonging to each Fund or Account established pursuant to this Indenture and held by it. The Authority shall not commingle the moneys held by it in the Operation and Maintenance Fund with any other funds held by the Authority. The Trustee may rely on the investment directions of the Authority as to both the suitability and legality of the directed investments.

Section 5.23 Subsidy Payments. The Authority irrevocably directs that all Subsidy Payments with respect to Senior Lien Bonds be made directly to the Trustee for deposit in the Senior Lien Obligations Interest Account pursuant to this Indenture. The Authority irrevocably directs that all Subsidy Payments with respect to Second Lien Obligations be made directly to the Trustee for deposit in the Second Lien Obligations Interest Account pursuant to this Indenture. The Authority irrevocably directs that all Subsidy Payments with respect to Subordinate Obligations be made directly to the Trustee for deposit in the Subordinate Obligations Fund pursuant to this Indenture. Any such Subsidy Payments received by the Authority shall be promptly remitted to the Trustee. The Trustee shall deposit all such Subsidy Payments to the applicable Account upon receipt thereof.

Section 5.24 Withdrawal and Application of Funds; Priority of Transfers from Funds and Accounts.

(a) Except as provided in Sections 5.05, 5.07, 5.08, 5.09, 5.10, 5.11, 5.12, 5.13, 5.14, 5.15, 5.16, 5.17, 5.19 and 5.20, each withdrawal or transfer of funds from the Funds and Accounts by the Trustee on behalf of the Authority in accordance herewith shall be made pursuant to an executed Funds Transfer Certificate, which certificate shall be provided and prepared by the Authority in accordance with the terms hereof and shall contain a certification by the Authority that such withdrawal or transfer complies with the requirements of this Indenture.

(b) The Funds Transfer Certificate relating to each applicable Fund or Account shall be delivered to the Trustee (with a copy to the trustee for or Holder of any Second Lien Obligations or Subordinate Obligations) no later than two (2) Business Days prior to each date on which funds are proposed to be withdrawn from the applicable Fund or Account or transferred from a Fund or Account to another Fund or Account in accordance with this Indenture. The Trustee shall comply with any such Funds Transfer Certificate; provided, that if the trustee for or Holder of Second Lien Obligations or Subordinate Obligations provides written notice to the Trustee, the Authority and the other Secured Creditors that any payment, withdrawal or transfer of funds is not in compliance with this Indenture or the other Financing

Documents and specifies such non-compliance in such notice, the Authority shall not be entitled to cause such proposed withdrawal until such time as it has submitted a revised Funds Transfer Certificate which complies with the terms hereof or thereof.

(c) The Authority shall have the right to withdraw or cause to be transferred funds from the Operation and Maintenance Fund and the Major Maintenance and Repair Fund solely for the purpose of payment of Operation and Maintenance Expenses or Major Maintenance and Repair Fund Permitted Expenditures, respectively, at any time without any approval or consent of the Trustee or any other person.

(d) Each Funds Transfer Certificate requesting a disbursement from an Account within the Project Fund shall contain the following certifications by the Authority or, as to paragraph (5), the Authority and the Consulting Engineer:

(1) the names of the persons, firms or corporations to whom each such payment is due, including the Authority in the case of reimbursements or the Trustee in the case of payments of capitalized interest;

(2) the respective amounts to be paid or reimbursed to such entities;

(3) the purpose or Project Cost by general classification for which each such obligation to be paid or reimbursed was incurred;

(4) that obligations in the stated amounts have been incurred by the Authority and presently are due and payable (except with respect to requisitions for capitalized interest, in which case amounts requisitioned, together with expected earnings from investment thereof, do not exceed amounts properly capitalizable as interest related to projects prior to their completion), or properly are reimbursable to the Authority, and that each item thereof is a Project Cost, is a proper charge against the applicable Account in the Project Fund, and has not been paid or reimbursed previously;

(5) after giving effect to the requisition, sufficient funds are and will be available to the Authority to achieve Substantial Completion of the applicable Project; provided that this certification need not be provided with respect to requisitions made after the applicable Substantial Completion Date;

(6) that there has not been filed with or served on the Authority any notice of lien, right of lien, or attachment upon or claim affecting the right of any person, firm or corporation named in such requisition to receive payment of any amounts which has not been released or will not be released simultaneously with the payment of such obligation; and

(7) that, as of the date of such Funds Transfer Certificate, no event or condition exists that constitutes, or that with the notice or lapse of time or both, would constitute, an Event of Default under this Indenture.

Section 5.25 Effect of Bankruptcy Related Event or Springing Lien Event on TIFIA Loan. Notwithstanding any other provision to the contrary herein, upon the

occurrence of any Bankruptcy Related Event or a Springing Lien Event, Second Lien Obligations in the form of or securing payment of the TIFIA Loan shall, automatically and without action on the part of the TIFIA Lender or any other person, immediately become Senior Lien Obligations, and be of equal rank and on a parity with other Senior Lien Obligations, and the TIFIA Lender shall become and be entitled to all rights of an owner of Senior Lien Obligations hereunder (including, without limitation, the right of payment pro rata with other Senior Lien Obligations hereunder).

Upon the occurrence of a Bankruptcy Related Event or a Springing Lien Event, any Account within the Second Lien Obligations Reserve Fund that secures payment of the principal and interest on a Second Lien Obligation in the form of or securing payment of a TIFIA Loan, will become an Account within the Senior Lien Obligations Reserve Fund, will be funded on a parity (ratably based on relative deficiency) with any other Accounts within the Senior Lien Obligations Reserve Fund and will be available only to pay principal and interest on Senior Lien Obligations in the form of or securing payment of such TIFIA Loan. The Senior Lien Obligations in the form of or securing payment of a TIFIA Loan will not be secured by any other Account within the Senior Lien Obligations Reserve Fund.

ARTICLE VI

COVENANTS OF THE AUTHORITY

Section 6.01 Punctual Payment and Performance. The Authority will pay when due and payable the principal of and the interest on (and redemption premiums, if any, to become due on) its Obligations hereunder in strict conformity with the terms of the Act, this Indenture and such Obligations, and will faithfully observe and perform all of the agreements and covenants contained in this Indenture and such Obligations.

Section 6.02 Against Encumbrances. The Authority will not create or cause or permit to be created any pledge, lien, charge or encumbrance having priority over the lien of the Senior Lien Obligations upon any part of the Trust Estate, provided that Operation and Maintenance Expenses are payable from Revenue prior to debt service in the order of priority established pursuant to Section 5.03(b) and Section 7.02. The Authority will not create or cause or permit to be created any pledge, lien, charge or encumbrance having parity with the lien of the Senior Lien Obligations upon any part of the Trust Estate except the lien of Senior Lien Obligations. The Authority will not create or cause or permit to be created any pledge, lien, charge or encumbrance having priority over the lien of the Second Lien Obligations upon any part of the Trust Estate except Senior Lien Obligations. The Authority will not create or cause or permit to be created any pledge, lien, charge or encumbrance having priority over the lien of the Subordinate Obligations upon any part of the Trust Estate, except Senior Lien Obligations, and Second Lien Obligations. The Authority will not create or permit to be created or issue any Obligations secured by the Trust Estate except as provided in Section 3.03.

Section 6.03 Toll and Revenue Covenants.

(a) The Authority covenants that it shall at all times, beginning in the month following the Substantial Completion Date for the Project, establish, levy, maintain and collect

tolls in connection with the Toll Road and establish such charges for use of the property constituting part of the Toll Road, including, without limitation and as permitted by law, leasehold payments, concession payments, rents and other charges, as shall be sufficient, collectively, to produce Net Revenue in each Calculation Period commencing after the Substantial Completion Date equal to or in excess of the ratios set forth in each of (1), (2), and (3) below:

(1) one hundred thirty-five percent (135%) of the Annual Debt Service in such Calculation Period on all Outstanding Senior Lien Obligations, with debt service on Senior Lien Obligations in the form of a TIFIA Loan calculated on the basis of aggregate TIFIA Mandatory Debt Service and TIFIA Scheduled Debt Service if the TIFIA Loan is outstanding;

(2) one hundred twenty-five percent (125%) of the Annual Debt Service in such Fiscal Year on all Outstanding Senior Lien Obligations and Second Lien Obligations, with debt service on Senior Lien Obligations in the form of a TIFIA Loan calculated on the basis of aggregate TIFIA Mandatory Debt Service and TIFIA Scheduled Debt Service if the TIFIA Loan is outstanding; and

(3) one hundred percent (100%) of the Annual Debt Service in such Fiscal Year on all Outstanding Obligations, plus the amounts required to be deposited into the Senior Lien Obligations Reserve Fund, the Second Lien Obligations Reserve Fund, the Subordinate Obligations Reserve Fund, the Major Maintenance and Repair Fund and any other Fund established by a Supplemental Indenture to be funded by Revenue, with debt service on Obligations in the form of a TIFIA Loan calculated on the basis of aggregate TIFIA Mandatory Debt Service and TIFIA Scheduled Debt Service if the TIFIA Loan is outstanding.

(b) Beginning with the Calculation Date following the Substantial Completion Date for the I-10 Corridor Contract 1 Project, the Authority covenants: (i) to compute Net Revenue for the Calculation Period ending on such Calculation Date and each Calculation Period thereafter and the ratios described in Section 6.03(a)(1), (2) and (3) (each, a “Coverage Ratio”) not later than 15 days after such Calculation Date and each Calculation Date thereafter (such date of computation being hereinafter referred to as a “Coverage Calculation Date”); (ii) to furnish promptly to the Trustee and, while the TIFIA Loan is outstanding, the TIFIA Lender a Certificate of the Authority setting forth the results of such computations; and (iii) if any Coverage Ratio is less than the applicable requirement of Section 6.03(a), to take such action as promptly as practicable after the Coverage Calculation Date (including, without limitation, increasing Toll Revenues through toll increases) as the Authority projects is necessary to cause each projected Coverage Ratio for each Calculation Period thereafter to equal or exceed the requirement of Section 6.03(a) for each such Calculation Period.

Within 15 days after the end of each Calculation Period ending after the Substantial Completion Date for the I-10 Corridor Contract 1 Project, the Authority will file with the Trustee and, while the TIFIA Loan is outstanding, the TIFIA Lender a report setting forth the Net Revenue for such Calculation Period. The failure of toll rates to yield an amount sufficient to achieve each Coverage Ratio shall not be deemed to constitute an Event of Default so long as the

Authority complies with the requirements set forth below in this Section 6.03(b). If any such report indicates that the Net Revenue for such Calculation Period was less than the amount required pursuant to Section 6.03(a), then as soon as practicable after delivering such report to the Trustee and the TIFIA Lender, the Authority may, and within 30 days of a written request from the TIFIA Lender, shall, employ a Traffic Consultant to review and analyze the operations of the Toll Road. As soon as practicable (but not later than 180 days after engagement of the Traffic Consultant or, so long as the TIFIA Loan is outstanding, such other time period requirement specified in the TIFIA Loan Agreement), the Traffic Consultant shall submit a written report which shall include the actions that the Traffic Consultant recommends should be taken by the Authority with respect to (i) revising the toll rates, (ii) altering its methods of operation, or (iii) taking other action projected to produce the amount so required to comply in each year with each Coverage Ratio (or, if less, the maximum amount deemed feasible by the Traffic Consultant and that the Traffic Consultant estimates will not adversely affect the amount of Net Revenue). Promptly upon its receipt of such written report, after giving due consideration thereto and, so long as the TIFIA Loan is outstanding, within the time period specified in the TIFIA Loan Agreement, the Authority will revise the toll rates, as permitted by law, alter its methods of operation, or take such other action as it deems appropriate. Such revisions, alterations, or actions need not comply with the recommendations of the Traffic Consultant so long as Net Revenue projected by the Traffic Consultant, or by the Authority if it chooses to act without a Traffic Consultant, to be produced by the revisions, alterations or actions then taken by the Authority are at least equal to the amount required hereinabove. The Trustee shall have no responsibility to review any written report received pursuant to this Section 6.03(b).

(c) The Authority further covenants that such toll rates for traffic using the Toll Road will be established and maintained in a reasonable way to cover all traffic (other than vehicles used for maintaining the Toll Road; police, fire, and other public emergency vehicles; buses owned and operated by any public agency; vehicles with multiple passengers or which allow for a limited number of passengers, including motorcycles, according to policies determined by the State or the Authority; electric, hybrid-electric and other vehicles that meet emission-reduction policies determined by the State or the Authority; vehicles which are otherwise exempt from payment of tolls under State or federal law; and any vehicles during a public emergency declared by the Authority) consistent with the requirements hereof, but with such classifications as the Authority may deem appropriate; provided, that for so long as the TIFIA Loan Agreement remains in effect, the Authority will comply with any additional requirements with respect to toll policy set forth in the TIFIA Loan Agreement and required by the TIFIA Lender.

(d) Notwithstanding any provision to the contrary, nothing in this Section 6.03 shall be deemed to require the Authority to collect tolls and other fees with respect to which the Authority has determined, based upon a report from a Traffic Consultant, that the costs of collection would exceed the amount of tolls and other fees expected to be collected.

(e) If the TIFIA Loan is outstanding, and the Authority fails for six (6) consecutive additional Calculation Dates (including the first Calculation Date on which the Project failed to meet any of the required Coverage Ratios), the Authority shall on the next Monthly Funding Date after such sixth (6th) Calculation Date be required to apply amounts in the Residual Fund and the Sweep Fund to prepay on a pro rata basis, based on their respective

principal amounts, the principal amounts of the TIFIA Loan and any Senior Lien Obligations then Outstanding, in amounts equal to the lesser of (i) the amount necessary to regain compliance with the required Coverage Ratios and (ii) the amounts then on deposit in the Residual Fund and the Sweep Fund. Prepayments shall continue following each Calculation Date thereafter pursuant to this subsection (e) until compliance with the required Coverage Ratios is regained. Any failure to meet the Coverage Ratios will not by itself constitute an Event of Default.

Section 6.04 Annual Operating Budget; Financial Plan. The Authority covenants that, for each Fiscal Year, it will take such actions as may be required of it to prepare and will adopt an annual budget in accordance with applicable law, including the Act, and the Toll Agreements. The Authority further covenants that it will provide to the Trustee (A) no later than thirty (30) days prior to the commencement of each Fiscal Year, an operating plan and a preliminary budget, and (B) not later than the first day of each Fiscal Year, a copy of the Authority's final budget (such copy of the final budget being referred to herein as the "Annual Operating Budget"). The Authority further covenants that it will provide to the Trustee a copy of the Authority's Financial Plans concurrently with their submission to the TIFIA Lender. The Trustee shall have no responsibility to review such preliminary budget, Annual Operating Budget or Financial Plan and shall only retain such documents as a repository for the holders of the Obligations.

Section 6.05 Operation and Maintenance of the Toll Road. The Authority represents and warrants that it has taken, and, so long as any Obligations are Outstanding, covenants and agrees that it will take, all steps necessary to ensure that it will continue to have lawful right and lawful power to operate and maintain the Toll Road as a revenue-producing facility and that it will impose and collect tolls on the Toll Road consistent with its obligations under the Act and the Toll Agreements. The Authority covenants and agrees to at all times operate the Toll Road in accordance with the requirements of the Act and the Toll Agreements. The Authority further covenants and agrees that it will pay all Operation and Maintenance Expenses and keep the Toll Road in good repair in accordance with customary business practices and the Maintenance Standards (as defined in the Toll Facility Agreement). The Authority further covenants that, should any Obligations remain Outstanding following the expiration of the Authority's authorization to impose tolls on the Toll Road, and should the Authority project that, within five calendar years such authorization will expire with Obligations remaining Outstanding, the Authority will petition the Legislature of the State to extend its authorization to impose such tolls.

Section 6.06 Retention of Assets. Subject to the provisions of the Act and the Toll Agreements, the Authority covenants not to sell, lease or otherwise dispose of assets necessary to operate the Toll Road in the manner and at the levels of activity required to enable it to perform its covenants contained herein, including, without limitation, the covenants contained in Section 6.03 and Section 6.05.

Section 6.07 Insurance. The Authority covenants to carry at all times insurance or cause insurance to be carried (including by the Design-Build Contractor, its subcontractors and the Toll Operator) with responsible insurance and/or reinsurance companies authorized and qualified to do business in (or with companies duly authorized and qualified to do business in) the State and to assume the risks thereof consistent with insurance requirements of

all agreements entered into by the Authority in connection with the design, construction, operation and maintenance of each Project until the Substantial Completion Date therefor, and after the Substantial Completion of the I-10 Corridor Contract 1 Project, of the Toll Road.

Nothing contained herein shall be deemed or construed to prevent the Authority from maintaining policies of insurance with respect to the Toll Road in which parties other than the Authority are named as dual obligee beneficiaries, provided that such other parties shall be limited to Caltrans, the Trustee, the TIFIA Lender, and persons supplying toll collection and revenue management system equipment or facilities. Upon request of the Trustee, the Authority shall provide the Trustee with an officer's certificate stating that it is in compliance with this Section 6.07.

Section 6.08 Payment of Claims. The Authority will pay and discharge any and all lawful claims that, if unpaid, might become a charge or lien upon the Trust Estate or any part thereof, prior to or on a parity with the charge and lien upon the Trust Estate securing the Obligations Outstanding hereunder.

Section 6.09 Receipt and Deposit of Cash Advances. [*Subject to SBCTA review*] The Authority covenants and agrees that, immediately upon receipt of cash advances representing deposits against future toll payments from users or potential users of the Toll Road by or on behalf of the Authority, it will (i) deposit and hold, or cause to be deposited and held, such moneys in a special account, separate from other assets of the Authority, and cause such moneys to be deposited with and held by a bank or trust company (which may be the Trustee), (ii) invest such moneys only in Permitted Investments of the type described in clauses (a), (b), (c), (d), (e), (f), (i), (l) or (q) of the definition thereof, maturing within thirty (30) days from the date of the investment, and (iii) promptly, and in any event within seven Business Days after such deposits become tolls, transfer or cause the transfer of moneys from such account for credit to the Toll Revenue Fund. The Authority further covenants and agrees that it will not enter into any agreement pursuant to which cash advances received by any other person, business organization or governmental entity may be applied to the payment of tolls unless such person, business organization or governmental entity, as the case may be, has agreed to take such actions as the Authority may determine are reasonably necessary to assure that the Authority will receive timely payment of such tolls.

Section 6.10 Toll Agreements. The Authority hereby represents and warrants that it has all lawful right and power to enter into the Toll Agreements and covenants and agrees that it shall perform all of its material obligations and exercise all of the powers granted to it thereunder (including but not limited to the Authority's powers to enforce performance by the counterparty to each such Toll Agreement of such counterparty's obligations thereunder) as the Authority may, in its reasonable judgment, determine are necessary to complete or cause the Substantial Completion and final completion of the portions of the I-10 Corridor Contract 1 Project and any Additional Project from time to time comprising the Toll Road in accordance with the construction plan adopted by the Authority for such Additional Project, to allow the Toll Road to be opened to vehicular traffic, and to commence and continue collection of tolls established pursuant to Section 6.03 of this Indenture. The Authority hereby covenants and agrees to employ the design-build method of procurement in connection with the construction of the I-10 Corridor Contract 1 Project.

Section 6.11 Transfer of Measure I Investment.

(a) Measure I Backstop. The Authority covenants to budget and cause the Sales Tax Trustee to transfer on a monthly basis Measure I sales tax revenues to the Measure I Reserve Fund for the Measure I Backstop, if any, in accordance with Sections 5.03(b) and 5.05(a).

(b) Measure I Cash Supplement. The Authority covenants to budget and cause the Sales Tax Trustee to transfer on a monthly basis Measure I sales tax revenues to the Trustee for deposit to the Cash Supplement Account in the Measure I Reserve Fund for payment of the Measure I Cash Supplement in accordance with Section 5.05(b).

Section 6.12 Construction and Maintenance From Other Sources Permitted. Notwithstanding any provision to the contrary in this Indenture, the Authority may, in accordance with the Act and other applicable laws, construct, reconstruct, rehabilitate, improve, acquire, lease, operate, or maintain, or any combination of these, both tolled and nontolled facilities, structures, onramps, connector roads, bridges, and roadways that are on, necessary for, or related to the construction or operation of the Toll Road using any funds legally available therefore, including, without limitation and as applicable, Measure I sales tax revenues and federal, State and local grants, loans and matching funds. Notwithstanding any other provision of this Indenture, the United States of America, the State or any of their respective agencies, departments or political subdivisions may construct, reconstruct, rehabilitate, improve, acquire, lease, operate, maintain, or any combination of these, both tolled and nontolled facilities, structures, onramps, connector roads, bridges, and roadways related to or competing with the I-10 Corridor Contract 1 Project or to pay for all or any part of the cost thereof. The Authority has no power or authority to grant, permit, prohibit, prevent or interfere with any such actions.

Section 6.13 Tax Covenants.

(a) The Authority shall not use or permit the use of any proceeds of the Obligations or any funds of the Authority, directly or indirectly, to acquire any securities or obligations that would cause the interest on Obligations intended by the Authority to be exempt from federal income taxation to become subject to federal income taxation, and shall not take or permit to be taken any other action or actions that would cause any such Obligations to be an “arbitrage bond” within the meaning of Section 148 of the Code or “federally guaranteed” within the meaning of Section 149(b) of the Code and any such applicable regulations promulgated from time to time thereunder. The Authority shall observe and not violate the requirements of Section 148 of the Code and any such applicable regulations. The Authority shall comply with all requirements of Sections 148 and 149(b) of the Code to the extent applicable to Obligations. In the event that at any time the Authority is of the opinion that for purposes of this Section 6.03(a) it is necessary to restrict or to limit the yield on the investment of any moneys held by the Trustee under this Indenture, the Authority shall so instruct the Trustee under this Indenture in writing, and the Trustee shall take such action as may be reasonably necessary in accordance with such instructions.

(b) The Authority covenants to comply with the provisions and procedures of each Tax Certificate.

(c) The Authority shall not, and shall not cause the Trustee to, use or permit the use of any proceeds of the Obligations or any funds of the Authority (so long as such proceeds or other funds are under its control), directly or indirectly, in any manner, and shall not take or omit to take any action that would cause any of the Obligations to be treated as an obligation not described in Section 103(a) of the Code if such Obligations were, when originally issued, intended by the Authority to be obligations described in Section 103(a) of the Code.

(d) Notwithstanding any provisions of this Section 6.12 or any Tax Certificate, if the Authority shall provide to the Trustee an Opinion of Bond Counsel to the effect that any specified action required under this Section 6.12 is no longer required or that some further or different action is required to maintain the exclusion from gross income for federal income tax purposes of interest on any Obligations, the Trustee and the Authority may conclusively rely on such opinion in complying with the requirements of this Section, and, notwithstanding any other provision of this Indenture or any Tax Certificate, the covenants hereunder shall be deemed to be modified to that extent.

(e) The Trustee shall follow the directions of the Authority given pursuant to the Tax Certificate, and shall have no liability or responsibility to enforce compliance by the Authority with the terms of the Tax Certificate.

Section 6.14 Accounting Records; Financial Statements and Other Reports.

(a) The Authority shall keep appropriate accounting records in accordance with generally accepted accounting principles. Such accounting records shall at all times during business hours be subject to the inspection of the Trustee or of any Holder (or its representative authorized in writing).

(b) The Authority shall prepare and file with the Trustee annually, while the TIFIA Loan is outstanding within 180 days and thereafter within 210 days, after the close of each Fiscal Year financial statements of the Authority for such Fiscal Year, together with an audit report thereon prepared by an Independent Certified Public Accountant. The Trustee shall have no duty to review, verify or analyze such audit report and financial statements and shall hold such audit report and financial statements solely as a repository for the benefit of the holders of the Obligations. The Trustee shall not be deemed to have notice of any information contained therein or default or Event of Default which may be disclosed therein in any manner.

Section 6.15 Protection of Trust Estate and Rights of Holders. The Authority shall preserve and protect the Trust Estate and the security of the Obligations issued hereunder and the rights of the holders of such Obligations and will warrant and defend their rights against all claims and demands of all persons. From and after the sale and delivery of any Senior Lien Obligations, Second Lien Obligations or Subordinate Obligations by the Authority, such Obligations shall be incontestable by the Authority.

Section 6.16 Payment of Governmental Charges and Compliance with Governmental Regulations. The Authority shall pay and discharge all taxes or payments in

lieu of taxes, assessments and other governmental charges or liens that may be levied, assessed or charged upon the Revenue, or any part thereof, promptly as and when the same shall become due and payable, except that the Authority shall not be required to pay any such governmental charges so long as the application or validity thereof shall be contested in good faith and the Authority shall have set aside reserves to cover such payments.

Section 6.17 Maintenance of Powers. The Authority covenants that it will at all times use its best efforts to maintain the powers, rights, functions, duties and obligations now reposed on it pursuant to the Act and all other laws and the Toll Facility Agreement and will not at any time voluntarily do, suffer or permit any act or thing the effect of which would be to hinder, delay or imperil either the payment of the indebtedness evidenced by any of the Obligations hereunder or Credit Support Instruments relating thereto or the performance or observance of any of the covenants herein contained.

Section 6.18 Covenants Binding on Authority and Successors. All covenants, stipulations, obligations and agreements of the Authority contained in this Indenture shall be deemed to be covenants, stipulations, obligations and agreements of the Authority to the full extent authorized or permitted by law. If the powers or duties of the Authority shall hereafter be transferred by amendment of the Act or a new act or any provision of the Constitution or any other law of the State or in any other manner there shall be a successor to the Authority, and if such transfer shall relate to any matter or thing permitted or required to be done under this Indenture by the Authority then the entity that shall succeed to such powers or duties of the Authority shall act and be obligated in the place and stead of the Authority as in this Indenture provided, and all such covenants, stipulations, obligations and agreements shall be binding upon the successor or successors thereof from time to time and upon any officer, board, body or authority to whom or to which any power or duty affecting such covenants, stipulations, obligations and agreement shall be transferred by or in accordance with law.

Section 6.19 Continuing Disclosure. Upon the issuance of any Series of Obligations, or upon conversion of any Series of Obligations to an interest rate period, requiring an undertaking regarding continuing disclosure under Rule 15c2-12, the Authority hereby covenants and agrees that it will execute and deliver a Continuing Disclosure Agreement with respect to such Series of Obligations and comply with and carry out all of the provisions of such Continuing Disclosure Agreement applicable to it. Notwithstanding any other provision of this Indenture, failure of the Authority to comply with the provisions of any Continuing Disclosure Agreement shall not constitute an Event of Default under this Indenture; provided, however, that the Trustee, at the request of any Participating Underwriter or the Owner of an Outstanding Obligation, shall (but only to the extent that the Trustee is indemnified to its satisfaction from any liability or expense, including fees and expenses of its attorneys) or any Owner or Beneficial Owner of an Obligation may, take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order to cause the Authority to comply with its obligations under this Section.

Section 6.20 Further Assurances. The Authority will adopt, deliver, execute and make any and all further assurances, instruments and resolutions as may be reasonably necessary or proper to carry out the intention or to facilitate the performance hereof and for the better assuring and confirming unto the Holders of the rights and benefits provided herein.

ARTICLE VII

DEFAULT PROVISIONS AND REMEDIES

Section 7.01 Events of Default. Any one of the following and any other event specified in a Supplemental Indenture as an Event of Default shall constitute an Event of Default hereunder:

(a) default in the payment of any interest on any Highest Priority Obligation when and as the same shall have become due and payable;

(b) default in the payment of the principal of or premium, if any, on any Highest Priority Obligation when and as the same shall become due and payable, whether at the stated maturity or redemption date thereof or otherwise;

(c) default by the Authority in the observance or performance of any other covenant, agreement or obligation of the Authority contained in this Indenture and the continuance thereof for a period of thirty (30) days after the earlier to occur of (i) receipt by the Authority from the Trustee of written notice thereof, or (ii) the Authority's knowledge of such default; provided, however, that if such default is capable of cure but cannot reasonably be cured within such thirty (30) day cure period, then no Event of Default shall be deemed to have occurred or be continuing under this Section 7.01(c), and such thirty (30) day cure period shall be extended by up to one hundred fifty (150) additional days, if and so long as (A) within such thirty (30) day cure period the Authority shall commence actions reasonably designed to cure such default and shall diligently pursue such actions until such default is cured, and (B) such failure is cured within one hundred eighty (180) days of the date specified in either (i) or (ii) above, as applicable;

(d) if the Authority files a petition in voluntary bankruptcy for the composition of its affairs or for its corporate reorganization under any state or federal bankruptcy or insolvency law, or makes an assignment for the benefit of creditors, or admits in writing to its insolvency or inability to pay debts as they mature, or consents in writing to the appointment of a trustee or receiver for itself;

(e) if a court of competent jurisdiction shall enter an order, judgment or decree declaring the Authority insolvent, or adjudging it bankrupt, or appointing a trustee or receiver of the Authority, or approving a petition filed against the Authority seeking reorganization of the Authority under any applicable law or statute of the United States of America or any state thereof, and such order, judgment or decree shall not be vacated or set aside or stayed within sixty (60) days from the date of the entry thereof;

(f) if, under the provisions of any other law for the relief or aid of debtors, any court of competent jurisdiction shall assume custody or control of the Authority or of the Revenue, and such custody or control shall not be terminated within sixty (60) days from the date of assumption of such custody or control; or

(g) while the Obligation in the form of the TIFIA Loan is Outstanding, the TIFIA Lender notifies the Trustee of a Deemed Event of Default.

The Authority shall notify the Trustee of the occurrence of an Event of Default, a Bankruptcy Related Event or a Springing Lien Event immediately after the Authority learns of the occurrence; provided, that notwithstanding any failure by the Authority to deliver such notice, an Event of Default, Bankruptcy Related Event or Springing Lien Event shall occur hereunder immediately upon the occurrence of such Event of Default, Bankruptcy Related Event or Springing Lien Event. If the Trustee has actual knowledge, or is notified by the Authority or a Bondholder, of the occurrence of an Event of Default, Bankruptcy Related Event or Springing Lien Event hereunder, the Trustee shall provide prompt written notice of the occurrence of such Event of Default, Bankruptcy Related Event or Springing Lien Event to the Authority and all Bondholders.

Section 7.02 Application of Revenue and Other Funds After Default. If an Event of Default shall occur and be continuing, the Trust Estate shall be under the control of and applied by the Trustee as follows and in the following order:

(a) first, to the payment of all fees, costs and other expenses (including the reasonable fees, costs and expenses of counsel and actual fees, costs and expenses due and payable by the Authority pursuant to the indemnity required by Section 8.01(c)) owed to the Trustee, and then to the pro rata payment of all costs and other expenses (including the reasonable fees, costs and expenses of counsel) owed to the trustee or Holder of any Obligations in connection with the performance of their obligations under the Financing Documents, including to the TIFIA Lender under the TIFIA Loan Agreement, to which they are a party and the consummation of the transactions contemplated thereby (in each case to the extent not previously satisfied);

(b) second, to the payment of Operation and Maintenance Expenses;

(c) third, to the pro rata payment of all accrued and unpaid interest (but not default interest, if any) on all Senior Lien Obligations then Outstanding, in each case in the order of maturity of the payments thereof;

(d) fourth, to the pro rata payment of all unpaid principal amounts of any Senior Lien Obligations then due;

(e) fifth, to the pro rata payment of all accrued and unpaid default interest then due, if any, with respect to any Senior Lien Obligations, and scheduled payments due under any related Hedging Obligations, if any, net of any scheduled amounts payable to the Authority with respect to scheduled Hedging Obligations under Swaps;

(f) sixth, to the pro rata payment of all accrued and unpaid redemption or prepayment premium then due, if any, with respect to any Senior Lien Obligations;

(g) seventh, to the pro rata payment of all other amounts, if any, due and payable under any Financing Document with respect to any Senior Lien Obligations;

(h) eighth, to the pro rata payment of all accrued and unpaid interest (but not default interest, if any) on all Second Lien Obligations;

(i) ninth, to the pro rata payment of such all unpaid principal amounts of any Second Lien Obligations then due;

(j) tenth, to the pro rata payment of all accrued and unpaid default interest then due, if any, with respect to any Second Lien Obligations, and scheduled payments due under any related Hedging Obligations, if any, net of any scheduled amounts payable to the Authority with respect to scheduled Hedging Obligations under Swaps;

(k) eleventh, to the pro rata payment of all accrued and unpaid redemption or prepayment premium then due, if any, with respect to any Second Lien Obligations;

(l) twelfth, to the pro rata payment of all other amounts, if any, due and payable under any Financing Document with respect to any Second Lien Obligations;

(m) thirteenth, to the pro rata payment of all accrued and unpaid interest (but not default interest, if any) on all Subordinate Obligations;

(n) fourteenth, to the pro rata payment of such all unpaid principal amounts of any Subordinate Obligations then due;

(o) fifteenth, to the pro rata payment of all accrued and unpaid default interest then due, if any, with respect to any Subordinate Obligations, and scheduled payments due under any related Hedging Obligations, if any, net of any scheduled amounts payable to the Authority with respect to scheduled Hedging Obligations under Swaps;

(p) sixteenth, to the pro rata payment of all accrued and unpaid redemption or prepayment premium then due, if any, with respect to any Subordinate Obligations;

(q) seventeenth, to the pro rata payment of all other amounts, if any, due and payable under any Financing Document with respect to any Subordinate Obligations; and

(r) eighteenth, to the payment of any Hedging Termination Obligations with respect to Swaps; and

(s) nineteenth, upon the payment in full of all Secured Obligations in accordance with clauses first through eighteenth hereof, to pay to the Authority, or as may be directed by the Authority, or as a court of competent jurisdiction may direct, any Revenue or other funds then remaining in the Trust Estate.

Section 7.03 No Acceleration. There shall be no right of acceleration with respect to the Obligations.

Section 7.04 Suits at Law or in Equity and Mandamus. In case one or more Events of Default shall occur, then and in every such case the Trustee may, and shall at the request of the Holders of not less than a majority of the Bond Obligation of the Highest Priority Obligations then Outstanding upon receiving indemnity reasonably satisfactory to it, potentially including indemnity provided by such Holders (subject to Section 8.01(c)), proceed to protect and enforce Bondholder rights by such appropriate judicial proceeding as shall be deemed most

effectual to protect and enforce any such right, either by suit in equity or by action at law, whether for the specific performance of any covenant or agreement contained in this Indenture, or in aid of the exercise of any power granted in this Indenture, or to enforce any other legal or equitable right vested in the holders of Obligations by this Indenture or such Obligations or by law. The provisions of this Indenture shall constitute a contract with each and every Bondholder and the duties of the Authority shall be enforceable by the Trustee on behalf of any Bondholder by mandamus or other appropriate suit, action or proceeding in any court of competent jurisdiction. Nothing herein shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Bondholder any plan of reorganization, arrangement, adjustment, or composition affecting the Obligations or the rights of any Holder thereof, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding without the approval of the Holders so affected.

Section 7.05 Waivers. No delay or omission to exercise any right or power accruing upon 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 acquiescence therein and every such right and power may be exercised from time to time and as often as may be deemed expedient. No waiver of any Event of Default hereunder shall extend to or shall affect any subsequent Event of Default or shall impair any rights or remedies consequent thereon.

Section 7.06 Rights of Subordinate Lenders. Nothing in this Article VII or elsewhere in this Indenture shall be construed to limit or preclude the exercise of any rights or remedies reserved by the trustee for any Second Lien Obligations or by the trustee for or Holder of any Subordinate Obligations; provided, that such rights and remedies may not interfere with, be adverse to or frustrate the rights and remedies of the Holders of the Senior Lien Obligations.

ARTICLE VIII

THE TRUSTEE

Section 8.01 Trustee. (a) U.S. Bank National Association, will serve as the Trustee under this Indenture. The Trustee shall be required to perform such duties and only such duties as are specifically set forth in this Indenture. The Trustee shall, during the existence of any Event of Default (that has not been cured), exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in their exercise, as reasonable persons would exercise or use under the circumstances in the conduct of their own affairs. The Trustee accepts the duties imposed upon it hereunder and agrees, particularly: (i) to hold all sums held by it for the payment of the principal and Purchase Price of, premium, if any, or interest on the Obligations in trust for the benefit of the Holders of the Obligations as provided herein until such sums shall be paid to such Holders of such Obligations or otherwise disposed of as herein provided; (ii) to authenticate and cancel Obligations as provided herein; (iii) to perform its obligations under this Indenture; and (iv) to keep such books and records relating to its duties as Trustee as shall be consistent with reasonable industry practice and to make such books and records available for inspection by the Authority at all reasonable times upon reasonable notice.

The Authority shall cause the necessary arrangements to be made and to be thereafter continued whereby: (i) funds derived from the sources specified in this Indenture will

be made available at the Principal Office of the Trustee for the timely payment of principal and Purchase Price of, premium, if any, and interest on the Obligations; (ii) Obligations shall be made available for authentication, exchange and registration of transfer by the Trustee at the Principal Office of the Trustee; and (iii) the Trustee shall be furnished such records and other information, at such times, as shall be required to enable the Trustee to perform the duties and obligations imposed upon it hereunder.

(b) No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligent action or its own negligent failure to act, except that, at all times regardless of whether or not any Event of Default shall exist: (i) the duties and obligations of the Trustee shall be determined solely by the express provisions of this Indenture, and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Indenture, and no implied covenants or obligations shall be read into this Indenture against the Trustee; (ii) in the absence of bad faith on the part of the Trustee, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificate, notice, order, requisition, request, consent or opinion furnished to the Trustee conforming to the requirements of this Indenture; but in the case of any such certificate, notice, order, requisition, request, consent or opinion which by any provision hereof is specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not it, on its face, conforms to the requirements of this Indenture; (iii) the Trustee shall not be liable for any error of judgment made in good faith unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts; and (iv) 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 Holders of not less than a majority, or such larger or smaller percentage as may be required hereunder, in Bond Obligations of the Highest Priority Obligations 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. The permissive right of the Trustee to do things enumerated in this Indenture as a right shall not be construed as a duty and the Trustee shall not be answerable for other than its negligence or willful misconduct.

(c) None of the provisions contained in this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur individual financial liability in the performance of any of its duties or in the exercise of any of its rights or powers. The Trustee shall not be required to give any bond or surety in respect of the execution of the said trusts and powers or otherwise in respect of the premises. Before taking any action under this Indenture relating to an Event of Default or taking any other action (other than making payments of principal and interest in accordance with the provisions of this Indenture) hereunder, the Trustee may require that indemnity reasonably satisfactory to it be furnished for the reimbursement of all expenses to which it may be put and to protect it against all liability. Any indemnity or payment of fees or expenses that would otherwise be provided by the TIFIA Lender shall instead be provided by the Authority on behalf of the TIFIA Lender, provided that such indemnity or payment of fees or expenses shall be provided from Revenues (other than any Measure I Investment) in accordance with the provisions of this Indenture. The Trustee shall not refuse to take any action on the basis that such indemnification shall be provided by the Authority instead of the TIFIA Lender.

(d) No delivery of Obligations to the Trustee or purchase of Obligations by the Trustee shall constitute a redemption of Obligations or any extinguishment of the debt represented thereby, unless such Obligations are surrendered by the Authority to the Trustee for cancellation pursuant to this Indenture.

(e) The Trustee shall not be accountable for the use or application by the Authority of the proceeds of the Obligations or for the use or application of any money paid over to the Authority by the Trustee in accordance with the provisions of this Indenture. The Trustee shall have no responsibility or liability with respect to any information, statements or recitals in any offering memorandum or other disclosure material prepared or distributed with respect to the issuance of the Obligations other than information provided by the Trustee for use therein, if any.

(f) Whenever in the administration of this Indenture the Trustee shall deem it necessary or desirable that a matter be provided or established prior to taking or suffering any action to be taken hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of negligence or willful misconduct on the part of the Trustee, be deemed to be conclusively proved and established by a Certificate of the Authority and delivered to the Trustee and such certificate, in the absence of negligence or willful misconduct on the part of the Trustee, shall be full warrant to the Trustee for any action taken, suffered or omitted by it under the provisions of this Indenture upon the faith thereof; provided that, notwithstanding the foregoing, until the TIFIA Loan is prepaid in full, no interpretation of the TIFIA Loan Agreement shall be deemed conclusively provided without the consent of the TIFIA Lender. Upon request of the Authority, the Trustee shall coordinate with the TIFIA Lender to confirm the outstanding balance of the TIFIA Loan and notify the Authority of such outstanding balance.

(g) The Trustee may elect to accept and act upon instructions or directions pursuant to this Indenture sent by facsimile or Electronic means, 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 elects to give the Trustee facsimile or Electronic instructions and the Trustee in its discretion elects to act upon such instructions, the Trustee's understanding of such instructions shall be deemed controlling in the absence of its negligence or willful misconduct. 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. In the absence of negligence or willful misconduct by the Trustee, the Authority agrees to assume all risks arising out of the use of such facsimile or 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 8.02 Compensation and Indemnification of Trustee. The Authority shall: (i) pay the Trustee reasonable compensation (which, to the extent permitted by applicable law, shall not be limited by any law limiting the compensation of the trustee of an express trust); (ii) pay or reimburse the Trustee upon request for all reasonable fees, expenses, disbursements and advances incurred or made in accordance with any of the provisions of this Indenture

(including the reasonable compensation and the expenses and disbursements of its counsel and of all agents and other persons not regularly in its employ), except to the extent that any such expense, disbursement or advance is due to its own negligence or willful misconduct; and (iii) to the extent permitted by applicable law, indemnify the Trustee and its officers, directors, agents and employees for, and to hold it harmless against, any loss, liability, cost, suit, claim, judgment, damage or expense incurred by it, arising out of or in connection with the acceptance or administration of this Indenture or the performance of its duties hereunder, including legal fees and expenses and the costs and expenses of defending itself against or investigating any claim of liability or expense, except to the extent that any such liability or expense was due to its own negligence or willful misconduct. The obligations of the Authority under this Section 8.02 shall survive the satisfaction and discharge of this Indenture and the earlier removal or resignation of the Trustee. 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.

Section 8.03 Qualifications of Trustee; Resignation; Removal.

(a) There shall at all times be a trustee hereunder that is a commercial bank, trust company or national association organized and doing business under the laws of the United States or of a state thereof, authorized under such laws to exercise corporate trust powers, having (or if such bank, trust company or national association is a member of a bank holding company system, its holding company has) a combined capital and surplus of at least five hundred million dollars (\$500,000,000), and subject to supervision or examination by federal or state authority. If such banks, trust companies, or banking associations publish reports of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority above referred to, then, for the purposes of this Section 8.03, the combined capital and surplus of such banks, trust companies or banking associations shall be deemed to be their combined capital and surplus as set forth in their most recent reports of conditions so published.

(b) The Trustee may at any time resign by giving at least thirty (30) days' written notice to the Authority. Upon receiving such notice of resignation, the Authority, shall promptly appoint a successor trustee by an instrument in writing. If no successor trustee shall have been so appointed and have accepted appointment within thirty (30) days after the giving of such notice of resignation, the resigning trustee may petition any court of competent jurisdiction for the appointment of a successor trustee, or any Holder who has been a bona fide Holder of a Highest Priority Obligation for at least six months may, on behalf of itself and any others similarly situated, petition any such court for the appointment of a successor trustee. Such court may thereupon, after such notice, if any, as it may deem proper and prescribe, appoint a successor trustee.

(c) In case at any time either of the following shall occur: (i) the Trustee shall cease to be eligible in accordance with the provisions of this Section 8.03 and shall fail to resign after written request therefor by the Authority or by any Holder who has been a bona fide Holder of a Highest Priority Obligation for at least six months; or (ii) the Trustee shall become incapable of acting, or shall be adjudged a bankrupt or insolvent, or a receiver of the Trustee or of its property shall be appointed, or any public officer shall take charge or control of the Trustee or of

its property or affairs for the purpose of rehabilitation, conservation or liquidation, then, in any such case, the Authority may remove the Trustee and appoint a successor trustee by an instrument in writing executed by an Authorized Representative (provided that during the continuance of any Event of Default, the Authority shall have no right to remove the Trustee without the prior written consent of Holders of a majority of the outstanding principal amount of the Highest Priority Obligations), or Holders of a majority of the outstanding principal amount of the Highest Priority Obligations petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor trustee. Such court may thereupon, after such notice, if any, as it may deem proper and prescribe, remove the Trustee and appoint a successor trustee. If no successor trustee shall have been so appointed by the Authority and have accepted appointment within thirty (30) days after such removal, the Trustee may petition any court of competent jurisdiction for the appointment of a successor trustee, or Holders of a majority of the outstanding principal amount of the Highest Priority Obligations may petition any such court for the appointment of a successor trustee.

(d) The Authority or Holders of a majority in Bond Obligation of the Highest Priority Obligation at the time Outstanding may at any time remove the Trustee and appoint a successor trustee by an instrument or concurrent instruments in writing signed by an Authorized Representative of the Authority or by such Holders, as the case may be.

(e) Any resignation or removal of the Trustee and appointment of a successor trustee pursuant to any of the provisions of this Section 8.03 shall become effective upon written acceptance of appointment by the successor trustee acceptable to the Authority. Any successor trustee shall execute, acknowledge and deliver to the Authority and to its predecessor trustee an instrument accepting such appointment hereunder, and thereupon the resignation or removal of the predecessor trustee shall become effective and such successor trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts, duties and obligations of its predecessor in the trusts hereunder, with like effect as if originally named as Trustee herein; but, nevertheless, on the Written Request of the Authority or the request of the successor trustee, the predecessor trustee ceasing to act shall execute and deliver an instrument transferring to such successor trustee, upon the trusts herein expressed, all the rights, powers and trusts of the trustee so ceasing to act. Upon request of any such successor trustee, the Authority shall execute any and all instruments in writing necessary or desirable for more fully and certainly vesting in and confirming to such successor trustee all such rights, powers and duties. No successor trustee shall accept appointment as provided in this Section 8.03 unless at the time of such acceptance such successor trustee shall be eligible under the provisions of this Section 8.03. Upon acceptance of appointment by a successor trustee as provided in this Section 8.03, the Authority or such successor trustee shall give Holders notice of the succession of such trustee to the trusts hereunder.

(f) Any company into which the Trustee may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which the Trustee may sell or transfer all or substantially all of its corporate trust business, provided such company shall be eligible under this Section 8.03 and acceptable to the Authority, 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.

(g) In the event of the resignation or removal of the Trustee, the Trustee shall deliver any money and any Obligations and its related books and records held by it in such capacity to its successor.

(h) The Trustee may execute any of the trusts or powers hereof and perform any of its duties and responsibilities hereunder by or through attorneys, agents or receivers, including issuing and paying agents as provided in Section 8.05, and the Trustee shall not be answerable for the conduct of the same if appointed with due care hereunder, provided that the Trustee shall remain responsible for its duties hereunder. The Trustee may consult with counsel and the advice or any opinion of counsel shall be full and complete authorization and protection in respect of any action taken or omitted by it hereunder in the absence of negligence and willful misconduct and in accordance with such advice or opinion of counsel.

Section 8.04 Instrument of Bondholders. Any instrument required by this Indenture to be executed by Bondholders may be in any number of writings of similar tenor and may be executed by Bondholders in person or by agent appointed in writing. Proof of the execution of any such instrument or of the writing appointing any such agent and of the ownership of Obligations given in any of the following forms shall be sufficient for any of the purposes of this Indenture: (i) a certificate of any officer in any jurisdiction who by law has power to take acknowledgements within such jurisdiction that the person signing such writing acknowledged before him the execution thereof; or (ii) a certificate executed by any trust company or bank stating that at the date thereof the party named therein did exhibit to an officer of such trust company or bank, as the property of such party, the Obligations therein mentioned.

The Trustee may rely on such an instrument of Bondholders unless and until the Trustee receives notice in the form specified in (i) or (ii) above that the original such instrument is no longer reliable. In the event that the Trustee shall receive conflicting directions from two or more groups of Bondholders, the directions given by the group of Bondholders that holds greater than 50% of the outstanding principal amount of the Highest Priority Obligations shall be controlling and the Trustee shall follow such directions to the extent required herein. The Trustee shall have no liability provided it is following the instructions of such Bondholders permitted to direct the Trustee pursuant to this Indenture.

Section 8.05 Issuing and Paying Agents. The Authority may appoint and at all times have one or more issuing and paying agents in such place or places as the Authority may designate, for the payment of a Series of Obligations. Such issuing and paying agent shall meet the qualifications for the Trustee and the procedures and conditions for removal and resignation set forth in Section 8.03 hereof. It shall be the duty of the Trustee to make such arrangements with any such issuing and paying agent as may be necessary to assure, to the extent of the moneys held by the Trustee for such payment, the prompt payment of Obligations presented at either place of payment.

ARTICLE IX

AMENDMENTS

Section 9.01 Amendments to Indenture Not Requiring Consent of Bondholders. Except to the extent restricted by a Supplemental Indenture, the Authority and the Trustee, without the consent of any Bondholders, may execute Supplemental Indentures amending this Indenture for one or more of the following purposes:

(a) to grant to or confer upon the Trustee for the benefit of the Holders of any Series of Obligations or of all Obligations any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Trustee; provided that such additional rights, remedies, powers or authority may not impair or adversely affect in any material respect the rights, remedies, powers or authority of the Holders of any other Series of Obligations without the express written consent of Holders of a majority of the outstanding principal amount of such other Series of Obligations;

(b) to grant or pledge to the Trustee for the benefit of the Holders of any Series of Obligations or of all Obligations any Credit Support Instrument or similar additional security;

(c) to amend this Indenture in such manner as may be necessary or convenient in connection with the book-entry system for payments, transfers and other matters relating to the Obligations;

(d) to cure any ambiguity, supply any omission, or to correct or supplement any provision of this Indenture that, in the Opinion of Bond Counsel, is defective or inconsistent with any other provision of this Indenture;

(e) to insert such provisions clarifying matters or questions arising under this Indenture as are necessary or desirable and are not contrary to or inconsistent with this Indenture as theretofore in effect;

(f) to make any change therein necessary, in the Opinion of Bond Counsel, to maintain the exclusion from gross income for federal income tax purposes of the interest on any Outstanding Obligations intended by the Authority to bear federally tax-exempt interest; provided that such change may not impair or adversely affect in any material respect the rights, remedies, powers or authority of the Holders of any Series of Obligations without the express written consent of Holders of a majority of the outstanding principal amount of such Series of Obligations;

(g) to modify, amend or supplement this Indenture or any Supplemental Indenture in such manner as to permit, if presented, the qualification hereof and thereof under the Trust Indenture Act of 1939 or any similar federal statute hereafter in effect or under any state blue sky law; provided that such change may not impair or adversely affect in any material respect the rights, remedies, powers or authority of the Holders of any Series of Obligations without the express written consent of Holders of a majority of the outstanding principal amount of such Series of Obligations;

(h) to make modifications or adjustments necessary in order to accommodate a Credit Support Instrument or a Reserve Facility; provided that, for so long as the TIFIA Loan is outstanding such modifications or adjustments are subject to the requirements of the TIFIA Loan Agreement;

(i) to modify, alter, amend or supplement this Indenture if (1) all of the Obligations to be affected thereby are variable interest rate obligations, (2) the modification, alteration, amendment or supplement shall not become effective until written notice thereof shall have been given to Bondholders of the affected Series by the Trustee, and (3) thirty (30) days shall have passed during which time such Bondholders shall have had the opportunity to tender their variable interest rate bonds for purchase;

(j) to modify, alter, amend or supplement this Indenture if (1) all of the Obligations to be affected thereby are Obligations in the form of or securing payment of the TIFIA Loan, and (2) the written consent of the TIFIA Lender has been obtained to such modification, alteration, amendment or supplement;

(k) to make any change therein that does not adversely affect in any material respect the rights of any of the Holders of the Obligations (and the absence of a material or adverse effect is required to, be evidenced by a Certificate of the Authority or an Opinion of Bond Counsel delivered pursuant to Section 9.04); and

(l) to issue additional Obligations hereunder in accordance with the terms hereof, including to specify and determine the lien status of a Series of Obligations or, if applicable, the springing lien status of a Series of Obligations and also any other matters and things relative to such Obligations which are not contrary to or inconsistent with this Indenture as theretofore in effect, or to amend, modify or rescind any such authorization, specification or determination at any time prior to the original issuance of such Obligations;

provided, in addition to the limitation set forth in Section 9.04, that no such amendment may permit, or be construed as permitting, (i) an extension of the maturity of the principal of, or the mandatory redemption date of, or interest on, any Obligation, or (ii) a reduction in the principal amount of, or the redemption premium or the rate of interest on, any Obligation, or (iii) a preference or priority of any Senior Lien Obligations over any other Senior Lien Obligations, or (iv) a preference or priority of any Second Lien Obligation or Second Lien Obligations over any other Second Lien Obligation or Second Lien Obligations or Senior Lien Obligation, or (v) a preference or priority of any Subordinate Obligation or Subordinate Obligations over any other Subordinate Obligation or Subordinate Obligations, Second Lien Obligation or Senior Lien Obligation or (vi) a reduction in the Bond Obligation of the Obligations required for any consent to any amendment pursuant to Section 9.02.

Section 9.02 Amendments to Indenture Requiring Consent of Bondholders and TIFIA Lender. Exclusive of amendments authorized by Section 9.01 and subject to the terms and provisions contained in this Section 9.02 and in any Supplemental Indenture, and further subject at all times prior to repayment of the TIFIA Loan in full pursuant to its terms to receipt of written consent from the TIFIA Lender, the Holders of at least a majority in aggregate Bond Obligation of the Obligations Outstanding at the time such consent is given, and in case

less than all of the several Series of Obligations then Outstanding are affected by the modification or amendment, of the Holders of at least a majority in aggregate Bond Obligation of the Obligations of each Series so affected and Outstanding at the time such consent is given (provided, however, that if such modification or amendment will, by its terms, not take effect so long as any Obligations of any particular Series and maturity remain Outstanding, the consent of the Holders of such Obligations shall not be required and such Obligations shall not be deemed to be Outstanding for the purpose of any calculation of Outstanding Obligations under this Section 9.02) shall have the right, from time to time, anything contained in this Indenture to the contrary notwithstanding, to consent to such other amendments hereto for the purpose of modifying, altering, amending, or supplementing any of the terms or provisions contained in this Indenture or in any Supplemental Indenture; provided, however, that nothing in this Section 9.02 shall permit, or be construed as permitting (i) an extension of the maturity of the principal of, or the mandatory redemption date of, or interest on, any Obligation, or (ii) a reduction in the principal amount of, or the redemption premium or the rate of interest on, any Obligation, or (iii) a preference or priority of any Senior Lien Obligations over any other Senior Lien Obligations, or (iv) a preference or priority of any Second Lien Obligation or Second Lien Obligations over any other Second Lien Obligation or Second Lien Obligations or Senior Lien Obligations, or (v) a preference or priority of any Subordinate Obligation over any other Subordinate Obligation or (vi) a reduction in the Bond Obligation of the Obligations required for any consent to any amendment.

Section 9.03 Notice to and Consent of Bondholders. If consent of the Bondholders is required under the terms of this Indenture for the amendment of this Indenture or for any other similar purpose, the Authority shall cause notice of the proposed amendment to be given by first-class mail to the Holders of the Outstanding Obligations then shown on the registration books for the Obligations. Such notice shall briefly set forth the nature of the proposed amendment or other action and shall state that copies of any such amendment are on file at the office of the Authority and the Principal Office of the Trustee for inspection by all Bondholders. If, within sixty (60) days or such longer period as shall be prescribed by the Authority following the mailing of such notice, the Holders of the requisite principal amount of the Obligations Outstanding by instruments filed with the Authority shall have expressly consented in writing to the amendment or other proposed action, then the Authority may adopt or execute, as appropriate, such amendment or take such proposed action and the consent of the Bondholders shall thereby be conclusively presumed. Such instruments filed with the Authority may include documents, including Certificates of the Authority, stating that Holders of Obligations have consented to an amendment by purchasing such Obligations if the official statement or other disclosure document related to such purchase disclosed that the purchase of the Obligations was deemed to mean that the Holders consented to the amendment.

Section 9.04 Execution and Effect of Supplemental Indentures. Prior to executing any Supplemental Indenture hereunder, the Trustee shall receive, and is entitled to rely upon, an Opinion of Bond Counsel to the effect that such Supplemental Indenture is authorized or permitted hereunder. The Trustee is not obligated to execute any Supplemental Indenture adversely affecting its rights, duties protections and immunities hereunder. The Trustee shall not execute any Supplemental Indenture materially affecting the priority of payment of any Second Lien Obligation or the rights and obligations of the holders of any Second Lien Obligation, as evidenced by the Opinion of Bond Counsel delivered pursuant to this Section 9.04, without the

prior written consent of the trustee for or required holders of such Second Lien Obligation. The Trustee shall not execute any Supplemental Indenture materially affecting the priority of payment of any Subordinate Obligation or the rights or obligations of the holder of any Subordinate Obligation, as evidenced by the Opinion of Bond Counsel delivered pursuant to this Section 9.04, without the prior written consent of the trustee for or required holders of such Subordinate Obligation. Upon the execution and delivery 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 Outstanding Obligations shall thereafter be determined, exercised and enforced 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 9.05 Obligations Owned by Authority. (a) For purposes of this Article IX, Obligations owned or held by or for the account of the Authority shall not be deemed Outstanding for the purpose of consent or other action or any calculation of Outstanding Obligations provided for in this Article IX, and the Authority shall not be entitled with respect to such Obligations to give any consent or take any other action provided for in this Article IX; except that in determining whether the Trustee shall be protected in relying upon any such approval or consent of a Holder, only Obligations which the Trustee actually knows to be owned by the Authority shall be disregarded unless all Obligations are owned or held by or for the account of the Authority, in which case such Obligations shall be considered Outstanding for the purpose of such determination. Upon request of the Trustee, at the time of any consent or other action is to be taken under this Article IX, the Authority shall furnish the Trustee a Certificate of the Authority, upon which the Trustee may rely, describing all Senior Lien Obligations so to be excluded.

(b) The purchase or other acquisition of Obligations by or on behalf of the Authority shall not cancel, extinguish, or otherwise affect the Obligations unless such Obligations are surrendered by the Authority to the Trustee for cancellation in accordance with Section 10.01(b).

ARTICLE X

DISCHARGE OF LIEN

Section 10.01 Discharge of Lien and Security Interest. (a) At the election of the Authority, upon payment in full of all the Obligations and of all other amounts payable under this Indenture, the pledge and lien on the Trust Estate arising under this Indenture shall cease, determine and be void; provided, however, such discharge of this Indenture shall not terminate the powers and rights granted to the Trustee with respect to the payment, transfer and exchange of the Obligations, and Section 8.02 shall survive hereunder. In such event, upon the written request of the Authority, the Trustee shall cooperate with an accounting for such period or periods as shall be requested by the Authority to be prepared and filed with the Authority and shall execute and deliver to the Authority all such instruments as may be necessary or desirable to evidence such discharge as prepared by or on behalf of the Authority, and the Trustee shall pay over, transfer, assign or deliver to the Authority all moneys or securities or other property

held by it pursuant to this Indenture which are not required for the payment or redemption of Obligations not theretofore surrendered for such payment or redemption.

(b) The Authority may at any time surrender to the Trustee for cancellation any Obligations previously authenticated and delivered hereunder that the Authority at its option may have acquired in any manner whatsoever and such Obligations upon such surrender and cancellation shall be deemed to be paid and retired.

(c) Notwithstanding any provision in this Indenture to the contrary, if the principal of or interest on any Obligations shall be paid by a Credit Provider, those Obligations shall remain Outstanding for all purposes, not be defeased or otherwise satisfied and not be considered paid by the Authority within the meaning of this Section 10.01, and the pledge of the Trust Estate and all covenants, agreements and other obligations of the Authority as herein provided shall continue to exist and shall run to the benefit of such Credit Provider, and such Credit Provider shall be subrogated to the rights of the Holders.

Section 10.02 Provision for Payment of Obligations. Obligations (or any portion of the Obligations) shall be deemed to have been paid within the meaning of Section 10.01 if:

(a) there shall have been irrevocably deposited with the Trustee or other fiduciary in trust either (i) lawful money of the United States of America in an amount that shall be sufficient, or (ii) Defeasance Securities, the principal and interest on which when due, together with the moneys, if any, deposited with the Trustee at the same time, shall be sufficient (as confirmed by a report of an Independent Certified Public Accountant or verification agent), to pay when due the principal amount of, redemption premium (if any) and all unpaid interest on such Obligations (or any portion thereof) to the maturity or the redemption date thereof, as the case may be; and

(b) if any such Obligations are to be redeemed on any date prior to their maturity, (i) the Trustee shall have received (not less than 25 days prior to the proposed redemption date) in form satisfactory to it irrevocable written instructions from an Authorized Representative to redeem such Obligations on such redemption date and (ii) notice of such redemption shall have been given or provision satisfactory to the Trustee shall have been irrevocably made for the giving of such notice.

Limitations elsewhere specified herein regarding the investment of money held by the Trustee shall not be construed to prevent the depositing and holding of the Defeasance Securities described in Section 10.02(a)(ii) for the purpose of defeasing the lien of this Indenture as to Obligations that have not yet become due and payable. In addition, all money so deposited as provided in Section 10.02(a)(i) may also be invested and reinvested, at the written direction of an Authorized Representative, in Defeasance Securities, maturing in the amounts and times as hereinbefore set forth, subject to the confirming report of an Independent Certified Public Accountant or verification agent as to the sufficiency thereof as provided in Section 10.02(a)(ii), and all income from all Defeasance Securities in the hands of the Trustee or other fiduciary pursuant to this Section 10.02, that is not required for the payment of the principal of the Obligations and interest and redemption premium, if any, thereon with respect to which such

money shall have been so deposited, shall be deposited in the Toll Revenue Fund as and when realized and applied as is other money deposited in the Toll Revenue Fund, or, in the event there are no longer any Obligations Outstanding under this Indenture, such income shall be automatically paid over to the Authority.

Notwithstanding any other provision of this Indenture, no Obligation that is subject to optional or mandatory tender in accordance with the provisions of the Supplemental Indenture pursuant to which such Obligation was issued, shall be deemed to be paid within the meaning of this Indenture, unless arrangements shall have been made to assure that such Obligation, if tendered for purchase prior to the date of its redemption or maturity in accordance with the provisions of the applicable Supplemental Indenture, could be paid and redeemed from such moneys or Defeasance Securities as are provided pursuant to this Section 10.02.

Notwithstanding any other provision of this Indenture, the Obligations evidenced by the TIFIA Loan shall not be subject to defeasance.

Section 10.03 Unclaimed Moneys. Anything contained herein to the contrary notwithstanding, any moneys held by the Trustee in trust for the payment and discharge of any of the Obligations that remain unclaimed for two (2) years after the date when such Obligations shall have become due and payable (during which period the Trustee shall hold such moneys without liability for interest), either at their stated maturity dates, tender for purchase or by call for redemption, if such moneys were held by the Trustee at such date, or for two (2) years after the date of deposit of such moneys, if deposited with Trustee after the date when such Obligations or the Purchase Price thereof became due and payable, shall automatically be repaid by the Trustee to the Authority as its absolute property free from trust, and the Trustee shall thereupon be released and discharged with respect thereto and the Holders shall look only to the Authority for the payment of the principal or Purchase Price of, the redemption premiums, if any, and interest on such Obligations.

ARTICLE XI

MISCELLANEOUS

Section 11.01 Liability of Authority Limited to Trust Estate. Notwithstanding anything contained herein, the Authority shall not be required to advance any money derived from any source of income other than from the Trust Estate as provided herein for the payment of the principal of or redemption premium, if any, or interest on the Obligations or for the performance of any agreements or covenants contained herein. The Authority may, however, advance funds for any such purpose so long as such funds are derived from a source legally available for such purpose and may be used by the Authority for such purpose without incurring an indebtedness prohibited hereby.

The Obligations are limited obligations of the Authority payable, as to principal thereof, and redemption premium, if any, upon the redemption of any thereof, and interest thereon, solely from the Trust Estate as provided herein and the Authority is not obligated to pay them except from the Trust Estate. The Obligations do not constitute a debt or liability of the

State or of any political subdivision of the State other than the Authority, or a pledge of the full faith and credit of the State or of any political subdivision of the State.

Section 11.02 Limitation of Rights; Third Party Beneficiary. With the exception of rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Indenture or the Obligations is intended or shall be construed to give to any Person other than the Bondholders and each Secured Creditor any legal or equitable right, remedy or claim under or in respect to this Indenture or any covenants, conditions and provisions herein contained; this Indenture and all of the covenants, conditions and provisions herein being intended to be and being for the sole and exclusive benefit of the Bondholders and each Secured Creditor. Any consent right set forth herein of the TIFIA Lender shall not be applicable if the Obligation evidenced by the TIFIA Loan has been prepaid in full.

Section 11.03 Rights of Credit Providers. (a) A Supplemental Indenture authorizing a Series of Obligations may provide that any Credit Provider providing a Credit Support Instrument with respect to Obligations of such Series may exercise any right under this Indenture given to the Owners of the Obligations to which such Credit Support Instrument relates; provided that no Credit Support Instrument will be entered into without consent of the TIFIA Lender while the Obligations in the form of or securing the TIFIA Loan Agreement are outstanding.

(b) All provisions under this Indenture authorizing the exercise of rights by a Credit Provider with respect to consents, approvals, directions, waivers, appointments, requests or other actions, shall be deemed not to require or permit such consents, approvals, directions, waivers, appointments, requests or other actions and shall be read as if the Credit Provider were not mentioned therein during any period during which there is a default by such Credit Provider under the applicable Credit Support Instrument or after the applicable Credit Support Instrument shall at any time for any reason cease to be valid and binding on the Credit Provider, or shall be declared to be null and void by final judgment of a court of competent jurisdiction, or after the Credit Support Instrument has been rescinded, repudiated by the Credit Provider or terminated, or after a receiver, conservator or liquidator has been appointed for the Credit Provider or if the Credit Provider does not have an Acceptable Credit Rating. All provisions relating to the rights of a Credit Provider shall be of no further force and effect if all amounts owing to the Credit Provider under a Credit Support Instrument have been paid and the Credit Support Instrument provided by such Credit Provider is no longer in effect.

Section 11.04 Severability. If any provision of this Indenture is held to be in conflict with any applicable statute or rule of law or is otherwise held to be unenforceable for any reason whatsoever, such circumstances shall not have the effect of rendering the other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatsoever. If any one or more of the provisions contained in this Indenture or in the Obligations 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 executed this Indenture and each and every other section, paragraph,

sentence, clause or phrase hereof, and authorized the issuance of the Obligations pursuant to this Indenture, 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 11.05 Notices. Except as otherwise provided herein, it shall be sufficient service or giving of notice, request, complaint, demand or other paper if the same shall be duly mailed by registered or certified mail, postage prepaid, addressed as follows:

If to the Authority:

San Bernardino County Transportation Authority
1170 W. 3rd Street, 2nd Floor
San Bernardino, CA 92410-1715

Attention: Chief Financial Officer
Telephone: (909) 884-8276
Fax: (909) 885-4407

If to the Trustee:

U.S. Bank National Association
U.S. Bank Tower
633 West 5th St., 24th Floor
Los Angeles, California 90071
Attention: Linda Verstuyft, Managing Director
Telephone: 213-615-6052
Fax: 213-615-6199

The Authority and the Trustee by notice given hereunder may designate any different addresses to which subsequent notices, certificates or other communications shall be sent, or addresses or other instructions for the giving of Electronic notice, but no notice directed to any one such entity shall be thereby required to be sent to more than two addresses.

Section 11.06 Payments Due on Non-Business Days. Except as specifically provided otherwise in a Supplemental Indenture or in the TIFIA Loan Agreement, any payment or transfer that would otherwise become due on a day that is not a Business Day need not be made on such day but shall be made on the next succeeding Business Day, with the same force and effect as if made on the date due, and no interest shall accrue on the amount of such payment or transfer for the period from and after the calendar date due.

Section 11.07 Captions. The captions or headings in this Indenture are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Indenture.

Section 11.08 California Law. This Indenture shall be construed and governed in accordance with the laws of the State of California.

Section 11.09 Effective Date. This Indenture shall become effective upon its execution and delivery.

Section 11.10 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 Trustee shall preserve undestroyed, shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Master Indenture to be executed by their officers thereunto duly authorized as of the day and year first written above.

**SAN BERNARDINO COUNTY
TRANSPORTATION AUTHORITY**

By: _____
Executive Director

Countersigned:

By: _____
Clerk of the Board of the Authority

APPROVED AS TO FORM:

By: _____
General Counsel

**U.S. BANK NATIONAL ASSOCIATION, as
Trustee**

By: _____
Authorized Officer

EXHIBIT A
FORM OF FUNDS TRANSFER CERTIFICATE

[To come.]

FIRST SUPPLEMENTAL INDENTURE

between

SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY

and

**U.S. BANK NATIONAL ASSOCIATION,
as Trustee**

Dated as of [_____] 1, 2019

Relating to the

**San Bernardino County Transportation Authority
Toll Revenue Second Lien Obligation, 2019 TIFIA Series**

**(Supplementing the Master Indenture (I-10 Corridor Contract 1 Project)
Dated as of [_____] 1, 2019)**

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THIS FIRST SUPPLEMENTAL INDENTURE, dated as of [_____] 1, 2019 (this “First Supplemental Indenture”), between the SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY, a public entity duly existing under the laws of the State of California (the “Authority”) and U.S. BANK NATIONAL ASSOCIATION, a national banking association duly organized and existing under the laws of the United States of America, as trustee (together with any successor thereto, the “Trustee”).

WITNESSETH:

WHEREAS, this First Supplemental Indenture is supplemental to the Master Indenture (I-10 Corridor Contract 1 Project), dated as of [_____] 1, 2019 (the “Master Indenture” and, as supplemented and amended from time to time pursuant to its terms, the “Indenture”), between the Authority and the Trustee;

WHEREAS, the Indenture provides that the Authority may issue Second Lien Obligations from time to time as authorized by a Supplemental Indenture, which Second Lien Obligations are to be secured by the Trust Estate in accordance with the Indenture;

WHEREAS, the Authority and the Trustee desire to enter into this First Supplemental Indenture to set forth the terms of the Authority’s obligations to the TIFIA Lender, relating to the execution and delivery of the TIFIA Loan Agreement dated as of [_____] 2019 (the “TIFIA Loan Agreement”) authorizing and setting forth the terms and conditions of a TIFIA Loan (the “TIFIA Loan”) from the TIFIA Lender to the Authority, which TIFIA Loan is to be evidenced by a bond entitled “San Bernardino County Transportation Authority Toll Revenue Second Lien Obligation, 2019 TIFIA Series” (the “TIFIA Bond”), to be issued in an aggregate principal amount not to exceed \$[_____];

WHEREAS, the TIFIA Loan Agreement is being entered into as indebtedness under, pursuant to and in accordance with the Toll Act, and the proceeds of the TIFIA Loan may be disbursed by the TIFIA Lender to be used to finance the I-10 Corridor Contract 1 Project; and

WHEREAS, the Authority desires to provide at this time for the issuance of the TIFIA Bond, as further provided in this First Supplemental Indenture;

NOW, THEREFORE, the parties hereto hereby agree as follows:

ARTICLE XII

DEFINITIONS

Section 12.01. Definitions.

(a) Definitions. Unless the context otherwise requires, or as otherwise provided in subsection (b) of this Section, all terms defined in the Indenture shall have the same meanings, respectively, in this First Supplemental Indenture.

(b) Additional Definitions. Unless the context otherwise requires, the following terms shall, for all purposes of this First Supplemental Indenture, have the following meanings:

“**Authorized Denominations**” means, with respect to the TIFIA Bond, \$[1,000,000] principal amount and any integral multiple of \$[1] in excess thereof.

“**Interest Payment Date**” means, with respect to the TIFIA Bond, each June 30 and December 31 (and, if applicable, each Interim Payment Date) of each applicable year on and after the TIFIA Debt Service Payment Commencement Date, or if such day is not a Business Day, then the next succeeding Business Day.

“**Interim Payment Date**” means any date (a) on which interest on or principal of any Obligations is payable and (b) that is not a June 30 or December 31 occurring on or after the TIFIA Debt Service Payment Commencement Date.

“**Issue Date**” means the date of delivery of the TIFIA Bond to the TIFIA Lender.

“**Principal Payment Date**” means, with respect to the TIFIA Bond, each principal payment date as set forth in the Loan Amortization Schedule (as defined in the TIFIA Loan Agreement), which shall occur on June 30 of each applicable year on and after the TIFIA Debt Service Payment Commencement Date, or if such day is not a Business Day, then the next succeeding Business Day.

“**Record Date**” means, with respect to the TIFIA Bonds, the fifteenth (15th) day (whether or not a Business Day) of the month preceding the month in which such Interest Payment Date occurs.

“**First Supplemental Indenture**” means this First Supplemental Indenture, dated as of [_____] 1, 2019.

“**TIFIA Loan Reserve Account**” means the TIFIA Loan Reserve Account established within the Second Lien Obligations Reserve Fund pursuant to Sections 5.02(a) and 15.02.

“**TIFIA Loan Reserve Account Reserve Requirement**” means an amount equal to (a) prior to June 30, 20[___], \$[___], (b) on and after June 30, 20[___], \$[_____] , (c) on and after June 30, 20[___] \$[_____] , (d) on and after, June 30, 20[___], \$[_____] , (e) on and after June 30, 20[___] \$[_____] , (f) on and after June 30, 20[___], \$[_____] , and (g) on and after June 30, 20[___], \$[_____] until the date upon which the TIFIA Bond is paid in full; provided, that if the Authority elects an earlier TIFIA Debt Service Payment Commencement Date pursuant to the Indenture and the TIFIA Loan Agreement, the TIFIA Loan Reserve Account Reserve Requirement shall be \$[_____] on the June 2 or December 2 immediately preceding the newly designated TIFIA Debt Service Payment Commencement Date, which will be the following December 31 or June 30, respectively.

Section 12.02. Rules of Construction. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders.

Unless the context shall otherwise indicate, words importing the singular number shall include the plural number and vice versa, and words importing persons shall include corporations and associations, including public bodies, as well as natural persons. Defined terms shall include any variant of the terms set forth in this Article XVIII.

The terms “hereby,” “hereof,” “hereto,” “herein,” “hereunder,” and any similar terms, as used in this First Supplemental Indenture, refer to the Indenture.

ARTICLE XIII

FINDINGS, DETERMINATIONS AND DIRECTIONS

Section 13.01. Findings and Determinations. The Authority hereby finds and determines that the TIFIA Bond shall be issued pursuant to Article XIV hereof and upon the issuance of the TIFIA Bond, any and all acts, conditions and things required to exist, to happen and to be performed, precedent to and in the issuance thereof, will exist, will have happened and will have been performed, in due time, form and manner, as required by the Constitution and statutes of the State.

Section 13.02. Recital in Bonds. There shall be included in the definitive TIFIA Bond, and also in the temporary TIFIA Bond, if any is issued, a certification and recital that any and all acts, conditions and things required to exist, to happen and to be performed, precedent to and in the incurring of the indebtedness evidenced by that TIFIA Bond, and in the issuing of that TIFIA Bond, exist, have happened and have been performed in due time, form and manner, as required by the Constitution and statutes of the State and the Act, and that said TIFIA Bond, together with all other indebtedness of the Authority payable out of Revenue, is within every debt and other limit prescribed by the Constitution and statutes of the State and the Act, and that neither the full faith and credit nor the taxing power of the State is pledged to the payment of principal of or interest on the TIFIA Bond, and that such certification and recital shall be in such form as is set forth in the form of the TIFIA Bond attached hereto as Exhibit B.

Section 13.03. Effect of Findings and Recital. From and after the issuance of the TIFIA Bond, the findings and determinations herein shall be conclusive evidence of the existence of the facts so found and determined in any action or proceeding in any court in which the validity of the TIFIA Bond is at issue, and no bona fide purchaser of any such TIFIA Bond containing the certification and recital shall be required to see to the existence of any fact, or to the performance of any condition, or to the taking of any proceeding, required prior to such issuance, or to the application of the proceeds of such TIFIA Bond.

ARTICLE XIV

AUTHORIZATION OF THE TIFIA BOND

Section 14.01. Authorization; Principal Amount, Designation and Series. The Authority hereby approves the terms and provisions of the TIFIA Loan Agreement. Pursuant to the provisions of the Indenture and the provisions of the Act, and to evidence the principal and interest payment obligations of the Authority under the TIFIA Loan Agreement, a

Second Lien Obligation entitled to the benefit, protection and security of such provisions, including without limitation the grant of the Trust Estate in the Indenture subject to the provisions of the Indenture, is hereby authorized in the aggregate principal amount not to exceed \$[_____] (excluding compounded interest). Such Second Lien Obligation shall be designated as, and shall be distinguished from the Second Lien Obligations of all other Series by the title, “San Bernardino County Transportation Authority Toll Revenue Second Lien Obligation, 2019 TIFIA Series.”

Section 14.02. Priority and Lien. The principal and interest payment obligations pursuant to the TIFIA Loan Agreement and evidenced by the TIFIA Bond shall constitute Second Lien Obligations under the Indenture. Payment obligations other than the obligation to pay principal and interest under the TIFIA Loan Agreement (evidenced by the corresponding obligation to pay principal of and interest on the TIFIA Bond), including but not limited to fees and expenses payable to the TIFIA Lender under the TIFIA Loan Agreement, shall constitute either Operation and Maintenance Expenses or, to the extent such obligations are not Operation and Maintenance Expenses, Second Lien Obligations.

Section 14.03. Purpose. The TIFIA Bond is issued for the purpose of financing the I-10 Corridor Contract 1 Project.

Section 14.04. Form, Denomination, Numbers and Letters. The TIFIA Bond shall not be issued as a book-entry-only Obligation. Initially there shall be delivered hereunder one fully registered TIFIA Bond numbered R-1, without interest coupons. Any TIFIA Bonds issued in replacement thereof upon transfer or exchange shall be numbered consecutively from R-2 upward, payable to the Owner thereof. The TIFIA Bond and the certificate of authentication shall be substantially in the form attached hereto as Exhibit B, which form is hereby approved and adopted as the form of the TIFIA Bond and as the form of the certificate of authentication. The TIFIA Bond shall be issued as one or more single TIFIA Bonds for each Owner, and each such TIFIA Bond shall be in an Authorized Denomination.

Section 14.05. Date, Maturities and Interest Rates.

(a) The TIFIA Bond shall be dated the Issue Date. The principal amount of the TIFIA Bond will increase from time to time by the amount disbursed by the TIFIA Lender to the Authority pursuant to the TIFIA Loan Agreement, as noted by the TIFIA Lender on the grid attached to the TIFIA Bond as Appendix One, with a copy to the Authority and the Trustee. The Authority shall copy the Trustee on each request to the TIFIA Lender for a disbursement under the TIFIA Loan Agreement. Interest on such principal amount of the TIFIA Bond will accrue on the basis of a 365-day or 366-day year, as appropriate for the actual number of days elapsed, and will be compounded on June 30 and December 31 of each year following the initial disbursement and capitalized in accordance with the provisions of the TIFIA Loan Agreement. The TIFIA Bond (i) may and shall be prepaid prior to the respective payment dates, in whole or in part, and at such time, in such amounts and with such notice as may be provided in the TIFIA Loan Agreement and the form of TIFIA Bond set forth herein, and (ii) the principal of and interest on the TIFIA Bond shall be payable, all as provided, and in the manner required or indicated, herein and in the form of TIFIA Bond set forth herein and as set forth in the TIFIA Loan Agreement, including Section [9] thereof.

(b) The TIFIA Loan as evidenced by the TIFIA Bond shall mature on the earlier of (i) June 30, 20[___] and (ii) the June 30 or December 31 (whichever is more recent) occurring immediately prior to the date that is 35 years after the Substantial Completion Date (as defined in the TIFIA Loan Agreement), and shall bear interest at the rate of [___]% per annum (or the TIFIA Default Rate (as defined in the TIFIA Loan Agreement), if applicable), compounded and payable on the dates and in accordance with the form of TIFIA Bond set forth herein and in the TIFIA Loan Agreement.

(c) For purposes of calculations of Annual Debt Service, debt service on the TIFIA Bond shall include only TIFIA Mandatory Debt Service (for calculations during the period prior to the TIFIA Debt Service Payment Commencement Date, the TIFIA Mandatory Debt Service shall be deemed to be zero); provided, that in the case of determinations required for the issuance of additional Bonds, the TIFIA Bond shall include both TIFIA Scheduled Debt Service and TIFIA Mandatory Debt Service.

(d) The entity in whose name the TIFIA Bond shall be registered in the registration books of the Trustee at any time shall be deemed and treated as the absolute Owner thereof for all purposes of the Indenture, whether or not the TIFIA Bond shall be overdue, and the Authority and the Trustee shall not be affected by any notice to the contrary, but such registration may be changed as herein provided. Payment of, or on account of, the principal of, premium, if any, and interest on the TIFIA Bond shall be made only to such Owner. All such payments shall be valid and effectual to satisfy and discharge the liability upon the TIFIA Bond to the extent of the sum or sums so paid. Pursuant to Section [19] of the TIFIA Loan Agreement, the TIFIA Lender may sell the TIFIA Bond but may not change the terms and conditions of the TIFIA Loan without the consent of the Authority. The Trustee shall not register any transfer or exchange of the TIFIA Bond unless the Owner's prospective transferee delivers to the Trustee (i) a letter substantially in the form as set forth in Exhibit A attached hereto and (ii) confirmation from the Authority that it has consented to any amendments to the TIFIA Loan Agreement necessitated by such sale and transfer. The Trustee may rely on such confirmation and the letter in making a transfer or exchange of the TIFIA Bond without any investigation. In the event there is more than one Owner of the TIFIA Bond, payments of principal of and interest on the TIFIA Bond shall be made ratably, based on the aggregate principal amount of TIFIA Bond held by each such Owner.

(e) The Authority appoints the Trustee to act as the paying agent for paying the principal of and interest on the TIFIA Bond and any other amounts under the TIFIA Loan Agreement, and hereby instructs the Trustee to make the payments when due to the TIFIA Lender in accordance with this Section 14.05. The Trustee shall keep proper records of all payments made by the Authority and the Trustee with respect to the TIFIA Bond, and of all exchanges and replacements of TIFIA Bond, as provided in the Indenture.

Section 14.06. Conditions To Delivery of TIFIA Bonds. The TIFIA Bond shall be executed and delivered as authorized by this First Supplemental Indenture and the Indenture, including Article II thereof, upon execution and delivery of the TIFIA Loan Agreement.

Section 14.07. Disposition of Proceeds of TIFIA Bonds. The proceeds from the sale of the TIFIA Bond shall be received by the Authority and applied by the Authority in accordance with the TIFIA Loan Agreement.

ARTICLE XV

TRANSFERS; TIFIA Loan Reserve Account

Section 15.01. Transfers to the Debt Service Fund. Transfers to the Second Lien Obligations Fund with respect to the TIFIA Bond shall commence on the sixth Monthly Funding Date prior to the TIFIA Debt Service Payment Commencement Date. On each Interest Payment Date and each Principal Payment Date thereafter, the Trustee shall transfer to the Owner of the TIFIA Bond money on deposit in the Second Lien Obligations Fund to pay principal of and interest on the TIFIA Bond due and payable on such Interest Payment Date or Principal Payment Date. On each June 30 and December 31 (or if such day is not a Business Day, then the Business Day succeeding such date) on and after the TIFIA Loan Prepayment Commencement Date and on any date of prepayment specified by the Authority pursuant to Section [___], the Trustee shall transfer the amount then on deposit in the TIFIA Loan Prepayment Account to the Owner of the TIFIA Bond to prepay principal of the TIFIA Bond.

Section 15.02. TIFIA Loan Reserve Account. There is hereby established the TIFIA Loan Reserve Account within the Second Lien Obligations Reserve Fund, such account to be held by the Trustee. On or before June 30, of each Fiscal Year (beginning on June 30, 20[___]), the Trustee shall deposit to the TIFIA Loan Reserve Account funds in the amount required such that an aggregate amount equal to the TIFIA Loan Reserve Account Reserve Requirement is on deposit therein. The funds set aside and placed in the TIFIA Loan Reserve Account on account of the TIFIA Loan Reserve Account Reserve Requirement shall be held solely for the benefit of the Owner of the TIFIA Bond, and shall be used, withdrawn, and replenished as provided herein and in Sections [___] and [___]. If, on any date of valuation of Permitted Investments credited to the TIFIA Loan Reserve Account pursuant to Section [___], the amount on deposit in the TIFIA Loan Reserve Account exceeds the TIFIA Loan Reserve Account Reserve Requirement as of the later of June 30, 20[___] or such date, the Trustee shall transfer such excess amount to the Toll Revenue Fund.

ARTICLE XVI

OTHER PROVISIONS

Section 16.01. Tax Status. It is the intention of the Authority that the TIFIA Bond not be an obligation described in section 103 of the Code interest on which is excludable from the gross income of the holders and in that regard the Authority agrees not to file a form 8038-G, or any comparable information return relating to tax-exempt obligations, with the Internal Revenue Service.

Section 16.02. No Amendment without Consent of the TIFIA Lender. The Authority shall not enter into a Supplemental Indenture (other than this First Supplemental Indenture) pursuant to the Indenture without the prior written consent of the TIFIA Lender (or its

successors or assigns) as set forth in the Indenture except to authorize the issuance of additional Obligations for which, under the provisions of the TIFIA Loan Agreement and the Indenture, the consent of the TIFIA Lender is not required.

ARTICLE XVII

MISCELLANEOUS

Section 17.01. Severability. If any covenant, agreement or provision, or any portion thereof, contained in this First Supplemental Indenture, or the application thereof to any person or circumstance, is held to be unconstitutional, invalid or unenforceable, the remainder of this First Supplemental Indenture, and the application of any such covenant, agreement or provision, or portion thereof, to other persons or circumstances, shall be deemed severable and shall not be affected thereby, and this First Supplemental Indenture shall remain valid.

Section 17.02. Parties Interested Herein. Nothing in this First Supplemental Indenture expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the Authority, the Trustee, and the Owners of the TIFIA Bond, any right, remedy or claim under or by reason of this First Supplemental Indenture or any covenant, condition or stipulation hereof; and all the covenants, stipulations, promises and agreements in this First Supplemental Indenture contained by and on behalf of the Authority shall be for the sole and exclusive benefit of the Authority, the Trustee and the Owners.

Section 17.03. Headings Not Binding. The headings in this First Supplemental Indenture are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this First Supplemental Indenture.

Section 17.04. Indenture to Remain in Effect. Save and except as amended and supplemented by this First Supplemental Indenture, the Master Indenture shall remain in full force and effect.

Section 17.05. Effective Date of First Supplemental Indenture. This First Supplemental Indenture shall take effect upon its execution and delivery.

Section 17.06. Execution in Counterparts. This First Supplemental Indenture may be executed in several counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

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

SAN BERNARDINO COUNTY
TRANSPORTATION AUTHORITY

By: _____
Executive Director

Countersigned:

By: _____
Chief Financial Officer

APPROVED AS TO FORM:

By: _____
General Counsel

U.S. BANK NATIONAL ASSOCIATION, as
Trustee

By: _____
Authorized Officer

EXHIBIT A

FORM OF TRANSFEREE’S LETTER

U.S. Bank National Association

Re: San Bernardino County Transportation Authority
Toll Revenue Second Lien Obligation, 2019 TIFIA Series

Ladies and Gentlemen:

The undersigned representatives of _____ (the “Purchaser”), do hereby certify, represent and warrant for the benefit of U.S. Bank National Association as trustee (the “Trustee”), that the Purchaser is not a party to the TIFIA Loan Agreement and does not have the rights or obligations of the “TIFIA Lender” thereunder. The Purchaser understands that in connection with any future transfer or exchange of the TIFIA Bond by the Purchaser, there must be delivered to the Trustee a letter of the transferee in substantially the form of Exhibit A to the First Supplemental Indenture.

The undersigned Purchaser hereby further represents as follows:

1. The Purchaser has full power and authority to carry on its business as now conducted, deliver this letter and make the representations contained herein.
2. The Purchaser has knowledge and experience in financial and business matters that make it capable of evaluating the TIFIA Bond and the risks associated with the purchase of the TIFIA Bond; has the ability to bear the economic risk of an investment in the TIFIA Bond; and is an “accredited investor” as defined in Rule 501 of Regulation D promulgated under the Securities Act of 1933, as amended.
3. The Purchaser has conducted its own investigation of the financial condition of the Authority, the TIFIA Bond, the Indenture, the Toll Road, the Revenues and the Trust Estate, and has obtained such information regarding the TIFIA Bond, such facilities and the Authority and its operations, financial condition and financial prospects as the Purchaser deems necessary to make an informed investment decision with respect to the purchase of the TIFIA Bond.
4. The Purchaser is purchasing the TIFIA Bond for its own account solely and not with a present view to any distribution of the TIFIA Bond or any interest therein or portion thereof or without a present intention of distributing or reselling the TIFIA Bond or any interest therein or portion thereof, provided that the Purchaser retains the right at any time to dispose of the TIFIA Bond or any interest therein or portion thereof as it may determine to be in its best interests, subject to the requirements and provisions of the Indenture. In the event that the Purchaser disposes of the TIFIA Bond or any part thereof in the future, the Purchaser understands that it has the responsibility for complying with

any applicable federal and state securities laws and all rules and regulations promulgated pursuant thereto.

5. The Purchaser understands that the TIFIA Bond is a limited obligation of the Authority secured solely by the Trust Estate as defined and provided in the Indenture and the Authority is not obligated to pay the TIFIA Bond except from said Trust Estate. The TIFIA Bond does not constitute a debt or liability of the State of California or any political subdivision of the State other than the Authority. Neither the full faith and credit nor the taxing power of the State of California or any political subdivision of the State of California is pledged to the payment of principal of or interest on the TIFIA Bond.

6. The Purchaser acknowledges that the TIFIA Bond has not been registered under the under the Securities Act of 1933, as amended, and that such registration is not legally required. The Purchaser agrees that it will comply with any applicable state and federal securities laws then in effect with respect to any subsequent disposition of the TIFIA Bond, and further acknowledges that any current exemption from registration of the TIFIA Bond does not affect or diminish this requirement.

7. In entering into this transaction, the Purchaser has not relied upon any representations or opinions of the Authority (except as with respect to representations, warranties and covenants made by the Authority in the Indenture), its counsel or its bond counsel, Orrick, Herrington & Sutcliffe LLP or other counsel to the Authority relating to the legal consequences or other aspects of its investment in the TIFIA Bond.

9. The Purchaser has been informed that the TIFIA Bond (i) has not been and will not be registered or otherwise qualified for sale under the “Blue Sky” laws and regulations of any jurisdiction, and (ii) will not be listed on any stock or other securities exchange.

10. None of the Authority, its governing body, or any of its employees, counsel or agents will have any responsibility to the Purchaser for the accuracy or completeness of information obtained by the Purchaser from any source regarding the Authority or its financial condition or regarding the TIFIA Bond, the provision for payment thereof, or the sufficiency of any security therefor. No written information has been provided by the Authority to the Purchaser with respect to the TIFIA Bond. The Purchaser acknowledges that, as between the Purchaser and all of such parties, the Purchaser has assumed responsibility for obtaining such information and making such review as the Purchaser deemed necessary or desirable in connection with its decision to purchase the TIFIA Bond.

Terms not defined herein shall have the meanings given to them under the Master Indenture (I-10 Corridor Contract 1 Project), dated as of _____ 1, 2019, as supplemented, including as supplemented by the First Supplemental Indenture, dated as of _____ 1, 2019 (as so supplemented, the “Indenture”), each by and between San Bernardino County Transportation Authority and U.S. Bank National Association, as Trustee.

IN WITNESS WHEREOF, the undersigned representative has hereunto executed this letter as of the _____ day of _____, 20__.

[PURCHASER]

By: _____
Name: _____
Title: _____

[MUST BE SIGNED BY ACTUAL PURCHASER
MAY NOT BE SIGNED BY NOMINEE OR AGENT]

EXHIBIT B
FORM OF TIFIA BOND

Number R-1

Not to Exceed \$ _____
(plus compounded interest added to principal)

UNITED STATES OF AMERICA

STATE OF CALIFORNIA

SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY
TOLL REVENUE SECOND LIEN OBLIGATION, 2019 TIFIA SERIES
(TIFIA – 20__ - ____)

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

Maturity Date: **June 30, 20[58] or such earlier date determined pursuant to the TIFIA**
Loan Agreement

Maximum
Principal Amount: _____ **DOLLARS**
(PLUS COMPOUNDED INTEREST ADDED TO PRINCIPAL)

Interest Rate: _____ %

Issue Date: _____, 2019

SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY, a public entity duly organized and existing under the laws of the State of California (the “Authority”) for value received, hereby promises to pay (but solely from the Trust Estate hereinafter referred to) to the United States Department of Transportation, acting by and through the Executive Director of the Build America Bureau (the “TIFIA Lender” or “Registered Owner”), the lesser of (x) the Maximum Principal Amount set forth above and (y) the aggregate unpaid principal amount of all disbursements (the “Disbursements”) made by the TIFIA Lender (such lesser amount, together with any interest at the rate set forth above that is compounded on June 30 and December 31 of each year following the initial disbursement and capitalized in accordance with the provisions of the TIFIA Loan Agreement, dated _____, 2019, by and between the Authority and the TIFIA Lender (the “TIFIA Loan Agreement”), being hereinafter referred to as the “Outstanding TIFIA Loan Balance”), together with accrued and unpaid interest (including, if applicable, interest at the TIFIA Default Rate, as defined in the TIFIA Loan Agreement) on the Outstanding TIFIA Loan Balance from the last compounding date, compounded on the basis of a 365-day or 366-day year, as appropriate, all as more fully described in the above-referenced TIFIA Loan Agreement. Each Disbursement made by the TIFIA Lender to the Authority pursuant to the

TIFIA Loan Agreement and each prepayment made on account of the Outstanding TIFIA Loan Balance shall be recorded by or on behalf of the TIFIA Lender and endorsed on the grid attached hereto as Appendix One, which will correspond to Exhibit G-1 in the TIFIA Loan Agreement; provided, however, that neither the failure to make any such recordation nor any error in such recordation shall affect in any manner the Borrower's obligations hereunder or under any other TIFIA Loan Document. The Authority shall provide notice to the Trustee of the same. The principal hereof shall be payable in the manner and at the place provided in the TIFIA Loan Agreement and shall be paid in accordance with Exhibit G-1 to the TIFIA Loan Agreement, as revised from time-to-time in accordance with the TIFIA Loan Agreement, until paid in full. Such Exhibit G-1 to the TIFIA Loan Agreement shall be revised or completed by or on behalf of the TIFIA Lender in accordance with the terms of the TIFIA Loan Agreement, provided that neither the failure to make any such recordation nor any error in such recordation shall affect in any manner the Authority's obligations hereunder or under any other TIFIA Loan Document. Payments of interest hereon are to be made in accordance with Sections [9 and 10] of the TIFIA Loan Agreement as the same become due. Principal of and interest on this Bond shall be paid in funds available on the due date and in any lawful coin or currency of the United States of America which at the date of payment is legal tender for the payment of public and private debts.

This 2019 TIFIA Series Bond is a fully registered Bond and the principal of and interest on the 2019 TIFIA Series Bond shall be payable by wire transfer to the Registered Owner hereof in accordance with the TIFIA Loan Agreement.

This Bond is one of a duly authorized issue of bonds of the Authority, designated as "San Bernardino County Transportation Authority Toll Revenue Second Lien Obligation" (the "Bonds"), of the series designated above, all of which are being issued pursuant to the San Bernardino County Transportation Authority Consolidation Act of 2017, being Chapter 7 of Division 12 of the Public Utilities Code of the State of California (Section 130800 *et seq.*) (the "Authority Act") and Streets and Highways Code Sections 149.7 and 149.11, including Chapter 421 of the California Statutes of 2008 (the "Toll Act") and a Master Indenture (I-10 Corridor Contract 1 Project), dated as of _____ 1, 2019 (the "Master Indenture"), as supplemented by a First Supplemental Indenture, dated as of _____ 1, 2019 (the "First Supplemental Indenture"), each between the Authority and U.S. Bank National Association, as trustee (the "Trustee"). The Master Indenture, as supplemented and amended from time to time pursuant to its terms, including as supplemented by the First Supplemental Indenture, is hereinafter referred to as the "Indenture." Capitalized terms used herein and not otherwise defined shall have the meaning given such terms in the Indenture, and if not defined in the Indenture, as defined in the TIFIA Loan Agreement.

THIS BOND IS A LIMITED OBLIGATION OF THE AUTHORITY SECURED SOLELY BY THE TRUST ESTATE AS DEFINED AND PROVIDED IN THE INDENTURE AND THE AUTHORITY IS NOT OBLIGATED TO PAY THIS BOND EXCEPT FROM SAID TRUST ESTATE. THIS BOND DOES NOT CONSTITUTE A DEBT OR LIABILITY OF THE STATE OF CALIFORNIA OR ANY POLITICAL SUBDIVISION OF THE STATE OTHER THAN THE AUTHORITY. NEITHER THE FULL FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OF CALIFORNIA OR ANY POLITICAL SUBDIVISION OF THE STATE OF CALIFORNIA IS PLEDGED TO THE PAYMENT OF PRINCIPAL OR INTEREST OF THIS BOND.

Reference is hereby made to the Indenture, the Authority Act, the Toll Act and the TIFIA Loan Agreement for a description of the terms on which the Bonds are issued and to be issued, the provisions with regard to the nature and extent of the Trust Estate and the rights of the registered owners of the Bonds and all the terms of the Indenture and the TIFIA Loan Agreement are hereby incorporated herein and constitute a contract between the Authority and the registered owner from time to time of this Bond, and to all the provisions thereof the registered owner of this Bond, by its acceptance hereof, consents and agrees. Additional Bonds may be issued and other indebtedness may be incurred on a senior and parity basis with the Series of Bonds of which this Bond is a part, but only subject to the conditions and limitations contained in the Indenture and the TIFIA Loan Agreement.

This Bond is secured by and payable both as to principal and interest, and as to any premium upon the redemption hereof, solely from the Trust Estate as defined in the Indenture, subject only to the provisions of the Indenture permitting application thereof for the purposes and on the terms and conditions set forth therein, and the Authority is not obligated to pay this Bond except from such Trust Estate.

THIS BOND SHALL AND MAY BE PREPAID in whole or in part (and, if in part, the principal installments and amounts thereof to be prepaid to be determined in accordance with the TIFIA Loan Agreement and the Indenture; provided, however, that any prepayment shall be in principal amounts of \$[1,000,000] or any integral multiple of \$[1.00] in excess thereof), at any time or from time to time, without penalty or premium, by paying to the Owner all or part of the principal amount of this Bond in accordance with the TIFIA Loan Agreement.

THIS BOND SHALL BE SUBJECT TO MANDATORY PREPAYMENT in accordance with the TIFIA Loan Agreement and the Indenture.

The rights and obligations of the Authority and of the holders and registered owners of the Bonds of the Series of Bonds of which this Bond is a part may be modified or amended at any time in the manner, to the extent, and upon the terms provided in the TIFIA Loan Agreement.

This Bond is transferable or exchangeable as provided in Section [19] of the TIFIA Loan Agreement and Section 2.08 of the Indenture, upon surrender by the registered owner hereof in person, or by such owner's duly authorized attorney, of this Bond at the Principal Office of the Trustee, together with a written instrument of transfer satisfactory to the Trustee duly executed by the registered owner or such owner's duly authorized attorney, and thereupon a new Bond or Bonds of the same series, maturity, interest rate and in the aggregate maximum principal amount, shall be issued to the registered owner or owners in exchange therefor as provided in the Indenture, upon payment of any charges therein prescribed.

The person in whose name this Bond is registered shall be deemed and regarded as the absolute owner hereof for all purposes, including receiving payment of, or on account of, the principal of and premium and interest due hereon.

The Trustee shall not register any transfer or exchange of this Bond unless the Owner's prospective transferee delivers to the Trustee a letter substantially in the form as set forth in Exhibit A attached to the First Supplemental Indenture.

Any delay on the part of the TIFIA Lender in exercising any right hereunder or under the TIFIA Loan Agreement shall not operate as a waiver of any such right, and any waiver granted with respect to one default shall not operate as a waiver in the event of any subsequent default. The Authority hereby waives presentment, demand, protest and notice of any kind.

It is hereby certified and recited by the Authority that any and all acts, conditions and things required to exist, to happen and to be performed, precedent to and in the incurring of the indebtedness evidenced by this Bond, and in the issuing of this Bond, exist, have happened and have been performed in due time, form and manner, as required by the Constitution and statutes of the State of California and the Authority Act, the Toll Act and that this Bond, together with all other indebtedness of the Authority secured by the Trust Estate, is within every debt and other limit prescribed by the Constitution and statutes of the State of California.

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 San Bernardino County Transportation Authority has caused this Bond to be executed in its name and on its behalf by the manual or facsimile signature of its duly authorized representatives all as of the Issue Date set forth above.

SAN BERNARDINO COUNTY
TRANSPORTATION AUTHORITY

By: _____
[Executive Director] [President of the Board]

(Seal)

Countersigned:

By: _____
Chief Financial Officer

[FORM OF CERTIFICATE OF AUTHENTICATION]

It is hereby certified that this Bond has been issued under the provisions of the Indenture described in this Bond.

Dated of Authentication: _____

U.S. BANK NATIONAL ASSOCIATION, as
Trustee

By: _____
Authorized Officer

[FORM OF ASSIGNMENT]

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

(Please Print or Type Name and Address of Assignee)

PLEASE INSERT SOCIAL SECURITY OR OTHER
TAX IDENTIFICATION NUMBER OF ASSIGNEE

the within bond and all rights thereunder, and hereby irrevocably constitutes and appoints

to transfer the within Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated:

Signature:

(Signature of Assignor)

Notice: The signature on this assignment must correspond with the name of the Registered Owner as it appears upon the face of the within Bond in every particular without alteration or enlargement or any change whatsoever.

**UNITED STATES
DEPARTMENT OF TRANSPORTATION**

TIFIA LOAN AGREEMENT

For Up to \$[_____]

With

**SAN BERNARDINO COUNTY TRANSPORTATION
AUTHORITY**

For the

**I-10 CORRIDOR CONTRACT 1 PROJECT
(TIFIA – 2019 – [_____])**

Dated as of [_____], 2019

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TIFIA LOAN AGREEMENT

THIS TIFIA LOAN AGREEMENT (this “**Agreement**”), dated as of [_____], 2019, is by and between **SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY**, a public entity duly existing under the laws of the State of California, with an address of 1170 W. 3rd Street, 2nd Floor, San Bernardino, California 92410-1715 (the “**Borrower**”), and the **UNITED STATES DEPARTMENT OF TRANSPORTATION**, an agency of the United States of America, acting by and through the Executive Director of the Build America Bureau (the “**Executive Director**”), with an address of 1200 New Jersey Avenue, S.E., Washington, D.C. 20590 (the “**TIFIA Lender**”).

RECITALS:

WHEREAS, the Congress of the United States of America (the “**Congress**”) has found that a well-developed system of transportation infrastructure is critical to the economic well-being, health and welfare of the people of the United States of America and, in furtherance thereof, has enacted the Transportation Infrastructure Finance and Innovation Act of 1998 (“**TIFIA**”), § 1501 *et seq.* of Public Law 105-178 (as amended by Public Law 105-206, Public Law 109-59, Public Law 112-141, and Public Law 114-94) (the “**Act**”), codified as 23 U.S.C. §§ 601-609; and

WHEREAS, Section 603 of the Act authorizes the TIFIA Lender to enter into agreements with one or more obligors to make secured loans; and

WHEREAS, the Borrower has requested that the TIFIA Lender make the TIFIA Loan (as defined herein) in a principal amount not to exceed \$[_____] (excluding interest that is capitalized in accordance with the terms hereof) to be used to pay a portion of the Eligible Project Costs (as defined herein) related to the Project (as defined herein) pursuant to the application for TIFIA credit assistance received [_____, 201_] (the “**Application**”); and

WHEREAS, on [_____, 201_] the Secretary (as defined herein) approved TIFIA credit assistance for the Project in the form of the TIFIA Loan; and

WHEREAS, the TIFIA Lender is prepared to extend credit upon the terms and conditions hereof; and

WHEREAS, the Borrower agrees to repay any amount due pursuant to this Agreement and the TIFIA Bond (as defined herein) in accordance with the terms and provisions hereof and thereof; and

WHEREAS, the TIFIA Lender has entered into this Agreement in reliance upon, among other things, the Traffic and Revenue Study (as defined herein), the Consulting Engineer’s Report (as defined herein), and the Base Case Projections (as defined herein) delivered by the Borrower.

NOW, THEREFORE, the premises being as stated above, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged to be adequate, and intending to be legally bound hereby, it is hereby mutually agreed by and between the Borrower and the TIFIA Lender as follows:

Section 1. Definitions. Unless the context otherwise requires, capitalized terms used in this Agreement shall have the meanings set forth below in this Section 1 (*Definitions*) or as otherwise defined in this Agreement. Any term used in this Agreement that is defined by reference to any other agreement shall continue to have the meaning specified in such agreement, whether or not such agreement remains in effect.

“Acceptable Credit Rating” means, with respect to any Person, the rating of its unsecured, senior long-term indebtedness (or, if such Person has no such rating, then its issuer rating or corporate credit rating) is no lower than (a) at the time such Person executes, delivers or issues a Qualified Hedge, a Credit Facility, or a repurchase obligation to fund any Reserve Account, ‘A+’, ‘A1’ or the equivalent rating from each Nationally Recognized Rating Agency that provides a rating on such Person’s unsecured, senior long-term indebtedness or that provides an issuer rating or corporate credit rating for such Person, as applicable; and (b) at any time thereafter, ‘A’, ‘A2’ or the equivalent rating from each Nationally Recognized Rating Agency that provides a rating on such Person’s unsecured, senior long-term indebtedness or that provides an issuer rating or corporate credit rating for such Person, as applicable.

“Acceptable Letter of Credit” means a letter of credit, in form and substance satisfactory to the TIFIA Lender, issued by a Qualified Issuer.

“Account” means each account established in accordance with the terms of the Indenture.

“Accreted Value” means, with respect to any Capital Appreciation Obligations or Convertible Capital Appreciation Obligations, the principal amount thereof plus the interest accrued thereon at and prior to the maturity or earlier redemption thereof, in the case of a Capital Appreciation Obligation, or at and prior to the date of conversion of such Obligation to a Current Interest Obligation, in the case of a Convertible Capital Appreciation Obligation (other than the TIFIA Loan), compounded on the basis of a 360-day year of twelve 30-day months at the approximate interest rate thereon on each compounding date specified therein. The Accreted Value of an Obligation at any date of computation shall be an amount equal to the principal amount of such Obligation plus interest accrued thereon from the date of issuance, such interest to accrue at the rate per annum established as provided in a Supplemental Indenture and be compounded periodically, plus, if such date of computation shall not be a compounding date, the ratable portion of the difference between the Accreted Value computed as of the immediately preceding compounding date (or the date of issuance thereof if the date of computation is prior to the first compounding date succeeding the date of issuance) and the Accreted Value computed as of the immediately succeeding compounding date, calculated based on the assumption that the Accreted Value increases during any period in equal daily amounts (with straight-line interpolation between compounding dates).

“Act” means the Act as defined in the recitals hereto.

“**Additional Obligations**” means any Obligations issued pursuant to the Indenture that are permitted under Section 17(a) (*Indebtedness*) and under the Indenture, which Additional Obligations are issued or incurred after the Effective Date and also satisfy the following requirements, as applicable:

(a) if the proceeds thereof will be used to refinance outstanding Additional Obligations, (i) no such issuance shall occur until after the second (2nd) anniversary of the Debt Service Payment Commencement Date, (ii) after issuance of such Additional Obligations (after deducting any amounts required to be deposited to satisfy the applicable debt service reserve requirement specified in the applicable Supplemental Indenture (e.g. Senior Lien Obligations Reserve Requirement) and any amounts used to pay reasonable and necessary costs of issuance not to exceed two percent (2%) of the principal amount of such Additional Obligations), the Trustee shall have on deposit in a separate account irrevocably in trust and used only as provided in this clause (a), either (A) moneys in an amount sufficient to pay (but not more than is needed to pay) the applicable redemption price to refund the Additional Obligations being refinanced (together with unpaid interest accrued or to accrue to the redemption date) or (B) Permitted Investments in such principal amounts, having such maturities, bearing such interest, and otherwise having such terms and qualifications as shall be necessary to pay, as and when the Additional Obligations to be refinanced are redeemed, the applicable redemption price (including accrued but unpaid interest to the redemption date) to redeem such Additional Obligations (but not more than such amounts), as evidenced by a defeasance opinion from Bond Counsel and by a certificate of defeasance from the Trustee, in each case that has been delivered to the TIFIA Lender, (iii) the net proceeds of such Additional Obligations (after deducting any amounts required to be deposited to satisfy the applicable debt service reserve requirement specified in the applicable Supplemental Indenture (e.g. Senior Lien Obligations Reserve Requirement) and any amounts used to pay reasonable and necessary costs of issuance not to exceed two percent (2%) of the principal amount of such Additional Obligations) shall be used solely to refinance other Additional Obligations at the same lien level as, or that are at a higher lien level than, such Additional Obligations being issued and shall not exceed the par amount of such other Additional Obligations outstanding and being refinanced by such Additional Obligations except to the extent the required cost of acquisition of Permitted Investments as contemplated in clause (B) above in connection with any advance refunding would cause the principal amount of such Additional Obligations to exceed the par amount or Accreted Value, as the case may be, of the Additional Obligations to be refinanced, (iv) Annual Debt Service in respect of such Additional Obligations, in each year of the remaining term of the TIFIA Loan, must be projected to be equal to or less than the Annual Debt Service in respect of the Obligations to be refinanced for each such year in the most recent Revised Financial Model (or in the Base Case Financial Model to the extent that no Revised Financial Model has been approved by the TIFIA Lender), and (v) the maturity date of the Additional Obligations must not be later than the maturity date of the Obligations being refinanced; and

(b) if the proceeds thereof will be used for any reason not described in clause (a), then no such issuance shall occur without the prior written consent of the TIFIA Lender, in its sole discretion;

provided that for each of clauses (a) and (b) above, (x) no Default or Event of Default under this Agreement has occurred and is continuing and no Event of Default (as defined in any Indenture Document or the Sales Tax Revenue Bond Indenture) or event that, with the giving of notice or the passage of time or both, would constitute such an Event of Default has occurred and is continuing, (y) such Additional Obligations must receive an Investment Grade Rating, and (z) the Nationally Recognized Rating Agency that provided the most recent public credit ratings of the TIFIA Loan and any outstanding Obligations in accordance with Section 16(j) (*Annual Rating*) shall have provided a confirmation or affirmation (or the equivalent) that the incurrence of such Additional Obligations shall not result in a downgrade in the public credit ratings of the TIFIA Loan or any outstanding Obligations to the lowest of (A) the then-existing credit ratings of the TIFIA Loan and such outstanding Obligations, respectively, and (B) the credit ratings, respectively, of the TIFIA Loan as of the Effective Date or of any outstanding Obligations as of the closing date of such outstanding Additional Obligations; provided that these requirements do not apply to Obligations the proceeds of which are immediately applied to prepay the TIFIA Loan in full.

“Additional Project” means the I-10 Corridor Contract 2 Project, the I-15 Corridor Project, the I-15 Corridor Future Project, and any addition, acquisition, improvement, betterment, extension or equipping of, or relating to, the Toll Road or any additional capital project extending, improving or otherwise related to the Borrower's tolling program that the Borrower determines or proposes to finance pursuant to the Indenture.

“Additional Project Contracts” means any contract, agreement, letter of intent, understanding or instrument (other than a Principal Project Contract) entered into by the Borrower after the Effective Date, providing for the design, construction, testing, and start-up, of the Project, or the safety, financial services, operation or maintenance of the Project, or otherwise relating to the Project, including any master contract providing goods or services for multiple projects or assets including the Project; provided, however, that a contract or agreement shall not constitute an Additional Project Contract if it (a) is entered into (i) in the ordinary course of business in connection with the furnishing of goods or the performance of services or (ii) for necessary Project-related expenditures, (b) commits the Borrower to spend, or is reasonably expected to involve expenditures by the Borrower in any Fiscal Year in one contract or a series of related contracts of, no more than \$2,500,000 (indexed annually to CPI) in the aggregate for any such contract or series of related contracts allocable to the Project or payable from Revenues and (c) is for a term not exceeding two (2) years (including any contract term renewals).

“Agreement” has the meaning provided in the preamble hereto.

“Annual Debt Service” means the amount of payments due on the applicable Obligations for any Calculation Period.

In calculating Annual Debt Service for any future period (except as otherwise specifically provided herein):

(a) in determining the principal amount of an Obligation due in any period, payment shall be assumed to be made in accordance with the amortization schedule established for such principal, including any minimum sinking fund or account payments;

(b) to the extent the requirements of Section 17(a)(ii) (*Indebtedness*) have been waived, any Permitted Debt payable from Revenues bearing interest at a Variable Interest Rate shall be deemed to bear interest at such rate or rates actually borne by such debt and for future periods at such rate or rates approved in writing by the TIFIA Lender at the time such debt is issued;

(c) the principal and/or interest portion (whether by redemption or otherwise) of Capital Appreciation Obligations and Deferred Income Bonds shall be the Accreted Value and Appreciated Value thereof, respectively, due and payable in respect of such period;

(d) principal and interest payments on Obligations may be excluded to the extent such payments are to be paid from amounts other than Revenues that are irrevocably held by the Trustee or another fiduciary in escrow specifically for the payment of such principal and interest and interest payments on any Obligations may be excluded to the extent that such interest payments are to be paid from capitalized interest held by the Trustee or another fiduciary in a capitalized interest account (and not a Reserve Account) funded from sources other than Revenues specifically to pay such interest, including amounts held on deposit to pay capitalized interest on one or more Series of Obligations;

(e) if any of the Obligations are, or upon issuance will be, obligations for which the Borrower is entitled to receive Subsidy Payments, as evidenced by an opinion of Bond Counsel delivered with respect to such Obligations, such Obligations may be treated as bearing an interest rate equal to the rate of interest borne or assumed to be borne, as applicable, by the Obligations for the period of determination minus a rate equal to the Subsidy Payments to which the Borrower is entitled for such period, divided by the Outstanding principal amount of such Obligations during such period; and

(f) Annual Debt Service in respect of the TIFIA Loan shall include TIFIA Mandatory Debt Service and TIFIA Scheduled Debt Service with respect to the applicable time period.

“Annual Operating Budget” means the budget of revenues and expenses prepared by the Borrower and approved by the Borrower’s board of directors for each Borrower Fiscal Year.

“Anticipated TIFIA Loan Disbursement Schedule” means the schedule set forth in **Exhibit B**, reflecting the anticipated disbursement of proceeds of the TIFIA Loan, as such schedule may be amended from time to time pursuant to Section 4(c) (*Disbursement Conditions*).

“Anti-Corruption Laws” means all laws, rules and regulations of any jurisdiction from time to time concerning or relating to bribery or corruption.

“Anti-Money Laundering Laws” means all U.S. and other applicable laws, rules and regulations of any jurisdiction from time to time concerning or related to anti-money laundering, including but not limited to those contained in the Bank Secrecy Act and the Patriot Act.

“Application” has the meaning provided in the recitals hereto.

“**Appreciated Value**” means, with respect to any Deferred Income Bond as of any Valuation Date or for any period, the amount set forth for such date or period as determined in accordance with the Supplemental Indenture authorizing such Deferred Income Bond.

“**Backstop Account**” means the account by that name created pursuant to Section 5.02 of the Indenture.

“**Bank Secrecy Act**” means the Bank Secrecy Act of 1970 (Titles I and II of Pub. L. No. 91-508, codified as amended in various sections of 12 U.S.C. and 31 U.S.C.), as amended, and the regulations promulgated thereunder.

“**Bankruptcy Related Event**” means, with respect to any Person,

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

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

(c) solely with respect to the Borrower, (i) the Trustee shall commence a process pursuant to which all or a substantial part of the Trust Estate may be sold or otherwise disposed of in a public or private sale or disposition pursuant to a foreclosure of the Liens thereon securing any Obligations (including the TIFIA Loan) or (ii) the Trustee shall commence a process pursuant to which all or a substantial part of the Trust Estate may be sold or otherwise disposed of pursuant to a sale or disposition of such Trust Estate in lieu of foreclosure; or

(d) solely with respect to the Borrower, the Trustee shall transfer, pursuant to directions issued by the Bondholders other than the TIFIA Lender, funds on deposit in any of the Project Accounts upon the occurrence and during the continuation of an Event of Default under

the Indenture for application to the prepayment or repayment of any principal amount of any Obligations (other than the TIFIA Loan) other than in accordance with Article V and, if applicable, Section 7.02 of the Indenture.

“**Base Case Financial Model**” means a financial model prepared by the Borrower forecasting the revenues and expenditures of the Project for time periods through the Final Maturity Date and based upon assumptions and methodology provided by the Borrower and acceptable to the TIFIA Lender as of the Effective Date, which model shall be provided to the TIFIA Lender as a fully functional Microsoft Excel – based financial model or such other format requested by the TIFIA Lender.

“**Base Case Projections**” means the initial forecast for the Project prepared as of the Effective Date using the Base Case Financial Model.

“**Bond**” means any bonds (including the TIFIA Bond) or any other evidences of indebtedness for borrowed money issued by the Borrower from time to time pursuant to the Indenture and the terms of the applicable Supplemental Indenture.

“**Bond Counsel**” means a firm of nationally-recognized attorneys-at-law experienced in legal work relating to the issuance of municipal bonds selected by the Borrower.

“**Bondholder**” or “**Holder**” or “**Owner**” means the record holder of a Bond, including the TIFIA Lender and its successors and assigns.

“**Borrower**” has the meaning provided in the preamble hereto.

“**Borrower Fiscal Year**” means (a) means the period of twelve (12) months ending on June 30 of each year or (b) such other fiscal year as the Borrower may hereafter adopt after giving thirty (30) days’ prior written notice to the TIFIA Lender, as provided in Section 17(g) (*Organizational Documents; Fiscal Year*).

“**Borrower’s Authorized Representative**” means any Person who shall be designated as such pursuant to Section 26 (*Borrower’s Authorized Representative*).

“**Business Day**” means any day other than a Saturday, a Sunday or other day on which the Government or banks are authorized or obligated by law or executive order to be closed in the State or the State of New York or in any city in which the Principal Office (as such term is defined in the Indenture) of the Trustee or, with respect to any Obligations secured by a Credit Facility, the office where draws are to be made on a Credit Provider (as such term is defined in the Indenture) is located.

“**Calculation Date**” means each June 30 and December 31 occurring after the Substantial Completion Date.

“**Calculation Period**” means a twelve (12) month period ending on a Calculation Date.

“**Caltrans**” means the California Department of Transportation.

“**Caltrans DB Cooperative Agreement**” means that certain Agreement 08-1645 (SBCTA 17-1001736) for Design-Build of the I-10 Corridor Contract 1 Express Lanes Project, dated July 28, 2017, as amended.

“**Capital Appreciation Obligations**” means the Obligations designated as Capital Appreciation Obligations in the Supplemental Indenture providing for the issuance of such Obligations and on which interest is compounded and paid at maturity or on prior redemption.

“**Capital Expenditures**” means expenditures made or liabilities incurred for the acquisition of any assets, improvements or replacements thereof that have a useful life of more than one (1) year and that are capitalized in accordance with GAAP.

“**Capitalized Interest Period**” means the period from (and including) the Effective Date to (but excluding) the first day of the initial Payment Period.

“**Cash Supplement Account**” means the account by that name created pursuant to Section 5.02 of the Indenture.

“**CEQA**” means the California Environmental Quality Act (Public Resources Code section 21000 et seq.) and the State CEQA Guidelines (14 Cal. Code Regs., § 15000 et seq.) as amended, and any successor statute of similar import, and regulations thereunder, in each case as in effect from time to time.

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

“**Congress**” has the meaning provided in the recitals hereto.

“**Construction Period**” means the period from the Effective Date through the Substantial Completion Date.

“**Construction Schedule**” means (a) the initial schedule or schedules on which the construction timetables for the Project are set forth, attached as **Schedule II**, and (b) any updates thereto included in the Financial Plan most recently approved by the TIFIA Lender pursuant to Section 22(a)(iii)(B) (*Financial Plan*).

“**Consulting Engineer**” means Parsons Transportation Group, Inc. or any successor thereto or such other replacement engineering firm selected by the Borrower and not objected to by the TIFIA Lender within fifteen (15) Business Days after receiving notice of such selection.

“**Consulting Engineer’s Report**” means the I-10 Corridor Contract 1 Project Engineer’s Technical Report dated as of September 26, 2018.

“**Control**” means, when used with respect to any particular Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or partnership or other ownership interests, by contract or otherwise, and the terms “**Controlling**” and “**Controlled by**” have meanings correlative to the foregoing.

“Convertible Capital Appreciation Obligations” means Obligations that initially are issued as Capital Appreciation Obligations, but later convert to Obligations on which interest is paid periodically. Convertible Capital Appreciation Obligations shall be Capital Appreciation Obligations until the conversion date and from and after such conversion date shall no longer be Capital Appreciation Obligations, but shall be treated as Current Interest Obligations having a principal amount equal to their Accreted Value on the conversion date.

“CPI” means the Consumer Price Index for All Urban Consumers (CPI-U) for the U.S. City Average for All Items, 1982-84=100 (not seasonally adjusted), or its successor, published by the Bureau of Labor Statistics, with, unless otherwise specified herein, January 2019 as the base period.

“Credit Facility” means any letter of credit, standby bond purchase agreement, line of credit, policy of bond insurance, surety bond, guarantee or similar instrument, or any agreement relating to the reimbursement of any payment thereunder (or any combination of the foregoing), including any Credit Support Instrument or Reserve Facility (as each such term is defined in the Indenture), that is obtained by the Borrower and is issued by a financial institution, insurance provider or other Person and which provides security or liquidity in respect of any Permitted Debt payable from Revenues.

“Current Interest Obligations” means Obligations designated as Current Interest Obligations in the Supplemental Indenture providing for the issuance of such Obligations and that pay interest to the Bondholders thereof on a periodic basis prior to maturity. Current Interest Obligations also include Convertible Capital Appreciation Obligations after their conversion date.

“Debt Service Payment Commencement Date” means (a) the earlier of (i) the Semi-Annual Payment Date occurring immediately prior to the fifth (5th) anniversary of the Substantial Completion Date and (ii) December 31, 2027 or (b) if the Borrower elects an earlier Semi-Annual Payment Date pursuant to Section 9(c) (*Early Debt Service Payment Commencement Date*), such earlier Semi-Annual Payment Date.

“Default” means any event or condition that, with the giving of any notice, the passage of time, or both, would be an Event of Default.

“Default Rate” means an interest rate equal to the sum of (a) the TIFIA Interest Rate plus (b) 200 basis points.

“Deferred Income Bond” means any Permitted Debt payable from Revenues (a) as to which interest accruing thereon prior to the applicable Interest Commencement Date of such Permitted Debt is (i) compounded on each Valuation Date for such Deferred Income Bond and (ii) payable only at the maturity or prior redemption of such Permitted Debt and (b) as to which interest accruing after the applicable Interest Commencement Date is payable on the first interest payment date immediately succeeding the Interest Commencement Date and thereafter on the dates specified in or determined pursuant to the Supplemental Indenture authorizing the Permitted Debt. For the purposes of receiving payment of the redemption price if a Deferred

Income Bond is redeemed prior to maturity, the principal amount of a Deferred Income Bond shall be deemed to be its Appreciated Value.

“**Design-Build Contract**” means, the Design-Build Contract for the I-10 Corridor Contract 1 Project, dated August 16, 2018, between the Borrower and the Design-Build Contractor.

“**Design-Build Contractor**” means Lane Security Paving Joint Venture and any successor thereto.

“**Development Default**” means (a) the Borrower fails to diligently prosecute the work related to the Project or (b) the Borrower fails to complete the Project by the Projected Substantial Completion Date.

“**Effective Date**” means the date of this Agreement.

“**Eligible Project Costs**” means amounts in the Project Budget, substantially all of which are paid by or for the account of the Borrower in connection with the Project, including prior Project expenditures for the [____]-year period preceding the date of the Application, all of which shall arise from the following:

(a) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, permitting, preliminary engineering and design work and other preconstruction activities;

(b) construction, reconstruction, rehabilitation, replacement and acquisition of real property (including land related to the Project and improvements to land), environmental mitigation, construction contingencies and acquisition of equipment; or

(c) capitalized interest necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses and other carrying costs during construction.

“**Environmental Laws**” has the meaning provided in Section 14(s) (*Environmental Matters*).

“**ERISA**” means the Employee Retirement Income Security Act of 1974, as amended, and any successor statute of similar import, and the regulations thereunder, in each case as in effect from time to time.

“**ERISA Affiliate**” means any trade or business (whether or not incorporated) that, together with the Borrower, is treated as a single employer under Section 414(b) or (c) of the Code or, solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414 of the Code.

“**Event of Default**” has the meaning provided in Section 20(a) (*Events of Default and Remedies*).

“**Event of Loss**” means any event or series of events that causes any portion of the Project to be damaged, destroyed or rendered unfit for normal use for any reason whatsoever, including through a failure of title, or any loss of such property, or a condemnation.

“**Executive Director**” has the meaning provided in the preamble hereto.

“**Federal Fiscal Year**” or “**FFY**” means the fiscal year of the Government, which is the twelve (12) month period that ends on September 30 of the specified calendar year and begins on October 1 of the preceding calendar year.

“**FHWA**” means the Federal Highway Administration, an agency of the USDOT.

“**FHWA Division Office**” means the California Division Office of the FHWA.

“**FHWA Oversight Agreement**” means that certain Project Oversight Agreement, dated as of [_____], by and between the Borrower, Caltrans and the FHWA Division Office attached hereto as **Exhibit F**.

“**Final Maturity Date**” means the earlier of (a) the Semi-Annual Payment Date occurring immediately prior to the thirty-fifth (35th) anniversary of the Substantial Completion Date and (b) December 31, 2057.

“**Financial Plan**” means (a) the financial plan to be delivered within sixty (60) days after the Effective Date in accordance with Section 22(a) (*Financial Plan*) and (b) any updates thereto required pursuant to Section 22(a) (*Financial Plan*).

“**Financial Statements**” has the meaning provided in Section 14(z) (*Financial Statements*).

“**Fixed Level Payment**” has the meaning provided in Section 9(e) (*Fixed Level Payments*).

“**Freeway Maintenance Agreement**” means that certain agreement related to maintenance of the Project to be entered into by the Borrower and either Caltrans or another entity selected by the Borrower, as provided in the Toll Facility Agreement.

“**Fund**” means each fund established in accordance with the terms of the Indenture.

“**GAAP**” means generally accepted accounting principles as defined by the Governmental Accounting Standards Board, in effect from time to time in the United States of America.

“**Government**” means the United States of America and its departments and agencies.

“**Government Obligations**” means (a) direct obligations of, or obligations on which the timely payment of principal and interest are fully and unconditionally guaranteed by, the Government, (b) bonds, debentures or notes issued by any of the following federal agencies: Banks for Cooperatives, Federal Intermediate Credit Banks, Federal Home Loan Banks, Export-

Import Bank of the United States, Government National Mortgage Association or Federal Land Banks, (c) obligations issued or guaranteed by a Person controlled or supervised by and acting as an instrumentality of the Government pursuant to authority granted by the Congress, and (d) evidences of ownership of proportionate interests in future interest or principal payments on obligations specified in clauses (a), (b) and (c) of this definition held by a bank or trust company as custodian and which underlying obligations are not available to satisfy any claim of the custodian or any Person claiming through the custodian or to whom the custodian may be obligated, in each case.

“Governmental Approvals” means all authorizations, consents, approvals, waivers, exceptions, variances, filings, permits, orders, licenses, exemptions and declarations of or with any Governmental Authority.

“Governmental Authority” means any federal, state, provincial, county, city, town, village, municipal or other government or governmental department, commission, council, court, board, bureau, agency, authority or instrumentality (whether executive, legislative, judicial, administrative or regulatory), of or within the United States of America or its territories or possessions, including the State and its counties and municipalities, and their respective courts, agencies, instrumentalities and regulatory bodies, or any entity that acts “on behalf of” any of the foregoing, whether as an agency or authority of such body.

“Hedging Agreement” means (a) the ISDA Master Agreement(s) and any related credit support annex, schedules and confirmations, to be entered into by the Borrower and a Hedging Bank, (b) any other agreement entered into, or to be entered into, by the Borrower and a Hedging Bank for a Hedging Transaction, and (c) any other documentation directly relating to the foregoing.

“Hedging Banks” means any Qualified Hedge Provider that becomes a party to a Hedging Agreement and its permitted successors (to the extent such successors are also Qualified Hedge Providers).

“Hedging Obligations” means, collectively, the payment of (a) all scheduled amounts payable to the Hedging Banks by the Borrower under the Hedging Agreements (including interest accruing after the date of any filing by the Borrower of any petition in bankruptcy or the commencement of any bankruptcy, insolvency or similar proceeding with respect to the Borrower), net of all scheduled amounts payable to the Borrower by such Hedging Banks, and (b) all other indebtedness, fees, indemnities and other amounts payable by the Borrower to the Hedging Banks under such Hedging Agreements, net of all other indebtedness, fees, indemnities and other amounts payable by the Hedging Banks to the Borrower under such Hedging Agreements; provided that Hedging Obligations shall not include Hedging Termination Obligations. For the avoidance of doubt, all calculations of such amounts payable under the Hedging Agreements shall be made in accordance with the terms of the applicable Hedging Agreements.

“Hedging Termination Obligations” means the aggregate amount payable to the Hedging Banks by the Borrower upon the early termination of all or a portion of the Hedging Agreements, net of all amounts payable to the Borrower by such Hedging Banks upon the early

unwind of all or a portion of such Hedging Agreements. For the avoidance of doubt, all calculations of such amounts payable under the Hedging Agreements shall be made in accordance with the terms of the applicable Hedging Agreements.

“Hedging Transaction” means any interest rate protection agreement, interest rate swap transaction, interest rate “cap” transaction, interest rate future, interest rate option or other similar interest rate hedging arrangement commonly used in loan transactions to hedge against interest rate increases and not for any speculative purpose.

“I-10 Corridor Contract 1 Project” means the development, design, construction, right-of-way acquisition, utilities adjustment, operation and maintenance, repair, rehabilitation, reconstruction, financing, administration, or any combination of these including the establishment of reserves for such purposes, with respect to the construction or operation of the I-10 Express Lanes in San Bernardino County, including the construction of tolled express lanes extending approximately 10 miles from the border of the County of Los Angeles to the I-10/I-15 interchange and the installation of an electronic toll enforcement and collection system.

“I-10 Corridor Contract 2 Project” means the development, design, construction, right-of-way acquisition, utilities adjustment, operation and maintenance, repair, rehabilitation, reconstruction, financing, administration, or any combination of these, including the establishment of reserves for such purposes, with respect to the I-10 Express Lanes in San Bernardino County, including the construction of tolled express lanes extending approximately 23 miles from the I-10/I-15 interchange to Ford Street in the City of Redlands and the installation of an electronic toll enforcement and collection system.

“I-15 Corridor Future Project” means the development, design, construction, right-of-way acquisition, utilities adjustment, operation and maintenance, repair, rehabilitation, reconstruction, financing, administration, or any combination of these, including the establishment of reserves for such purposes, with respect to the I-15 Express Lanes in San Bernardino County, including the construction of tolled express lanes extending approximately 20 miles from Duncan Canyon Road in the City of Fontana to US-395 in the City of Hesperia and the installation of an electronic toll enforcement and collection system.

“I-15 Corridor Project” means the development, design, construction, right-of-way acquisition, utilities adjustment, operation and maintenance, repair, rehabilitation, reconstruction, financing, administration, or any combination of these, including the establishment of reserves for such purposes, with respect to the I-15 Express Lanes in San Bernardino County, including the construction of tolled express lanes extending approximately 14 miles from Cantu-Galleano Ranch Road in Riverside County to Duncan Canyon Road in the City of Fontana and the installation of an electronic toll enforcement and collection system.

“Indemnitee” has the meaning provided in Section 18 (*Indemnification*).

“Indenture” means that certain Master Indenture (I-10 Corridor Contract 1 Project), dated as of [_____] 1, 2019, between the Borrower and the Trustee.

“**Indenture Documents**” means the Indenture, each Supplemental Indenture, each Hedging Agreement related to the Obligations, and each Credit Facility related to the Obligations.

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

“**Interest Commencement Date**” means, with respect to any particular Deferred Income Bond, the date determined by the Supplemental Indenture for such Deferred Income Bond after which interest accruing on such Deferred Income Bond shall be payable on the first interest payment date succeeding such Interest Commencement Date and periodically thereafter on the dates determined pursuant to such Supplemental Indenture.

“**Interim Payment Date**” means any day occurring during a Payment Period that (a) is a date on which interest on or principal of Additional Obligations is scheduled to be paid and (b) is not a Semi-Annual Payment Date.

“**Interim Payment Period**” means, at any time that interest on or principal of any Additional Obligations is scheduled to be paid on an Interim Payment Date, any period from (and including) the immediately preceding Payment Date to (but excluding) such Interim Payment Date.

“**Investment Grade Rating**” means a public rating no lower than ‘BBB-’, ‘Baa3’ or the equivalent public rating from a Nationally Recognized Rating Agency.

“**ISDA Master Agreement**” means a master agreement, entered into by the Borrower and a Hedging Bank, in the form published by the International Swaps and Derivatives Association, Inc.

“**Level Payment Commencement Date**” means the [] Semi-Annual Payment Date after the Debt Service Payment Commencement Date.

“**Level Payment Period**” means the period commencing on the Level Payment Commencement Date and ending on the Final Maturity Date (or on such earlier date as all amounts due or to become due to the TIFIA Lender hereunder have been irrevocably paid in full in cash).

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

“Loan Amortization Schedule” means the Loan Amortization Schedule reflected in the applicable column of **Exhibit G**, as amended from time to time in accordance with Section 7 (*Outstanding TIFIA Loan Balance; Revisions to Exhibit G and Loan Amortization Schedule*).

“Loss Proceeds” means any proceeds of insurance resulting from any Event of Loss.

“LTAIA” has the meaning provided in Section 17(a)(vi) (*Indebtedness*).

“Major Maintenance and Repair Fund Permitted Expenditures” means Capital Expenditures reasonably necessary to repair or rehabilitate the Toll Road so that it remains in a condition that meets the performance and maintenance standards established by Caltrans for existing State-operated transportation facilities of substantially equivalent size, location and character.

“Major Maintenance and Repair Fund” means the Fund by that name established pursuant to Section 5.02 of the Indenture.

“Major Maintenance and Repair Fund Required Amount” means, for any Calculation Date, an amount equal to the aggregate of (a) one hundred percent (100%) of expected Major Maintenance and Repair Fund Permitted Expenditures for the following twelve (12) month period, (b) eighty percent (80%) of expected Major Maintenance and Repair Fund Permitted Expenditures for the next succeeding 12-month period (i.e., year 2), (c) sixty percent (60%) of expected Major Maintenance and Repair Fund Permitted Expenditures for the next succeeding twelve (12) month period (i.e., year 3), (d) forty percent (40%) of expected Major Maintenance and Repair Fund Permitted Expenditures for the next succeeding twelve (12) month period (i.e., year 4) and (e) twenty percent (20%) of expected Major Maintenance and Repair Fund Permitted Expenditures for the next succeeding twelve (12) month period (i.e., year 5), in each case, initially based on the forecast of estimated life cycle maintenance costs with respect to the Toll Road set forth in the Base Case Financial Model and thereafter based on the information regarding Major Maintenance and Repair Fund Permitted Expenditures in the then-current Annual Operating Budget prepared by the Borrower and certified by the Consulting Engineer or, if different, in the Revised Financial Model approved by the TIFIA Lender as part of the then-current Financial Plan, and for any Monthly Funding Date after a Calculation Date until the Monthly Funding Date preceding the next Calculation Date, the amount for such first Calculation Date less the Major Maintenance and Repair Fund Permitted Expenditures made after such Calculation Date, plus the additional amount projected to be needed for deposit to the Major Maintenance and Repair Fund by the succeeding Calculation Date in order for the Major Maintenance and Repair Fund Required Amount for such succeeding Calculation Date to be on deposit therein by such Calculation Date.

“Material Adverse Effect” means a material adverse effect on (a) the Project, the Revenues or the Measure I Investment, (b) the business, operations, properties, condition (financial or otherwise) or prospects of the Borrower, in each case, with respect to the Project or the Toll Road, (c) the legality, validity or enforceability of any material provision of any Indenture Document, TIFIA Loan Document or Principal Project Contract, (d) the ability of the Borrower or any other Principal Project Party (excluding Caltrans) to enter into, perform or comply with any of its material obligations under any Indenture Document, TIFIA Loan

Document or Principal Project Contract to which it is a party, (e) the validity, enforceability or priority of the Liens provided under the Indenture Documents on the Trust Estate in favor of the Secured Parties or (f) the TIFIA Lender's rights or remedies available under any TIFIA Loan Document. By way of clarification, (x) material changes in Sales Tax Revenues occurring on or after the effective date hereof and (y) the issuance of Sales Tax Revenue Bonds, Sales Tax Revenue subordinate obligations and related credit liquidity and similar obligations pursuant to the terms of the Sales Tax Revenue Bond Indenture, include the Sales tax Revenue Bond Third Supplemental Indenture, in each case, shall not by itself constitute a Material Adverse Effect.

“Maximum Annual Debt Service” means the maximum amount of Annual Debt Service becoming due and payable on all Bonds Outstanding and all Parity Obligations outstanding, and on any Bonds and Parity Obligations proposed to be issued as of the date of such calculation, during the period from the date of such calculation through the final maturity date of the Bonds and Parity Obligations, calculated utilizing the assumptions set forth under the definition of Annual Debt Service (as each capitalized term in this definition is defined in the Sales Tax Revenue Bond Indenture).

“Measure I Backstop” means Measure I sales tax revenues invested by the Borrower in the Project and transferred by the Sales Tax Trustee on behalf of the Borrower to the Measure I Reserve Fund in order to fund projected Toll Revenue shortfalls in clauses *First* through clause *Fifteenth* in Section 5.03(b) of the Indenture, in accordance with Section 5.05 of the Indenture; provided, that (x) the amount of such deposit shall not exceed in any Borrower Fiscal Year the budgeted total aggregate Operation and Maintenance Expenses and deposits to the Major Maintenance and Repair Fund for such Borrower Fiscal Year plus, for the Borrower Fiscal Year during which the TIFIA Loan Reserve Account is required to be initially funded, the TIFIA Loan Reserve Requirement and (y) the maximum aggregate outstanding principal amount of such invested amounts when combined with the Measure I Cash Supplement made and not repaid and scheduled to be made shall not exceed an aggregate outstanding principal amount of ninety-three million dollars (\$93,000,000) (excluding accrued and unpaid interest).

“Measure I Backstop Semi-Annual MIRF Amount” means, as of any date from and after July 1, 2025 and continuing March 31, 2040, the amount reflected in the then-current Annual Operating Budget as being scheduled for deposit into the Measure I Reserve Fund during semi-annual period ending on the next Calculation Date, which amount shall correspond to the Measure I Backstop Semi-Annual TRF Amount that is required to be deposited to the Toll Revenue Fund during the semi-annual period ending twelve (12) months following the next Calculation Date.

“Measure I Backstop Semi-Annual TRF Amount” means, with respect to any semi-annual period ending on a Calculation Date (commencing from July 1, 2026 and continuing for so long as the Borrower has a Measure I Investment obligation hereunder but not beyond March 31, 2040), any projected shortfall in Toll Revenues during such semi-annual period, measured against the Borrower's funding obligations during such semi-annual period pursuant to clauses *First* through *Fifteenth* of Section 5.03(b) of the Indenture.

“Measure I Cash Supplement” means sales tax revenues collected pursuant to the Measure I Ordinance and transferred on behalf of the Borrower to the Measure I Reserve Fund

for deposit in the Toll Revenue Fund in accordance with Section 5.05 of the Indenture and **Schedule IV**.

“Measure I Investment” means the Measure I Backstop and the Measure I Cash Supplement, in an aggregate outstanding principal amount not to exceed ninety-three million (\$93,000,000) (excluding accrued and unpaid interest).

“Measure I Ordinance” means Ordinance No. 04-01, named “An Ordinance Providing for the Continuation of a One-Half of One Percent Retail Transactions and Use Tax by the San Bernardino County Transportation Authority for Local Transportation Purposes and the Transportation Expenditure Plan” adopted by the Borrower on June 2, 2004, providing for the continued imposition of a retail transactions and use tax applicable in the incorporated and unincorporated territory of San Bernardino County in accordance with Part 1.6 (commencing with Section 7251) of Division 2 of the California Revenue and Taxation Code, at the rate of one-half of one percent (1/2%) for a period not to exceed thirty (30) years beginning April 1, 2010.

“Measure I Reserve Fund” means the account by that name created pursuant to the Indenture.

“Monthly Funding Date” means the second to last day of each calendar month or, if such day is not a Business Day, the next preceding Business Day.

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

“NEPA” means the National Environmental Policy Act of 1969, as amended, and any successor statute of similar import, and regulations thereunder, in each case as in effect from time to time.

“NEPA Determination” means that certain Initial Study with Mitigated Negative Declaration/Environmental Assessment with Finding of No Significant Impact with respect to the Project, dated [____], issued by Caltrans.

“Net Loss Proceeds” means remaining Loss Proceeds after excluding any proceeds of business interruption insurance, delay-in-start-up insurance, proceeds covering liability of the Borrower to third parties and Loss Proceeds used or to be used by the Borrower to repair or restore the Project in accordance with Section 5.04(f) of the Indenture.

“Net Revenue” means, for any applicable time period, without duplication, (a) Revenue received by the Borrower during such period plus (b) Measure I Cash Supplement amounts transferred to the Toll Revenue Fund from the Measure I Reserve Fund during such period, plus (c) solely for the current Calculation Period and the historical ratio calculations, Measure I Backstop amounts transferred to the Toll Revenue Fund from the Measure I Reserve Fund during such period, less (d) Operation and Maintenance Expenses for such period (excluding, in such calculations, (i) any extraordinary or one-time Revenues for such period, and (ii) any extraordinary or one-time Operation and Maintenance Expenses for such period, but only if and to the extent such extraordinary or one-time expenses are paid or payable from extraordinary or

one-time Revenues being excluded above), less (e) any deposits to the Rebate Fund made from Revenues during such period and less (f) deposits into any Fund or Account made from Revenues during such period (other than the Toll Revenue Fund and the Measure I Reserve Fund), to the extent that disbursements from such Fund or Account will be treated as Revenues. For clarification, Revenues deposited into the Sweep Fund and Residual Fund are treated as Revenues when received and not when utilized in a later period to pay Debt Service. When calculating projected Net Revenues for purposes of Sections 16(l) (*Rate Coverage*), 17(a) (*Indebtedness*), and 17(d) (*Residual Release Conditions*), Revenue shall only include amounts received under clauses (a), (b) and (f) of the definition of Toll Revenues and Cash Supplements. For purposes of Sections 16(l) (*Rate Coverage*), 17(a) (*Indebtedness*), 17(d) (*Residual Release Conditions*), and the conditions described in the definition of Additional Obligations, Revenue shall only include the amounts received under clauses (a), (b) and (f) of the definition of Toll Revenues and Cash Supplements and shall not include Measure I Backstop except for the current Calculation Period and the historical coverages.

“**Obligations**” means all indebtedness for borrowed money incurred by the Borrower pursuant to the TIFIA Loan Documents, the Indenture, or any Supplemental Indenture (including any indebtedness incurred pursuant to any Credit Facility or any Hedging Transaction) that is payable from Revenue or other collateral in the Trust Estate, including any bonds, notes, certificates or other obligations, as the case may be, authenticated and delivered under and pursuant to the Indenture as Obligations, but excluding Measure I Investments.

“**OFAC**” means the Office of Foreign Assets Control of the United States Department of the Treasury.

“**Operation and Maintenance Expenses**” means all current expenses incurred and paid or payable (or, if applicable, forecasted to be incurred and paid) by the Borrower for the operation and maintenance of the Toll Road in any particular time period to which said term is applicable, including payments with respect to financing leases and installment purchase agreements, all amounts paid or payable under the Toll Services Contract, the TCA Cooperative Agreement, the Police Services Agreement, the Freeway Maintenance Agreement, and similar agreements, costs for operation, maintenance and repair, consumables, payments under any lease or rental payments properly considered to be operating expenses, payments pursuant to agreements for the management of the Toll Road, taxes, premiums paid or payable on any insurance, payments for oversight services, all administrative, engineering and policing costs, costs for any security, toll collection and enforcement expenses, fees and expenses of the Traffic Consultant, the Trustee, fees and expenses of the TIFIA Lender, any other secured creditor of the Borrower (excluding any commitment fees, termination fees, fines or other penalties or any payments to be made to Hedging Banks, such as Hedging Obligations and Hedging Termination Obligations), any rating agency and any insurance consultant, amounts required for the acquisition of any Qualified Hedge, legal and accounting expenses, including settlement and judgement payments, and any other reasonable and necessary expenses paid or payable for the operation and maintenance of the Toll Road, but excluding Capital Expenditures, expenditures for rehabilitation and operational improvement projects on the Toll Road, any costs, fees or reimbursements in respect of any Credit Facility, depreciation or obsolescence charges or reserves therefore, debt service for Obligations and Measure I Investments, and any non-cash

charges, such as depreciation, amortization of intangibles and other bookkeeping entries of a similar nature.

“**Operation and Maintenance Fund**” means the account by that name established pursuant to Section 5.02 of the Indenture.

“**Operation and Maintenance Fund Required Amount**” means, for any Monthly Funding Date, an amount equal to the Operation and Maintenance Expenses then due and payable or coming due and payable prior to the next Monthly Funding Date, plus an additional amount equal to forty-one and seven tenths percent (41.7%) of expected Operation and Maintenance Expenses for the applicable Borrower Fiscal Year, in each case initially based on the forecast of Operation and Maintenance Expenses with respect to the Project set forth in the Base Case Financial Model and thereafter based on the then-current forecasts regarding Operation and Maintenance Expenses prepared by the Borrower and included in the then-current Annual Operating Budget or, if different, in the Revised Financial Model approved by the TIFIA Lender as part of the then-current Financial Plan.

“**Organizational Documents**” means: (a) with respect to any Person that is a Governmental Authority, (i) the constitutional and statutory provisions that are the basis for the existence and authority of such Governmental Authority, including any enabling statutes, ordinances or public charters and any other organic laws establishing such Governmental Authority and (ii) the bylaws, code of regulations, operating procedures or other organizational documents of or adopted by such Governmental Authority by which such Governmental Authority, its powers, operations or procedures or its securities, bonds, notes or other obligations are governed or from which such powers are derived; and (b) with respect to a Person that is not a Governmental Authority, (i) to the extent such Person is a corporation, the certificate or articles of incorporation and the by-laws of such Person, (ii) to the extent such Person is a limited liability company, the certificate of formation or articles of formation or organization and operating or limited liability company agreement of such Person and (iii) to the extent such Person is a partnership, joint venture, trust or other form of business, the partnership, joint venture or other applicable agreement of formation or organization and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization or formation of such Person.

“**Other Indebtedness Covenant Default**” has the meaning provided in Section 20(a)(vi) (*Cross Default*).

“**Other Indebtedness Misrepresentation Default**” has the meaning provided in Section 20(a)(vi) (*Cross Default*).

“**Other Loan Documents**” has the meaning provided in Section 20(a)(vi) (*Cross Default*).

“**Outstanding TIFIA Loan Balance**” means the aggregate principal amount drawn by the Borrower and then outstanding (including capitalized interest) with respect to the TIFIA

Loan, as determined in accordance with Section 7 (*Outstanding TIFIA Loan Balance; Revisions to Exhibit G and Loan Amortization Schedule*).

“**Patriot Act**” means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, as amended, and all regulations promulgated thereunder.

“**Payment Date**” means each Semi-Annual Payment Date or Interim Payment Date.

“**Payment Default**” has the meaning provided in Section 20(a)(i) (*Payment Default*).

“**Payment Period**” means any period of six (6) months from (and including) a Semi-Annual Payment Date to (but excluding) the immediately succeeding Semi-Annual Payment Date, commencing with the six (6) month period ending on the date immediately prior to the Debt Service Payment Commencement Date.

“**Permitted Debt**” means debt payable from Revenues that is limited to the following:

- (a) the TIFIA Loan;
- (b) Additional Obligations that satisfy each of the applicable requirements in the definition thereof;
- (c) Measure I Investments repayment obligation, to the extent provided herein, and in the Indenture;
- (d) purchase money obligations or capitalized leases incurred to finance discrete items of equipment not comprising an integral part of the Project that qualify as Operation and Maintenance Expenses, which obligations and leases do not require payments by the Borrower in any Borrower Fiscal Year in excess of \$2,500,000 in the aggregate (indexed annually to CPI); and
- (e) trade accounts payable (other than for borrowed money) related to the Project so long as such trade accounts payable are payable not later than ninety (90) days after the respective goods are delivered or the respective services are rendered.

“**Permitted Investments**” means:

- (a) Government Obligations;
- (b) certificates of deposit where the certificates are collaterally secured by securities of the type described in clause (a) of this definition and held by a third party as escrow agent or custodian, of a market value not less than the amount of the certificates of deposit so secured, including interest, but this collateral is not required to the extent the certificates of deposit are insured by the Government;
- (c) repurchase agreements with counterparties that have an Acceptable Credit Rating, when collateralized by securities of the type described in clause (a) of this

definition and held by a third party as escrow agent or custodian, of a market value not less than the amount of the repurchase agreement so collateralized, including interest;

(d) investment agreements or guaranteed investment contracts rated, or with any financial institution whose senior long-term debt obligations are rated, or guaranteed by a financial institution whose senior long-term debt obligations are rated in one of the two (2) highest Rating Categories for comparable types of obligations by any Nationally Recognized Rating Agency;

(e) money market funds that invest solely in obligations of the United States of America, its agencies and instrumentalities, and having a rating by a Nationally Recognized Rating Agency equal to the then applicable rating of the United States of America by such Nationally Recognized Rating Agency;

(f) the California Asset Management Program (CAMP), for so long as such fund maintains a rating at least equivalent to the rating on U.S. treasury securities from each Nationally Recognized Rating Agency that provides a rating for such fund; and

(g) the pooled investment fund of the County of San Bernardino, California, which is administered in accordance with the investment policy of said County as established by the Treasurer/Tax Collector thereof, as permitted by Section 53601 of the Government Code of the State, for so long as such fund maintains at least rating equivalent to U.S. treasury securities from each Nationally Recognized Rating Agency that provides a rating for such fund.

“Permitted Liens” means:

(a) Liens imposed pursuant to the TIFIA Loan Documents;

(b) Liens imposed pursuant to any subordinate lien indenture approved by the TIFIA Lender pursuant to Section 17(a) (*Indebtedness*);

(c) Liens imposed by law for taxes that are not yet due or are being contested in compliance with Section 16(n) (*Material Obligations; Liens*);

(d) carriers’, warehousemen’s, mechanics’, materialmen’s, repairmen’s and other like Liens imposed by law, arising in the ordinary course of business and securing obligations that are not overdue by more than thirty (30) days or are being contested in compliance with Section 16(n) (*Material Obligations; Liens*);

(e) pledges and deposits made in the ordinary course of business in compliance with workers’ compensation, unemployment insurance, and other social security laws or regulations;

(f) deposits to secure the performance of bids, trade contracts, leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature, in each case in the ordinary course of business;

(g) judgment Liens in respect of judgments that do not constitute an Event of Default under Section 20(a)(vii) (*Judgments*);

(h) easements, zoning restrictions, rights-of-way and similar encumbrances on real property imposed by law or arising in the ordinary course of business that, in any case, do not secure any monetary obligations and do not materially detract from the value of the affected property or interfere with the ordinary conduct of business of the Borrower;

(i) any Lien on any property or asset of the Borrower existing on the Effective Date; provided that (i) such Lien shall not apply to any other property or asset of the Borrower and (ii) such Lien shall secure only those obligations which it secures on the Effective Date and extensions, renewals and replacements thereof that do not increase the outstanding principal amount thereof;

(i) any Lien existing on any property or asset prior to the acquisition thereof by the Borrower; provided that (i) such Lien is not created in contemplation of or in connection with such acquisition, (ii) such Lien shall apply solely to the acquired asset and not to any other property or assets of the Borrower, and (iii) such Lien shall secure only those obligations which it secures on the date of such acquisition, and extensions, renewals and replacements thereof that do not increase the outstanding principal amount thereof; and

(j) purchase money security interests in equipment hereafter acquired by the Borrower; provided that (i) such security interests secure indebtedness for borrowed money permitted by Section 17(a) (*Indebtedness*), (ii) such security interests are incurred, and the indebtedness secured thereby is created, within ninety (90) days after such acquisition, (iii) the indebtedness secured thereby does not exceed the fair market value of such equipment at the time of such acquisition, and (iv) such security interests do not apply to any other property or assets (other than accessions to such equipment) of the Borrower.

“**Person**” means and includes an individual, a general or limited partnership, a joint venture, a corporation, a limited liability company, a trust, an unincorporated organization and any Governmental Authority.

“**Police Services Agreement**” means the Police Services Agreement to be entered into by and between the State of California, acting by and through the California Highway Patrol, and the Borrower, as amended, modified and supplemented in accordance with its terms.

“**Principal Project Contracts**” means:

- (a) the Design-Build Contract;
- (b) the Toll Services Contract;
- (c) the Caltrans DB Cooperative Agreement;

- (d) the Toll Facility Agreement;
- (e) the TCA Cooperative Agreement; and
- (f) the Freeway Maintenance Agreement.

“**Principal Project Party**” means any Person (other than the Borrower party to a Principal Project Contract for so long as such Principal Project Contract (or any provision thereof) remains in effect.

“**Project**” means the I-10 Corridor Contract 1 Project.

“**Project Accounts**” means the Toll Revenue Fund, the Project Fund, the Rebate Fund, the Senior Lien Obligations Fund, the Senior Lien Obligations Reserve Fund, the Major Maintenance and Repair Fund, the Second Lien Obligations Fund, the Second Lien Obligations Reserve Fund, the Subordinate Obligations Fund, the Subordinate Obligations Reserve Fund, the Sweep Fund, the Measure I Repayment Fund, the Measure I Reserve Fund, the Residual Fund, the Operation and Maintenance Fund, and any Accounts and sub-accounts established under any of the foregoing, and each other Fund or Account established pursuant to the Indenture or any Supplemental Indenture from time to time.

“**Project Budget**” means the budget for the Project in the aggregate amount of \$[_____] attached to this Agreement as **Schedule I** showing a summary of Total Project Costs with a breakdown of all Eligible Project Costs and the estimated sources and uses of funds for the Project, as amended from time to time with the approval of the TIFIA Lender.

“**Projected Substantial Completion Date**” means February [__], 2023.

“**Qualified Hedge**” means a Hedging Transaction approved in writing by the TIFIA Lender and entered into with a Qualified Hedge Provider and meeting the requirements of Section 16(o) (*Hedging*).

“**Qualified Hedge Provider**” means any bank or trust company authorized to engage in the banking business that is organized under or licensed as a branch or agency under the laws of the United States of America or any state thereof that has an Acceptable Credit Rating.

“**Qualified Issuer**” means any bank or trust company authorized to engage in the banking business that is organized under or licensed as a branch or agency under the laws of the United States of America or any state thereof that has an Acceptable Credit Rating.

“**Rate Coverage Test**” has the meaning set forth in Section 16(l) (*Rate Coverage*).

“**Rating Category**” means one of the generic rating categories of a Nationally Recognized Rating Agency without regard to any refinement or gradation of such rating by a numerical modifier or otherwise.

“**Rebate Fund**” means the Fund by that name established pursuant to Section 5.02 of the Indenture.

“**Related Documents**” means the Indenture Documents, the TIFIA Loan Documents, the Hedging Agreements (if any) and the Principal Project Contracts.

“**Requisition**” has the meaning provided in Section 4(a) (*Disbursement Conditions*).

“**Reserve Accounts**” means each of the TIFIA Loan Reserve Account, the Measure I Reserve Fund, the Senior Lien Obligations Reserve Fund, the Second Lien Obligations Reserve Fund, and the Subordinate Obligations Reserve Fund.

“**Residual Fund**” means the Fund by that name established pursuant to Section 5.02 of the Indenture.

“**Residual Release Conditions**” means the requirements set forth in Section 17(d) (*Residual Release Conditions*).

“**Revenues**” means (a) Toll Revenues, (b) all interest or other income from investment of money in the Funds and Accounts (excluding the Rebate Fund, the Measure I Reserve Fund and any Fund or Account established to hold the proceeds of a drawing on any Credit Support Instrument), and (c) revenues received under any Hedging Transactions permitted hereunder; provided that for any ratio calculations required hereunder, “Revenue” shall not include Subsidy Payments (as defined in the Indenture) or any amounts transferred to the Toll Revenue Fund from the Sweep Fund or from the Residual Fund.

“**Revised Financial Model**” means the Base Case Financial Model, as it may be updated from time to time pursuant to Section 22(a)(ii)(C) (*Financial Plan*).

“**Sales Tax Indenture Documents**” means the Sales Tax Revenue Bond Indenture and the Sales Tax Revenue Bond Third Supplemental Indenture.

“**Sales Tax Revenue Bond Indenture**” means that certain Indenture, dated as of March 1, 2012, between the Borrower and the Bank of New York Mellon Trust Company, N.A., as supplemented and amended in accordance therewith.

“**Sales Tax Revenue Bond Third Supplemental Indenture**” means that certain Third Supplemental Indenture, dated as of [____], 2019, by and between the Borrower and the Sales Tax Trustee.

“**Sales Tax Revenue Bonds**” means San Bernardino County Transportation Authority Sales Tax Revenue Bonds (Limited Tax Bonds) and San Bernardino County Transportation Authority Sales Tax Revenue Notes (Limited Tax Bonds) and other obligations payable from Sales Tax Revenues and issued in accordance with the Sales Tax Revenue Bond Indenture.

“**Sales Tax Revenues**” means the amounts distributed to the Borrower, pursuant to Section [5.02(B)] of the Sales Tax Revenue Bond Indenture, on account of the retail transactions and use tax imposed in the County of San Bernardino, CA pursuant to the Act, the Ordinance, and Ordinance No. 89-1 (as each such term is defined in the Indenture).

“**Sales Tax Trustee**” means the Trustee under the Sales Tax Revenue Bond Indenture.

“Sanctioned Country” means, at any time, a country or territory which is itself the subject or target of any Sanctions.

“Sanctioned Person” means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by OFAC or the U.S. Department of State, (b) any Person operating, organized or resident in a Sanctioned Country, or (c) any Person owned or controlled by any such Person or Persons.

“Sanctions” means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by the Government, including those administered by OFAC or the U.S. Department of State.

“Scheduled Major Maintenance and Repair Fund Required Deposit” means for each Monthly Funding Date, any current shortfall in the Major Maintenance and Repair Fund Required Amount.

“Second Lien Debt Service Coverage Ratio” means, for any Calculation Period, the ratio of Net Revenue for such Calculation Period to Annual Debt Service in respect of all Senior Lien Obligations and Second Lien Obligations for such Calculation Period.

“Second Lien Obligations” means any obligations issued or incurred under the Indenture that are subordinated in right of payment and lien priority to the Senior Lien Obligations and senior in right of payment and lien priority to the Subordinate Obligations, including the TIFIA Loan.

“Second Lien Obligations Account” means the Account by that name established within the Second Lien Obligations Fund pursuant to Section 5.02 of the Indenture.

“Second Lien Obligations Fund” means the Fund by that name established pursuant to Section 5.02 of the Indenture.

“Second Lien Obligations Interest Account” means the Account by that name created within the Second Lien Obligations Fund pursuant to Section 5.02 of the Indenture.

“Second Lien Obligations Principal Account” means the Account by that name established within the Second Lien Obligations Fund pursuant to Section 5.02 of the Indenture.

“Second Lien Obligations Reserve Fund” means the Fund by that name established pursuant to Section 5.02 of the Indenture.

“Second Lien Obligations Reserve Requirement” means, (a) for any Second Lien Obligations, the amount, if any, specified by a Supplemental Indenture as the amount required to be held in the Second Lien Obligations Reserve Fund, or an Account thereof, for the payment of principal of and interest on the outstanding Second Lien Obligations secured by such Fund or Account and (b) for the TIFIA Loan, the TIFIA Loan Reserve Requirement.

“Secretary” means the United States Secretary of Transportation.

“**Secured Parties**” means the Trustee, the TIFIA Lender, any Bondholders, any other trustee, holder or creditor of any Obligations, any Hedging Banks and any provider of Credit Facilities.

“**Semi-Annual Payment Date**” means each June 30 and December 31.

“**Senior Debt Service Coverage Ratio**” means, for any Calculation Period, the ratio of Net Revenue for such Calculation Period to Annual Debt Service in respect of all Senior Lien Obligations for such Calculation Period.

“**Senior Lien Bonds**” means Obligations identified as San Bernardino County Transportation Authority Toll Revenue Bonds Senior Lien Bonds authorized by, issued in accordance with, and at any time outstanding pursuant to, the Indenture.

“**Senior Lien Obligations**” means collectively, the Senior Lien Bonds and any Additional Obligations that are Senior Lien Bonds.

“**Senior Lien Obligations Fund**” means the Fund by that name established pursuant to Section 5.02 of the Indenture.

“**Senior Lien Obligations Reserve Fund**” means the Fund by that name established pursuant to Section 5.02 of the Indenture.

“**Senior Lien Obligations Reserve Requirement**” means for any Senior Lien Obligations, the amount, if any, specified by a Supplemental Indenture as the amount required to be held in the Senior Lien Obligations Reserve Fund, or an Account thereof, for the payment of principal of and interest on the outstanding Senior Lien Obligations secured by such Fund or Account.

“**Series**” means all Obligations identified in the Indenture or any Supplemental Indenture as a separate Series.

“**Servicer**” means such entity or entities as the TIFIA Lender shall designate from time-to-time to perform, or assist the TIFIA Lender in performing, certain duties hereunder.

“**State**” means the State of California.

“**Subordinate Obligations**” means any Obligations that are subordinated in right of payment and lien priority to the Senior Lien Obligations and the Second Lien Obligations.

“**Subordinate Obligations Fund**” means the Fund by that name established pursuant to Section 5.02 of the Indenture.

“**Subordinate Obligations Reserve Fund**” means the Fund by that name established pursuant to Section 5.02 of the Indenture.

“**Subordinate Obligations Reserve Requirement**” means, for any Subordinate Obligations, the amount, if any, specified by a Supplemental Indenture as the amount required to

be held in the Subordinate Obligations Reserve Fund, or an Account thereof, for the payment of principal of and interest on the outstanding Subordinate Obligations secured by such Fund or Account.

“**Subsidy Payments**” means, (a) with respect to a Series of Obligations issued under Section 54AA of the Code, the amounts relating to such Series of Obligations which are payable by the Federal government under Section 6431 of the Code, which the Borrower has elected to receive under Section 54AA(g)(1) of the Code, and (b) with respect to a Series of Obligations issued under any other provision of the Code that creates a substantially similar direct-pay subsidy program, the amounts relating to such Series of Obligations which are payable by the Federal government under the applicable provision of the Code which the Borrower has elected to receive under the applicable provisions of the Code.

“**Substantial Completion**” means the opening of the I-10 Corridor Contract 1 Project to vehicular traffic.

“**Substantial Completion Date**” means the date on which Substantial Completion occurs.

“**Supplemental Indenture**” means any indenture executed and delivered by the Borrower and the Trustee in accordance with the Indenture that is stated to be a supplemental indenture thereto.

“**Sweep Fund**” means the Fund by that name established pursuant to Section 5.02 of the Indenture.

“**TCA Cooperative Agreement**” means that certain Cooperative Agreement, dated as of June 13, 2018, by and between the Borrower and the Toll Operator to implement and operate a toll collection system through a toll services contract for the Project, and all related or ancillary agreements, or any other operating agreement relating to the Toll Road entered into by the Borrower and one or more entities, subject to compliance with the requirements of this Agreement (including Section 17(e) (*Additional Project Contracts*)).

“**TIFIA**” has the meaning provided in the recitals hereto.

“**TIFIA Bond**” means the Bond issued by the Borrower pursuant to the Indenture in substantially the form of **Exhibit A**.

“**TIFIA Debt Service**” means with respect to any Semi-Annual Payment Date occurring on or after the Debt Service Payment Commencement Date, the sum of (a) TIFIA Mandatory Debt Service and (b) the TIFIA Scheduled Debt Service, in each case (x) as set forth on **Exhibit G**, and (y) that is due and payable on such Semi-Annual Payment Date in accordance with the provisions of Section 9(d) (*Payment of TIFIA Mandatory Debt Service*), Section 9(d) (*Payment of TIFIA Scheduled Debt Service*), and Section 9(e) (*Fixed Level Payments*) as applicable.

“**TIFIA Interest Rate**” has the meaning provided in Section 6 (*Interest Rate*).

“**TIFIA Lender**” has the meaning provided in the preamble hereto.

“**TIFIA Lender’s Authorized Representative**” means the Executive Director and any other Person who shall be designated as such pursuant to Section 27 (*TIFIA Lender’s Authorized Representative*).

“**TIFIA Loan**” means the secured loan made by the TIFIA Lender to the Borrower on the terms and conditions set forth herein, pursuant to the Act, in a principal amount not to exceed \$[_____] (excluding capitalized interest), to be used in respect of Eligible Project Costs paid or incurred by or on behalf of the Borrower.

“**TIFIA Loan Documents**” means this Agreement, the TIFIA Bond, the Indenture, the TIFIA Supplemental Indenture, and the Sales Tax Revenue Bond Third Supplemental Indenture.

“**TIFIA Loan Prepayment Account**” means the Account by that name established within the Second Lien Obligations Fund pursuant to Section 5.02 of the Indenture.

“**TIFIA Loan Reserve Account**” means the Account by such name established within the Second Lien Obligations Reserve Fund pursuant to Section 5.02(a) of the Indenture.

“**TIFIA Loan Reserve Requirement**” means (a) as of the Calculation Date preceding the Debt Service Payment Commencement Date, an amount equal to the first full year of TIFIA Mandatory Debt Service and (b) for each Calculation Date thereafter, an amount equal to the greater of (i) the aggregate amount of TIFIA Mandatory Debt Service for the following twelve (12) month period and (ii) the highest amount that would result from applying each of the formulas used to calculate the Senior Lien Obligations Reserve Requirement to the TIFIA Loan.

“**TIFIA Mandatory Debt Service**” means, with respect to any Semi-Annual Payment Date occurring on or after the Debt Service Payment Commencement Date, the portion of the principal of the Outstanding TIFIA Loan Balance and the interest payable on such Outstanding TIFIA Loan Balance, or portion thereof, (including interest accruing after the date of any filing by the Borrower of any petition in bankruptcy or the commencement of any bankruptcy, insolvency or similar proceeding with respect to the Borrower), in each case, (a) designated as “TIFIA Mandatory Debt Service” on **Exhibit G** (or that becomes payable as TIFIA Mandatory Debt Service as a result of an election by the Borrower pursuant to Section 9(c) (*Early Debt Service Payment Commencement Date*)) and (b) due and payable on such Semi-Annual Payment Date in accordance with the provisions of Section 9(c) (*Payment of TIFIA Mandatory Debt Service*), and which shall be unconditionally required to be paid on such Semi-Annual Payment Date.

“**TIFIA Scheduled Debt Service**” means, with respect to any Semi-Annual Payment Date occurring on or after the Debt Service Payment Commencement Date, the portion of the principal of the Outstanding TIFIA Loan Balance and the interest payable on such Outstanding TIFIA Loan Balance, or portion thereof, (including interest accruing after the date of any filing by the Borrower of any petition in bankruptcy or the commencement of any bankruptcy, insolvency or similar proceeding with respect to the Borrower), in each case, (a) designated as “TIFIA Scheduled Debt Service” on **Exhibit G** (or that becomes payable as TIFIA Scheduled Debt Service as a result of a missed payment by the Borrower pursuant to Section 9(d) (*Payment*

of TIFIA Scheduled Debt Service)) and (b) due and payable on such Semi-Annual Payment Date in accordance with the provisions of Section 9(d) (*Payment of TIFIA Scheduled Debt Service*).

“**TIFIA Supplemental Indenture**” means that certain First Supplemental Indenture, dated as of [_____] 1, 2019, between the Borrower and the Trustee, relating to the San Bernardino County Transportation Authority Toll Revenue Second Lien Bonds, 2019 TIFIA Series.

“**Toll Facility Agreement**” means that certain Toll Facility Agreement, dated as of [_____] 20[___], by and between the Borrower and Caltrans. **[SBCTA to provide fully executed copy.]**

“**Toll Operator**” means Transportation Corridor Agencies, or any successor, as operator of the Toll Road responsible for the collection of tolls and fees and the establishment and maintenance of customer accounts and records, pursuant to the TCA Cooperative Agreement.

“**Toll Revenue Fund**” means the Fund by that name established pursuant to Section 5.01 of the Indenture.

“**Toll Revenues**” means (a) toll revenues, user fees, fines, rents or other similar charges payable for use of the Project, including receipts from the sale or rental of transponders, as well as fines and penalties and interest thereon collected as a result of a failure to pay any such amounts, (b) proceeds of insurance payable to or received by the Borrower with respect to the Project (whether by way of claims, return of premiums, ex gratia settlements or otherwise), including proceeds from business interruption insurance and loss of advance profits insurance, but excluding proceeds of fire and other casualty insurance, (c) proceeds of any condemnation awards with respect to the Project, except to the extent deposited to the Insurance and Condemnation Proceeds Account of the Project Fund and actually applied or reserved for application to the replacement of the Project, (d) liquidated damages for delayed completion of a Project paid to the Borrower under any construction contract relating to the Project or a portion thereof, including the Design-Build Contract, net of collection costs and costs applied to Project construction, (e) liquidated damages paid to the Borrower by the Toll Services Provider pursuant to the Toll Services Contract net of collection costs and amounts applied to Project services, and (f) any other incidental or related fees or charges; but excluding therefrom cash advances representing deposits against future toll payments from users or potential users of the Project.

“**Toll Road**” means lanes of a street, road or highway upon which the Borrower has all right, power and authority pursuant to its toll program to impose tolls, and upon which tolls are imposed by the Borrower, and the related tolling facilities, as such tolled lanes and related facilities may from time to time be expanded, improved, upgraded, enlarged, or enhanced, but only to the extent that: (a) the Borrower irrevocably designates in writing that such toll lanes and related facilities, and any expansion, improvement, upgrade, enlargement or enhancement constitute a Toll Road generating Toll Revenues under the Indenture and (b) that (i) the additional Operation and Maintenance Expenses associated with any such expansion, improvement, upgrade, enlargement or enhancement and (ii) any additional Obligations issued to finance the costs of any such expansion, improvement, upgrade, enlargement or enhancements

satisfy all of the requirements in this Agreement applicable to Additional Projects. The Toll Road initially means the Project.

“Toll Services Contract” means that certain I-10 Corridor Contract 1 Project Toll Services Contract, dated as of June 6, 2018, by and between the Borrower and the Toll Services Provider to design, implement and operate a toll collection system through a toll services contract for the I-10 Corridor Contract 1 Project, and all related or ancillary agreements, or any other operating agreement entered into by the Borrower and one or more entities, subject to compliance with the requirements of this Agreement (including Section 17(e)).

“Toll Services Provider” means Transcore, LP, a Delaware limited partnership, or any successor pursuant to the Toll Services Contract.

“Total Debt Service Coverage Ratio” means, for any Calculation Period, the ratio of (a) Net Revenue for such Calculation Period to (b) aggregate Annual Debt Service with respect to all Obligations (including Additional Obligations) for such Calculation Period.

“Total Loan Life Coverage Ratio” means, as of each applicable Calculation Date, the ratio of (a) the present value of all projected Net Revenue for each Calculation Date from and including the Calculation Period ending on such Calculation Date to the Final Maturity Date, in each case discounted at the Weighted Average Interest Cost, using the most recent Revised Financial Model (or the Base Case Financial Model to the extent that no Revised Financial Model has been approved by the TIFIA Lender), adjusted to take into account actual results and updated revenue and traffic projections provided by the Traffic Consultant and approved by the TIFIA Lender; to (b) the aggregate outstanding principal amount of all Obligations on such Calculation Date taking into account any Additional Obligations that the Borrower has proposed to issue.

“Total Project Costs” means (a) the costs paid or incurred or to be paid or incurred by the Borrower in connection with or incidental to the acquisition, design, construction and equipping of the Project, including legal, administrative, engineering, planning, design, insurance, and costs of issuance; (b) amounts, if any, required by the Indenture Documents, or the TIFIA Loan Documents (excluding the Measure I Investment) to be paid into any fund or account upon the incurrence of the TIFIA Loan or any Additional Obligations; (c) payments when due (whether at the maturity of principal, the due date of interest, or upon optional or mandatory prepayment) during the Construction Period in respect of any indebtedness of the Borrower or any Credit Facility maintained by the Borrower, in each case in connection with the Project (other than the TIFIA Loan); and (d) costs of equipment and supplies and initial working capital and reserves required by the Borrower for the commencement of operation of the Project, including general administrative expenses and overhead of the Borrower.

“Traffic and Revenue Study” means the Final Traffic and Revenue Study for the Project, dated March 14, 2018, prepared by the Traffic Consultant, and any amendments, supplements or updates thereto.

“Traffic Consultant” means CDM Smith, and any replacement traffic consultant firm selected by the Borrower and not objected to by the TIFIA Lender within fifteen (15) Business

Days after receiving notice from the Borrower of the name of the proposed traffic consultant, together with supporting information regarding the qualifications of the proposed traffic consultant.

“True Interest Cost” means the rate necessary to discount the cumulative amounts payable on the respective Payment Dates in respect of Annual Debt Service for the applicable Obligations to the original purchase price of such Obligations (taking into account discounts, premiums and transaction costs) on the basis of semi-annual compounding of interest.

“Trust Estate” has the meaning provided in the Indenture, and includes all rights, title, interest and privileges of the Borrower in, to and under (a) the Toll Revenues, (b) all interest or other income from investment of money in the Funds and Accounts (excluding the Rebate Fund and any Fund or Account established to hold the proceeds of a drawing on any Credit Facility), (c) all revenues from any Hedging Transactions, (d) remaining proceeds of insurance resulting from an event of loss affecting the Project, after excluding any proceeds of business interruption insurance, delay-in-start-up insurance, proceeds covering liability of the Borrower to third parties and loss proceeds used or to be used by the Borrower to repair or restore the Project in accordance with Section 5.04(f) of the Indenture, (e) delay liquidated damages, proceeds from business interruption and delay in start-up insurance policies, in each case related to the Project, (f) the amounts of the Measure I Investment transferred to the Trustee, (g) all amounts (including the proceeds of Obligations) held in each Fund and Account (except for amounts on deposit in the Rebate Fund and amounts on deposit in any Fund or Account established to hold the proceeds of a drawing on any Credit Facility) and (h) any additions to the Trust Estate (as defined in the Indenture) made after the Effective Date.

“Trustee” means U.S. Bank National Association.

“Uncontrollable Force” means any cause beyond the control of the Borrower, including: (a) a hurricane, tornado, flood or similar occurrence, landslide, earthquake, fire or other casualty, strike or labor disturbance, freight embargo, act of a public enemy, explosion, war, blockade, terrorist act, insurrection, riot, general arrest or restraint of government and people, civil disturbance or similar occurrence, sabotage, or act of God (provided that the Borrower shall not be required to settle any strike or labor disturbance in which it may be involved) or (b) the order or judgment of any federal, state or local court, administrative agency or governmental officer or body, if it is not also the result of willful or negligent action or a lack of reasonable diligence of the Borrower and the Borrower does not control the administrative agency or governmental officer or body; provided that the diligent contest in good faith of any such order or judgment shall not constitute or be construed as a willful or negligent action or a lack of reasonable diligence of the Borrower.

“Uniform Commercial Code” or **“UCC”** means the Uniform Commercial Code, as in effect from time to time in the State.

“USDOT” means the United States Department of Transportation.

“Valuation Date” means (a) with respect to any Capital Appreciation Obligations, the date or dates set forth in the Supplemental Indenture authorizing such Capital Appreciation

Obligations on which specific Accreted Values are assigned to the Capital Appreciation Obligations and (b) with respect to any Deferred Income Bonds, the date or dates on or prior to the Interest Commencement Date set forth in the Supplemental Indenture authorizing such Deferred Income Bonds on which specific Appreciated Values are assigned to the Deferred Income Bonds.

“Variable Interest Rate” means a variable interest rate to be borne by any Obligations. The method of computing such variable interest rate shall be specified in the Supplemental Indenture pursuant to which such Obligations are incurred. Such Supplemental Indenture shall also specify either (a) the particular period or periods of time for which each value of such variable interest rate shall remain in effect, or (b) the time or times upon which any change in such variable interest rate shall become effective.

“Variable Interest Rate Obligations” means any Obligations that accrue interest at a Variable Interest Rate.

“Weighted Average Interest Cost” means, for each Semi-Annual Payment Date, a rate calculated as follows: the sum of (a) the applicable True Interest Cost(s) for any Additional Obligations that are Senior Lien Obligations multiplied by the ratio of (i) the current principal amount of Additional Obligations that are Senior Lien Obligations then outstanding to (ii) the aggregate of the Outstanding TIFIA Loan Balance and the principal of any Additional Obligations outstanding as of such Semi-Annual Payment Date; (b) the interest rate on the TIFIA Loan multiplied by the ratio of (i) the current Outstanding TIFIA Loan Balance to (ii) the aggregate of the Outstanding TIFIA Loan Balance and the principal of any Additional Obligations outstanding as of such Semi-Annual Payment Date; (c) the applicable True Interest Cost(s) for any Second Lien Obligations (other than the TIFIA Loan) multiplied by the ratio of (i) the current principal amount of Additional Obligations that are Second Lien Obligations then outstanding to (ii) the aggregate of the Outstanding TIFIA Loan Balance and the principal of any Additional Obligations outstanding as of such Semi-Annual Payment Date; and (d) the applicable True Interest Cost(s) for any Subordinate Obligations multiplied by the ratio of (i) the current principal amount of Additional Obligations that are Subordinate Obligations then outstanding to (ii) the aggregate of the Outstanding TIFIA Loan Balance and the principal of any Additional Obligations outstanding as of such Semi-Annual Payment Date.

Section 2. Interpretation. Unless the context shall otherwise require, the words “hereto”, “herein”, “hereof”, and other words of similar import refer to this Agreement as a whole. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders and vice versa. Words importing the singular number shall include the plural number and vice versa unless the context shall otherwise require. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” Whenever the Borrower’s knowledge is implicated in this Agreement or the phrase “to the Borrower’s knowledge” or a similar phrase is used in this Agreement, the Borrower’s knowledge or such phrase(s) shall be interpreted to mean to the best of the Borrower’s knowledge after reasonable and diligent inquiry and investigation. Unless the context shall otherwise require, references to any Person shall be deemed to include such Person’s successors and permitted assigns. Unless the context shall otherwise require, references to preambles, recitals, sections, subsections, clauses, schedules, exhibits, appendices and

provisions are to the applicable preambles, recitals, sections, subsections, clauses, schedules, exhibits, appendices and provisions of this Agreement. The schedules and exhibits to this Agreement, and the appendices and schedules to such exhibits, are hereby incorporated by reference and made an integral part of this Agreement. The headings or titles of this Agreement and its sections, schedules or exhibits, as well as any table of contents, are for convenience of reference only and shall not define or limit its provisions. Unless the context shall otherwise require, all references to any resolution, contract, agreement, lease or other document shall be deemed to include any amendments or supplements to, or modifications or restatements or replacements of, such documents that are approved from time-to-time in accordance with the terms thereof and hereof. Every request, order, demand, application, appointment, notice, statement, certificate, consent or similar communication or action hereunder by any party shall, unless otherwise specifically provided, be delivered in writing in accordance with Section 37 (*Notices; Payment Instructions*) and signed by a duly authorized representative of such party.

Section 3. TIFIA Loan Amount. The principal amount of the TIFIA Loan shall not exceed \$[_____] (excluding capitalized interest). TIFIA Loan proceeds shall be disbursed from time-to-time in accordance with Section 4 (*Disbursement Conditions*) and Section 13(b) (*Conditions Precedent to All Disbursements*).

Section 4. Disbursement Conditions.

(a) TIFIA Loan proceeds shall be disbursed solely in respect of Eligible Project Costs paid or incurred by or on behalf of the Borrower in connection with the Project. If the Borrower intends to utilize the TIFIA Loan proceeds to make progress payments for the Project construction work performed under any construction contract relating to the Project, the Borrower shall demonstrate to the satisfaction of the TIFIA Lender that such progress payments are commensurate with the value of the work that has been completed. Each disbursement of the TIFIA Loan shall be made pursuant to a requisition and certification (a “**Requisition**”) in the form set forth in **Appendix One** to **Exhibit D**, along with all documentation and other information required thereby, submitted by the Borrower to, and approved by, the TIFIA Lender, all in accordance with the procedures of **Exhibit D** and subject to the requirements of this Section 4 (*Disbursement Conditions*) and the conditions set forth in Section 13(b) (*Conditions Precedent to All Disbursements*); provided, however, that no disbursements of TIFIA Loan proceeds shall be made on or after the date that is one (1) year after the Substantial Completion Date.

(b) The Borrower shall deliver copies of each Requisition to the TIFIA Lender, the Servicer (if any) and the FHWA Division Office on or before the first (1st) Business Day of each month for which a disbursement is requested. If the TIFIA Lender shall expressly approve a Requisition or shall not expressly deny a Requisition, disbursements of funds shall be made on the fifteenth (15th) day of the month for which a disbursement has been requested, or on the next succeeding Business Day if such fifteenth (15th) day is not a Business Day. Express TIFIA Lender approval or denial shall be substantially in the form annexed hereto as **Appendix [Two]** to **Exhibit D**. In no event shall disbursements be made more than once each month.

(c) The Borrower may amend the Anticipated TIFIA Loan Disbursement Schedule by submitting a revised version thereof to the TIFIA Lender no later than thirty (30)

days prior to the proposed effective date of such amendment, together with a detailed explanation of the reasons for such revisions.

Section 5. Term. The term of the TIFIA Loan shall extend from the Effective Date to the Final Maturity Date or to such earlier date as all amounts due or to become due to the TIFIA Lender hereunder have been irrevocably paid in full in cash.

Section 6. Interest Rate. The interest rate with respect to the Outstanding TIFIA Loan Balance (the “**TIFIA Interest Rate**”) shall be [___] percent ([___]%) per annum. Interest will be computed on the Outstanding TIFIA Loan Balance (as well as on any past due interest) from time-to-time on the basis of a 365-day or 366-day year, as appropriate, for the actual number of days elapsed and will be compounded semi-annually; provided, however, in the event of a Payment Default, the Borrower shall pay interest on the Outstanding TIFIA Loan Balance from (and including) its due date to (but excluding) the date of actual payment at the Default Rate. Upon the occurrence of an Event of Default described in Section 20(a)(iii) (*Development Default*) or Section 20(a)(x) (*Project Abandonment*), the interest rate on the Outstanding TIFIA Loan Balance shall be the Default Rate and shall continue to bear interest at such rate until, (a) with respect to an Event of Default described in Section 20(a)(iii) (*Development Default*), such Development Default has been cured, or (b) with respect to an Event of Default described in Section 20(a)(x) (*Project Abandonment*), the Outstanding TIFIA Loan Balance has been irrevocably paid in full in cash.

Section 7. Outstanding TIFIA Loan Balance; Revisions to Exhibit G and Loan Amortization Schedule.

(a) The Outstanding TIFIA Loan Balance will be (i) increased on each occasion on which the TIFIA Lender disburses loan proceeds hereunder, by the amount of such disbursement of loan proceeds; (ii) increased on each occasion on which interest on the TIFIA Loan is capitalized pursuant to the provisions of Section 9(b) (*Capitalized Interest Period*), by the amount of interest so capitalized; (iii) increased on each occasion on which the interest portion of any TIFIA Scheduled Debt Service is not paid by the Borrower on the applicable Semi-Annual Payment Date, by the amount of such unpaid interest, which shall be capitalized; and (iv) decreased upon each payment or prepayment of the Outstanding TIFIA Loan Balance, by the amount of principal so paid. The TIFIA Lender may in its discretion at any time and from time-to-time, or when so requested by the Borrower or the Trustee, advise the Borrower or the Trustee, as applicable, by written notice of the amount of the Outstanding TIFIA Loan Balance as of the date of such notice, and its determination of such amount in any such notice shall be deemed conclusive absent manifest error.

(b) The TIFIA Lender is hereby authorized to modify the Loan Amortization Schedule included in **Exhibit G** from time-to-time, in accordance with the principles set forth below in this clause (b), to reflect (i) any change to the Outstanding TIFIA Loan Balance, (ii) any change to the date and amount of any principal or interest due and payable or to become due and payable by the Borrower under this Agreement (including any election by the Borrower pursuant to Section 9(c) (*Early Debt Service Payment Commencement Date*)), and (iii) such other information as the TIFIA Lender may determine is necessary for administering the TIFIA Loan and this Agreement. Any calculations described above shall be rounded up to the nearest

whole cent. Any partial prepayments of the Outstanding TIFIA Loan Balance pursuant to Section 10 (*Prepayment*) shall be applied in accordance with Section 10(c) (*General Prepayment Instructions*). Any adjustments or revisions to the Loan Amortization Schedule as a result of changes in the Outstanding TIFIA Loan Balance shall be applied *pro rata* over the Level Payment Period to reduce future payments due on the TIFIA Bond. Absent manifest error, the TIFIA Lender's determination of such matters as set forth on **Exhibit G** shall be conclusive evidence thereof; provided, however, that neither the failure to make any such recordation nor any error in such recordation shall affect in any manner the Borrower's obligations hereunder or under any other TIFIA Loan Document. The TIFIA Lender shall provide the Borrower with a copy of **Exhibit G**, as revised, but no failure to provide or delay in providing the Borrower with such copy shall affect any of the obligations of the Borrower under this Agreement or the other TIFIA Loan Documents.

Section 8. Security and Priority; Flow of Funds.

(a) As security for the TIFIA Loan (evidenced by the TIFIA Bond), the Borrower shall pledge, assign and grant, or shall cause to be pledged, assigned and granted, to the Trustee for the benefit of the owners of the Obligations issued under the Indenture including the TIFIA Lender, Liens on the Trust Estate in accordance with the provisions of the Indenture and the TIFIA Supplemental Indenture. The TIFIA Loan (evidenced by the TIFIA Bond) shall be secured by the Liens on the Trust Estate and subordinate, during any period when a Bankruptcy Related Event with respect to the Borrower has not occurred, only (except as otherwise required by law) to the Senior Lien Obligations issued in accordance with this Agreement and the Indenture. Upon the occurrence of a Bankruptcy Related Event with respect to the Borrower, the TIFIA Loan (evidenced by the TIFIA Bond) shall be secured by a first priority security interest in the Trust Estate on a parity with the Senior Lien Obligations.

(b) Except for Permitted Liens and to the extent provided in Section 8(a), the Trust Estate will be free and clear of any pledge, Lien, charge or encumbrance thereon or with respect thereto prior to, or of equal rank with, the pledge of the Borrower created under the Indenture and the TIFIA Supplemental Indenture in favor of the Trustee (on behalf of the TIFIA Lender and owners of the Obligations), and all organizational, regulatory or other necessary action on the part of the Borrower with respect to the foregoing has been duly and validly taken.

(c) The Borrower shall not use Revenues to make any payments or satisfy any obligations other than in accordance with the provisions of this Section 8 (*Security and Priority; Flow of Funds*) and the Indenture and shall not apply any portion of the Revenues in contravention of this Agreement or the Indenture.

(d) The Indenture provides that all Revenues shall, subject to Section 5.03(b) thereof, be deposited in the Toll Revenue Fund and applied in the order of priority described in Section 5.03(b) of the Indenture, a copy of which Section 5.03(b), as of the Effective Date, is attached as **Schedule III** (all capitalized terms used in **Schedule III** and not otherwise defined in this Agreement shall have the meanings ascribed in the Indenture).

Section 9. Payment of Principal and Interest.

(a) Payment Dates. The Borrower agrees to pay the principal of and interest on the TIFIA Loan, evidenced by the TIFIA Bond, by making payments in accordance with the provisions of this Agreement, the Indenture and the TIFIA Supplemental Indenture on each Semi-Annual Payment Date, beginning on the Debt Service Payment Commencement Date, and on each other date on which payment thereof is required to be made hereunder (including the Final Maturity Date and any date on which payment is due by reason of the acceleration of the maturity of the TIFIA Loan (to the extent provided in Section 20(d) (*Events of Default and Remedies*) or otherwise); provided that if any such date is not a Business Day, payment shall be made on the next Business Day following such date. Any payment of the TIFIA Bond shall be treated as a payment of the TIFIA Loan and any prepayment of principal of the TIFIA Loan shall be treated as redemption of the TIFIA Bond.

(b) Capitalized Interest Period. No payment of the principal of or interest on the TIFIA Loan is required to be made during the Capitalized Interest Period. On each June 30 and December 31 occurring during the Capitalized Interest Period, interest accrued on the TIFIA Loan in the six (6) month period ending immediately prior to such date shall be capitalized and added to the Outstanding TIFIA Loan Balance. Within thirty (30) days after the end of the Capitalized Interest Period, the TIFIA Lender shall give written notice to the Borrower stating the Outstanding TIFIA Loan Balance as of the close of business on the last day of the Capitalized Interest Period, which statement thereof shall be deemed conclusive absent manifest error; provided, however, that no failure to give or delay in giving such notice shall affect any of the obligations of the Borrower hereunder or under any of the other TIFIA Loan Documents.

(c) Early Debt Service Payment Commencement Date. The Borrower shall have the right to elect to establish the Debt Service Payment Commencement Date on any Semi-Annual Payment Date occurring after the Substantial Completion Date and prior to the earlier of the fifth (5th) anniversary of the Substantial Completion Date and December 31, 2027, by providing not less than six (6) months' irrevocable, advance written notice to the TIFIA Lender; provided, that such modification to the Debt Service Commencement Date shall not go into effect until the Borrower has funded the TIFIA Loan Reserve Account with the TIFIA Loan Reserve Requirement. In such event, (i) subject to the foregoing, the Debt Service Payment Commencement Date shall be the date specified by the Borrower in such written notice (which date shall be a Semi-Annual Payment Date), (ii) all interest on the TIFIA Loan accruing from and after the date of such election shall be payable on a current basis as TIFIA Mandatory Debt Service and shall not be capitalized (but there shall be no change to the dates for payment of the principal of the TIFIA Loan), and (iii) the Borrower's payment obligations in respect of TIFIA Scheduled Debt Service in accordance with Section 9(e) shall commence as of such specified Debt Service Payment Commencement Date and shall be TIFIA Mandatory Debt Service for all purposes hereunder. The Borrower shall have no right to revoke or adjust any election made pursuant to this Section. Notwithstanding any of the foregoing or any early achievement of Substantial Completion, in no event shall the Borrower have the right to elect to establish the Debt Service Payment Commencement Date prior to the Projected Substantial Completion Date.

(d) Payment of TIFIA Mandatory Debt Service. On each Semi-Annual Payment Date occurring on or after the Debt Service Payment Commencement Date and prior to

the Level Payment Commencement Date, the Borrower shall pay TIFIA Mandatory Debt Service in the amounts set forth in respect of such Semi-Annual Payment Date as TIFIA Mandatory Debt Service on **Exhibit G**, as the same may be revised as provided in Section 7 (*Outstanding TIFIA Loan Balance; Revisions to Exhibit G and Loan Amortization Schedule*), which payments shall be made in accordance with Section 9(h) (*Manner of Payment*) and the Indenture.

(e) Payment of TIFIA Scheduled Debt Service. On each Semi-Annual Payment Date occurring on or after the Debt Service Payment Commencement Date and prior to the Level Payment Commencement Date, the Borrower shall pay TIFIA Scheduled Debt Service in the amounts set forth in respect of such Semi-Annual Payment Date as TIFIA Scheduled Debt Service on **Exhibit G**, as the same may be revised as provided in Section 7 (*Outstanding TIFIA Loan Balance; Revisions to Exhibit G and Loan Amortization Schedule*), which payments shall be made in accordance with Section 9(h) (*Manner of Payment*) and the Indenture. In the event any payment of TIFIA Scheduled Debt Service is not made in accordance with this Section 10(e), the amount of such missed payment shall be added to the amount of TIFIA Scheduled Debt Service to be paid by the Borrower on the next applicable Semi-Annual Payment Date.

(f) Fixed Level Payments. On each Semi-Annual Payment Date occurring on or after the Level Payment Commencement Date, the Borrower shall pay TIFIA Debt Service in the amount of one hundred percent (100%) of the Fixed Level Payment, which payments shall constitute TIFIA Mandatory Debt Service and shall be made in accordance with this Section 9(e) and Section 9(h) (*Manner of Payment*). On each Semi-Annual Payment Date occurring during the Level Payment Period, the Borrower shall make level payments of principal and interest (each a “**Fixed Level Payment**”), each of which payments shall be approximately equal in amount. The amount of the Fixed Level Payment shall be calculated in such manner that the Outstanding TIFIA Loan Balance as of the Level Payment Commencement Date shall be reduced to \$0 on the Final Maturity Date (assuming that interest accrues during such period on the Outstanding TIFIA Loan Balance at the rate per annum set forth in Section 6 (*Interest Rate*) in the absence of an Event of Default, that all Fixed Level Payments are made in a timely manner during such period, and that no additional payments of principal or interest on the TIFIA Loan are made during such period). Within thirty (30) days prior to the beginning of the Level Payment Period, the TIFIA Lender may (or, at the written request of the Borrower, shall) give written notice to the Borrower of the amount of the related Fixed Level Payment, which amount shall be deemed conclusive absent manifest error, but no failure to provide or delay in providing the Borrower with such notice shall affect any of the obligations of the Borrower under this Agreement or the other TIFIA Loan Documents. To the extent that any prepayments of the TIFIA Loan shall be made during the Level Payment Period in addition to the Fixed Level Payments, such prepayments shall be applied to the remaining Outstanding TIFIA Loan Balance and the resulting Fixed Level Payments shall be recalculated as provided in Section 10(c) (*General Prepayment Instructions*) and reflected in a revised **Exhibit G**.

(g) Accrual of Amounts on Interim Payment Dates.

(i) If any Additional Obligations require the payment of principal or interest on any Interim Payment Date after the Debt Service Payment Commencement Date, the Borrower shall promptly notify the Servicer (if any) and the TIFIA Lender

thereof in writing, identifying the period covered by such Interim Payment Period and the Interim Payment Date.

(ii) On any such Interim Payment Date during the period on and after the Debt Service Payment Commencement Date, the Borrower shall transfer or otherwise deposit, or cause to be transferred or otherwise deposited, into the Second Lien Obligations Principal Account and Second Lien Obligations Interest Account, as applicable, an amount equal to the amount of TIFIA Debt Service due and payable on the next succeeding Semi-Annual Payment Date (as shown on **Exhibit G**, as the same may be revised as provided in Section 7 (*Outstanding TIFIA Loan Balance; Revisions to Exhibit G and Loan Amortization Schedule*)) multiplied by a fraction, the numerator of which is equal to the number of months contained in the Interim Payment Period ending on such Interim Payment Date and the denominator of which is equal to six (6) (in the case of interest) and twelve (12) (in the case of principal).

(iii) If an Interim Payment Date is other than the first Business Day of a calendar month, the method for calculating any amount required to be transferred or deposited into the Second Lien Obligations Principal Account and Second Lien Obligations Interest Account, as applicable, pursuant to this Section 9(g) (*Accrual of Amounts on Interim Payment Dates*) shall be determined at such time by the parties hereto.

(h) Manner of Payment. Payments under this Agreement and the TIFIA Bond shall be made by wire transfer on each Semi-Annual Payment Date or the next Business Day if the Semi-Annual Payment Date is not a Business Day in immediately available funds in accordance with payment instructions provided by the TIFIA Lender pursuant to Section 37 (*Notices; Payment Instructions*), as modified in writing from time-to-time by the TIFIA Lender.

(i) Final Maturity Date. Notwithstanding anything herein to the contrary, the Outstanding TIFIA Loan Balance and any accrued interest thereon shall be due and payable in full on the Final Maturity Date (or on any earlier date on which the maturity of the TIFIA Loan shall be accelerated pursuant to Section 20(d) (*Events of Default and Remedies*)).

(j) TIFIA Bond. As evidence of the Borrower's obligation to repay the TIFIA Loan, the Borrower shall execute and cause the Trustee to deliver to the TIFIA Lender, on the Effective Date, the TIFIA Bond substantially in the form of **Exhibit A**, having a maximum principal amount (excluding capitalized interest) of \$[_____] (subject to increase or decrease as herein provided) and bearing interest at the rate of interest determined in accordance with Section 6 (*TIFIA Interest Rate*).

Section 10. Prepayment.

(a) Mandatory Prepayments. The Borrower shall prepay the TIFIA Loan in whole or in part, without penalty or premium:

(i) on each Semi-Annual Payment Date occurring on or after the earlier of (A) completion of both the I-10 Contract 2 and I-15 Corridor Projects and (B) the fifteenth (15th) anniversary of the Substantial Completion Date, in an amount equal to

fifty percent (50%) of the amounts on deposit in the Residual Fund on such date, after repayment of all Measure I Investment amounts (plus any interest accrued thereon in accordance with this Agreement) due on such date; provided that such prepayments shall only occur if the Residual Release Conditions have been met as of such date;

(ii) following the determination thereof in accordance with Section 5.04(f) of the Indenture, in the amount of any Net Loss Proceeds or, to the extent Net Loss Proceeds will also be used to prepay Senior Lien Bonds or other Second Lien Obligations, in the pro rata amount (based on relative outstanding principal amounts of the TIFIA Loan and any Additional Obligations that are Senior Lien Bonds or Second Lien Bonds) of such Net Loss Proceeds allocable to the TIFIA Loan;

(iii) upon any voluntary prepayment of Obligations other than the TIFIA Loan, on a *pro rata* basis (based on relative outstanding principal) with such voluntary prepayment, provided that the Borrower shall have no obligation to prepay the TIFIA Loan in connection with the prepayment of Obligations resulting from the issuance of refunding Obligations pursuant to clause (a) in the definition of Additional Obligations; and

(iv) from and after any Semi-Annual Payment Date following the first anniversary of Substantial Completion as of which the Borrower shall have failed to be in compliance with the Rate Coverage Test on six (6) consecutive Calculation Dates, on such Semi-Annual Payment Date (or on the next Monthly Funding Date thereafter) in an amount equal to a *pro rata* portion (based on the relative outstanding principal amounts of the TIFIA Loan and any Additional Obligations that are Senior Lien Bonds or Second Lien Bonds) of the lesser of (A) the total amount then on deposit in the Residual Fund and the Sweep Fund (after any other transfers from the Residual Fund and the Sweep Fund otherwise contemplated on such Semi-Annual Payment Date) and (B) the amount necessary to cause the Borrower to regain compliance with the Rate Coverage Test; provided, that to the extent the Borrower is not required to make a prepayment of the Senior Lien Bonds or Second Lien Bonds in the circumstances described above, the full amount described above (and not a *pro rata* portion) shall be paid to the TIFIA Lender as a mandatory prepayment under this clause (iv). If the mandatory prepayment described above is insufficient to cause the Borrower to regain compliance with the Rate Coverage Test, the Borrower shall thereafter make mandatory prepayments in the manner described above on each Semi-Annual Payment Date thereafter until the Borrower is in compliance with the Rate Coverage Test.

The Borrower shall provide written notice to the TIFIA Lender at least two (2) Business Days prior to the date on which it makes any mandatory prepayment; provided that the Borrower's failure to deliver such notice shall not diminish, impair or otherwise affect the Borrower's obligation to make any such mandatory prepayment as and when the circumstances requiring such mandatory prepayment have occurred. Each prepayment pursuant to this Section 10(a) (*Mandatory Prepayments*) shall be effected pursuant to Sections 5.03(c), 5.04(f), 5.12(d) or 6.03(e) of the Indenture (as applicable) and accompanied by a certificate signed by the Borrower's Authorized Representative identifying the provision of this Agreement pursuant to

which such prepayment is being made and containing a calculation in reasonable detail of the amount of such prepayment.

(b) Optional Prepayments. The Borrower may prepay the TIFIA Loan in whole or in part (and, if in part, the amounts thereof to be prepaid shall be determined by the Borrower; provided, however, that such prepayments shall be in principal amounts of \$1,000,000 or any integral multiple of \$1.00 in excess thereof), at any time or from time-to-time, without penalty or premium, by paying to the TIFIA Lender such principal amount of the TIFIA Loan to be prepaid, together with the unpaid interest accrued on the amount of principal so prepaid to the date of such prepayment. Each prepayment of the TIFIA Loan shall be made on such date and in such principal amount as shall be specified by the Borrower in a written notice delivered to the TIFIA Lender. In the case of any optional prepayment, such written notice shall be delivered to the TIFIA Lender not less than ten (10) days or more than thirty (30) days prior to the date set for prepayment, unless otherwise agreed by the TIFIA Lender. At any time between delivery of such written notice and the applicable optional prepayment, the Borrower may, without penalty or premium, rescind its announced optional prepayment by further written notice to the TIFIA Lender. Anything in this Section 10(b) (*Optional Prepayments*) to the contrary notwithstanding, the failure by the Borrower to make any optional prepayment shall not constitute a breach or default under this Agreement.

(c) General Prepayment Instructions. Upon the TIFIA Lender's receipt of confirmation that payment in full of the entire Outstanding TIFIA Loan Balance and any unpaid interest and fees with respect thereto has occurred as a result of a mandatory or optional prepayment, the TIFIA Lender shall surrender the TIFIA Bond to the Borrower or its representative at the principal office of the TIFIA Lender. If the Borrower prepays only part of the unpaid balance of principal of such TIFIA Bond, the TIFIA Lender may make a notation on **Exhibit G** indicating the amount of principal of and interest on such TIFIA Bond then being prepaid. Absent manifest error, the TIFIA Lender's determination of such matters as set forth on **Exhibit G** shall be conclusive evidence thereof; provided, however, that neither the failure to make any such recordation nor any error in such recordation shall affect in any manner the Borrower's obligations hereunder or under any other TIFIA Loan Document. The Borrower shall promptly deposit into the TIFIA Loan Prepayment Account pursuant to the Indenture any amounts required or elected to be applied to a prepayment of the TIFIA Loan. All partial prepayments of principal pursuant to Section 10(a)(iv) and Section 10(b) shall reduce future principal amounts of TIFIA Mandatory Debt Service payments and Fixed Level Payments ratably by an equal amount. All other prepayments shall be applied to reduce each Fixed Level Payment by an equal amount. If said monies shall not have been so paid on the prepayment date, such principal amount of such TIFIA Bond shall continue to bear interest until payment thereof at the rate provided for in Section 6 (*Interest Rate*).

Section 11. [Reserved].

Section 12. Compliance with Laws. The Borrower shall, and shall require its contractors and subcontractors at all tiers for the Project to, comply in all material respects with all applicable federal and state laws. The list of federal laws attached as **Exhibit E** is illustrative of the type of requirements generally applicable to transportation projects and is not intended to be exhaustive. The FHWA Division Office has oversight responsibility for the Project, including

ensuring compliance in all material respects with all applicable provisions of federal law. Pursuant to the FHWA Oversight Agreement, Caltrans may be responsible for certain Project oversight activities. The Borrower acknowledges receipt of the FHWA Oversight Agreement and hereby agrees to cooperate with Caltrans and the FHWA Division Office in carrying out their duties under the FHWA Oversight Agreement. The Borrower acknowledges and agrees that any costs incurred in connection with the Project prior to receipt of all necessary authorizations from the USDOT in respect of such costs (which may include approvals of prior-incurred costs) are incurred solely at the Borrower's risk and expense, will not constitute Eligible Project Costs, and no TIFIA Loan proceeds will be disbursed in respect thereof.

Section 13. Conditions Precedent.

(a) Conditions Precedent to Effectiveness. Notwithstanding anything in this Agreement to the contrary, this Agreement shall not become effective until each of the following conditions precedent shall have been satisfied or waived in writing by the TIFIA Lender:

(i) The Borrower shall have duly executed and delivered to the TIFIA Lender this Agreement and the TIFIA Bond, each in form and substance satisfactory to the TIFIA Lender.

(ii) The Borrower shall have delivered to the TIFIA Lender certified, complete, and fully executed copies of each Indenture Document, together with any amendments, waivers or modifications thereto, in each case that has been entered into on or prior to the Effective Date, and each such agreement shall be in full force and effect and (other than the Sales Tax Revenue Bond Indenture) in form and substance satisfactory to the TIFIA Lender, and all conditions contained in such documents to the closing of the transactions contemplated thereby shall have been fulfilled or effectively waived (provided, that for purposes of this Section 13(a)(ii) (*Conditions Precedent to Effectiveness*), any such waiver shall be subject to the TIFIA Lender's consent in its sole discretion).

(iii) Counsel to the Borrower shall have rendered to the TIFIA Lender legal opinions satisfactory to the TIFIA Lender in its sole discretion (including those opinions set forth on **Exhibit H-1**) and Bond Counsel to the Borrower shall have rendered to the TIFIA Lender legal opinions satisfactory to the TIFIA Lender in its sole discretion (including those opinions set forth on **Exhibit H-2**).

(iv) The Borrower shall have provided a certificate from the Borrower's Authorized Representative as to the absence of debarment, suspension or voluntary exclusion from participation in Government contracts, procurement and non-procurement matters substantially in the form attached hereto as **Exhibit C** with respect to the Borrower and its principals (as defined in 2 C.F.R. § 180.995).

(v) The Borrower shall have provided to the TIFIA Lender satisfactory evidence that the Project has been included in (A) the metropolitan transportation improvement program adopted by the Southern California Association of Governments, (B) the State transportation plan, and (C) the State transportation improvement program

approved by the USDOT or its designated agency, in each case to the extent required by 23 U.S.C. §§ 134 and 135, and 23 U.S.C. § 602(a)(3), as applicable; and the financial plan for each such program or plan shall reflect the amount of the TIFIA Loan and all other federal funds to be used for the Project as sources of funding for the Project.

(vi) The Borrower shall have provided evidence to the TIFIA Lender's satisfaction, no more than thirty (30) and no fewer than fourteen (14) days prior to the Effective Date, of the assignment by at least two (2) Nationally Recognized Rating Agencies of a public Investment Grade Rating to the TIFIA Loan and no such rating has been reduced, withdrawn or suspended as of the Effective Date.

(vii) The Borrower shall have delivered to the TIFIA Lender a certificate from the Borrower's Authorized Representative in the form attached hereto as **Exhibit K** (A) as to the satisfaction of certain conditions precedent set forth in this Section 13(a) (*Conditions Precedent to Effectiveness*) as required by the TIFIA Lender, (B) designating the Borrower's Authorized Representative, and (C) confirming such person's position and incumbency.

(viii) The Borrower shall have demonstrated to the TIFIA Lender's satisfaction, that as of the Effective Date the aggregate of all committed sources of funds shown in the Base Case Financial Model and in the Project Budget to pay Total Project Costs have been fully and completely committed and allocated to the Borrower by the providers thereof and that such funds shall be sufficient to pay all Total Project Costs necessary to achieve Substantial Completion in accordance with the Construction Schedule and in any event on or prior to the Projected Substantial Completion Date.

(ix) The Borrower shall have delivered to the TIFIA Lender an original fully executed counterpart (or a certified copy) of the Traffic and Revenue Study in form and substance acceptable to the TIFIA Lender, accompanied by a letter from the preparer of such study, dated as of [____], 2019, and certifying that the assumptions and projections contained in the Traffic and Revenue Study are reasonable and may be relied upon by the TIFIA Lender.¹

(x) The Borrower shall have delivered to the TIFIA Lender an original fully executed counterpart (or a certified copy) of the Consulting Engineer's Report, accompanied by a letter from the Consulting Engineer, dated as of [____], 2019, and certifying that Consulting Engineer's Report may be relied upon by the TIFIA Lender.²

(xi) The Borrower shall have provided to the TIFIA Lender certified, complete, and fully executed copies of each Principal Project Contract, together with any amendments, waivers or modifications thereto, in each case that has been entered into on or prior to the Effective Date and each such agreement shall be in full force and effect and in form and substance satisfactory to the TIFIA Lender.

¹ Date of reliance letter should be not more than fifteen (15) Business Days prior to the Effective Date.

² Date of reliance letter should be not more than fifteen (15) Business Days prior to the Effective Date.

(xii) The Borrower shall have demonstrated to the TIFIA Lender's satisfaction that it has obtained all Governmental Approvals necessary to commence construction of the Project and that all such Governmental Approvals are final, non-appealable, and in full force and effect (and are not subject to any notice of violation, breach, or revocation).

(xiii) The Borrower shall have delivered to the TIFIA Lender a certified Base Case Financial Model on or prior to the Effective Date, which Base Case Financial Model shall (A) demonstrate that projected Revenues are sufficient to meet the Loan Amortization Schedule, (B) demonstrate a Senior Debt Service Coverage Ratio for each Calculation Period through the Final Maturity Date that is not less than 1.35:1.00, (C) demonstrate a Second Lien Debt Service Coverage Ratio for each Calculation Period through the Final Maturity Date that is not less than 1.25:1.00, (D) demonstrate Net Revenues sufficient to fully fund all amounts required pursuant to clauses *First* through *Fifteenth* of Section 5.03(b) of the Indenture as of each current Calculation Date through the Final Maturity Date, (E) demonstrate a Total Loan Life Coverage Ratio for each Calculation Date through the Final Maturity Date that is not less than [___x], and (F) otherwise be in form and substance acceptable to the TIFIA Lender.

(xiv) The Borrower shall have (A) provided evidence satisfactory to the TIFIA Lender that pursuant to Cal. Gov. Code §5450-5451, the Borrower is authorized to pledge, assign, and grant the Liens on the Trust Estate purported to be pledged, assigned, and granted pursuant to the Indenture Documents, without the need for notice to any Person, physical delivery, recordation, filing or further act, (B) recorded or filed, or caused to be recorded or filed, for record in such manner and in such places as are required all documents and instruments, and taken or caused to be taken all other actions, as are necessary or desirable to establish the Trustee's Lien on the Trust Estate (for the benefit of the Secured Parties) to the extent contemplated by the Indenture Documents, and (C) paid, or caused to be paid, all taxes and filing fees that are due and payable in connection with the execution, delivery or recordation of any Indenture Document, or any instruments, certificates or financing statements in connection with the foregoing.

(xv) The Borrower shall have paid in full all invoices delivered by the TIFIA Lender to the Borrower as of the Effective Date for the reasonable fees and expenses of the TIFIA Lender's counsel and financial advisors and any auditors or other consultants employed by the TIFIA Lender for the purposes hereof (such reasonableness to be determined in accordance with Part 31 of the Federal Acquisition Regulation).

(xvi) The Borrower shall have (A) provided evidence satisfactory to the TIFIA Lender of compliance with NEPA, (B) provided evidence satisfactory to the TIFIA Lender of compliance with CEQA, and (C) complied with all applicable requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 *et seq.*) and Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*) and shall have provided evidence satisfactory to the TIFIA Lender of such compliance upon request by the TIFIA Lender.

(xvii) The TIFIA Lender shall have delivered its initial TIFIA Lender's Authorized Representative certificate.

(xviii) The Borrower shall have (A) obtained a Federal Employer Identification Number, (B) obtained a Data Universal Numbering System number, and (C) registered with, and obtained confirmation of active registration status from, the federal System for Award Management (www.SAM.gov).

(xix) The Borrower shall have delivered to the TIFIA Lender certificates of insurance in respect of all insurance policies listed in **Schedule 14(u)**, and, at the TIFIA Lender's request, copies of such insurance policies. The Borrower shall have demonstrated to the TIFIA Lender's satisfaction that (A) each such policy meets the requirements of Section 16(f) (*Insurance*) and (B) each liability policy (other than workers' compensation insurance) reflects the TIFIA Lender as an additional insured.

(xx) The Borrower shall have provided to the TIFIA Lender evidence that the Borrower is duly organized and validly existing under the laws of its jurisdiction of formation, with full power, authority and legal right to own its properties and carry on its business and governmental functions as now conducted, including the following documents, each certified by the Borrower's Authorized Representative: (A) a copy of its Organizational Documents, as in effect on the Effective Date, which Organizational Documents shall be in full force and effect and shall not have been amended since the date of the last amendment thereto shown on the certificate, (B) a copy of all resolutions authorizing the Borrower to execute and deliver, and to perform its respective obligations under, the TIFIA Loan Documents to which it is a party, and such resolutions have not been subsequently modified, rescinded or amended, are in full force and effect in the form adopted, and are the only resolutions adopted by the Borrower relating to the matters described therein, and (C) a copy of such further instruments and documents as are necessary, appropriate or advisable to effectuate the foregoing resolutions and to consummate and implement the transactions contemplated by such resolutions and the TIFIA Loan Documents.

(xxi) The Borrower shall have provided the TIFIA Lender records of the Eligible Project Costs incurred prior to the Effective Date, in form and substance satisfactory to the TIFIA Lender and in sufficient time prior to the Effective Date to permit the TIFIA Lender and the FHWA Division Office to review such costs.

(xxii) The Borrower shall have provided to the TIFIA Lender certified, complete and fully executed copies of each performance security instrument delivered to or by the Borrower pursuant to any Principal Project Contract as of the Effective Date, each of which shall be (A) in compliance with the requirements for such performance security pursuant to the applicable Principal Project Contract, and (B) in full force and effect.

(xxiii) The representations and warranties of the Borrower set forth in this Agreement (including Section 14 (*Representations and Warranties of Borrower*)) and in each other Related Document shall be true and correct, as of the Effective Date, except to

the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true and correct as of such earlier date).

(xxiv) The Borrower shall have provided the TIFIA Lender with evidence satisfactory to the TIFIA Lender that, as of the Effective Date (A) the maximum principal amount of the TIFIA Loan (excluding any interest that is capitalized in accordance with the terms hereof), together with the amount of any other credit assistance provided under the Act to the Borrower, does not exceed thirty-three percent (33%) of reasonably anticipated Eligible Project Costs and (B) as required pursuant to § 603(b)(9) of the Act, the total federal assistance provided to the Project, including the maximum principal amount of the TIFIA Loan (excluding any interest that is capitalized in accordance with the terms hereof), does not exceed eighty percent (80%) of Eligible Project Costs.

(xxv) The Borrower shall have delivered to the TIFIA Lender a duly executed certificate from the Trustee in the form attached hereto as **Exhibit J**.

(xxvi) The Borrower shall have provided a certificate from the Borrower's Authorized Representative as to the prohibition on the use of appropriated funds for lobbying substantially in the form attached hereto as **Exhibit M** in accordance with 49 C.F.R. §20.100(b).

(xxvii) The Borrower shall have delivered such other agreements, documents, instruments, opinions and other items required by the TIFIA Lender, all in form and substance satisfactory to the TIFIA Lender, including evidence that all other Project funding requirements have been met (including evidence of other funding sources or funding commitments).

(b) Conditions Precedent to All Disbursements. Notwithstanding anything in this Agreement to the contrary, the TIFIA Lender shall have no obligation to make any disbursement of loan proceeds to the Borrower (including the initial disbursement hereunder) until each of the following conditions precedent has been satisfied or waived in writing by the TIFIA Lender:

(i) With respect to any disbursement occurring sixty (60) days or more after the Effective Date, the Borrower shall have provided the Financial Plan, or the most recent update thereto, in each case in accordance with Section 22(a) (*Financial Plan*).

(ii) To the extent not previously delivered to the TIFIA Lender, the Borrower shall have delivered to the TIFIA Lender certified, complete and fully executed copies of any Related Documents entered into after the Effective Date.

(iii) To the extent not previously delivered to the TIFIA Lender, the Borrower shall have provided certified copies of all Principal Project Contracts and all Additional Project Contracts requested by the TIFIA Lender pursuant to Section 16(b) (*Copies of Documents*) or Section 17(e) (*Additional Project Contracts*) (including, in each case, any amendment, modification or supplement thereto) entered into after the Effective Date.

(iv) The Borrower shall have demonstrated to the TIFIA Lender's satisfaction that all Governmental Approvals necessary as of the time of the applicable disbursement for the development, construction, operation and maintenance of the Project have been issued and are in full force and effect.

(v) Each of the insurance policies obtained by the Borrower and by any applicable Principal Project Party in satisfaction of the conditions in Section 13(a)(xix) (*Conditions Precedent to Effectiveness*) is in full force and effect, and no notice of termination thereof has been issued by the applicable insurance provider.

(vi) At the time of, and immediately after giving effect to, any disbursement of TIFIA Loan proceeds then currently requested, (A) no Default or Event of Default shall have occurred and be continuing, and (B) no material event of default of any Principal Project Party under any Principal Project Contract shall have occurred and be continuing and (C) no event of default of the Borrower under any Related Document, shall have occurred and be continuing.

(vii) To the extent necessary to make the corresponding representations and warranties true and correct as of the date of any disbursement of loan proceeds hereunder, the Borrower shall have delivered an updated version of **Schedule 14(u)**, in form and substance satisfactory to the TIFIA Lender in its sole discretion.

(viii) The representations and warranties of the Borrower set forth in this Agreement (including Section 14 (*Representations and Warranties of Borrower*)) and in each other Related Document shall be true and correct as of each date on which any disbursement of the TIFIA Loan is made, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true and correct as of such earlier date).

(ix) No Material Adverse Effect, or any event or condition that could reasonably be expected to result in a Material Adverse Effect, shall have occurred and be continuing since the date the Borrower submitted the Application to the TIFIA Lender.

(x) The Borrower shall have delivered to the TIFIA Lender a Requisition that complies with the provisions of Section 4 (*Disbursement Conditions*), and the TIFIA Lender shall have approved (or shall be deemed to have approved in accordance with Section 4(b) (*Disbursement Conditions*)) such Requisition.

(xi) The Borrower shall have paid in full all invoices received from the TIFIA Lender as of the date of disbursement of the TIFIA Loan, for the reasonable fees and expenses of the TIFIA Lender's counsel and financial advisors and any auditors or other consultants employed by the TIFIA Lender for the purposes hereof (such reasonableness to be determined in accordance with Part 31 of the Federal Acquisition Regulation).

(xii) To the extent not previously delivered to the TIFIA Lender, the Borrower shall have provided to the TIFIA Lender certified, complete and fully executed copies of each performance security instrument delivered to or by the Borrower pursuant

to any Principal Project Contract as of the date of disbursement of the TIFIA Loan, each of which performance security instruments shall be (A) in compliance with the requirements for such performance security pursuant to the applicable Principal Project Contract, and (B) in full force and effect.

(xiii) The Borrower shall have demonstrated, and the Consulting Engineer shall have confirmed in writing, to the TIFIA Lender's satisfaction that the funds described in the Financial Plan most recently approved by the TIFIA Lender as being available and committed to pay for Project costs will be sufficient to complete the Project in accordance with the Construction Schedule (and in any event on or prior to the Projected Substantial Completion Date) and no facts or circumstances have arisen that would reasonably be likely to cause such amounts reflected in such Financial Plan not to be available as and when needed to pay such costs, including such committed and allocated contingency funds as needed to enable the Borrower to pay for any reasonably anticipated cost overruns associated with completion of the Project.

Section 14. Representations and Warranties of Borrower. The Borrower hereby makes the following representations and warranties as of the Effective Date and, as to each of the representations and warranties below other than those contained in Section 14(b) (*Officer's Authorization*) and Section 14(l) (*Credit Ratings*), as of each date on which any disbursement of the TIFIA Loan is requested or made:

(a) **Organization; Power and Authority.** The Borrower is a county transportation authority duly organized, validly existing and in good standing under the laws of the State, has full legal right, power and authority to enter into the Related Documents then in existence, to execute and deliver the TIFIA Bond, and to carry out and consummate all transactions contemplated hereby and thereby and has duly authorized the execution, delivery and performance of the Related Documents.

(b) **Officers' Authorization.** As of the Effective Date, the officers of the Borrower executing (or that previously executed) the Related Documents that have been executed, and any certifications or instruments related thereto, to which the Borrower is a party are (or were at the time of such execution) duly and properly in office and fully authorized to execute the same.

(c) **Due Execution; Enforceability.** Each of the Related Documents in effect as of any date on which this representation and warranty is made, and to which the Borrower is a party, has been duly authorized, executed and delivered by the Borrower and constitutes the legal, valid and binding agreement of the Borrower enforceable in accordance with its terms, except as such enforceability (i) may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights of creditors generally, and (ii) is subject to general principles of equity (regardless of whether enforceability is considered in equity or at law).

(d) **Non-Contravention.** The execution and delivery of the Related Documents to which the Borrower is a party, the consummation of the transactions contemplated in the Related Documents and the fulfillment of or compliance with the terms and conditions of

the Related Documents will not (i) conflict with the Borrower's Organizational Documents, (ii) conflict in any material respect with, or constitute a violation, breach or default (whether immediately or after notice or the passage of time or both) by the Borrower of or under any applicable law, administrative rule or regulation, any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, loan agreement, lease, contract or other agreement or instrument to which the Borrower is a party or by which it or its properties or assets are otherwise subject or bound, or (iii) result in the creation or imposition of any Lien, charge or encumbrance of any nature whatsoever upon the Toll Road or the Trust Estate (or any portion thereof), other than Permitted Liens.

(e) Consents and Approvals. No consent or approval of any trustee, holder of any indebtedness of the Borrower or any other Person, and no consent, permission, authorization, order or license of, or filing or registration with, any Governmental Authority is necessary in connection with (i) the execution and delivery by the Borrower of the Related Documents, except as have been obtained or made and as are in full force and effect, or (ii) (A) the consummation of any transaction contemplated by the Related Documents or (B) the fulfillment of or compliance by the Borrower with the terms and conditions of the Related Documents, except as have been obtained or made and as are in full force and effect or as are ministerial in nature and can reasonably be expected to be obtained or made in the ordinary course on commercially reasonable terms and conditions when needed.

(f) Litigation. As of the Effective Date, except as set forth in **Schedule 14(f)**, there is no action, suit, proceeding, or, to the knowledge of the Borrower, any inquiry or investigation, in any case before or by any court or other Governmental Authority pending or, to the knowledge of the Borrower, threatened against or affecting the Project (other than Project right of way condemnation proceedings) or the ability of the Borrower to execute, deliver and perform its obligations under the Related Documents. As of the Effective Date and as of each other date on which the representations and warranties herein are made or confirmed, except as disclosed to the TIFIA Lender, there is no action, suit, proceeding, or, to the knowledge of the Borrower, any inquiry or investigation before or by any court or other Governmental Authority pending, or to the knowledge of the Borrower, threatened against or affecting the Project (other than Project right of way condemnation proceedings), the Borrower or the assets, properties or operations of the Borrower, that in any case could reasonably be expected to result in a Material Adverse Effect. To the Borrower's knowledge, there are no actions of the type described above pending, threatened against, or affecting any of the Principal Project Parties except for matters arising after the Effective Date that could not reasonably be expected to (i) result in a Material Adverse Effect or (ii) adversely affect the Borrower's ability to receive Revenues or provide the Measure I Investment in amounts sufficient to meet the financial projections contained in the Base Case Financial Model (or, if applicable, the Revised Financial Model most recently approved by the TIFIA Lender). The Borrower is not in default (and no event has occurred and is continuing that, with the giving of notice or the passage of time or both, could constitute a default) with respect to any Governmental Approval, which default could reasonably be expected to result in a Material Adverse Effect.

(g) Security Interests. The Indenture and the TIFIA Supplemental Indenture, in accordance with Streets and Highways Code Sections 149.7 and 149.11 and Governmental Code Sections 5450 and 5451 and other applicable provisions of law, establish, in favor of the

Trustee for the benefit of owners of Obligations issued pursuant to the Indenture including the TIFIA Lender, the valid and binding Liens on the Trust Estate that they purport to create, irrespective of whether any Person has notice of the pledge and without the need for any physical delivery, recordation, filing, or further act. Such Liens are in full force and effect as of the Effective Date. As of the Effective Date, the priority of the TIFIA Loan (as evidenced by the TIFIA Bond) with respect to the Trust Estate is not *pari passu* with or subordinate to any Obligations and, as of any date thereafter, (i) is not subordinate to any Obligations other than any Additional Obligations constituting Senior Lien Obligations that have been issued in accordance with the requirements of this Agreement and the Indenture Documents and (ii) not *pari passu* with any Obligations other than any Additional Obligations constituting Second Lien Obligations that have been issued in accordance with requirements of this Agreement and the Indenture Documents. The Borrower has duly and lawfully taken all actions required under this Agreement, the Indenture, the TIFIA Supplemental Indenture and applicable laws for the pledge of the Trust Estate pursuant to and in accordance with the Indenture and the TIFIA Supplemental Indenture. The Borrower is not in breach of any covenants set forth in Section 16(a) (*Securing Liens*) or in the Indenture Documents with respect to the matters described in such section or documents. As of the Effective Date and as of each other date this representation and warranty is made, (i) all documents and instruments have been recorded or filed for record in such manner and in such places as are required and all other action as is necessary or desirable has been taken to establish a legal, valid, binding, and enforceable Lien on the Trust Estate in favor of the Trustee (for the benefit of the Secured Parties) to the extent contemplated by the Indenture and the TIFIA Supplemental Indenture, and (ii) all taxes and filing fees that are due and payable in connection with the execution, delivery or recordation of any Indenture Documents, or any instruments, certificates or financing statements in connection with the foregoing, have been paid. Under the laws of the State, neither the attachment, perfection, validity, enforceability or priority of the security interest in the Trust Estate granted pursuant to the Indenture and the TIFIA Supplemental Indenture is governed by Article 9 of the UCC.

(h) No Debarment. The Borrower has fully complied with its verification obligations under 2 C.F.R. § 180.320 and confirms, based on such verification, that, to its knowledge, neither the Borrower nor any of its principals (as defined in 2 C.F.R. § 180.995) is debarred, suspended or voluntarily excluded from participation in Government contracts, procurement or non-procurement matters or delinquent on a Government debt as more fully set forth in the certificate delivered pursuant to Section 13(a)(iv) (*Conditions Precedent to Effectiveness*).

(i) Accuracy of Representations and Warranties. The representations, warranties and certifications of the Borrower set forth in this Agreement and the other Related Documents in effect are true and correct, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true and correct as of such earlier date).

(j) Compliance with Federal and CEQA Requirements. The Borrower has complied, with respect to the Project, with all applicable requirements of NEPA, CEQA, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 *et seq.*), and Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*).

(k) Transportation Improvement Program. The Project has been included in (i) the metropolitan transportation improvement program adopted by the Southern California Association of Governments, (ii) the State transportation plan, and (iii) the State transportation improvement program approved by the USDOT or its designated agency, in each case to the extent required by 23 U.S.C. §§ 134 and 135 and 23 U.S.C. § 602(a)(3), as applicable. The financial plan for each such program or plan reflects the amount of the TIFIA Loan and all other federal funds to be used for the Project as sources of funding for the Project.

(l) Credit Ratings. The TIFIA Loan has received a public Investment Grade Rating from at least two (2) Nationally Recognized Rating Agencies, written evidence of such ratings has been provided to the TIFIA Lender prior to the Effective Date, and no such rating has been reduced, withdrawn or suspended as of the Effective Date.

(m) No Defaults. No Default or Event of Default has occurred and is continuing.

(n) Governmental Approvals. All Governmental Approvals required as of the Effective Date and any subsequent date on which this representation is made (or deemed made) for the undertaking and completion by the Borrower of the Project, and for the operation and management thereof, have been obtained or effected and are in full force and effect and there is no basis for, nor proceeding that is pending or threatened that could reasonably be expected to result in, the revocation of any such Governmental Approval.

(o) Principal Project Contracts. Each Principal Project Contract in effect as of any date on which this representation and warranty is made is in full force and effect and all conditions precedent to the obligations of the respective parties under each Principal Project Contract have been satisfied. The Borrower has delivered to the TIFIA Lender a fully executed, complete, and correct copy of each such Principal Project Contract and each Additional Project Contract required to be delivered to, or requested by, the TIFIA Lender pursuant to Section 16(b) (*Copies of Documents*) (including, in each case, all exhibits, schedules and other attachments) that is in effect, including any amendments or modifications thereto and any related credit support instruments or side letters. No event has occurred that gives the Borrower or, to the Borrower's knowledge, any Principal Project Party, the right to terminate any Principal Project Contract. The Borrower is not in breach or default under any Principal Project Contract, and to the knowledge of the Borrower, no Principal Project Party is in breach or default of any material term under any Principal Project Contract.

(p) Information. The information furnished by the Borrower to the TIFIA Lender with respect to the Borrower, the Project and funding or financing thereof, when taken as a whole, does not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements made, in light of the circumstances under which they were made, not misleading as of the date made or furnished; provided that no representation or warranty is made with regard to projections or other forward-looking statements provided by or on behalf of the Borrower (including the Base Case Financial Model, any Revised Financial Model, and the assumptions therein) except that the assumptions in the Base Case Financial Model and any Revised Financial Model were reasonable in all material respects when made; and provided further that financial information is made as of the date indicated in the financial

report as provided and is not to be taken as a representation or omission as to financial information as of a different date.

(q) OFAC; Anti-Corruption Laws.

(i) None of the Borrower nor, to the knowledge of the Borrower, any Principal Project Party is a Sanctioned Person.

(ii) None of the Borrower nor, to the knowledge of the Borrower, any Principal Project Party is in violation of or, since the date that is five (5) years prior to the Effective Date, has violated: (A) any applicable Anti-Money Laundering Laws; (B) any applicable Sanctions; (C) any applicable Anti-Corruption Laws; or (D) any applicable anti-drug trafficking, anti-terrorism, or anti-corruption laws, civil or criminal.

(iii) There are no pending or, to the knowledge of the Borrower, threatened claims or investigations by any Governmental Authority against, or any internal investigations conducted by, the Borrower or any Principal Project Party, with respect to any possible or alleged violations of any Sanctions, Anti-Money Laundering Laws, Anti-Corruption Laws, or any anti-drug trafficking or anti-terrorism laws.

(iv) No use of proceeds of the TIFIA Loan or other transaction contemplated by this Agreement or any other Related Document will violate any applicable Sanctions, Anti-Money Laundering Laws, or Anti-Corruption Laws, or any applicable anti-drug trafficking or anti-terrorism laws.

(r) Compliance with Law. The Borrower is in compliance in all material respects with, and has conducted (or caused to be conducted) its business and government functions and the business and operations of the Project in compliance in all material respects with, all applicable laws (other than Environmental Laws, which are addressed in Section 14(s) (*Environmental Matters*)), including those set forth on **Exhibit E**, to the extent applicable. To the Borrower's knowledge, each Principal Project Party is, and has caused its respective contractors and subcontractors to be, in compliance in all material respects with all applicable laws, including those set forth on **Exhibit E**, to the extent applicable. No notices of violation of any applicable law have been issued, entered or received by the Borrower or, to the Borrower's knowledge and solely in respect of the Project or any Principal Project Contract, any Principal Project Party, other than, in each case, notices of violations that are immaterial.

(s) Environmental Matters. Each of the Borrower and, to the Borrower's knowledge, each Principal Project Party is in compliance with all laws applicable to the Project relating to (i) air emissions, (ii) discharges to surface water or ground water, (iii) noise emissions, (iv) solid or liquid waste disposal, (v) the use, generation, storage, transportation or disposal of toxic or hazardous substances or wastes, (vi) biological resources (such as threatened and endangered species), and (vii) other environmental, health or safety matters, including all laws applicable to the Project referenced in the notice "Federal Environmental Statutes, Regulations, and Executive Orders Applicable to the Development and Review of Transportation Infrastructure Projects," 79 Fed. Reg. 22756 (April 23, 2014) (or any successor Federal Register notice of similar import), which document is available at

<http://www.transportation.gov/policy/transportation-policy/environment/laws> (“**Environmental Laws**”). All Governmental Approvals for the Project relating to Environmental Laws have been, or, when required, will be, obtained and are (or, as applicable, will be) in full force and effect. The Borrower has not received any written communication or notice, whether from a Governmental Authority, employee, citizens group, or any other Person, that alleges that the Borrower is not in full compliance with all Environmental Laws and Governmental Approvals relating thereto in connection with the Project and, to the Borrower’s knowledge, there are no circumstances that may prevent or interfere with full compliance in the future by the Borrower with any such Environmental Law or Governmental Approval. The Borrower has provided to the TIFIA Lender all material assessments, reports, results of investigations or audits, and other material information in the possession of or reasonably available to the Borrower regarding the Borrower’s or the Project’s compliance with (A) Environmental Laws, and (B) Governmental Approvals relating to Environmental Laws that are required for the Project.

(t) Sufficient Rights and Utilities. The Borrower possesses either valid legal and beneficial title to, leasehold title in, or other valid legal rights with respect to the real property relating to the Project, in each case as is necessary and sufficient as of the date this representation is made for the construction, operation, maintenance and repair of the Project. As of any date on which this representation and warranty is made, the Principal Project Contracts then in effect and the Governmental Approvals that have been obtained and are then in full force and effect create rights in the Borrower sufficient to enable the Borrower to own (or as applicable, lease), construct, operate, maintain and repair the Project and to perform its obligations under the Principal Project Contracts to which it is a party. All utility services, means of transportation, facilities and other materials necessary for the construction and operation of the Project (including, as necessary, gas, electrical, water and sewage services and facilities) are, or will be when needed, available to the Project and arrangements in respect thereof have been made on commercially reasonable terms.

(u) Insurance. **Schedule 14(u)** lists all insurance policies of any nature maintained or to be maintained by the Borrower, the Design-Build Contractor and the Toll Services Provider, in each case with respect to the Project, as well as a summary of the terms of each such policy. The Borrower is in compliance with all insurance obligations required under each Principal Project Contract and the other Related Documents (including Section 16(f) (*Insurance*)) as of the date on which this representation and warranty is made.

(v) Title. The Borrower has valid legal and beneficial title to, or a valid leasehold interest in, the personal property and other assets and revenues thereof (including the Revenues and the Trust Estate) on which it purports to grant Liens pursuant to the Indenture Documents, and clear of any Lien of any kind, except for Permitted Liens.

(w) No Liens. Except for Permitted Liens, the Borrower has not created, and is not under any obligation to create, and has not entered into any transaction or agreement that would result in the imposition of, any Lien on the Trust Estate, the Project, the Revenues, or the properties or assets of the Project.

(x) Intellectual Property. The Borrower owns, or has adequate licenses or other valid rights to use, all patents, trademarks, service marks, trade names, copyrights,

franchises, formulas, licenses and other rights with respect thereto and has obtained assignment of all licenses and other rights of whatsoever nature, in each case necessary for the Project and the operation of its business. To the Borrower's knowledge, there exists no conflict with the rights or title of any third party with respect to the intellectual property described in the preceding sentence. Excluding the use of commercially available "off-the-shelf" software, to the Borrower's knowledge, no product, process, method, substance, part or other material produced or employed or presently contemplated to be produced by or employed by the Project infringes or will infringe any patent, trademark, service mark, trade name, copyright, franchise, formula, license or other intellectual property right of any third party.

(y) Investment Company Act. The Borrower is not, and after applying the proceeds of the TIFIA Loan will not be, required to register as an "investment company" within the meaning of the Investment Company Act of 1940, as amended, and is not "controlled" by a company required to register as an "investment company" under the Investment Company Act of 1940, as amended.

(z) Financial Statements. Each financial statement, including any government-wide, governmental and enterprise fund or Project specific statements of net position, statements of activities and statements of cash flows (collectively, "**Financial Statements**") delivered to the TIFIA Lender pursuant to Section 22(c) (*Financial Statements*) has been prepared in accordance with GAAP and presents fairly, in all material respects, the financial condition of the Borrower as of the respective dates of the balance sheets included therein and the results of operations of the Borrower for the respective periods covered by the statements of income included therein. Except as reflected in such Financial Statements, there are no liabilities or obligations of the Borrower of any nature whatsoever for the period to which such Financial Statements relate that are required to be disclosed in accordance with GAAP.

(aa) Taxes. The Borrower is not required to file tax returns with any Governmental Authority.

(bb) ERISA. Neither the Borrower nor any ERISA Affiliate maintains or otherwise has any liability in respect of any plan or other arrangement that is subject to ERISA or Section 412 of the Code.

(cc) Sufficient Funds. The aggregate of (i) all funds that are undrawn but fully and completely committed under the TIFIA Loan Documents, (ii) the other funding sources identified in the Base Case Financial Model that are committed and allocated to the Borrower, (iii) all delay payments and insurance proceeds in respect of any casualty loss (other than any proceeds of business interruption insurance, delay-in-start-up insurance and proceeds covering liability of the Borrower to third parties) received by the Borrower or to which the Borrower is entitled in accordance with the applicable insurance policies and Principal Project Contracts, and (iv) all funds available under any other unused funding that is committed and available, will be sufficient to pay all Total Project Costs necessary to achieve Substantial Completion in accordance with the Construction Schedule (and in any event on or prior to the Projected Substantial Completion Date).

(dd) Sovereign Immunity. Under Sections 814 *et seq.* of the Government Code of the State, the Borrower is not immune from actions brought in contract within the jurisdiction of any court of competent jurisdiction or which could be asserted in any action to enforce the obligations of the Borrower under any of the Related Documents to which it is a party by reason of the fact that it is a governmental entity, including the obligations of the Borrower hereunder and thereunder.

(ee) Patriot Act. The Borrower is not required to establish an anti-money laundering compliance program pursuant to the Patriot Act.

Section 15. Representations and Warranties of TIFIA Lender. The TIFIA Lender hereby makes the following representations and warranties as of the Effective Date:

(a) Power and Authority. The TIFIA Lender has all requisite power and authority to make the TIFIA Loan and to perform all transactions contemplated by the Related Documents to which it is a party.

(b) Due Execution; Enforceability. The Related Documents to which it is a party have been duly authorized, executed and delivered by the TIFIA Lender, and are legally valid and binding agreements of the TIFIA Lender, enforceable in accordance with their terms.

(c) Officers' Authorization. The officers of the TIFIA Lender executing each of the Related Documents to which the TIFIA Lender is a party are duly and properly in office and fully authorized to execute the same on behalf of the TIFIA Lender and the TIFIA Lender has delivered its initial TIFIA Lender's Authorization Representative Certificate to the Borrower.

Section 16. Affirmative Covenants. The Borrower covenants and agrees as follows until the date the TIFIA Bond and the obligations of the Borrower under this Agreement (other than contingent indemnity obligations) are irrevocably paid in full in cash and the TIFIA Lender no longer has any commitment to make disbursements to the Borrower, unless the TIFIA Lender waives compliance in writing:

(a) Securing Liens. The Borrower shall at any and all times, so far as it may be authorized by law, pass, make, do, execute, acknowledge and deliver, all and every such further resolutions, acts, deeds, conveyances, assignments, transfers and assurances as may be necessary or desirable in connection with assuring, conveying, granting, assigning, securing and confirming the Liens in and to the Trust Estate (whether now existing or hereafter arising) granted to the Trustee for the benefit of the owners of the Obligations, including the Holder of the TIFIA Bond pursuant to the Indenture and the TIFIA Supplemental Indenture, or intended so to be granted pursuant to the Indenture and any Supplemental Indenture, or which the Borrower may become bound to grant, and the Borrower shall at all times maintain the Trust Estate free and clear of any pledge, Lien, charge or encumbrance thereon or with respect thereto that has priority over, or equal rank with, the Liens created by the Indenture and the Supplemental Indentures, other than as permitted by this Agreement, and all organizational, regulatory or other necessary action on the part of the Borrower to that end shall be duly and validly taken at all times. The Borrower shall at all times, to the extent permitted by law, defend, preserve and protect the Liens on the Trust Estate granted pursuant to the Indenture and the Supplemental

Indentures and all the rights of the Trustee for the benefit of the owners of the Obligations, including the Holder of the TIFIA Bond, against all claims and demands of all Persons whomsoever, subject to Permitted Liens.

(b) Copies of Documents. The Borrower shall furnish to the TIFIA Lender a copy of any draft documents to be submitted to the board of directors of the Borrower and offering documents related to Additional Obligations and each other agreement, instrument and document executed and delivered pursuant to or in connection with any of the foregoing and cash flow projections prepared in connection with the incurrence of any Permitted Debt payable from Revenues or other indebtedness subject to approval by the TIFIA Lender pursuant to Section 17(a) (*Indebtedness*), in each case prior to the incurrence of any such Permitted Debt payable from Revenues or such other indebtedness, as well as copies of any continuing disclosure documents, prepared by or on behalf of the Borrower in connection with the incurrence of such Permitted Debt payable from Revenues or such other indebtedness, in each case promptly following the preparation or filing thereof. With respect to the issuance of Sales Tax Revenue Bonds, the Borrower shall furnish to the TIFIA Lender, (i) prior to issuing the preliminary official statement to investors, the certificate and documentation required pursuant to Section 17(a)(vi) and (ii) prior to or simultaneously with the release thereof to investors, copies of the preliminary official statement and final official statement, and shall deliver to the TIFIA Lender copies of fully executed or final versions of all other definitive documentation related to the issuance of such Sales Tax Revenue Bonds within ten (10) days following execution or completion thereof. Except as otherwise agreed by the TIFIA Lender in writing, the Borrower will provide to the TIFIA Lender (x) copies of any draft documents relating to the incurrence of Permitted Debt payable from Revenues (other than equipment leases and trade accounts included in such definition) at least thirty (30) days prior to the effective date thereof and (y) copies of fully executed or final versions of such documentation within ten (10) days following execution or completion thereof. The Borrower shall provide written notice to the TIFIA Lender of the Borrower's intent to enter into an Additional Project Contract and, if such Additional Project Contract is subject to approval by the TIFIA Lender pursuant to Section 17(e) (*Additional Project Contracts*), shall provide drafts of any such Additional Project Contracts at least thirty (30) days prior to the proposed effective date thereof, together with any related contracts, side letters or other understandings. If the TIFIA Lender requests a copy of any Additional Project Contract that is not subject to approval by the TIFIA Lender, the Borrower shall provide a copy of the final or near final draft of such Additional Project Contract, together with any related contracts, side letters or other understandings, prior to the execution thereof (if the TIFIA request is received prior to such execution) and, if requested by the TIFIA Lender, shall provide to the TIFIA Lender an executed version of such Additional Project Contract, together with any related contracts, side letters or other understandings, promptly following the full execution thereof. Copies of the foregoing may be provided by email notice and a link to the proposed Board agenda items.

(c) Use of Proceeds. The Borrower shall use the proceeds of the TIFIA Loan for purposes permitted by applicable law and as otherwise permitted under this Agreement and the other Related Documents.

(d) Prosecution of Work; Verification Requirements.

(i) The Borrower shall diligently prosecute the work relating to the Project and complete the Project in accordance with the Construction Schedule, and in accordance with good engineering practices.

(ii) The Borrower shall ensure that the Design-Build Contractor and its subcontractors comply with all applicable laws and legal or contractual requirements with respect to any performance security instrument delivered by the Design-Build Contractor to the Borrower and shall ensure that any letter of credit provided pursuant to the Design-Build Contract meets the requirements therefor set forth therein.

(iii) The Borrower shall comply with the verification requirements set forth in 2 C.F.R. §§ 180.300 and 180.320.

(e) Operation and Maintenance. The Borrower shall (i) operate and maintain the Project (A) in a reasonable and prudent manner and (B) substantially in accordance with the Financial Plan most recently approved by the TIFIA Lender (except as necessary to prevent or mitigate immediate threats to human health and safety or to prevent or mitigate physical damage to material portions of the Project), and (ii) maintain the Project in good repair, working order and condition and in accordance with the requirements of all applicable laws and each applicable Related Document. The Borrower shall at all times do or cause to be done all things necessary to obtain, preserve, renew, extend and keep in full force and effect the Governmental Approvals and any other rights, licenses, franchises, and authorizations material to the conduct of its business.

(f) Insurance.

(i) The Borrower shall maintain or cause to be maintained insurance for the construction and operation of the Project, with responsible insurers and, in any event, as required by the Principal Project Contracts and as is customarily maintained in the United States of America with respect to works and properties of like character, against accident to, loss of or damage to such works or properties, which shall include liability coverage and pollution and other environmental liability and remediation related coverage. The Borrower shall cause each Principal Project Party to obtain and maintain casualty and liability insurance in accordance with the requirements of the applicable Principal Project Contract. The Borrower shall obtain and maintain each of the policies set forth in **Schedule 14(u)** that apply to the operating period of the Project prior to the Substantial Completion Date.

(ii) The Borrower shall prepay (proportionately with any Senior Lien Obligations and Second Lien Obligations (based on relative outstanding principal amount) to the extent required in the Indenture) the TIFIA Loan in whole or in part, without penalty or premium, from any Net Loss Proceeds available for prepayment of the TIFIA Loan, which amount shall be paid pursuant to Section 10(a)(ii) (*Mandatory Prepayments*).

(iii) The Borrower shall (by maintaining with responsible insurers) provide for workers' compensation insurance for Borrower's workers and insurance

against public liability and property damage to the Project to the extent reasonably necessary to protect the Borrower and the TIFIA Lender.

(iv) The Borrower shall cause all liability insurance policies maintained by the Borrower, the Design-Build Contractor and the Toll Services Provider (other than workers' compensation insurance) to reflect the TIFIA Lender as an additional insured to the extent of its insurable interest.

(v) The Borrower shall deliver to the TIFIA Lender all (A) insurance brokers' letters, and (B) certificates of insurance, with respect to each policy set forth in **Schedule 14(u)**, in each case promptly after Borrower's receipt thereof and in any event no later than when required to be delivered pursuant to the Indenture. Promptly upon request by the TIFIA Lender, the Borrower shall deliver to the TIFIA Lender copies of any underlying insurance policies obtained by or on behalf of the Borrower in respect of the Project. All such policies shall be available at all reasonable times for inspection by the TIFIA Lender, its agents and representatives.

(vi) The Borrower shall comply at all times with the insurance requirements of the Indenture Documents.

(vii) The Borrower shall, within thirty (30) days after the Substantial Completion Date, provide certificates of insurance with respect to any policies reflected in **Schedule 14(u)** related to the operating period of the Project. Each certificate of insurance delivered pursuant to this clause (vii) shall reflect the requirements set forth in Section 13(a)(xix) (*Conditions Precedent to Effectiveness*).

(g) Notice.

(i) The Borrower shall, within five (5) Business Days after the Borrower learns of the occurrence, give the TIFIA Lender notice of any of the following events or receipt of any of the following notices, as applicable, setting forth details of such event and including any relevant and significant documentation:

(A) Substantial Completion: the occurrence of Substantial Completion, such notice to be provided in the form set forth in **Exhibit L**;

(B) Change to Projected Substantial Completion Date: the occurrence of any delay in the Projected Substantial Completion Date, including a revised Construction Schedule;

(C) Defaults; Events of Default: any Default or Event of Default;

(D) Litigation: (1) the filing of any litigation, suit or action, or the commencement of any proceeding, against the Borrower before any arbitrator, Governmental Authority, alternative dispute resolution body, or other neutral third-party, or the receipt by the Borrower in writing of any threat of litigation, suit, action, or proceeding, or of any written claim against the Borrower that, in

each case, could reasonably be expected to have a Material Adverse Effect, and any material changes in the status of such litigation, suit, action or claim, and (2) any judgments against the Borrower with individual award amounts in excess of \$2,000,000 (but excluding condemnation awards associated with the procurement of right of way for the Project);

(E) Delayed Governmental Approvals: any failure to receive or delay in receiving any Governmental Approval or making any required filing, notice, recordation or other demonstration to or with a Governmental Authority, in each case to the extent such failure or delay will or could reasonably be expected to result in a delay to any major milestone date (including the Projected Substantial Completion Date) set forth in the Construction Schedule, together with a written explanation of the reasons for such failure or delay and the Borrower's plans to remedy or mitigate the effects of such failure or delay;

(F) Environmental Notices: any material notice of violation under any Environmental Law related to the Project or any material changes to the NEPA Determination;

(G) Insurance Claim: any insurance claims made by the Borrower or the Design-Build Contractor in respect of the Project in excess of \$1,000,000 either individually or in the aggregate, to the extent related to the Project or to the extent the proceeds from such insurance claim would be deposited into a Project Account;

(H) Amendments: except as otherwise agreed by the TIFIA Lender in writing, copies of (1) any proposed amendments to any Principal Project Contract or other Related Document (other than the Sales Tax Revenue Bond Indenture which is addressed in the proviso below) at least thirty (30) days prior to the effective date thereof and (2) fully executed amendments within ten (10) days following execution thereof; provided, that with respect to the Sales Tax Revenue Bond Indenture, the requirements of this clause (H) shall apply solely to amendments or supplements that are related to the priority of transfers of sales tax revenues from amounts held in the Sales Tax Revenue Bond Indenture;

(I) Principal Project Contract Defaults: any material breach or default or event of default on the part of the Borrower or any other party under any Principal Project Contract or any Additional Project Contract related to the operation and maintenance of the Project;

(J) Uncontrollable Force: the occurrence of any Uncontrollable Force that could reasonably be expected to result in a Material Adverse Effect;

(K) Project Changes: any (1) change to the Total Project Costs in excess of five percent (5%) of total forecasted Total Project Costs, together (in the case of increased costs) with a written description of the committed funding

sources available to the Borrower to pay for such increased Total Project Costs; or (2) material change to the Construction Schedule, together with a proposed revised Construction Schedule;

(L) Ratings Changes: any change in the rating assigned to the TIFIA Loan, any Additional Obligations or any Sales Tax Revenue Bonds by any Nationally Recognized Rating Agency that has provided a public rating on such indebtedness, or the Borrower, (and, with respect to any outstanding Credit Facility related to any Obligations or any Fund under the Indenture, any change in the rating of the issuer of such Credit Facility);

(M) 2 C.F.R. Notices: (1) that any of the information set forth in the certificate provided pursuant to Section 13(a)(iv) (*Conditions Precedent to Effectiveness*) was incorrect at the time the certificate was delivered or there has been a change in status of the Borrower or any of its principals with respect to the criteria set forth in 2 C.F.R. § 180.335; (2) any other notification required pursuant to 2 C.F.R. § 180.350; and (3) any violation of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the TIFIA Loan as described in 2 C.F.R. § 200.113, and the Borrower shall require its subcontractors to provide it notice of any such violation; and

(N) Other Adverse Events: the occurrence of any other event or condition, including any notice of breach from a contract counterparty, that could reasonably be expected to result in a Material Adverse Effect.

(ii) The Borrower shall provide the TIFIA Lender with any further information reasonably requested by the TIFIA Lender from time to time concerning the matters described in Section 16(g)(i) (*Notice*).

(h) Remedial Action. Within thirty (30) calendar days after the Borrower learns of the occurrence of an event specified in Section 16(g)(i) (*Notice*) (other than in Section 16(g)(i)(A) (*Substantial Completion*), Section 16(g)(i)(H) (*Amendments*), or Section 16(g)(i)(M) (*Ratings Changes*) (in the case of a ratings upgrade)), the Borrower's Authorized Representative shall provide a statement to the TIFIA Lender setting forth the actions the Borrower proposes to take with respect thereto.

(i) Maintain Legal Structure. The Borrower shall maintain its existence as a county transportation authority, under the laws of the State of California.

(j) Annual Rating. The Borrower shall, commencing in 2020, no later than the last Business Day of June of each year during the term of the TIFIA Bond, at no cost to the TIFIA Lender, provide to the TIFIA Lender a public rating on the TIFIA Bond and on any Additional Obligations by a Nationally Recognized Rating Agency, together with the rating report or letter delivered by such Nationally Recognized Rating Agency in connection with each such rating, in each case prepared no earlier than June 1 of such year.

(k) Project Accounts; Permitted Investments.

(i) TIFIA Loan Reserve Requirement. The Borrower shall cause to be deposited amounts (including any proceeds of the Measure I Backstop) into the TIFIA Loan Reserve Account so that such Account is funded in an amount at least equal to the first full year of TIFIA Mandatory Debt Service by no later than the Calculation Date preceding the Debt Service Payment Commencement Date. The Borrower's failure to deposit the TIFIA Loan Reserve Requirement into the TIFIA Loan Reserve Account by the Calculation Date preceding the Debt Service Payment Commencement Date (or such earlier date that may be elected as the Debt Service Payment Commencement Date pursuant to Section 9(c) (*Early Debt Service Payment Commencement Date*)) shall be an Event of Default pursuant to Section 20(a)(xiii) (*Funding of Required Amounts*). Amounts in the TIFIA Loan Reserve Account shall be made available to ensure the timely payment of TIFIA Mandatory Debt Service. To the extent the Trustee withdraws amounts from the TIFIA Loan Reserve Account, the Borrower shall cause such Account to be replenished on a monthly basis to one hundred percent (100%) of the TIFIA Loan Reserve Requirement by no later than the next Semi-Annual Payment Date, subject to the availability of Revenue [Note: Discuss Global deletion of the monthly funding added in following subsections.] for such purpose; provided, that the Borrower's failure to do so due to the unavailability of Net Revenues available for deposit at the applicable level of the cash flow waterfall in Section 5.03(b) of the Indenture shall not by itself constitute an Event of Default.

(ii) Senior Lien Obligations Reserve Fund. The Borrower shall deposit amounts into the Senior Lien Obligations Reserve Fund so that such Fund or Account is funded in an amount equal to the Senior Lien Obligations Reserve Requirement applicable to such Senior Lien Obligations. The Borrower's failure to deposit the Senior Lien Obligations Reserve Requirement into the Senior Lien Obligations Reserve Fund (or the applicable Account thereunder) on or prior to the date required therefor pursuant to the applicable Indenture Documents shall be an Event of Default pursuant to Section 20(a)(xiii) (*Funding of Required Amounts*). Amounts in the Senior Lien Obligations Reserve Fund (or the applicable Account thereunder) shall be made available to ensure the timely payment of the principal of, and interest accrued on, such Senior Lien Obligations. To the extent the Borrower withdraws amounts from the Senior Lien Obligations Reserve Fund (or an Account therein), the Borrower shall cause such Fund or Account to be replenished on a monthly basis to one hundred percent (100%) of the Senior Lien Obligations Reserve Requirement by no later than the next Semi-Annual Payment Date, subject to the availability of Revenues for such purpose; provided, that the Borrower's failure to do so due to the unavailability of Net Revenues available for deposit at the applicable level of the cash flow waterfall in Section 5.03(b) of the Indenture shall not by itself constitute an Event of Default.

(iii) Second Lien Obligations Reserve Fund. The Borrower shall deposit amounts into the Second Lien Obligations Reserve Fund (or the applicable Account thereunder established for any Second Lien Obligations other than the TIFIA Loan Reserve Account) so that such Fund or Account is funded in an amount equal to the Second Lien Obligations Reserve Requirement applicable to such Second Lien

Obligations. The Borrower's failure to deposit the Second Lien Obligations Reserve Requirement into the Second Lien Obligations Reserve Fund (or the applicable Account thereunder) on or prior to the date required therefor pursuant to the applicable Indenture Documents shall be an Event of Default pursuant to Section 20(a)(xiv) (*Funding of Required Amounts*). Amounts in the Second Lien Obligations Reserve Fund (or the applicable Account thereunder) shall be made available to ensure the timely payment of the principal of, and interest accrued on, such Second Lien Obligations. To the extent the Borrower withdraws amounts from the Second Lien Obligations Reserve Fund (or an Account therein), the Borrower shall cause such Fund or Account to be replenished on a monthly basis to one hundred percent (100%) of the Second Lien Obligations Reserve Requirement by no later than the next Semi-Annual Payment Date, subject to the availability of Revenues for such purpose; provided, that the Borrower's failure to do so due to the unavailability of Net Revenues available for deposit at the applicable level of the cash flow waterfall in Section 5.03(b) of the Indenture shall not by itself constitute an Event of Default.

(iv) Operation and Maintenance Fund. At all times from and after the Substantial Completion Date, the Borrower shall fund the Operation and Maintenance Fund in an amount equal to the Operation and Maintenance Fund Required Amount. The Borrower's failure to deposit the Operation and Maintenance Fund Required Amount into the Operation and Maintenance Fund as of the Substantial Completion Date shall be an Event of Default pursuant to Section 20(a)(xiv) (*Funding of Required Amounts*). Amounts in the Operation and Maintenance Fund shall be made available to ensure the timely payment of Operation and Maintenance Expenses. To the extent the Borrower withdraws amounts from the Operation and Maintenance Fund, the Borrower shall cause such Fund to be replenished on a monthly basis to one hundred percent (100%) of the Operation and Maintenance Fund Required Amount by no later than the next Semi-Annual Payment Date, subject to the availability of Revenues and Measure I Investment for such purpose; provided, that the Borrower's failure to do so due to the unavailability of Net Revenues available for deposit at the applicable level of the cash flow waterfall in Section 5.03(b) of the Indenture shall not by itself constitute an Event of Default.

(v) Major Maintenance and Repair Fund. At all times from and after the Substantial Completion Date, the Borrower shall fund the Major Maintenance and Repair Fund in an amount equal to the Major Maintenance and Repair Fund Required Amount. The Borrower's failure to have on deposit the Major Maintenance and Repair Fund Required Amount in the Major Maintenance and Repair Fund on the Substantial Completion Date shall be an Event of Default pursuant to Section 20(a)(xiv) (*Funding of Required Amounts*). Amounts in the Major Maintenance and Repair Fund shall be made available to ensure the timely payment of Major Maintenance and Repair Fund Permitted Expenditures. To the extent the Borrower withdraws amounts from the Major Maintenance and Repair Fund, the Borrower shall cause such Fund to be replenished on a monthly basis to one hundred percent (100%) of the Major Maintenance and Repair Fund Required Amount by no later than the next Semi-Annual Payment Date, subject to the availability of Revenues and Measure I Investment for such purpose; provided, that the Borrower's failure to do so due to the unavailability of Net Revenues available for

deposit at the applicable level of the cash flow waterfall in Section 5.03(b) of the Indenture shall not by itself constitute an Event of Default.

(vi) Measure I Reserve Fund. The Borrower shall fund the Measure I Reserve Fund as provided in Section 16(w) (*Measure I Investments*). The Borrower's failure to deposit Measure I Cash Supplement amounts into the Measure I Reserve Fund in accordance with **Schedule IV** shall be an Event of Default pursuant to Section 20(a)(xiv) (*Funding of Required Amounts*). Amounts in the Measure I Reserve Fund in respect of the Measure I Backstop shall be made available on each Calculation Date to ensure the timely payment of any obligations of the Borrower described in clauses *First* through *Fifteenth* of Section 5.03(b) of the Indenture to the extent that Toll Revenues are insufficient to ensure timely payment of such obligations. In addition, amounts in the Measure I Reserve Fund in respect of the Measure I Backstop shall be made available to ensure that the TIFIA Loan Reserve Account is funded to the TIFIA Loan Reserve Requirement as of the Calculation Date preceding the Debt Service Payment Commencement Date to the extent that the TIFIA Loan Reserve Account is not funded to the TIFIA Loan Reserve Requirement as of such date. Amounts on deposit in the Measure I Reserve Fund shall accrue interest at the yield generated by Permitted Investments into which such amounts are invested. Such earned interest shall be paid to the Borrower on each Calculation Date.

(vii) Sweep Fund. At all times from and after the Substantial Completion Date, subject to the availability of Revenues, the Borrower shall fund the Sweep Fund in an amount equal to ten million dollars (\$10,000,000), to be funded in accordance with Section 5.03(b) of the Indenture. The Borrower's failure to have on deposit the ten million dollars (\$10,000,000) in the Sweep Fund on or after the Substantial Completion Date shall not be an Event of Default. Amounts in the Sweep Fund shall be used solely to ensure timely payment and, as provided in Section 10(a) (*Mandatory Prepayments*), prepayment of Senior Lien Obligations and Second Lien Obligations. To the extent the Borrower withdraws amounts from the Sweep Fund, the Borrower shall cause such Fund to be replenished on a monthly basis, subject to the availability of Revenues.

(viii) Permitted Investments. The Borrower shall hold (or cause the Trustee to hold) amounts on deposit in the TIFIA Loan Reserve Account and the TIFIA Loan Prepayment Account uninvested or invested in Permitted Investments. Permitted Investments must mature or be redeemable at the election of the holder as follows: (A) with respect to Permitted Investments maintained in the TIFIA Loan Reserve Account, not later than the next Semi-Annual Payment Date, (B) with respect to Permitted Investments maintained in the TIFIA Loan Prepayment Account corresponding to amounts needed for the payment of interest, not later than the next Semi-Annual Payment Date, (C) with respect to Permitted Investments maintained in the TIFIA Loan Prepayment Account corresponding to amounts needed for the repayment of principal, the next Payment Date for repayment of principal in respect of the TIFIA Loan, and (D) with respect to any other Project Accounts, on or prior to the date on which the funds invested in such Permitted Investments (as defined in the Indenture as of the Effective Date) are reasonably expected to be needed for the payments from the applicable Project

Account. The Borrower shall hold (or cause the Trustee to hold) amounts on deposit in all Funds and Accounts other than the TIFIA Loan Prepayment Account and the TIFIA Loan Reserve Account uninvested or invested in Permitted Investments (as such term is defined in the Indenture) and shall comply with the requirements of the Indenture with respect to any such Permitted Investments.

(ix) Letters of Credit. The Borrower may replace all or a portion of the required balance of any Reserve Account, in accordance with the terms of the applicable Indenture Documents, with a Credit Facility provided by a financial institution with an Acceptable Credit Rating. If at any time an issuer of an Acceptable Letter of Credit securing a Reserve Account ceases to be a Qualified Issuer, the Borrower shall cause such letter of credit to be replaced by a new Acceptable Letter of Credit within thirty (30) calendar days of the date on which the current issuer ceased to be a Qualified Issuer, or the Trustee shall be permitted to immediately draw the full amount of such letter of credit and deposit the proceeds of such drawing into the applicable Reserve Account. Any new Acceptable Letter of Credit shall have the same terms and conditions (including expiration date and face amount) as the letter of credit being replaced, or such other terms and conditions as may be satisfactory to the TIFIA Lender. If any letter of credit securing a Reserve Account is scheduled to expire prior to the Final Maturity Date, the Borrower shall replace such letter of credit with a new Acceptable Letter of Credit at least ten (10) Business Days prior to the stated expiry date of the existing letter of credit and such new Acceptable Letter of Credit shall be in an amount equal to at least the amount of expiring letter of credit. If the Borrower fails to provide such new Acceptable Letter of Credit by the date required above, the Trustee shall be permitted to immediately draw the full undrawn amount of the existing letter of credit and deposit the proceeds of such drawing into the applicable Reserve Account.

(x) Post-Construction Transfers from the Project Fund. Upon Final Acceptance (as defined in the Design-Build Contract), the Borrower shall transfer, or shall cause the Trustee to transfer any amounts remaining in the Project Fund to the Toll Revenue Fund.

(l) Rate Coverage. The Borrower shall, subject to the remainder of this paragraph, fix, charge and collect rates and charges such that (i) Net Revenue in each Calculation Period through the Final Maturity Date shall be projected to produce (A) a Senior Debt Service Coverage Ratio at least equal to 1.35:1.00 in each such Calculation Period and (B) a Second Lien Debt Service Coverage Ratio at least equal to 1.25:1.00 in each such Calculation Period, and (ii) Net Revenues in each Calculation Period shall be projected to be sufficient to satisfy the Borrower's funding obligations pursuant to clauses *First* through *Fifteenth* of Section 5.03(b) of the Indenture during each such Calculation Period (clauses (i) and (ii) together, the "**Rate Coverage Test**"). Within fifteen (15) days after each Calculation Date occurring on or after the first anniversary of the Substantial Completion Date, the Borrower shall deliver to the TIFIA Lender a report setting forth the Net Revenues for such Calculation Period, including a written explanation of whether such revenues were sufficient to meet the Rate Coverage Test, and calculations of each of the ratios listed in clause (i) above. If any forecast of Net Revenues furnished by the Borrower pursuant to this Section 16(l) demonstrates that projected Net Revenue may be inadequate to satisfy the Rate Coverage Test for any Calculation Period until

the Final Maturity Date, or if the Borrower fails to satisfy the Rate Coverage Test in respect of any Calculation Period then ended, the Borrower shall (x) within thirty (30) days after request by the TIFIA Lender, engage the Traffic Consultant to review and analyze the operations of the Project and recommend actions regarding revising the rates or changing the methods of operations, or any other actions to increase the Net Revenues so as to satisfy the Rate Coverage Test, (y) cause the Traffic Consultant to issue its report, including any such recommended actions, and (z) by no later than one hundred twenty (120) days following such engagement, either (A) implement the Traffic Consultant's recommendation or (B) undertake an alternative course of action after demonstrating to the TIFIA Lender's satisfaction the manifest errors contained in the Traffic Consultant's recommended actions, or to the extent agreed upon by the TIFIA Lender, undertake an alternative course of action that will ensure the Borrower's ability to meet its payment obligations under this Agreement. The Borrower's failure to comply with the Rate Coverage Test on any six (6) consecutive Calculation Dates after the Substantial Completion Date shall result in the mandatory prepayment described in Section 10(a)(iv) (*Mandatory Prepayments*), but shall not constitute an Event of Default.

(m) Borrower Report and Certificate. Beginning with the Borrower Fiscal Year following the fifth (5th) anniversary of the Substantial Completion Date and continuing each Borrower Fiscal Year thereafter until the Final Maturity Date, by no later than [sixty (60)] days following the end of such Borrower Fiscal Year, the Borrower shall deliver to the TIFIA Lender (i) a report that (A) describes the major maintenance work on the Project and any Additional Project conducted during the previous Borrower Fiscal Year, (B) describes any variances between actual Major Maintenance and Repair Fund Permitted Expenditures incurred and budgeted Major Maintenance and Repair Fund Permitted Expenditures for such Borrower Fiscal Year, (C) provides a narrative description of any major maintenance work related to the Project or any Additional Project that was scheduled to be performed during such Borrower Fiscal Year but was deferred, along with an explanation of the reasons for such deferral, (D) compares all major maintenance work performed to date and Major Maintenance and Repair Fund Permitted Expenditures incurred to date from Substantial Completion, in each case with respect to the Project and any Additional Projects, against the major maintenance work and Major Maintenance and Repair Fund Permitted Expenditures for such time period contemplated in the Base Case Financial Model, and at least every 5 years (ii) a certificate executed by the Consulting Engineer, which certificate (A) verifies that the major maintenance work conducted during the previous Borrower Fiscal Year[s] was consistent with the Consulting Engineer's recommendations and with prudent engineering practices, (B) assesses the prudence of any deferred major maintenance described in clause (i)(C) above, including a recommendation for when such work should be performed, and (C) confirms the prudence of the Borrower's projected Major Maintenance and Repair Fund Permitted Expenditures for the then-current Borrower Fiscal Year and the next 5 years (as reflected in the Borrower's Financial Plan for such Borrower Fiscal Year pursuant to Section 22(a)(iv)(G)).

(n) Material Obligations; Liens. The Borrower shall pay its material obligations promptly and in accordance with their terms and pay and discharge promptly all taxes, assessments and governmental charges or levies imposed upon it or upon the Revenues or the Borrower's other income or profits or in respect of its property, before the same shall become delinquent or in default, as well as all lawful and material claims for labor, materials and supplies or other claims which, if unpaid, might give rise to a Lien upon the Project, the Toll Road, the

Revenues or the Trust Estate; provided, however, that such payment and discharge shall not be required with respect to any such tax, assessment, charge, levy, claim or Lien so long as the validity or amount thereof shall be contested by the Borrower in good faith by appropriate proceedings and so long as the Borrower shall have set aside adequate reserves with respect thereto in accordance with and to the extent required by GAAP, applied on a consistent basis.

(o) Hedging.

(i) As a condition to the issuance of any Obligations that bear interest at a Variable Interest Rate (subject to Section 17(a)(ii) (*Indebtedness*), the Borrower shall enter into a Qualified Hedge with respect to such Obligations and shall maintain such Qualified Hedge in place until the earlier to occur of (i) the maturity date of any such Obligations and (ii) the Final Maturity Date. Each Qualified Hedge must have an aggregate stated notional amount of not less than (A) during the Construction Period, at least ninety percent (90%) and not more than one hundred ten percent (110%) of the aggregate principal amount of the Variable Interest Rate Obligations projected to be outstanding during such time period and (B) at all other times, at least ninety-eight percent (98%) and not more than one hundred two percent (102%) of the aggregate principal amount of the Variable Interest Rate Obligations projected to be outstanding until the maturity of such Variable Interest Rate Obligations. Any such Qualified Hedge shall have a payment profile that is reasonably consistent with the expected draw and repayment schedule of the applicable Variable Interest Rate Obligations subject to such Qualified Hedge and will be subject to TIFIA Lender's prior written consent, such consent not to be unreasonably withheld. Such Qualified Hedge shall have a stated maturity or termination date not earlier than the earlier to occur of (x) the Final Maturity Date and (y) the final maturity date of the Variable Interest Rate Obligations subject to such Qualified Hedge.

(ii) Each Qualified Hedge shall provide for a fixed interest rate acceptable to the TIFIA Lender that results in fixed payment amounts payable by the Borrower to the Qualified Hedge Provider. The Borrower's obligations to pay Hedging Obligations and Hedging Termination Obligations shall be from the sources and in the priority specified in the Indenture Documents. The Borrower shall ensure that, as of the day following the termination date of any Qualified Hedge that for any reason terminates before the final maturity date of the Variable Interest Rate Obligations subject to such Qualified Hedge, (A) a Qualified Hedge is in full force and effect or (B) the Variable Interest Rate Obligations have been converted to a fixed rate, in each case in accordance with this Agreement and the Indenture Documents.

(iii) The Borrower shall not commence seeking any bids from any Qualified Hedge Provider for a Qualified Hedge unless, at least thirty (30) days prior thereto, the Borrower has delivered to the TIFIA Lender evidence satisfactory to the TIFIA Lender and certified by the Borrower's Authorized Representative that the process to be utilized by the Borrower for selecting such Qualified Hedge is a competitive process designed to obtain a fair market price and to avoid conflicts of interest. At the time the Qualified Hedge is priced, the Borrower shall provide to the TIFIA Lender a certificate from a qualified third party acceptable to the TIFIA Lender to the effect that

either the underlying fixed rate or the price of acquiring such Qualified Hedge is a fair price based on the interest rate market at the time such Qualified Hedge is priced.

(iv) The Trustee shall be granted a security interest in each Qualified Hedge and payments due under each Qualified Hedge in order to secure the Borrower's obligations under the TIFIA Loan Documents. The Hedging Agreements shall provide that all payments due thereunder to the Borrower shall be made directly to the Trustee for deposit and disbursement in accordance with the Indenture Documents.

(v) The Borrower shall neither terminate, transfer, nor consent to any transfer (other than to a Qualified Hedge Provider) of any existing Qualified Hedge without the TIFIA Lender's prior written consent as long as the Borrower is required to maintain a Qualified Hedge pursuant to this Agreement.

(vi) If at any time a Hedging Bank no longer satisfies the requirements for a Qualified Hedge Provider, the Borrower shall, within thirty (30) days (or such lesser number of days required by the applicable Hedging Agreement, including any credit support annex thereto) of the date on which such Hedging Bank failed to qualify as a Qualified Hedge Provider, either (A) cash collateralize the mark-to-market value of the Hedging Termination Obligations (in accordance with the credit support annex or similar requirements of the applicable Hedging Agreement) or provide a guarantee for such amount from an entity with an Acceptable Credit Rating, or (B) cause such disqualified Hedging Bank to be replaced by a Qualified Hedge Provider, whether by means of a transfer of the disqualified Hedging Bank's Hedging Agreement to a Qualified Hedge Provider or by means of a termination of such disqualified Hedging Bank's Hedging Agreement and replacement thereof by a Hedging Agreement with a Qualified Hedge Provider on terms and conditions that satisfy the requirements of this Section 16(o) (*Hedging*); provided that if the disqualified Hedging Bank's highest credit rating from any Nationally Recognized Rating Agency is less than 'A-', 'A3' or the equivalent, clause (A) shall not apply and the Borrower shall be required to cause such disqualified Hedging Bank to be replaced by a Qualified Hedge Provider pursuant to clause (B).

(p) SAM Registration. The Borrower shall (i) maintain its active registration status with the federal System for Award Management (www.SAM.gov) (or any successor system or registry) and (ii) within sixty (60) days prior to each anniversary of the Effective Date, provide to the TIFIA Lender evidence of such active registration status with no active exclusions reflected in such registration, in each case until the Final Maturity Date or to such earlier date as all amounts due or to become due to the TIFIA Lender hereunder have been irrevocably paid in full in cash.

(q) Events of Loss; Loss Proceeds.

(i) If an Event of Loss shall occur with respect to the Project or any part thereof, the Borrower shall (A) diligently pursue all of its rights to compensation against all relevant insurers, reinsurers and Governmental Authorities, as applicable, in respect of such event and (B) pay or apply all Loss Proceeds stemming from such event

in accordance with Section 16(q)(ii) (*Event of Loss; Loss Proceeds*) and, to the extent applicable, Section 10(a)(ii) (*Mandatory Prepayments*).

(ii) The Borrower shall apply all Loss Proceeds as provided in Section [5.04(f)] of the Indenture. The Borrower shall cause the relevant insurers, reinsurers and Governmental Authorities, as applicable, to pay all Loss Proceeds directly to the Trustee as loss payee and, if paid to the Borrower, shall be received in trust and for the benefit of the Trustee segregated from other funds of the Borrower, and shall be paid over to the Trustee in the same form as received (with any necessary endorsement).

(r) Immunity. To the fullest extent permitted by applicable law, the Borrower agrees that it will not assert any immunity (and to the fullest extent permitted by applicable law hereby waives any such immunity) it may have as a governmental entity from lawsuits, other actions and claims, and any judgments with respect to the enforcement of any of the obligations of the Borrower under this Agreement or any other TIFIA Loan Document.

(s) Patriot Act. If the anti-money laundering compliance program provisions of the Patriot Act become applicable to the Borrower, then the Borrower will provide written notice to the TIFIA Lender of the same and will promptly establish an anti-money laundering compliance program that complies with all requirements of the Patriot Act.

(t) Cargo Preference Act. Pursuant to 46 C.F.R. Part 381, the Borrower hereby agrees as follows, and shall insert the following clauses in contracts entered into by the Borrower pursuant to which equipment, materials or commodities may be transported by ocean vessel in carrying out the Project:

(i) At least fifty percent (50%) of any equipment, materials or commodities procured, contracted for or otherwise obtained with TIFIA Loan proceeds, and which may be transported by ocean vessel, shall be transported on privately owned United States-flag commercial vessels, if available.

(ii) Within twenty (20) days following the date of loading for shipments originating within the United States or within thirty (30) Business Days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in clause (i) above shall be furnished to both the TIFIA Lender and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590.

(u) Lobbying. The Borrower shall comply with all applicable certification, declaration and/or disclosure requirements under 49 C.F.R. Part 20.

(v) Design-Build Contract and Toll Services Contract Bonds. In the event of any increase in the contract price of either the Design-Build Contract or the Toll Services Contract due to a Change Order (as defined in the Design-Build Contract or the Toll Services Contract, as applicable) or otherwise, the Borrower shall exercise its right under Section 10.1.4(c) of the Design-Build Contract, or Section 15.1.12 of the Toll Services Contract, as applicable, to require a corresponding proportionate increase in the value of each bond provided

under the applicable Principal Project Contract, or to require that a new Performance Security Instrument in the amount of such increased contract price be issued by the Design-Build Contractor or the Toll Services Provider, as applicable.

(w) Measure I Investments; Annual Operating Budget.

(i) General. The Borrower shall make available Sales Tax Revenues in an aggregate outstanding amount not to exceed ninety-three million dollars (\$93,000,000) (excluding accrued and unpaid interest), on a revolving basis, pursuant to this Agreement, the Indenture Documents and the Sales Tax Revenue Bond Third Supplemental Indenture, and in accordance with this Section 16(w). The Borrower shall or shall cause the Trustee to, within [five (5) days] after the Borrower learns of the occurrence, give the TIFIA Lender notice of each transfer of Measure I Backstop amounts from the Measure I Reserve Fund to any other Fund or Account and any repayment to the Borrower of a Measure I Investment. Measure I Investment amounts (excluding interest thereon) that are repaid pursuant to clause (iv) below shall be available to be used as Measure I Backstop thereafter. Amounts on deposit in the Measure I Reserve Fund shall accrue interest at the yield generated by Permitted Investments (as defined in the Indenture as of the Effective Date) into which such amounts are invested. Such earned interest shall be paid to the Borrower on each Calculation Date. Measure I Investment amounts deposited to the Toll Revenue Fund shall accrue interest at the TIFIA Interest Rate plus 1.25%, compounded semi-annually, on a 360 day/30 day month basis, on each Calculation Date until paid.

(ii) Measure I Cash Supplement. Commencing on the third Calculation Date preceding the TIFIA Debt Service Commencement Date and on each Monthly Funding Date thereafter, the Borrower shall cause the Sales Tax Trustee to transfer to the Cash Supplement Account within the Measure I Reserve Fund one sixth (1/6th) of the amount of Measure I Cash Supplement required to be on deposit in the Cash Supplement Account within the Measure I Reserve Fund on the following Calculation Date, as set forth set forth in **Schedule IV**. Commencing on the Monthly Funding Date following the Calculation Date preceding the Debt Service Payment Commencement Date and continuing on each Monthly Funding Date thereafter, the Borrower shall cause the Trustee to transfer from the Cash Supplement Account to the Toll Revenue Fund an amount equal to one sixth (1/6th) of the amount of Measure I Cash Supplement required to be transferred to the Toll Revenue Fund during the semi-annual period ending on the next Calculation Date, as set forth in **Schedule IV**.³ Measure I Cash Supplement amounts may be used to satisfy any of the Borrower's funding obligations described in Section 5.03(b) of the Indenture.

³ **Note:** This draft assumes that Schedule IV will have separate columns for amounts to be deposited to the Measure I Reserve Fund as of a particular Calculation Date and amounts to be transferred from the Measure I Reserve Fund to the Toll Revenue Fund during the semi-annual period ending as of a particular Calculation Date. Please let us know if that is not how Schedule IV will be constructed.

(iii) Measure I Backstop.

(1) Transfers to Measure I Reserve Fund. The Borrower shall cause the Sales Tax Trustee to make monthly transfers of Measure I Backstop amounts to the Trustee, beginning on the Monthly Funding Date in July 2025 and continuing on each Monthly Funding Date thereafter until March 31, 2040 for so long as the Measure I Backstop is budgeted therefore. The amount of each monthly transfer shall equal to one-sixth ($1/6^{\text{th}}$) of the then-applicable Measure I Backstop Semi-Annual MIRF Amount. The Trustee shall deposit all Measure I Backstop amounts it receives into the Backstop Account within the Measure I Reserve Fund.

(2) Transfers to Toll Revenue Fund. [Note: Delete this section; provide for use of Measure I Backstop only on Calculation Date.] Commencing on the Monthly Funding Date in July 2026 and continuing on each Monthly Funding Date for so long as the Borrower has a Measure I Investment obligation hereunder, the Borrower shall cause the Trustee to transfer from the Backstop Account within the Measure I Reserve Fund to the Toll Revenue Fund an amount equal to (1) one-sixth ($1/6^{\text{th}}$) of the then-applicable Measure I Backstop Semi-Annual TRF Amount required.

(3) True-Up Procedure. Ninety (90) days before each Calculation Date (beginning October 2026 and continuing for so long as the Borrower has a Measure I Investment obligation hereunder), the Borrower shall determine whether the then-current Measure I Backstop Semi-Annual TRF Amount is projected to be sufficient to enable the Borrower to satisfy all of its funding obligations pursuant to clauses *First* through *Fifteenth* of Section 5.03(b) of the Indenture on or prior to the next Calculation Date, and shall notify the TIFIA Lender of its conclusion. If the Borrower determines that the actual shortfall in Toll Revenues is likely to exceed the Measure I Backstop Semi-Annual TRF Amount, the Borrower shall promptly take all reasonable steps to seek and obtain approval from its board of directors to allocate additional Sales Tax Revenues to the Project to supplement the Measure I Backstop Semi-Annual TRF Amount so that it is equal to the actual expected Toll Revenue shortfall for the semi-annual period through the next Calculation Date. The Borrower shall promptly notify the TIFIA Lender in writing of the board of directors' decision regarding the request for such additional Measure I Investment. The Borrower shall promptly transfer (or cause the Sales Tax Trustee to transfer) to the Backstop Account any additional funds approved by the board of directors, and shall instruct the Trustee to deposit such funds into the Toll Revenue Fund as needed to meet the Borrower's funding obligations payable pursuant to clauses *First* through *Fifteenth* of Section 5.03(b) of the Indenture on or prior to the next Calculation Date.]

(4) Excess Measure I Backstop. If, as of a Calculation Date, the Measure I Backstop Semi-Annual TRF Amount exceeded the actual Toll Revenue shortfall for the semi-annual period that ended on such Calculation Date, as determined by the Trustee with notice to the Borrower and the TIFIA Lender, the Trustee shall transfer such excess Measure I Backstop amounts from the Toll Revenue Fund, the Sweep Fund or the Residual Fund to the Authority. Any amounts so transferred to the Authority shall be credited as a repayment of the Measure I Investment.

(5) Limitations on Measure I Investment. Notwithstanding the foregoing provisions of this Section 16(w), the aggregate amount of Measure I Backstop transferred to the Trustee for deposit into the Measure I Reserve Fund during any Borrower Fiscal Year shall not exceed the budgeted aggregate Operation and Maintenance Expenses and Scheduled Major Maintenance and Repair Fund Required Deposits for such Borrower Fiscal Year plus, for the Borrower Fiscal Year during which the TIFIA Loan Reserve Account will initially be funded, the amount reflected in clause (a) of the definition for TIFIA Loan Reserve Requirement; provided that the aggregate outstanding Measure I Backstop Investment when combined with the Measure I Cash Supplement invested and not repaid and scheduled to be made shall not exceed \$93,000,000; and further provided, that the aggregate outstanding Measure I Investment that has been deposited with the Trustee and not yet repaid to the Borrower shall at no time exceed an amount equal to ninety-three million dollars (\$93,000,000) (excluding accrued and unpaid interest).

(6) Measure I Backstop Mechanics. Schedule 16(w) sets forth an illustration of the budgeting and funding procedures related to the Measure I Backstop and is attached to this Agreement for reference purposes.⁴[To be discussed]

(iv) Repayment of Measure I Investments. The Borrower shall repay amounts in respect of any Measure I Investment previously deposited to the Toll Revenue Fund solely from amounts available in the Residual Fund on the next Calculation Date (or as soon as practical thereafter) as of which each of the Residual Release Conditions was satisfied; provided that with respect to Measure I Backstop Investments deposited into the Toll Revenue Fund for which on the Calculation Date there were sufficient Toll Revenues received in such six month period ending on such Calculation Date so that the Measure I Backstop was not necessary and can be immediately repaid, such Backstop Investment will be repaid from such Toll Revenues (whether in the Toll Revenue Fund, the Sweep Fund or the Residual Fund) on such Calculation Date. Repayment of all outstanding Measure I Investment amounts shall occur before funds in the Residual Fund are used for any other purpose.

(v) Annual Operating Budget. The Borrower covenants and agrees to prepare a draft Annual Operating Budget each year in accordance with its Organizational Documents, the Indenture Documents, the Sales Tax Indenture Documents and all applicable laws. The Borrower covenants and agrees that for so long as the Borrower has any obligation with respect to Measure I Investments pursuant to this Agreement, it shall include in each Annual Operating Budget (i) the Measure I Cash Supplement required to be transferred to the Trustee (for deposit into the Cash Account within the Measure I Reserve Fund) during the applicable Borrower Fiscal Year, as reflected in **Schedule IV**, and (ii) the Measure I Backstop required to be transferred to the Trustee (for deposit into the Backstop Account within the Measure I Reserve Fund) during the applicable Borrower Fiscal Year, which amount shall be the Borrower's estimate of the Measure I

⁴ **Note:** The intent is to attach the Measure I Backstop Mechanics document distributed by Vishal to SBCTA once it is agreed and finalized.

Backstop amounts that will need to be transferred from the Measure I Reserve Fund to the Toll Revenue Fund during the next following Borrower Fiscal Year. The Borrower shall budget the Measure I Backstop in semi-annual amounts. The Borrower shall submit a draft of the Annual Operating Budget to the TIFIA Lender by no later than April 1 of each calendar year, and the Borrower shall respond promptly to any questions or requests for information regarding such draft Annual Operating Budget submitted by the TIFIA Lender and shall use all reasonable efforts to update the draft Annual Operating Budget to reflect comments provided by the TIFIA Lender. The Borrower shall submit the Annual Operating Budget for each Borrower Fiscal Year to its board of directors so that the Annual Operating Budget for each Borrower Fiscal Year can reasonably be expected to be approved by such board of directors and adopted by the Borrower prior to the beginning of such Borrower Fiscal Year. The Borrower shall use all reasonable efforts to cause its board of directors to timely approve such Annual Operating Budget, giving preference to the Measure I Investments to be allocated to the Project over any other uses of Sales Tax Revenues being considered by the Borrower's board of directors. The Borrower shall promptly notify the TIFIA Lender in writing in the event any Annual Operating Budget is not timely approved by the Borrower's board of directors or if any amount in respect of the Measure I Investments is not approved or required to be altered. The Borrower shall not modify, amend or supplement any Annual Operating Budget in a manner that that would reduce the Measure I Investment reflected in such Annual Operating Budget without first obtaining the TIFIA Lender's prior written consent.

(x) Credit Facilities.

(i) The Borrower may replace all or a portion of the required balance of any Reserve Account (other than the Measure I Reserve Fund), in accordance with the terms of the applicable Indenture Documents, with a Credit Facility provided by a financial institution with an Acceptable Credit Rating, provided that the terms and conditions of any such Credit Facility shall not permit or require the Borrower to use Revenues to satisfy any payment obligations to the Credit Provider or any other Person in connection with such Credit Facility other than amounts on deposit in the Residual Fund, following satisfaction of the Residual Release Conditions; provided, further, that the Borrower shall not use the proceeds of any Measure I Investment contribution to pay any fees, premiums, reimbursements or other amounts in respect of a Credit Facility.

(ii) The Borrower shall not enter into any Credit Facility that permits the provider of such Credit Facility to accelerate the Borrower's reimbursement obligations.

(iii) If at any time an issuer of an Acceptable Letter of Credit securing a Reserve Account ceases to be a Qualified Issuer, the Borrower shall cause such letter of credit to be replaced by a new Acceptable Letter of Credit within ten (10) Business Days of the date on which the current issuer ceased to be a Qualified Issuer, or the Trustee shall be permitted to immediately draw the full amount of such letter of credit and deposit the proceeds of such drawing into the applicable Reserve Account. Any new Acceptable Letter of Credit shall have the same terms and conditions (including expiration date and

face amount) as the letter of credit being replaced, or such other terms and conditions as may be satisfactory to the TIFIA Lender.

(iv) If any letter of credit securing a Reserve Account is scheduled to expire prior to the Final Maturity Date, the Borrower shall replace such letter of credit with a new Acceptable Letter of Credit at least ten (10) Business Days prior to the stated expiry date of the existing letter of credit and such new Acceptable Letter of Credit shall be in an amount equal to at least the amount of expiring letter of credit. If the Borrower fails to provide such new Acceptable Letter of Credit by the date required above, the Trustee shall be permitted to immediately draw the full undrawn amount of the existing letter of credit and deposit the proceeds of such drawing into the applicable Reserve Account.

Section 17. Negative Covenants. The Borrower covenants and agrees as follows until the date the TIFIA Bond and the obligations of the Borrower under this Agreement (other than contingent indemnity obligations) are irrevocably paid in full in cash, unless the TIFIA Lender waives compliance in writing:

(a) Indebtedness.

(i) Except for Permitted Debt payable from Revenues, the Borrower shall not, without the prior written consent of the TIFIA Lender, issue or incur indebtedness of any kind that is payable from, or secured by, the Revenues or other property or rights in the Trust Estate; provided that following the occurrence, and during the continuation, of an Event of Default, the Borrower shall not incur any indebtedness of any kind payable from, secured or supported by the Trust Estate, including Permitted Debt payable from Revenues, without the prior written consent of the TIFIA Lender; provided, further, that in the event Additional Obligations to be issued will be used to prepay or repay the TIFIA Loan in whole (and not in part), the prior written consent of the TIFIA Lender shall not be unreasonably withheld.

(ii) The Borrower shall not, without the prior written consent of the TIFIA Lender, issue or incur Variable Interest Rate Obligations or enter into any Hedging Transaction under which the Borrower is required to make payments based on a Variable Interest Rate, in either case secured by the Revenues.

(iii) The Borrower shall not issue Additional Obligations prior to the second (2nd) anniversary of the Debt Service Payment Commencement Date.

(iv) Prior to the incurrence of Permitted Debt payable from Revenues and described in clauses (a), (d), or (e) of the definition thereof, the Borrower shall provide to the TIFIA Lender a certificate signed by the Borrower's Authorized Representative, demonstrating to the TIFIA Lender's satisfaction that such proposed indebtedness is authorized pursuant to this Section 17(a) (*Indebtedness*) and satisfies the applicable requirements under the definitions of "Permitted Debt" and "Additional Obligations," as applicable.

(v) The Borrower shall not issue Obligations that are, or upon issuance will be, payable in a currency other than lawful currency of the United States of America.

(vi) The Borrower shall not, by supplemental indenture or otherwise, issue any subordinate obligations pursuant to the Sales Tax Revenue Bond Indenture unless the Borrower shall have first provided to the TIFIA Lender a certificate signed by the Borrower's Authorized Representative, certifying that (A) such proposed indebtedness is authorized pursuant to, and satisfies the applicable requirements under, the Sales Tax Revenue Bond Indenture, (B) Sales Tax Revenues (as defined below) collected during any twelve (12) consecutive months specified by the Borrower within the most recent eighteen (18) calendar months preceding the date on which such additional series of bonds will become outstanding shall have been at least equal to 1.50 times Maximum Annual Debt Service. and (C) projected Sales Tax Revenues, as set forth in a [report prepared by an independent third-party consultant]⁵ for each Calculation Period through the Final Maturity Date are sufficient to produce a total debt service coverage ratio (on all bonds and parity obligations issued under the Sales Tax Revenue Bond Indenture and utilizing the calculation assumptions set forth in the definition of Annual Debt Service in this Agreement) at least equal to 1.50:1.00 for each Calculation Period, which certificate shall also set forth the computations upon which such certificate is based. For purposes of this covenant, "**Sales Tax Revenues**" means the amounts collected on account of the retail transactions and use tax imposed in San Bernardino County, CA pursuant to the Local Transportation Authority and Improvement Act (Division 19 of the Public Utilities Code of the State of California (Section 180000 et seq.)) (the "**LTAIA**") and the Measure I Ordinance on and after April 1, 2010, after deducting amounts payable by the Borrower to the California State Board of Equalization for costs and expenses for its services in connection with the retail transactions and use taxes collected pursuant to the LTAIA.

(b) No Lien Extinguishment or Adverse Amendments. The Borrower shall not, and shall not permit any Person to, without the prior written consent of the TIFIA Lender, either (i) extinguish or impair the Liens on the Trust Estate granted pursuant to the Indenture, (ii) amend, modify, replace, or supplement any Related Document (other than the Sales Tax Revenue Bond Indenture) in a manner that could adversely affect the TIFIA Lender in connection with the TIFIA Loan, (iii) permit any material increase or decrease to the scope of work, without the prior written consent of the TIFIA Lender, which consent shall not be unreasonably withheld; provided that the TIFIA Lender may reasonably withhold such consent if any such change in scope could reasonably be expected to result in a delay in Substantial Completion beyond the Projected Substantial Completion Date or diminish expected Toll Revenues to a material extent, (iv) waive or permit a waiver of any provision of any Related Document (other than the Sales Tax Revenue Bond Indenture) in a manner that could adversely affect the TIFIA Lender in connection with the TIFIA Loan, or (v) terminate, assign, amend or modify, or waive timely performance by any party of material covenants under any Principal Project Contract except for termination, assignment, amendment, modification or waiver that could not reasonably be expected to have a Material Adverse Effect. Except as otherwise

⁵ **Note to SBCTA:** Discuss who currently provides sales tax related forecasts to SBCTA.

agreed by the TIFIA Lender in writing, the Borrower will provide to the TIFIA Lender (x) copies of any proposed amendments, modifications, replacements of, or supplements to any Related Document (excluding the Sales Tax Revenue Bond Indenture) subject to this Section 17(b) at least thirty (30) days prior to the effective date thereof, and (y) complete, correct and fully executed copies of any amendment, modification or supplement to any Related Document within ten (10) days after execution thereof.

(c) No Prohibited Liens. Except for Permitted Liens, the Borrower shall not create, incur, assume or permit to exist any Lien on the Project, the Trust Estate, the Revenues, or the Borrower's respective rights therein. The Borrower shall not collaterally assign any of its rights under or pursuant to any Principal Project Contract and shall not permit a Lien to encumber the Borrower's rights or privileges under any Principal Project Contract, unless pursuant to the Indenture or a Supplemental Indenture in favor of the Trustee on behalf of all of the Secured Parties.

(d) Residual Release Conditions. Except as expressly permitted in this Section 17(d), the Borrower shall not at any time release, transfer or make payments, or permit the Trustee to release, transfer or make payments from amounts on deposit in the Residual Fund or any Account therein to the Borrower or to a Fund or Account with a lower priority in the cash flow waterfall described in Section 5.03(b) of the Indenture, including any repayment of any Measure I Investments or any release of such amounts to the Borrower, unless each of the following conditions (the "**Residual Release Conditions**") have been satisfied as of a Semi-Annual Payment Date:

(i) the second (2nd) anniversary of the Debt Service Payment Commencement Date has occurred;

(ii) no Payment Default or default in respect of the payment of principal or interest in respect of any Obligation shall have occurred and be continuing;

(iii) all TIFIA Mandatory Debt Service, all TIFIA Scheduled Debt Service, and all principal and interest in respect of all other Obligations for all Payment Dates through such Semi-Annual Payment Date shall have been paid in full (including any amounts remaining unpaid from any prior period);

(iv) the Senior Debt Service Coverage Ratio (1) for the Calculation Periods ending on the then current Calculation Date and as of each of the two (2) Calculation Dates preceding such then current Calculation Date is or was, as applicable, equal to at least 1.35:1.00 and (2) for the Calculation Periods ending as of each of the four (4) consecutive succeeding Calculation Dates is, in each case, projected to equal at least 1.35:1.00;

(v) the Second Lien Debt Service Coverage Ratio (1) for the Calculation Periods ending on the then current Calculation Date and as of each of the two (2) Calculation Dates preceding such then current Calculation Date is or was, as applicable, equal to at least 1.25:1.00 and (2) for the Calculation Periods ending as of

each of the four (4) consecutive succeeding Calculation Dates is, in each case, projected to equal at least 1.25:1.00;

(vi) the aggregate of Toll Revenues and Measure I Cash Supplement amounts deposited to the Toll Revenue Fund are and were sufficient to fund in full all amounts required pursuant to clauses *First* through *Fifteenth* of Section 5.03(b) of the Indenture as of the current Calculation Date and as of each of the three (3) consecutive preceding Calculation Dates and the aggregate of Toll Revenues and Measure I Cash Supplement amounts projected to be deposited to the Toll Revenue Fund are projected to be sufficient to fund in full amounts required pursuant to clauses *First* through *Fifteenth* of Section 5.03(b) of the Indenture for each of the four (4) consecutive succeeding Calculation Dates;

(vii) the Total Loan Life Coverage Ratio for each Calculation Period during the term of the TIFIA Loan is equal to or greater than [____]:1.00;

(viii) each Reserve Account is fully funded, the amount on deposit in the Major Maintenance and Repair Fund is at least equal to the then applicable Major Maintenance and Repair Fund Required Amount, the amount on deposit in the Operation and Maintenance Fund is at least equal to the then applicable Operation and Maintenance Fund Required Amount, and all deposits to the Measure I Reserve Fund required to be made as of such date shall have been made in full and the Sweep Fund has \$10,000,000 on deposit therein;

(ix) no Default or Event of Default has occurred and is continuing; and

(x) no default or event of default has occurred and is continuing under any Principal Project Contract;

provided, that with respect to clauses (iv) and (v) above, the Senior Debt Service Coverage Ratio and Second Lien Debt Service Coverage Ratio will be based solely on Toll Revenues described in clause (a) of the definition thereof, plus Measure I Cash Supplement payments deposited in the Toll Revenue Fund during such period. Any Revenues to be paid to the Borrower (including the repayment of any amount in respect of the Measure I Investment) or transferred to a Fund or Account after satisfaction of the Residual Release Conditions shall be made on the Calculation Date (or as soon as practical thereafter) on which the Residual Release Conditions with respect to such Revenues were satisfied.

(e) Principal Project Contracts; Additional Project Contracts. The Borrower shall not, without the prior written consent of the TIFIA Lender, enter into any Principal Project Contract that is not in effect as of the Effective Date. The Borrower shall not, without the prior written consent of the TIFIA Lender, enter into any Additional Project Contract (or series of related contracts) allocable to the Project or payable from Revenue that commits the Borrower to spend, or is reasonably expected to involve expenditures by the Borrower of, amounts that either: (i) exceed \$2,500,000, inflated annually by CPI, in any Borrower Fiscal Year, or (ii), alone or when aggregated with the other Total Project Costs or Operation and Maintenance Expenses, as applicable, in the same line item of the applicable budget set forth in the Financial Plan most

recently approved by the TIFIA Lender, would cause aggregate Total Project Costs or Operation and Maintenance Expenses, as applicable, for such line item in any Borrower Fiscal Year to exceed the amounts for such line item for any Borrower Fiscal Year reflected in the budget in the Financial Plan mostly recently approved by the TIFIA Lender.

(f) No Prohibited Sale, Lease or Assignment. The Borrower shall not sell, lease or assign its rights in and to the Project, a substantial portion of the assets included in the Project, or its rights and obligations under any Related Document, in each case unless such sale, lease or assignment (i) could not reasonably be expected to result in a Material Adverse Effect, and (ii) is made by the Borrower in the ordinary course of business.

(g) Borrower Fiscal Year. The Borrower shall not at any time adopt any fiscal year other than the Borrower Fiscal Year, except with thirty (30) days' prior written notice to the TIFIA Lender.

(h) Reserved.

(i) No Payment with Federal Funds. The Borrower shall not pay any portion of TIFIA Debt Service nor any other amount to the TIFIA Lender or the Government pursuant to the TIFIA Loan Documents with funds received directly or indirectly from the Government.

(j) No Fundamental Change. The Borrower shall not, and shall not agree to reorganize, consolidate with, or merge into another Person unless (i) such reorganization, consolidation or merger does not adversely affect or impair to any extent or in any manner (A) the Revenues or other elements of the Trust Estate, or (B) the availability of the Revenues for the payment and security of the obligations of the Borrower under this Agreement; and (ii) the Borrower provides to the TIFIA Lender, no later than sixty (60) days prior to the date of reorganization, consolidation or merger, prior written notice of such reorganization, consolidation or merger and the agreements and documents authorizing the reorganization, consolidation or merger. The documents authorizing any reorganization, consolidation or merger shall contain a provision, to the extent permitted by law, that, following such reorganization, consolidation or merger, the successor will assume, by operation of law or otherwise, the due and punctual performance and observance of all of the representations, warranties, covenants, agreements and conditions of this Agreement and the other Related Documents to which the Borrower is a party. In addition, the Borrower shall provide all information concerning such reorganization, consolidation or merger as shall have been reasonably requested by the TIFIA Lender.

(k) No Defeasance of TIFIA Bond. The Borrower shall not defease the TIFIA Bond pursuant to the Indenture without the prior written consent of the TIFIA Lender.

(l) OFAC Compliance. The Borrower:

(i) shall not violate (A) any applicable Anti-Money Laundering Laws, (B) any applicable Sanctions, (C) Anti-Corruption Laws or (D) any applicable anti-drug trafficking, anti-terrorism, or anti-corruption laws, civil or criminal;

(ii) shall not use the proceeds of the TIFIA Loan for purposes other than those permitted by applicable law and as otherwise permitted under this Agreement and the other Related Documents;

(iii) shall provide that each of its directors, officers, employees, and , to its knowledge, its agents, shall not, directly or indirectly, use the proceeds of the TIFIA Loan or lend to, make any payment to, contribute or otherwise make available any funds to any affiliate, joint venture partner or other Person (A) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any applicable Anti-Corruption Laws, (B) in any manner that would result in the violation of any applicable Anti-Money Laundering Laws, (C) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, or (D) in any other manner that would result in the violation of any Sanctions by any Person (including the Executive Director, the TIFIA Lender or any Principal Project Party); and

(iv) shall not make a payment, directly or indirectly, to any Principal Project Party that to its knowledge has violated any of the laws referenced in Section 17(l)(i) (*OFAC Compliance*) or that is a Sanctioned Person.

(m) Hedging. The Borrower shall not enter into any swap or hedging transaction, including inflation indexed swap transactions, “cap” or “collar” transactions, futures, or any other hedging transaction relating to Obligations other than a Qualified Hedge. Any such Hedging Transaction shall comply with the requirements for Hedging Transactions hereunder.

(n) Changes to I-10 Toll Policies. The Borrower shall not make any change to its toll policies for the Project in a manner that would be reasonably likely to result in a material reduction to projected Toll Revenues in comparison to the Base Case Projections, unless Borrower first demonstrates to the TIFIA Lender’s satisfaction that, following the implementation of such change to the toll policies for the Project, Revenues and Measure I Cash Supplement are expected to produce (i) a Senior Debt Service Coverage Ratio for each Calculation Period through the Final Maturity Date of not less than 1.35:1.00, (ii) a Second Lien Debt Service Coverage Ratio for each Calculation Period through the Final Maturity Date of not less than 1.25:1.00, and (iii) Toll Revenues (combined with Measure I Cash Supplement amounts, as permitted by this Agreement) sufficient to fund in full amounts required pursuant to clauses *First* through *Fifteenth* of Section 5.03(b) of the Indenture.

(o) Additional Projects. The Borrower shall not undertake any work of a physical nature (excluding internal planning and budgeting and environmental review and approvals) with respect to any Additional Project without first demonstrating to the TIFIA Lender’s reasonable satisfaction that such Additional Project shall not adversely affect the Project, which demonstration shall include delivery of a Revised Financial Model and a report from the Traffic Consultant [(level 1 or higher)] demonstrating and certifying that such Additional Project could not reasonably be expected to have a Material Adverse Effect on Toll Revenue. The Borrower shall not issue any Obligations payable from or secured by Revenues in order to finance an Additional Project without obtaining the TIFIA Lender’s prior written

consent pursuant to Section 17(a) (*Indebtedness*). From and after the substantial completion of any Additional Project, such Additional Project shall be considered as part of the Project, any revenues derived from such Additional Project shall be treated as Revenues for all purposes of this Agreement and the Indenture, and such revenues shall be included in the Trust Estate for all purposes hereunder and under the Indenture.

(p) Discretionary Capital Expenditures. Subject to Section 17(o) (*Additional Projects*), the Borrower shall not incur or expend Capital Expenditures paid for with Revenues that are not Major Maintenance and Repair Fund Permitted Expenditures without the TIFIA Lender's prior written consent, unless such discretionary Capital Expenditures are paid solely from amounts in the Residual Fund (for the avoidance of doubt, after satisfaction of the Residual Release Conditions) or other sources of funding available to the Borrower that do not constitute Revenues.

Section 18. Indemnification. To the extent permitted by the laws of the State, the Borrower shall indemnify the TIFIA Lender and any official, employee, agent, advisor or representative of the TIFIA Lender (each such Person being herein referred to as an "**Indemnitee**") against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities, fines, penalties, costs and expenses (including the fees, charges and disbursements of any counsel for any Indemnitee and the costs of environmental remediation), whether known, unknown, contingent or otherwise, incurred by or asserted against any Indemnitee arising out of, in connection with, or as a result of (a) the execution, delivery and performance of this Agreement or any of the other Related Documents, (b) the TIFIA Loan or the use of the proceeds thereof, or (c) the violation of any law, rule, regulation, order, decree, judgment or administrative decision relating to the environment, the preservation or reclamation of natural resources, the management, release or threatened release of any hazardous material or to health and safety matters; in each case arising out of or in direct relation to the Project; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities, fines, penalties, costs or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee. In case any action or proceeding is brought against an Indemnitee by reason of any claim with respect to which such Indemnitee is entitled to indemnification hereunder, the Borrower shall be entitled, at its expense, to participate in the defense thereof; provided that such Indemnitee has the right to retain its own counsel, at the Borrower's expense, and such participation by the Borrower in the defense thereof shall not release the Borrower of any liability that it may have to such Indemnitee. Any Indemnitee against whom any indemnity claim contemplated in this Section 18 is made shall be entitled, after consultation with the Borrower and upon consultation with legal counsel wherein such Indemnitee is advised that such indemnity claim is meritorious, to compromise or settle any such indemnity claim. Any such compromise or settlement shall be binding upon the Borrower for purposes of this Section 18. Nothing herein shall be construed as a waiver of any legal immunity that may be available to any Indemnitee. To the extent permitted by applicable law, neither the Borrower nor the TIFIA Lender shall assert, and each of the Borrower and the TIFIA Lender hereby waives, any claim against any Indemnitee or the Borrower, respectively, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any of the other Related Documents, the other transactions contemplated hereby and thereby, the TIFIA Loan or

the use of the proceeds thereof, provided that nothing in this sentence shall limit the Borrower's indemnity obligations to the extent such damages are included in any third party claim in connection with which an Indemnitee is entitled to indemnification hereunder. All amounts due to any Indemnitee under this Section 18 shall be payable promptly upon demand therefor. The obligations of the Borrower under this Section 18 shall survive the payment or prepayment in full or transfer of the TIFIA Bond, the enforcement of any provision of this Agreement or the other Related Documents, any amendments, waivers (other than amendments or waivers in writing with respect to this Section 18) or consents in respect hereof or thereof, any Event of Default, and any workout, restructuring or similar arrangement of the obligations of the Borrower hereunder or thereunder.

Section 19. Sale of TIFIA Loan. The TIFIA Lender shall not sell the TIFIA Loan at any time prior to the Substantial Completion Date. After such date, the TIFIA Lender may sell the TIFIA Loan to another entity only in accordance with the provisions of this Section 19 and in compliance with the transfer requirements in the Indenture and subject to applicable securities laws. Such sale shall be on such terms as the TIFIA Lender shall deem advisable. However, in making such sale the TIFIA Lender shall not change the terms and conditions of the TIFIA Loan without the prior written consent of the Borrower in accordance with Section 30 (*Amendments and Waivers*). The TIFIA Lender shall provide, at least sixty (60) days prior to any sale of the TIFIA Loan, written notice to the Borrower of the TIFIA Lender's intention to consummate such a sale; provided, however, that no such notice shall be required during the continuation of any Event of Default. The provision of any notice pursuant to this Section 19 shall not (x) obligate the TIFIA Lender to sell nor (y) provide the Borrower with any rights or remedies in the event the TIFIA Lender, for any reason, does not sell the TIFIA Loan.

Section 20. Events of Default and Remedies.

(a) An “**Event of Default**” shall exist under this Agreement if any of the following occurs:

(i) Payment Default. The Borrower shall fail to pay any of the principal amount of or interest on the TIFIA Loan (including TIFIA Debt Service required to have been paid pursuant to the provisions of Section 9 (*Payment of Principal and Interest*), and any mandatory prepayment required pursuant to the provisions of Section 10(a) (*Mandatory Prepayments*)), when and as the payment thereof shall be required under this Agreement or the TIFIA Bond or on the Final Maturity Date (each such failure, a “**Payment Default**”); provided, however, that failure to pay TIFIA Scheduled Debt Service shall not be a Payment Default hereunder if the amount on deposit in the Second Lien Obligations Interest Account or the Second Lien Obligations Principal Account within the Second Lien Obligations Fund, as applicable, was insufficient therefor notwithstanding compliance by the Borrower and the Trustee with Section 8(d) (*Security and Priority; Flow of Funds*).

(ii) Covenant Default. The Borrower shall fail to observe or perform any covenant, agreement or obligation of the Borrower under this Agreement, the TIFIA Bond or any other TIFIA Loan Document (other than in the case of any Payment Default, Development Default, or failure to fully fund any Project Account), and such failure shall

not be cured within thirty (30) days after the earlier to occur of (A) receipt by the Borrower from the TIFIA Lender of written notice thereof, or (B) the Borrower's knowledge of such failure; provided, however, that if such failure is capable of cure but cannot reasonably be cured within such thirty (30) day cure period, then no Event of Default shall be deemed to have occurred or be continuing under this Section 20(a)(ii) (*Covenant Default*), and such thirty (30) day cure period shall be extended by up to one hundred fifty (150) additional days, if and so long as (x) within such thirty (30) day cure period the Borrower shall commence actions reasonably designed to cure such failure and shall diligently pursue such actions until such failure is cured, and (y) such failure is cured within one hundred eighty (180) days of the date specified in either clause (A) or (B) above, as applicable.

(iii) Development Default. A Development Default shall occur, in which case the TIFIA Lender may (A) suspend the disbursement of TIFIA Loan proceeds under this Agreement and (B) pursue such other remedies as provided in this Section 20 (*Events of Default and Remedies*); provided, however, that in seeking any waiver of this Event of Default, which waiver shall be determined by the TIFIA Lender in its sole discretion, the Borrower shall (W) propose a new Projected Substantial Completion Date that is reasonably acceptable to the TIFIA Lender, (X) demonstrate to the satisfaction of the TIFIA Lender that the Borrower and the Principal Project Parties are able to complete the Project by such new Projected Substantial Completion Date, (Y) demonstrate to the satisfaction of the TIFIA Lender that the Borrower has sufficient funds to complete the Project by the new Projected Substantial Completion Date, and (Z) demonstrate to the satisfaction of the TIFIA Lender that such funds are fully committed and available to the Borrower to pay for Total Project Costs through completion. If so requested by the TIFIA Lender in connection with a Development Default, the Borrower shall immediately repay any unexpended TIFIA Loan proceeds previously disbursed to the Borrower.

(iv) Misrepresentation Default. Any of the representations, warranties or certifications of the Borrower made in or delivered pursuant to the TIFIA Loan Documents (or in any certificates delivered by the Borrower in connection with the TIFIA Loan Documents) shall prove to have been false or misleading in any material respect when made or deemed made (or any representation and warranty that is subject to a materiality qualifier shall prove to have been false or misleading in any respect); provided that no Event of Default shall be deemed to have occurred under this Section 20(a)(iv) (*Misrepresentation Default*) if and so long as:

(A) such misrepresentation is not intentional;

(B) such misrepresentation is not a misrepresentation in respect of Section 14(h) (*No Debarment*), Section 14(j) (*Compliance with Federal Requirements*), Section 14(k) (*Transportation Improvement Program*), Section 14(q) (*OFAC; Anti-Corruption Laws*), Section 14(ee) (*Patriot Act*);

(C) in the reasonable determination of the TIFIA Lender, such misrepresentation has not had, and would not reasonably be expected to result in, a Material Adverse Effect;

(D) in the reasonable determination of the TIFIA Lender, the underlying issue giving rise to the misrepresentation is capable of being cured;

(E) the underlying issue giving rise to the misrepresentation is cured by the Borrower within thirty (30) days from the date on which the Borrower first became aware (or reasonably should have become aware) of such misrepresentation; and

(F) the Borrower diligently pursues such cure during such thirty (30) day period.

(v) Acceleration of Other Obligations. (A) Any acceleration shall occur of the maturity of any Additional Obligations due to a default with respect thereto .

(vi) Cross Default.

(A) *Financing Documents.* Any of the representations, warranties or certifications of the Borrower made in or delivered pursuant to the Indenture Documents, or made in or delivered pursuant to the documents (the “**Other Loan Documents**”) under which any Additional Obligation is created or incurred, shall prove to be false or misleading in any material respect (each an “**Other Indebtedness Misrepresentation Default**”), or any default shall occur in respect of the performance of any covenant, agreement or obligation of the Borrower under the Indenture Documents, or the Other Loan Documents, and, in either case, such default shall be continuing after the giving of any applicable notice and the expiration of any applicable grace period specified in the Indenture Documents, or the Other Loan Documents (as the case may be) with respect to such default (each an “**Other Indebtedness Covenant Default**”), if the effect of such Other Indebtedness Misrepresentation Default or Other Indebtedness Covenant Default shall be to permit the immediate acceleration of the maturity of any or all of the Obligations, and, in the case of any such Other Indebtedness Misrepresentation Default or Other Indebtedness Covenant Default, the Borrower shall have failed to cure such Other Indebtedness Misrepresentation Default or Other Indebtedness Covenant Default or to obtain an effective written waiver thereof in accordance with the terms of such Obligations and the applicable Indenture Documents.

(B) *Principal Project Contracts.* (1) The Borrower or any Principal Project Party shall default in the timely performance of any covenant, agreement or obligation under any Principal Project Contract (unless such default could not reasonably be expected to have a Material Adverse Effect) or any Principal Project Contract shall be terminated prior to its scheduled expiration, and the Borrower or such Principal Project Party shall have failed to cure such

default or to obtain an effective written waiver thereof prior to the expiration of the applicable grace period specified in any such Principal Project Contract, or to obtain an effective revocation of such termination (as the case may be); or (2) any Principal Project Contract ceases to be in full force and effect for any reason (other than as a result of the termination thereof in accordance with its terms) or becomes void, voidable, illegal or unenforceable, or the Borrower or any Principal Project Party shall contest in any manner the validity or enforceability of any Principal Project Contract or any material provision thereof or denies it has any further liability under any Principal Project Contract, or purports to revoke, terminate or rescind any Principal Project Contract or any material provision thereof; provided that no Event of Default shall be deemed to have occurred or be continuing under this Section 20(a)(vi)(B) (*Cross Default-Principal Project Contracts*) if, in the case any Principal Project Contract is terminated or otherwise ceases to be in full force and effect, (I) the Borrower replaces such Principal Project Contract with a replacement agreement (a) entered into with another counterparty that (i) is of similar or greater creditworthiness (including credit support), technical capability and relevant experience as the counterparty being replaced was at the time the applicable Principal Project Contract was originally executed (or otherwise reasonably acceptable to the TIFIA Lender), (ii) is not, at the time of such replacement, suspended or debarred or subject to a proceeding to suspend or debar from bidding, proposing or contracting with any federal or state department or agency, (iii) is not, at the time of such replacement, in violation of any applicable laws referenced in Section 14(q) (*OFAC; Anti-Money Laundering; Anti-Corruption Laws*), and is in compliance with all applicable laws referenced in Section 14(r) (*Compliance with Law*) and Section 14(s) (*Environmental Matters*), and (iv) is capable (in the TIFIA Lender's reasonable determination, in consultation with the Consulting Engineer) of completing the scope of work of the replaced Principal Project Party in such a manner so that the Project is reasonably expected to be completed in accordance with the Construction Schedule and Project Budget set forth in the then-current Financial Plan, (b) on substantially the same terms and conditions as the Principal Project Contract being replaced (or otherwise reasonably acceptable to the TIFIA Lender), (c) effective as of the date of termination of the Principal Project Contract being replaced (or with respect to the occurrence of any event described in clause (2) above, effective as soon as practicable following such event (but in no case longer than ninety (90) days thereafter)); and (II) each performance security instrument required under the replacement agreement is in full force and effect at the time of such replacement and is on substantially the same terms and conditions as the comparable performance security instrument required under the Principal Project Contract being replaced (or otherwise reasonably acceptable to the TIFIA Lender).

(vii) Judgments. One or more judgments (A) for the payment of money in an aggregate amount in excess of \$1,000,000 (inflated annually by CPI) that are payable from Revenues and are not otherwise fully covered by insurance (for which the insurer has acknowledged and not disputed coverage) or (B) that would reasonably be expected to result in a Material Adverse Effect shall, in either case, be rendered against the Borrower, and the same shall remain undischarged for a period of sixty (60)

consecutive days during which time period execution shall not be effectively stayed, or any action shall be legally taken by a judgment creditor to attach or levy upon any assets of the Borrower to enforce any such judgment.

(viii) Failure to Maintain Existence. The Borrower shall fail to maintain its existence as a county transportation authority duly existing under the laws of the State, unless at or prior to the time the Borrower ceases to exist in such form a successor public agency or governing body has been created by the State pursuant to a valid and unchallenged State law and has succeeded to the assets of the Borrower and has assumed all of the obligations of the Borrower under the TIFIA Loan Documents, the Indenture Documents and the Sales Tax Indenture Documents, including the payment of all Obligations.

(ix) Occurrence of a Bankruptcy Related Event. (A) A Bankruptcy Related Event shall occur with respect to the Borrower or (B) a Bankruptcy Related Event shall occur with respect to any Principal Project Party; provided, that no Event of Default shall be deemed to have occurred or be continuing under this clause (B) if:

(1) with respect to a Bankruptcy Related Event of any letter of credit issuer, such letter of credit issuer is replaced by a new issuer that is a Qualified Issuer within ten (10) Business Days after the occurrence of such Bankruptcy Related Event; or

(2) with respect to a Bankruptcy Related Event of a Principal Project Party, such Principal Project Party is replaced within ninety (90) days, or such additional time period as is approved in writing by the TIFIA Lender in its sole discretion, after the occurrence of such Bankruptcy Related Event by a new Principal Project Party that (I) possesses similar or greater creditworthiness (including credit support), technical capability and relevant experience as the counterparty being replaced, considered as of the time the applicable Principal Project Contract was originally executed, as certified by the Consulting Engineer, or otherwise reasonably acceptable to the TIFIA Lender, (II) is not, at the time of such replacement, suspended or debarred or subject to a proceeding to suspend or debar from bidding, proposing or contracting with any federal or state department or agency, (III) is not, at the time of such replacement, in violation of any applicable laws referenced in Section 14(q) (*OFAC; Anti-Money Laundering; Anti-Corruption Laws*), and is in compliance with all applicable laws referenced in Section 14(r) (*Compliance with Law*) and Section 14(s) (*Environmental Matters*), (IV) is bound under a contract containing substantially the same terms and conditions as the Principal Project Contract being replaced (or otherwise reasonably acceptable to the TIFIA Lender), and (V) is capable (in the TIFIA Lender's reasonable determination, in consultation with the Consulting Engineer) of completing the scope of work of the replaced Principal Project Party in such a manner so that the Project is reasonably expected to be completed in accordance with the Construction Schedule and Project Budget set forth in the then-current Financial Plan.

(x) Project Abandonment. The Borrower shall abandon the Project.

(xi) Invalidity of TIFIA Loan Documents. (A) Any TIFIA Loan Document ceases to be in full force and effect (other than as a result of the termination thereof in accordance with its terms) or becomes void, voidable, illegal or unenforceable, or any party thereto (other than the TIFIA Lender) contests in any manner the validity or enforceability of any TIFIA Loan Document to which it is a party, or denies it has any further liability under any such document prior to the termination thereof in accordance with its terms, or purports to revoke, terminate or rescind any TIFIA Loan Document to which it is a party; or (B) the Indenture, as modified and supplemented by the TIFIA Supplemental Indenture, ceases (other than as expressly permitted thereunder) to be effective to grant a valid and binding security interest on any material portion of the Trust Estate other than as a result of actions or a failure to act by, and within the control of, the Trustee or any Secured Party, and with the priority purported to be created thereby.

(xii) Invalidity of the Sales Tax Revenue Bond Indenture. The Sales Tax Revenue Bond Indenture ceases to be in full force and effect (other than as a result of the termination thereof in accordance with its terms) or become void, voidable, illegal or unenforceable, or the Authority contests in any manner the validity or enforceability of the Sales Tax Revenue Bond Indenture, or denies it has any further liability under any such documents prior to the termination thereof in accordance with their terms, or purports to revoke, terminate or rescind the Sales Tax Revenue Bond Indenture.

(xiii) Cessation of Operations. Operation of the Project shall cease for a continuous period of not less than one hundred eighty (180) days unless such cessation of operations shall occur by reason of an Uncontrollable Force that is not due to the fault of the Borrower (and which the Borrower could not reasonably have avoided or mitigated) and the Borrower shall have in force an insurance policy or policies under which the Borrower is entitled to recover amounts sufficient to pay (and may use such amounts to pay) all TIFIA Debt Service, all Annual Debt Service in respect of all Obligations, and costs and expenses of the Borrower during such cessation of operations.

(xiv) Funding of Required Amounts. The Borrower shall fail to have on deposit in any of the Funds or Accounts described in clauses (i), (ii), (iii), (iv), (v) and (vi) of Section 16(k), one hundred percent (100%) of the initial required minimum balance on the date as of which such required minimum balance must be initially funded in accordance with Section 16(k) (*Project Accounts; Permitted Investments*) and the applicable Indenture Documents. The Borrower shall fail to make any deposit from time to time required hereunder or under any of the Indenture Documents to be made into any Fund or Account (other than the Measure I Backstop Repayment Account or Measure I Cash Supplement Repayment Account, each as defined in the Indenture) for any reason other than the insufficiency of Revenues available for such deposits in accordance with Section 5.03(b) of the Indenture.

(xv) Measure I Investments. Subject to limits on the annual and aggregate amounts of Measure I Investments pursuant to Section 16(w) (*Measure I Investment*), the Borrower shall fail to cause Sales Tax Revenues to be deposited into the Measure I Reserve Fund in the amounts required to be deposited therein as of any

Calculation Date pursuant to Section 16(w) (*Measure I Investment*) or **Schedule IV** (*Measure I Cash Supplement*).

(b) Upon the occurrence of an Event of Default described in Section 20(a)(iii) (*Development Default*), all obligations of the TIFIA Lender hereunder with respect to the disbursement of any undisbursed amounts of the TIFIA Loan shall immediately be deemed terminated.

(c) Upon the occurrence of any Bankruptcy Related Event described in clauses (a), (b)(i), (b)(v) or (b)(vi) of the definition thereof, with respect to the Borrower, all obligations of the TIFIA Lender hereunder with respect to the disbursement of any undisbursed amounts of the TIFIA Loan shall automatically be deemed terminated. [Note: Acceleration is not allowed under the Indenture as we discussed at the meeting, so this needs to be deleted.]

(d) Upon the occurrence of any other Event of Default, the TIFIA Lender, by written notice to the Borrower, may suspend or terminate all of its obligations hereunder with respect to the disbursement of any undisbursed amounts of the TIFIA Loan. Upon the occurrence of the Event of Default described in clause (A) of Section 20(a)(v), the unpaid principal amount of the TIFIA Loan shall be immediately due and payable, together with the interest accrued thereon and all fees, costs, expenses, indemnities and other amounts payable under this Agreement, the TIFIA Bond or the other TIFIA Loan Documents, all without presentment, demand, notice, protest or other requirements of any kind, all of which are hereby expressly waived. The TIFIA Lender shall have the right to deliver notice to the Trustee with direction to the Trustee that the Trustee shall deem an Event of Default hereunder to be an “Event of Default” under the Indenture.

(e) Whenever any Event of Default hereunder shall have occurred and be continuing, the TIFIA Lender shall be entitled and empowered to institute any actions or proceedings at law or in equity for the collection of any sums due and unpaid hereunder or under and subject to the terms of the Indenture, the TIFIA Bond or the other TIFIA Loan Documents, and may prosecute any such judgment or final decree against the Borrower and collect in the manner provided by law and the Indenture out of the Trust Estate the moneys adjudged or decreed to be payable, and the TIFIA Lender shall have all of the rights and remedies of a creditor, including (to the extent applicable) all rights and remedies of a secured creditor and a creditor under the Uniform Commercial Code, and may take such other actions at law or in equity as may appear necessary or desirable to collect all amounts payable by Borrower under this Agreement, the TIFIA Bond or the other TIFIA Loan Documents then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Borrower under this Agreement, the TIFIA Bond or the other TIFIA Loan Documents; provided, that except as expressly provided in Sections 20(d), the TIFIA Lender shall have no right of acceleration with respect to the TIFIA Loan.

(f) Whenever any Event of Default hereunder shall have occurred and be continuing, the TIFIA Lender may suspend or debar the Borrower from further participation in any Government program administered by the TIFIA Lender and to notify other departments and agencies of such default.

(g) No action taken pursuant to this Section 20 (*Events of Default and Remedies*) shall relieve Borrower from its obligations pursuant to this Agreement, the TIFIA Bond or the other TIFIA Loan Documents, all of which shall survive any such action.

Section 21. Accounting and Audit Procedures; Inspections; Reports and Records.

(a) Accounting and Audit Procedures. The Borrower shall establish fiscal controls and accounting procedures sufficient to assure proper accounting for all Project-related transactions (including collection of Revenues, and any other revenues attributable to the Project, and TIFIA Loan requisitions received and disbursements made with regard to the Project), so that audits may be performed to ensure compliance with and enforcement of this Agreement. The Borrower shall use accounting, audit and fiscal procedures conforming to GAAP, including, with respect to the TIFIA Loan, accounting of principal and interest payments, disbursements, prepayments and calculation of interest and principal amounts outstanding.

(b) Inspections. So long as the TIFIA Loan or any portion thereof shall remain outstanding and until five (5) years after the TIFIA Loan shall have been paid in full, the TIFIA Lender shall have the right, upon reasonable prior notice, to visit and inspect any of the locations or properties of the Borrower, to examine its books of account and records, to make copies and extracts therefrom at the Borrower's expense, and to discuss the Borrower's affairs, finances and accounts with, and to be advised as to the same by, its officers and employees and its independent public accountants (and by this provision the Borrower irrevocably authorizes its independent public accountants to discuss with the TIFIA Lender the affairs, finances and accounts of the Borrower, whether or not any representative of the Borrower is present, it being understood that nothing contained in this Section 21(b) is intended to confer any right to exclude any such representative from such discussions), all at such reasonable times and intervals as the TIFIA Lender may desire. The Borrower agrees to pay all out-of-pocket expenses incurred by the TIFIA Lender in connection with the TIFIA Lender's exercise of its rights under this Section 21(b) at any time when an Event of Default shall have occurred and be continuing.

(c) Reports and Records. The Borrower shall maintain and retain all files relating to the Project, the Revenues and the TIFIA Loan until three (3) years after the later of the date on which (i) all rights and duties hereunder and under the TIFIA Bond (including payments) have been fulfilled and any required audits have been performed and (ii) any litigation relating to the Project, the Revenues, the TIFIA Loan or this Agreement is finally resolved or, if the TIFIA Lender has reasonable cause to extend such date, a date to be mutually agreed upon by the TIFIA Lender and the Borrower. The Borrower shall provide to the TIFIA Lender in a timely manner all records and documentation relating to the Project or the Revenues that the TIFIA Lender may reasonably request from time to time.

(d) Copies of Senior Debt Related Notices. The Borrower shall provide to the TIFIA Lender, promptly after the sending or receipt thereof, copies of (i) final ratings presentations sent to, and any notices, reports or other written materials (other than those that are ministerial in nature) received from, any Nationally Recognized Rating Agency that has provided, or is being requested to provide, a rating with respect to the Project or any indebtedness of the Borrower that is or will be secured by or paid from the Revenues, (ii) all notices and other written communications, other than those that are non-substantive or

ministerial in nature, received by it from the Trustee or any Bondholder, and (iii) all reports, notices and other written materials, other than those that are non-substantive or ministerial in nature, required to be sent to the Trustee or any Bondholder under the Indenture, including all such notices, other than those that are non-substantive or ministerial in nature, relating to any of the Principal Project Contracts; unless, in each case, the TIFIA Lender notifies the Borrower that any such reports, notices and/or other written materials no longer need to be provided.

(e) Required Audit. The Borrower shall have a single or program-specific audit conducted in accordance with 2 C.F.R. Part 200 Subpart F and 31 U.S.C. § 7502 in 2017 and annually thereafter, except to the extent biennial audits are permitted for the Borrower pursuant to 2 C.F.R. § 200.504 and 31 U.S.C. § 7502(b). Upon reasonable notice, the Borrower shall cooperate fully in the conduct of any periodic or compliance audits conducted by the TIFIA Lender, the USDOT, or designees thereof, pursuant to 49 C.F.R. § 80.19, 31 U.S.C. § 7503(b), or 31 U.S.C. § 6503(h) and shall provide full access to any books, documents, papers or other records that are pertinent to the Project or the TIFIA Loan, to the Secretary, or the designee thereof, for any such project or programmatic audit.

Section 22. Financial Plan, Statements, and Reports.

(a) Financial Plan. The Borrower shall provide a Financial Plan to the TIFIA Lender and the FHWA Division Office, within sixty (60) days after the Effective Date and annually thereafter not later than ninety (90) days after the beginning of each Borrower Fiscal Year. The Financial Plan submitted within sixty (60) days after the Effective Date should be consistent in all respects with the projections, assumptions and other information contained or reflected in the Base Case Financial Model. The Financial Plan shall not reflect amortization of Additional Obligations until such time as all currently accruing interest on the TIFIA Loan is being paid in full. The initial and each subsequent Financial Plan delivered hereunder shall be subject to approval by the TIFIA Lender.

(i) The Financial Plan shall be prepared in accordance with GAAP, shall meet FHWA's Major Project Financial Plan requirements, as amended from time to time, and shall be in form and substance satisfactory to the TIFIA Lender.

(ii) The Financial Plan shall include: (A) a certificate signed by the Borrower's Authorized Representative to the effect that the Financial Plan, including the assumptions and supporting documentation, is accurate and reasonable to the best of the Borrower's knowledge and belief; (B) a certificate signed by the Borrower's Authorized Representative demonstrating that annual projected Revenues and Measure I Cash Supplement payments shall be sufficient to meet the Loan Amortization Schedule and to meet the Rate Coverage Test established pursuant to Section 16(l) (*Rate Coverage*); and (C) an electronic copy of a Revised Financial Model for the period from the Effective Date through the Final Maturity Date, in substantially the form of the Base Case Financial Model, based upon assumptions and projections with respect to the Revenues, Net Revenues, expenses and other financial aspects of the Project that shall reflect the prior experience and current status of the Project, and the expectations of the Borrower with respect to the Project, as of the most recent practicable date prior to the delivery of such Revised Financial Model.

(iii) For the period through the Substantial Completion Date, the Financial Plan shall:

(A) provide the current estimate of Total Project Costs and the remaining cost to complete the Project, identify any significant cost changes since the previous Financial Plan, discuss reasons for and implications of the cost changes, and include a summary table showing the history of Total Project Costs by major activity or category in comparison to the Base Case Financial Model and the preceding Financial Plan;

(B) identify major milestones for each phase of the Project and compare current milestone dates with the milestone dates in the Construction Schedule and in the preceding Financial Plan, and discuss reasons for changes in Project milestones;

(C) provide current estimates of sources and uses of funds for the Project, identify any significant funding changes since the preceding Financial Plan, discuss reasons for and implications of the funding changes, and include a summary table showing the history of Project funding in comparison to the Base Case Financial Model and the preceding Financial Plan;

(D) provide an updated cash flow schedule showing annual cash needs versus available revenue and funding to meet those needs and identify any potential revenue and funding shortfalls, and addressing contingency measures that will or may be taken to address any shortfalls;

(E) based on the updated cash flow schedule, provide projected Senior Debt Service Coverage Ratios, Second Lien Debt Service Coverage Ratios, and Total Debt Service Coverage Ratios through the Final Maturity Date;

(F) provide cost containment strategies and risk mitigation plans that have been or may be implemented to address factors that are affecting or could affect the scheduled completion or financial viability of the Project;

(G) provide the total value of approved changes in Project design or scope, and provide a listing of each individual change valued at \$5,000,000 or more, setting forth the rationale or need for the proposed change and describing the impact of such change on the Project;

(H) to the extent that any Hedging Transactions are then in effect, report on the notional amounts covered by such Hedging Transactions;

(I) contain, in form and substance satisfactory to the TIFIA Lender, a written narrative executive summary of the topics described in clauses (A) through (H) above since the Effective Date and since the preceding Financial Plan, describing in reasonable detail all material matters that may affect the future performance of the Borrower's obligations under this Agreement, including any

proposed adjustment to the Projected Substantial Completion Date, and the causes thereof.

(iv) For the period following the Substantial Completion Date until repayment of the TIFIA Loan in full, the Financial Plan shall:

(A) provide an updated cash flow schedule showing annual cash inflows (Revenues, Measure I Investment, interest and other income), outflows (Operation and Maintenance Expenses, Major Maintenance and Repair Fund Permitted Expenditures, Capital Expenditures, TIFIA Debt Service, Annual Debt Service in respect of all other Obligations, Measure I Investment repayments, replenishment of reserves and other uses) and Net Revenues with a narrative identifying any potential revenue or funding shortfall and discussing contingency measures that will or may be taken to address any shortfalls;

(B) for so long as the Borrower is authorized to collect and receive Sales Tax Revenues, provide a summary, in each case with respect to the preceding Borrower Fiscal Year, of Sales Tax Revenues received by the Borrower and amounts deposited into the Measure I Reserve Fund, and provide a statement of the principal amount of the Sales Tax Revenue Bonds outstanding as of the end of the most recently ended Borrower Fiscal Year and an amortization profile of the forecasted debt service payments with respect to such Sales Tax Revenue Bonds;

(C) report on variances during the prior Borrower Fiscal Year between the actual Operation and Maintenance Expenses and Major Maintenance and Repair Fund Permitted Expenditures incurred and the budgeted Operation and Maintenance Expenses and Major Maintenance and Repair Fund Permitted Expenditures as shown in the Financial Plan for such prior Borrower Fiscal Year, together with a brief narrative explanation of the reasons for any such variance of ten percent (10%) or more;

(D) provide current and estimated amounts of Revenues received and the amounts deposited into each of the accounts and subaccounts established under the Indenture and the Supplemental Indentures, and the amount disbursed from such funds and accounts and the balance in each of the funds and accounts;

(E) provide an updated budget for Operation and Maintenance Expenses and Major Maintenance and Repair Fund Permitted Expenditures for the current Borrower Fiscal Year;

(F) provide an updated schedule of actual and projected Revenues and Measure I Investments, showing actual and projected Senior Debt Service Coverage Ratios, Second Lien Debt Service Coverage Ratios and Total Debt Service Coverage Ratios, and report on variances during the prior Borrower Fiscal Year between the Revenues actually received and the budgeted Revenues

as shown in the Financial Plan for such prior Borrower Fiscal Year, together with a brief narrative explanation of the reasons for any such variance of ten percent (10%) or more;

(G) beginning five (5) years after Substantial Completion, provide an updated projection of Major Maintenance and Repair Fund Permitted Expenditures;

(H) provide a description of any changes to the Borrower's toll policies adopted for the Project;

(I) contain, in form and substance satisfactory to the TIFIA Lender, a written narrative executive summary of the topics described in clauses (A) through (H) above since the Effective Date and since the preceding Financial Plan, including in reasonable detail (1) an explanation of any variances in costs or revenues in comparison to the Base Case Financial Model and the preceding Financial Plan, and (2) a description of any material matters that may affect the future performance of the Borrower's obligations under this Agreement and the causes thereof, including traffic and revenue reports, operational contracts, and third-party transactions.

(b) Modifications to Total Project Costs. For the period through the Substantial Completion Date, the Borrower shall provide the TIFIA Lender with written notification at least thirty (30) days prior to instituting any increase or decrease to the aggregate Total Project Costs in an amount equal to or greater than \$2,500,000, which notification shall set forth the nature of the proposed increase or decrease and an estimate of the impact of such increase or decrease on the capital costs and operating costs of the Project, and the Financial Plan. The Borrower's notice shall demonstrate that the proposed increase or decrease is consistent with the provisions of this Agreement, is necessary or beneficial to the Project, does not materially impair the TIFIA Lender's security or the Borrower's ability to comply with its obligations under the Related Documents (including any financial ratios or covenants included therein), and could not reasonably be expected to result in a Material Adverse Effect.

(c) Financial Statements. The Borrower shall furnish to the TIFIA Lender:

(i) (A) as soon as available, but no later than sixty (60) days after the end of the first, second and third quarterly period of each Borrower Fiscal Year, an unaudited quarterly financial report of the Borrower, which consists of (I) a schedule of actual revenues, expenditures and expenses, and changes in fund balances in comparison to budgeted amounts, and (II) narrative analysis of Borrower's budget to actual variances, as of the end of such period certified by the chief executive officer or chief financial officer of the Borrower or any Borrower's Authorized Representative as fairly stating in all material respects the results of its operations for such period (subject to normal year-end audit adjustments); and

(B) as soon as available, but no later than one hundred eighty (180) days after the end of each Borrower Fiscal Year, a copy of all audited financial statements (statement of net position, statement of activities and statement of cash flows) relating to the operations of the Borrower generally and, if applicable, to the Project, certified without a “going concern” or like qualification or exception, or qualification as to the scope of the audit, by an independent public accounting firm selected by the Borrower pursuant to the Borrower’s procurement processes..

(ii) All such annual audited financial statements and financial reports shall be complete and correct in all material respects and shall be prepared in reasonable detail and such annual audited financial statements shall be prepared in accordance with GAAP applied consistently throughout the periods reflected therein (except for changes approved or required by the independent public accountants certifying such statements and disclosed therein).

(d) Officer’s Certificate. The Borrower shall furnish to the TIFIA Lender, together with each delivery of annual audited or quarterly reports of the Borrower pursuant to Section 22(c) (*Financial Statements*), a certificate signed by the chief executive officer or chief financial officer of the Borrower or any Borrower’s Authorized Representative, stating whether or not, to the Borrower’s knowledge, during the quarterly or annual period (as the case may be) covered by such financial statements, there occurred any Default or Event of Default, and, if any such Default or Event of Default shall have occurred during such period, the nature of such Default or Event of Default and the actions that the Borrower has taken or intends to take in respect thereof.

Section 23. Project Oversight and Monitoring.

(a) Project Development, Design and Construction. The TIFIA Lender shall have the right in its sole discretion to monitor (or direct its agents to monitor) the development, including environmental compliance, design, right-of-way acquisition, and construction of the Project. Caltrans shall be responsible for administering construction oversight of the Project in accordance with the FHWA Oversight Agreement. Caltrans’ oversight of Project development, environmental compliance, design, right-of-way acquisition, and construction monitoring shall be conducted pursuant to the FHWA Oversight Agreement, which may be amended from time to time upon mutual agreement of Caltrans and the FHWA Division Office, or when so required by federal statute or otherwise required by the Congress. The Borrower agrees to cooperate in good faith with the TIFIA Lender in the conduct of such monitoring by promptly providing the TIFIA Lender and the FHWA Division Office with such reports, documentation or other information as shall be requested by the TIFIA Lender and the FHWA Division Office, or its agents, including any Consulting Engineer reports, documentation or information.

(b) Reporting. The Borrower shall furnish to the TIFIA Lender the documentation described below.

(i) Monthly Construction Progress Report. On or before the last Business Day of any calendar month during the Construction Period, a report executed by a Borrower's Authorized Representative that:

(A) specifies the amount of Total Project Costs expended since the Effective Date as well as during the preceding calendar month and the amount of Total Project Costs estimated to be required to complete the Project;

(B) provides a demonstration that the Borrower has sufficient funds (including funds on hand and funds obtainable without undue delay or conditions that cannot reasonably be satisfied by the Borrower as and when such funds are needed) to complete the Project;

(C) provides an assessment of the overall construction progress of the Project since the date of the last report and since the Effective Date, together with an assessment of how such progress compares to the Construction Schedule;

(D) specifies the most recent projections for the Substantial Completion Date as compared to the Projected Substantial Completion Date specified in the Financial Plan most recently approved by the TIFIA Lender;

(E) provides a detailed description of all material problems (including actual and anticipated cost and/or schedule overruns, if any) encountered or anticipated in connection with the construction of the Project since the date of the last report, together with an assessment of how such problems may impact the Construction Schedule and the meeting of critical dates thereunder and a detailed description of the proposed solutions to any such problems;

(F) specifies the delivery status of major equipment and the effect, if any, that the anticipated delivery dates of such equipment has on the overall Construction Schedule;

(G) specifies any proposed or pending change orders;

(H) specifies any material changes or deviations from the Borrower's land procurement plans or schedule;

(I) includes a copy of each report delivered by the Design-Build Contractor to the Borrower that has not previously been delivered to the TIFIA Lender in a prior report delivered pursuant to this Section 23(b)(i) (*Monthly Construction Progress Report*); and

(J) provides a discussion or analysis of such other matters related to the Project as the TIFIA Lender may reasonably request. The Borrower shall respond, and use commercially reasonable efforts to cause the Design-Build Contractor to respond, to the TIFIA Lender's inquiries regarding such report, the

construction of the Project and the Design-Build Contractor's performance of its obligations under the Design-Build Contract.

(ii) Quarterly Traffic and Operating Report. For the period commencing after the Substantial Completion Date, deliver to the TIFIA Lender, not later than ninety (90) days after the end of each financial quarter, a traffic and operating report showing (A) the operating data for the Project for the previous financial quarter, including total Revenues received and total Operation and Maintenance Expenses and Capital Expenditures incurred, (B) the variances for such period between the Revenues actually received and the budgeted Revenues as shown in the Financial Plan most recently approved by the TIFIA Lender, together with a brief narrative explanation of the reasons for any such variance of ten percent (10%) or more, and (C) the variances for such period between the actual Operation and Maintenance Expenses incurred and the budgeted Operation and Maintenance Expenses as shown in the Financial Plan, together with a brief narrative explanation of the reasons for any such variance of ten percent (10%) or more.

(iii) Requested Information. The Borrower shall, at any time while the TIFIA Loan remains outstanding, promptly deliver to the TIFIA Lender such additional information regarding the business, financial, legal or organizational affairs of the Borrower or regarding the Project or the Revenues as the TIFIA Lender may from time to time reasonably request, including copies of agreements related to the acquisition or control of any Project right-of-way.

(iv) 10-Year Delivery Plan. The Borrower shall deliver to the TIFIA Lender each biennial updated 10-Year Delivery Plan Measure I 2010-2040 promptly following the adoption of such plan by the board of directors of the Borrower.

(c) Project Operations. For the period following the Substantial Completion Date, the TIFIA Lender shall have the right, in its sole discretion, to monitor (or direct its agents to monitor) the Project's operations and, as the TIFIA Lender may request from time to time, to receive reporting on the operation and management of the Project, and copies of any contracts relating to the operation, maintenance, and safety services for the Project. The Borrower agrees to cooperate in good faith with the TIFIA Lender in the conduct of such monitoring by promptly providing the TIFIA Lender with such reports, documentation, or other information requested by the TIFIA Lender. The TIFIA Lender has the right, in its sole discretion, to retain a financial oversight advisor, under a contract with the TIFIA Lender, to carry out the provisions of this Section 23(c), and the full cost of such monitoring shall be borne by the Borrower. Any costs incurred by the TIFIA Lender for such monitoring, including the costs of any financial oversight advisor, shall be promptly reimbursed by the Borrower upon demand therefor in the form of an invoice reasonably acceptable to the Borrower.

(d) Consulting Engineer. The Borrower shall retain a Consulting Engineer throughout the term of this Agreement. The Consulting Engineer shall advise the TIFIA Lender (with a duty of care to the TIFIA Lender) with regard to all technical matters related to the performance by the Borrower of its obligations under this Agreement and the Related Documents. The Borrower may replace the Consulting Engineer, subject to the TIFIA Lender's

right to object to any replacement Consulting Engineer in accordance with this Section 23(d) (*Consulting Engineer*). The Borrower shall provide the TIFIA Lender with thirty (30) Business Days advance written notice of any proposed replacement of the Consulting Engineer, together with supporting information concerning the qualifications of the proposed replacement Consulting Engineer. The proposed replacement Consulting Engineer shall become the Consulting Engineer thirty (30) Business Days following the date of the notice provided by the Borrower under this Section 23(d) *Consulting Engineer*, unless the TIFIA Lender objects in writing within fifteen (15) Business Days following receipt of the Borrower's notice. Any such objection by the TIFIA Lender shall include a reasonable description of its reasons for objecting to the proposed replacement Consulting Engineer. The Borrower shall pay for all services performed by the Consulting Engineer.

Section 24. No Personal Recourse. No official, employee or agent of the TIFIA Lender or the Borrower or any Person executing this Agreement or any of the other TIFIA Loan Documents shall be personally liable on this Agreement or such other TIFIA Loan Documents by reason of the issuance, delivery or execution hereof or thereof.

Section 25. No Third Party Rights. The parties hereby agree that this Agreement creates no third party rights against the Borrower, the Government, or the TIFIA Lender, solely by virtue of the TIFIA Loan, and the Borrower agrees to indemnify and hold the TIFIA Lender, the Servicer (if any), the Executive Director, and the Government harmless, to the extent permitted by law and in accordance with Section 18 (*Indemnification*), from any lawsuit or claim arising in law or equity solely by reason of the TIFIA Loan, and that no third party creditor or creditors of the Borrower shall have any right against the TIFIA Lender with respect to the TIFIA Loan made pursuant to this Agreement.

Section 26. Borrower's Authorized Representative. The Borrower shall at all times have appointed a Borrower's Authorized Representative by designating such Person or Persons from time to time to act on the Borrower's behalf pursuant to a written certificate furnished to the TIFIA Lender and the Servicer, if any, containing the specimen signature or signatures of such Person or Persons and signed by the Borrower.

Section 27. TIFIA Lender's Authorized Representative.

(a) The TIFIA Lender shall at all times have appointed the TIFIA Lender's Authorized Representative by designating such Person or Persons from time to time to act on the TIFIA Lender's behalf pursuant to a written certificate furnished to the Borrower and the Servicer, if any, containing the specimen signature or signatures of such Person or Persons and signed by the TIFIA Lender.

(b) Pursuant to the delegation of authority, dated July 20, 2016, from the Secretary to the Under Secretary of Transportation for Policy, the further delegation of authority, dated July 20, 2016, from the Under Secretary of Transportation for Policy to the Executive Director of the Build America Bureau, and the further delegation of authority, dated August 31, 2016 (the "Delegation"), the Director of the Credit Office of the Build America Bureau has been delegated the authority to enter into contracts and sign all contractual and funding documents

(with the exception of the term sheets and credit agreements) necessary to implement the Act, including entering into technical amendments to, and restatements of, term sheets and credit agreements that do not materially impair the credit quality of the revenues pledged to repay the TIFIA Lender. Pursuant to the Delegation, the Director of the Credit Office of the Build America Bureau may act and serve as the TIFIA Lender's Authorized Representative under this Agreement, in addition to the Executive Director of the Build America Bureau for the purposes set forth herein.

Section 28. Servicer. The TIFIA Lender may from time to time designate another entity or entities to perform, or assist the TIFIA Lender in performing, the duties of the Servicer or specified duties of the TIFIA Lender under this Agreement and the TIFIA Bond. The TIFIA Lender shall give the Borrower written notice of the appointment of any successor or additional Servicer and shall enumerate the duties or any change in duties to be performed by any Servicer. Any references in this Agreement to the TIFIA Lender shall be deemed to be a reference to the Servicer with respect to any duties which the TIFIA Lender shall have delegated to such Servicer. The TIFIA Lender may at any time assume the duties of any Servicer under this Agreement and the TIFIA Bond. The Borrower shall cooperate and respond to any reasonable request of the Servicer for information, documentation or other items reasonably necessary for the performance by the Servicer of its duties hereunder.

Section 29. Fees and Expenses.

(a) Commencing in Federal Fiscal Year (“FFY”) 2020 and continuing thereafter each year throughout the term of this Agreement, the Borrower shall pay to the TIFIA Lender a loan servicing fee on or before the fifteenth (15th) of November. The TIFIA Lender shall establish the amount of this annual fee, and the TIFIA Lender or the Servicer, if any, shall notify the Borrower of the amount, at least thirty (30) days before payment is due.

(b) In establishing the amount of the fee, the TIFIA Lender will adjust the previous year's base amount in proportion to the percentage change in CPI. For the FFY 2020 calculation, the TIFIA Lender will use the FFY 2019 base amount of \$[_____], which applies to other TIFIA borrowers, as the previous year's base amount. The TIFIA Lender will calculate the percentage change in the CPI, before seasonal adjustment, from August of the previous year to August of the current year and will then adjust the previous year's base amount in proportion to the CPI percentage change. To calculate the amount of the fee, the TIFIA Lender shall round the current year's base amount using increments of \$500. Results with the ending integers between 250-499 or between 750-999 shall be rounded upward, and results with the ending integers between 001-249 or between 501-749 shall be rounded downward. The CPI adjustments in the following years shall begin with the base amount, not the rounded fee.

(c) The Borrower agrees, whether or not the transactions hereby contemplated shall be consummated, to reimburse the TIFIA Lender on demand from time-to-time, within thirty (30) days after receipt of any invoice from the TIFIA Lender, for any and all fees, costs, charges, and expenses incurred by it (including the reasonable fees, costs, and expenses of its legal counsel, financial advisors, auditors and other consultants and advisors, such reasonableness determined in accordance with Part 31 of the Federal Acquisition Regulation) in connection with the negotiation, preparation, execution, delivery, and performance of this

Agreement and the other TIFIA Loan Documents and the transactions hereby and thereby contemplated, including reasonable attorneys', and engineers' fees and professional costs, including all such fees, costs, and expenses incurred as a result of or in connection with:

(i) the enforcement of or attempt to enforce any provision of this Agreement or any of the other TIFIA Loan Documents;

(ii) any amendment, modification, or requested amendment or modification of, waiver, consent, or requested waiver or consent under or with respect to, or the protection or preservation of any right or claim under, this Agreement, any other Related Document, or the Trust Estate, or advice in connection with the administration, preservation in full force and effect, and enforcement of this Agreement or any other Related Document or the rights of the TIFIA Lender thereunder; and

(iii) any work-out, restructuring, or similar arrangement of the obligations of the Borrower under this Agreement, the other TIFIA Loan Documents, the Indenture Documents or the Sales Tax Indenture Documents, including during the pendency of one or more Events of Default.

The obligations of the Borrower under this Section 29 shall survive the payment or prepayment in full or transfer of the TIFIA Bond, the enforcement of any provision of this Agreement or the other TIFIA Loan Documents, any such amendments, waivers or consents, any Event of Default, and any such workout, restructuring, or similar arrangement.

Section 30. Amendments and Waivers. No amendment, modification, termination, or waiver of any provision of this Agreement shall in any event be effective without the written consent of each of the parties hereto.

Section 31. Governing Law. This Agreement shall be governed by the federal laws of the United States of America if and to the extent such federal laws are applicable and the internal laws of the State, if and to the extent such federal laws are not applicable.

Section 32. Severability. In case any provision in or obligation under this Agreement shall be invalid, illegal, or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

Section 33. Successors and Assigns. This Agreement shall be binding upon the parties hereto and their respective permitted successors and assigns and shall inure to the benefit of the parties hereto and their permitted successors and assigns. Neither the Borrower's rights nor obligations hereunder nor any interest therein may be assigned, delegated, or transferred by the Borrower without the prior written consent of the TIFIA Lender.

Section 34. Remedies Not Exclusive. No remedy conferred herein or reserved to the TIFIA Lender is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

Section 35. Delay or Omission Not Waiver. No delay or omission of the TIFIA Lender to exercise any right or remedy provided hereunder upon a default of the Borrower (except a delay or omission pursuant to a written waiver) shall impair any such right or remedy or constitute a waiver of any such default or acquiescence therein. Every right and remedy given by this Agreement or by law to the TIFIA Lender may be exercised from time to time, and as often as may be deemed expedient by the TIFIA Lender.

Section 36. Counterparts. This Agreement and any amendments, waivers, consents or supplements hereto or in connection herewith may be executed in any number of counterparts and by the different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute one and the same instrument; signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signature pages are physically attached to the same document. Electronic delivery of an executed counterpart of a signature page of this Agreement or of any document or instrument delivered in connection herewith in accordance with Section 37 (*Notices; Payment Instructions*) shall be effective as delivery of an original executed counterpart of this Agreement or such other document or instrument, as applicable.

Section 37. Notices; Payment Instructions. Notices hereunder shall be (a) in writing, (b) effective as provided below and (c) given by (i) nationally recognized courier service, (ii) hand delivery, or (iii) email, in each case to:

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

with copies to: Federal Highway Administration
California Division
650 Capitol Mass, Suite 4-100
Sacramento, CA 95814
Attention: Division Administrator
Telephone: 916-498-5001
Facsimile: 916-498-5008
E-mail: HDACA@dot.gov

If to Borrower:

San Bernardino County Transportation Authority

San Bernardino County Transportation Authority

1170 W. 3rd Street, 2nd Floor
San Bernardino, CA 92410-1715

Attention: Chief Financial Officer

Telephone: (909) 884-8276

Fax: (909) 885-4407

E-mail: [____][**SBCTA to provide**]

Unless otherwise instructed by the TIFIA Lender's Authorized Representative, all notices to the TIFIA Lender should be made by email to the email address noted above for the TIFIA Lender. Notices required to be provided herein shall be provided to such different addresses or to such further parties as may be designated from time to time by a Borrower's Authorized Representative, with respect to notices to the Borrower, or by the TIFIA Lender's Authorized Representative, with respect to notices to the TIFIA Lender or the Servicer. The Borrower shall make any payments hereunder or under the TIFIA Bond in accordance with Section 9(g) (*Manner of Payment*) and the payment instructions hereafter provided by the TIFIA Lender's Authorized Representative, as modified from time-to-time by the TIFIA Lender. Each such notice, request or communication shall be effective (x) if delivered by hand or by nationally recognized courier service, when delivered at the address specified in this Section 37 (or in accordance with the latest unrevoked written direction from the receiving party) and (y) if given by email, when such email is delivered to the address specified in this Section 37 (or in accordance with the latest unrevoked written direction from the receiving party); provided that notices received on a day that is not a Business Day or after 5:00 p.m. Eastern Time on a Business Day will be deemed to be effective on the next Business Day.

Section 38. Effectiveness. This Agreement shall be effective on the Effective Date.

Section 39. Termination. This Agreement shall terminate upon the irrevocable payment in full in cash by the Borrower of the Outstanding TIFIA Loan Balance, together with all accrued interest and fees with respect thereto; provided, however, that the indemnification requirements of Section 18 (*Indemnification*), the reporting and record keeping requirements of Section 21(b) (*Inspections*) and Section 21(c) (*Reports and Records*), and the payment requirements of Section 29 (*Fees and Expenses*) shall survive the termination of this Agreement as provided in such sections.

Section 40. Integration. This Agreement along with the TIFIA Bond constitutes the entire contract between the parties relating to the subject matter hereof and supersedes any and all previous agreements and understandings, oral or written, relating to the subject matter hereof.

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

SAN BERNARDINO COUNTY
TRANSPORTATION AUTHORITY

By: _____
Name: _____
Title: _____

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

By: _____
Name: _____
Title: _____

SCHEDULE I
PROJECT BUDGET

[See attached]

SCHEDULE II
CONSTRUCTION SCHEDULE

[See attached]

SCHEDULE III
SECTION 5.03(b) OF THE INDENTURE

[See attached]

SCHEDULE 14(f)
LITIGATION

SCHEDULE 14(u)

INSURANCE

[See attached]

SCHEDULE 16(w)

MEASURE I BACKSTOP MECHANICS

[See attached]

EXHIBIT A

FORM OF TIFIA BOND

Number [R-1]

Not to Exceed \$[_____] (plus compounded interest added to principal)

UNITED STATES OF AMERICA

STATE OF CALIFORNIA

**SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY
I-10 TOLL REVENUE SECOND LIEN BOND, 2019 TIFIA SERIES
(TIFIA – 2019-[____])**

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

Maturity Date: **December 31, 2057 or such earlier date determined pursuant to the TIFIA Loan Agreement**

Maximum

Principal Amount: **[_____] (PLUS COMPOUNDED INTEREST ADDED TO PRINCIPAL)**

Interest Rate: **[____]%**

Issue Date: **[____], 2019**

SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY, a public entity duly organized and existing under the laws of the State of California (the “Authority”) for value received, hereby promises to pay (but solely from the Trust Estate hereinafter referred to) to the United States Department of Transportation, acting by and through the Executive Director of the Build America Bureau (the “TIFIA Lender” or “Registered Owner”), the lesser of (x) the Maximum Principal Amount set forth above and (y) the aggregate unpaid principal amount of all disbursements (the “Disbursements”) made by the TIFIA Lender (such lesser amount, together with any interest at the rate set forth above that is compounded on June 30 and December 31 of each year following the initial disbursement and capitalized in accordance with the provisions of the TIFIA Loan Agreement, dated [____], 2019, by and between the Authority and the TIFIA Lender (the “TIFIA Loan Agreement”), being hereinafter referred to as the “Outstanding TIFIA Loan Balance”), together with accrued and unpaid interest (including, if applicable, interest at the TIFIA Default Rate, as defined in the TIFIA Loan Agreement) on the Outstanding TIFIA Loan Balance from the last compounding date, compounded on the basis of a 365-day or 366-day year, as appropriate, all as more fully described in the above-referenced TIFIA Loan Agreement. Each Disbursement made by the TIFIA Lender to the Authority pursuant to the TIFIA Loan Agreement and each prepayment made on account of the Outstanding TIFIA Loan

Balance shall be recorded by or on behalf of the TIFIA Lender and endorsed on the grid attached hereto as Appendix One, which will correspond to Exhibit G in the TIFIA Loan Agreement; provided, however, that neither the failure to make any such recordation nor any error in such recordation shall affect in any manner the Authority's obligations hereunder or under any other TIFIA Loan Document. The Authority shall provide notice to the Trustee of the same. The principal hereof shall be payable in the manner and at the place provided in the TIFIA Loan Agreement and shall be paid in accordance with **Exhibit G** to the TIFIA Loan Agreement, as revised from time-to-time in accordance with the TIFIA Loan Agreement, until paid in full. Such **Exhibit G** to the TIFIA Loan Agreement shall be revised or completed by or on behalf of the TIFIA Lender in accordance with the terms of the TIFIA Loan Agreement, provided that neither the failure to make any such recordation nor any error in such recordation shall affect in any manner the Authority's obligations hereunder or under any other TIFIA Loan Document. Payments of interest hereon are to be made in accordance with Sections 9 and 10 of the TIFIA Loan Agreement as the same become due. Principal of and interest on this Bond shall be paid in funds available on the due date and in any lawful coin or currency of the United States of America which at the date of payment is legal tender for the payment of public and private debts.

This 2019 TIFIA Series Bond is a fully registered Bond and the principal of and interest on the 2019 TIFIA Series Bond shall be payable by wire transfer to the Registered Owner hereof in accordance with the TIFIA Loan Agreement.

This Bond is one of a duly authorized issue of bonds of the Authority, designated as ["San Bernardino County Transportation Authority I-10 Toll Revenue Second Lien Bonds" (the "Bonds")], of the series designated above, all of which are being issued pursuant to the provisions of Chapter 7 of Division 12 of the Public Utilities Code of the State of California (Section 130800 et seq.) (the "SBCTA Act"), Streets and Highways Code Section 149.7 and 149.11 (the "Toll Act"), and a Master Indenture (I-10 Corridor Contract 1 Project), dated as of [____], 2019 (the "Master Indenture"), as supplemented by a First Supplemental Indenture, dated as of [____], 2019, each between the Authority and U.S. Bank National Association, as trustee (the "Trustee"). The Master Indenture, as supplemented and amended from time to time pursuant to its terms, including as supplemented by the First Supplemental Indenture, is hereinafter referred to as the "Indenture." Capitalized terms used herein and not otherwise defined shall have the meaning given such terms in the Indenture, and if not defined in the Indenture, as defined in the TIFIA Loan Agreement.

THIS BOND IS A LIMITED OBLIGATION OF THE AUTHORITY SECURED SOLELY BY THE TRUST ESTATE AS DEFINED AND PROVIDED IN THE INDENTURE AND THE AUTHORITY IS NOT OBLIGATED TO PAY THIS BOND EXCEPT FROM SAID TRUST ESTATE. THIS BOND DOES NOT CONSTITUTE A DEBT OR LIABILITY OF THE STATE OF CALIFORNIA OR ANY POLITICAL SUBDIVISION OF THE STATE OTHER THAN THE AUTHORITY. NEITHER THE FULL FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OF CALIFORNIA OR ANY POLITICAL SUBDIVISION OF THE STATE OF CALIFORNIA IS PLEDGED TO THE PAYMENT OF PRINCIPAL OR INTEREST OF THIS BOND.

Reference is hereby made to the Indenture, the SBCTA Act, the Toll Act and the TIFIA Loan Agreement for a description of the terms on which the Bonds are issued and to be issued,

the provisions with regard to the nature and extent of the Trust Estate and the rights of the registered owners of the Bonds and all the terms of the Indenture and the TIFIA Loan Agreement are hereby incorporated herein and constitute a contract between the Authority and the registered owner from time to time of this Bond, and to all the provisions thereof the registered owner of this Bond, by its acceptance hereof, consents and agrees. Additional Bonds may be issued and other indebtedness may be incurred on a senior and parity basis with the Series of Bonds of which this Bond is a part, but only subject to the conditions and limitations contained in the Indenture and the TIFIA Loan Agreement.

This Bond is secured by and payable both as to principal and interest, and as to any premium upon the redemption hereof, solely from the Trust Estate as defined in the Indenture, subject only to the provisions of the Indenture permitting application thereof for the purposes and on the terms and conditions set forth therein, and the Authority is not obligated to pay this Bond except from such Trust Estate.

THIS BOND SHALL AND MAY BE PREPAID in whole or in part (and, if in part, the principal installments and amounts thereof to be prepaid to be determined in accordance with the TIFIA Loan Agreement and the Indenture; provided, however, that any prepayment shall be in principal amounts of \$1,000,000 or any integral multiple of \$1.00 in excess thereof), at any time or from time to time, without penalty or premium, by paying to the Registered Owner all or part of the principal amount of this Bond in accordance with the TIFIA Loan Agreement.

THIS BOND SHALL BE SUBJECT TO MANDATORY PREPAYMENT in accordance with the TIFIA Loan Agreement and the Indenture.

The rights and obligations of the Authority and of the holders and registered owners of the Bonds of the Series of Bonds of which this Bond is a part may be modified or amended at any time in the manner, to the extent, and upon the terms provided in the TIFIA Loan Agreement.

This Bond is transferable or exchangeable as provided in Section 19 of the TIFIA Loan Agreement and Section 2.08 of the Indenture, upon surrender by the registered owner hereof in person, or by such owner's duly authorized attorney of this Bond at the principal office of the Trustee, together with a written instrument of transfer satisfactory to the Trustee duly executed by the registered owner or such owner's duly authorized attorney, and thereupon a new Bond or Bonds of the same series, maturity, interest rate and in the aggregate maximum principal amount, shall be issued to the registered owner or owners in exchange therefor as provided in the Indenture, upon payment of any charges therein prescribed.

The person in whose name this Bond is registered shall be deemed and regarded as the absolute owner hereof for all purposes, including receiving payment of, or on account of, the principal of and premium and interest due hereon.

The Trustee shall not register any transfer or exchange of this Bond unless the Owner's prospective transferee delivers to the Trustee a letter substantially in the form as set forth in **Exhibit A** attached to the First Supplemental Indenture.

Any delay on the part of the TIFIA Lender in exercising any right hereunder or under the TIFIA Loan Agreement shall not operate as a waiver of any such right, and any waiver granted with respect to one default shall not operate as a waiver in the event of any subsequent default. The Authority hereby waives presentment, demand, protest and notice of any kind.

It is hereby certified and recited by the Authority that any and all acts, conditions and things required to exist, to happen and to be performed, precedent to and in the incurring of the indebtedness evidenced by this Bond, and in the issuing of this Bond, exist, have happened and have been performed in due time, form and manner, as required by the Constitution and statutes of the State of California, the SBCTA Act and the Toll Act and that this Bond, together with all other indebtedness of the Authority secured by the Trust Estate, is within every debt and other limit prescribed by the Constitution and statutes of the State of California.

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 San Bernardino County Transportation Authority has caused this Bond to be executed in its name and on its behalf by the manual or facsimile signature of its duly authorized representatives all as of the Issue Date set forth above.

SAN BERNARDINO COUNTY
TRANSPORTATION AUTHORITY

By: _____
Chair of the Board of Directors

(Seal)

Countersigned:

By: _____
Chief Financial Officer

[FORM OF CERTIFICATE OF AUTHENTICATION]

It is hereby certified that this Bond has been issued under the provisions of the Indenture described in this Bond.

Dated of Authentication: _____

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By: _____
Authorized Officer

[FORM OF ASSIGNMENT]

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

(Please Print or Type Name and Address of Assignee)

PLEASE INSERT SOCIAL SECURITY OR OTHER
TAX IDENTIFICATION NUMBER OF ASSIGNEE

the within bond and all rights thereunder, and hereby irrevocably constitutes and appoints

to transfer the within Bond on the books kept for registration thereof with full power of
substitution in the premises.

Dated:

Signature:

(Signature of Assignor)

Notice: The signature on this assignment must correspond with the name of the Registered Owner as it appears upon the face of the within Bond in every particular without alteration or enlargement or any change whatsoever.

EXHIBIT B
ANTICIPATED TIFIA LOAN DISBURSEMENT SCHEDULE

EXHIBIT C

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
AND OTHER RESPONSIBILITY MATTERS—
PRIMARY COVERED TRANSACTIONS**

The undersigned, on behalf of SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY, hereby certifies that SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY has fully complied with its verification obligations under 2 C.F.R. § 180.320 and hereby further confirms, based on such verification, that, to its knowledge, the Borrower and its principals (as defined in 2 C.F.R. § 180.995):

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;

(b) Have not within a three (3) year period preceding the Effective Date been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and

(d) Have not within a three (3) year period preceding the Effective Date had one or more public transactions (federal, state or local) terminated for cause or default.

(e) Capitalized terms used in the certificate and not defined shall have the respective meanings ascribed to such terms in the TIFIA Loan Agreement, dated as of [____], 2019 between the TIFIA Lender and the Borrower, as the same may be amended from time to time.

Dated: _____

**SAN BERNARDINO COUNTY TRANSPORTATION
AUTHORITY**

By: _____

Name:

Title:

EXHIBIT D

REQUISITION PROCEDURES

This **Exhibit D** sets out the procedures which the Borrower agrees to follow in submitting Requisitions for the disbursement of TIFIA Loan proceeds in respect of the Eligible Project Costs incurred in connection with the Project. Section 1 sets out the manner in which Requisitions are to be submitted and reviewed. Section 2 through Section 4 set out the circumstances in which the TIFIA Lender may reject or correct Requisitions submitted by the Borrower or withhold a disbursement. The Borrower expressly agrees to the terms hereof, and further agrees that (i) the rights of the TIFIA Lender contained herein are in addition to (and not in lieu of) any other rights or remedies available to the TIFIA Lender under the TIFIA Loan Agreement, and (ii) nothing contained herein shall be construed to limit the rights of the TIFIA Lender to take actions including administrative enforcement action and actions for breach of contract against the Borrower if it fails to carry out its obligations under the TIFIA Loan Agreement during the term thereof.

Section 1. General Requirements. All requests by the Borrower for the disbursement of TIFIA Loan proceeds shall be made by electronic mail or overnight delivery service by submission to the TIFIA Lender, in accordance with Section 37 (*Notices; Payment Instructions*) of the TIFIA Loan Agreement, of a Requisition, in form and substance satisfactory to the TIFIA Lender and completed and executed by the Borrower's Authorized Representative. The form of Requisition is attached as Appendix One to this **Exhibit D**. Supporting documentation should be submitted with the requisition.

All disbursement requests must be received by the TIFIA Lender at or before 5:00 P.M. (EST) on the fifteenth (15th) Business Day of a calendar month in order to obtain disbursement by the first (1st) day of next succeeding calendar month or, if either such day is not a Business Day, the next succeeding Business Day. If a Requisition is approved by the TIFIA Lender, the TIFIA Lender will notify the Borrower of such approval and of the amount so approved.

Section 2. Rejection. A Requisition may be rejected in whole or in part by the TIFIA Lender if it is:

- (a) submitted without signature;
- (b) submitted under signature of a Person other than a Borrower's Authorized Representative;
- (c) submitted after prior disbursement of all proceeds of the TIFIA Loan; or
- (d) submitted without adequate documentation of Eligible Project Costs incurred or paid. Such documentation shall include invoices for costs incurred or paid and the most recent certificate of or report prepared by the Consulting Engineer relating to the construction of the Project, including the certificate delivered by the Borrower pursuant to Section 5.24(d) of the Indenture (to the extent not previously delivered to the TIFIA Lender).

The TIFIA Lender will notify the Borrower of any Requisition so rejected, and the reasons therefor. Any Requisition rejected for the reasons specified in (a), (b) or (d) above must be resubmitted in proper form in order to be considered for approval. If a Requisition exceeds the balance of the TIFIA Loan proceeds remaining to be disbursed, the request will be treated as if submitted in the amount of the balance so remaining, and the TIFIA Lender will so notify the Borrower.

Section 3. Correction. A Requisition containing an apparent mathematical error will be corrected by the TIFIA Lender, after telephonic or email notification to the Borrower, and will thereafter be treated as if submitted in the corrected amount.

Section 4. Withholding. The TIFIA Lender shall be entitled to withhold approval (in whole or in part) of any pending or subsequent requests for the disbursement of TIFIA Loan proceeds if:

- (a) a Default or Event of Default shall have occurred and be continuing; or
- (b) the Borrower:
 - (i) knowingly takes any action, or omits to take any action, amounting to fraud or violation of any applicable federal or local criminal law, in connection with the transactions contemplated hereby; or
 - (ii) fails to construct the Project in a manner consistent with the Governmental Approvals with respect to the Project, or in accordance with the highest standards of the Borrower's industry, where such failure prevents or materially impairs the Project from fulfilling its intended purpose, or prevents or materially impairs the ability of the TIFIA Lender to monitor compliance by the Borrower with applicable federal or local law pertaining to the Project or with the terms and conditions of the TIFIA Loan Agreement; or
 - (iii) fails to observe or comply with any applicable federal or local law, or any term or condition of the TIFIA Loan Agreement; or
 - (iv) fails to satisfy the conditions set forth in Section 4 (*Disbursement Conditions*) and Section 13(b) (*Conditions Precedent to All Disbursements*) of the TIFIA Loan Agreement; or
 - (v) fails to deliver documentation satisfactory to the TIFIA Lender evidencing Eligible Project Costs claimed for disbursement at the times and in the manner specified by the TIFIA Loan Agreement; provided, that in such case the TIFIA Lender may, in its sole discretion, partially approve a disbursement request in respect of any amounts for which adequate documentation evidencing Eligible Project Costs has been provided and may, in its sole discretion, disburse in respect of such properly documented amounts.
- (c)

APPENDIX ONE TO EXHIBIT D

FORM OF REQUISITION

United States Department of Transportation
Build America Bureau
c/o Director, Office of Credit Programs
Room W12-464
1200 New Jersey Avenue, SE,
Washington, D.C. 20590

Federal Highway Administration
California Division Office
650 Capitol Mall, Suite 4-100
Sacramento, CA 95814
Attention: Division Administrator

[Loan Servicer]
[Address]
[Attention]

Re: I-10 CORRIDOR CONTRACT 1 PROJECT (TIFIA # 2019 – [____])

Ladies and Gentlemen:

Pursuant to Section 4 (*Disbursement Conditions*) of the TIFIA Loan Agreement, dated as of [____], 2019 (the “**TIFIA Loan Agreement**”), by and between SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY (the “**Borrower**”) and the UNITED STATES DEPARTMENT OF TRANSPORTATION, acting by and through the Executive Director of the Build America Bureau (the “**TIFIA Lender**”), we hereby request disbursement in the amount of \$[_____] in respect of Eligible Project Costs paid or incurred by or on behalf of the Borrower. Capitalized terms used but not defined herein have the meaning set forth in the TIFIA Loan Agreement. In connection with this Requisition the undersigned does hereby represent and certify the following:

1. This Requisition is Requisition number [_____].
2. The requested date of disbursement is [_____] 1, 20[___] (the “**Disbursement Date**”)[, which is the first Business Day following [_____] 1, 20[_____]].
3. The amounts previously disbursed under the TIFIA Loan Agreement equal, in the aggregate, \$[_____].
4. The amounts hereby requisitioned have been paid or incurred by or on behalf of the Borrower for Eligible Project Costs and have not been paid for or reimbursed by any previous disbursement from TIFIA Loan proceeds.

5. The amount of this Requisition, together with all prior Requisitions, does not exceed the amount of the TIFIA Loan.
6. All documentation evidencing the Eligible Project Costs to be reimbursed by the above-requested disbursement has been delivered by the Borrower at the times and in the manner specified by the TIFIA Loan Agreement.
7. The Borrower has all Governmental Approvals necessary as of the date hereof and as of the Disbursement Date (immediately after giving effect to the above-requested disbursement of TIFIA Loan proceeds), for the development, construction, operation and maintenance of the Project and each such Governmental Approval is in full force and effect (and is not subject to any notice of violation, breach or revocation).
8. Each of the insurance policies obtained by the Borrower in satisfaction of the condition in Section 13(a)(xix) (*Conditions Precedent to Effectiveness*) and Section 16(f) (*Insurance*) of the TIFIA Loan Agreement is in full force and effect, and no notice of termination thereof has been issued by the applicable insurance provider.
9. The Project has been, and is being, constructed in a manner consistent with all plans, specifications, engineering reports and facilities plans previously submitted to and approved by the TIFIA Lender and the FHWA Division Office and in accordance with good engineering practices.
10. The representations and warranties of the Borrower set forth in the TIFIA Loan Agreement and in each other Related Document are true and correct as of the date hereof and as of the Disbursement Date, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true and correct as of such earlier date).
11. As of the date hereof and on the Disbursement Date (immediately after giving effect to the above-requested disbursement of TIFIA Loan proceeds), (i) no Event of Default or event of default under any other Related Document and (ii) no Default or default under any Related Document, in each case, has occurred and is continuing.
12. No Material Adverse Effect, or any event or condition that could reasonably be expected to have a Material Adverse Effect, has occurred since [_____], 2019 and is continuing.
13. A copy of the most recent certificate delivered by the Borrower pursuant to Section 5.24(d) of the Indenture and signed by the Consulting Engineer has been delivered to each of the above named addressees.
14. A copy of the monthly construction progress report pursuant to Section 23(b)(i) (*Monthly Construction Progress Report*) of the TIFIA Loan Agreement for the month preceding the date of the applicable Requisition has been delivered to each of the above named addresses.

15. The undersigned acknowledges that if the Borrower makes a false, fictitious, or fraudulent claim, statement, submission, or certification to the Government in connection with the Project, the Government reserves the right to impose on the Borrower the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(1)(1), to the extent the Government deems appropriate.
16. A copy of this requisition has been delivered to each of the above named addressees.
17. The undersigned is duly authorized to execute and deliver this requisition on behalf of the Borrower.

[Add wire instructions for SBCTA.]

Date: _____

SAN BERNARDINO COUNTY
TRANSPORTATION AUTHORITY

By: _____

Name:

Title: _____

APPENDIX TWO TO EXHIBIT D

**[APPROVAL/DISAPPROVAL] OF THE TIFIA LENDER
(To be delivered to the Borrower)**

Requisition Number [●] is [approved in the amount of \$[●]] [approved in part in the amount of \$[●]] [not approved]⁷ by the TIFIA Lender (as defined herein) pursuant to Section 4 (*Disbursement Conditions*) of the TIFIA Loan Agreement, dated as of [____], 2019 by and between San Bernardino County Transportation Authority (the “**Borrower**”) and the United States Department of Transportation, acting by and through the Executive Director of the Build America Bureau (the “**TIFIA Lender**”).

Any determination, action or failure to act by the TIFIA Lender with respect to the Requisition set forth above, including any withholding of a disbursement, shall be at the TIFIA Lender’s sole discretion, and in no event shall the TIFIA Lender be responsible for or liable to the Borrower for any and/or all consequence(s) which are the result thereof.

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

By: _____
TIFIA Lender’s Authorized Representative
Name:
Title:
Dated:

⁷ Attached hereto as Exhibit A are reasons for any partial or full denial of approval.

EXHIBIT A TO APPENDIX TWO TO EXHIBIT D

[Insert reasons for any partial or full denial of approval.]

EXHIBIT E

COMPLIANCE WITH LAWS

The Borrower shall, and shall require its contractors and subcontractors at all tiers for the Project to, comply in all material respects with any and all applicable federal and state laws. The following list of federal laws is illustrative of the type of requirements generally applicable to transportation projects. It is not intended to be exhaustive.

- (i) The Americans With Disabilities Act of 1990 and implementing regulations (42 U.S.C. § 12101 *et seq.*; 28 C.F.R. Part 35; 29 C.F.R. Part 1630);
- (ii) Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000d *et seq.*), and USDOT implementing regulations (49 C.F.R. Part 21);
- (iii) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. § 4601 *et seq.*), with the understanding that the requirements of said Act are not applicable with respect to utility relocations except with respect to acquisitions by the Borrower of easements or other real property rights for the relocated facilities;
- (iv) Equal employment opportunity requirements under Executive Order 11246 dated September 24, 1965 (30 F.R. 12319), any Executive Order amending such order, and implementing regulations (29 C.F.R. §§ 1625-27, 1630; 28 C.F.R. Part 35; 41 C.F.R. Part 60; and 49 C.F.R. Part 27);
- (v) Restrictions governing the use of federal appropriated funds for lobbying (31 U.S.C. § 1352; 49 C.F.R. Part 20);
- (vi) The Clean Air Act, as amended (42 U.S.C. § 7401 *et seq.*);
- (vii) The National Environmental Policy Act of 1969 (42 U.S.C. § 4321 *et seq.*), including the environmental mitigation requirements and commitments made by the Borrower that result in FHWA's approval of the NEPA Determination;
- (viii) The Federal Water Pollution Control Act, as amended (33 U.S.C. § 1251 *et seq.*, as amended by Pub. L. 92-500);
- (ix) The Endangered Species Act, 16 U.S.C. § 1531, *et seq.*;
- (x) 23 U.S.C. § 138 and 49 U.S.C. § 303, as applicable;
- (xi) The health and safety requirements set forth in 40 U.S.C. §§ 3701-3702 and implementing regulations (29 C.F.R. Part 1926 and 23 C.F.R. § 635.108, as applicable);
- (xii) The prevailing wage requirements set forth in 40 U.S.C. § 3141 *et seq.*, and implementing regulations (29 C.F.R. Part 5), and, as applicable, 23 U.S.C. § 113 and implementing regulations (23 C.F.R. §§ 635.117(f) and 635.118), and FHWA Form 1273 §§ IV and V for those contracts that involve construction of highway improvements;
- (xiii) The Buy America requirements set forth in 23 U.S.C. § 313 and implementing regulations (23 C.F.R. § 635.410);
- (xiv) The requirements of 23 U.S.C. § 101 *et seq.* and 23 C.F.R.;

(xv) The Cargo Preference Act of 1954, as amended (46 U.S.C. §1241(b)), and implementing regulations (46 C.F.R. Part 381); and

(xvi) The applicable requirements of 49 C.F.R. Part 26 relating to the Disadvantaged Business Enterprise program.

EXHIBIT F
FHWA OVERSIGHT AGREEMENT

Exhibit 1

EXHIBIT G
TIFIA DEBT SERVICE

EXHIBIT H-1

OPINIONS REQUIRED FROM COUNSEL TO BORROWER

An opinion of the counsel of the Borrower, dated as of the Effective Date, to the effect that: (a) the Borrower is duly formed, validly existing, and in good standing under the laws of the jurisdiction of its organization; (b) the Borrower has all requisite power and authority to conduct its business and to execute and deliver, and to perform its obligations under the Related Documents to which it is a party; (c) the execution and delivery by the Borrower of, and the performance of its respective obligations under, the Related Documents to which it is a party, have been duly authorized by all necessary organizational or regulatory action; (d) the Borrower has duly executed and delivered each Related Document to which it is a party and each such Related Document constitutes the legal, valid and binding obligation of such party; enforceable against such party in accordance with their respective terms; (e) no authorization, consent, or other approval of, or registration, declaration or other filing with any governmental authority of the United States of America or of the State is required on the part of the Borrower for the execution and delivery by such party of, and the performance of such party under, any Related Document to which it is a party other than authorizations, consents, approvals, registrations, declarations and filings that have already been timely obtained or made by the Borrower; (f) the execution and delivery by the Borrower of, and compliance with the provisions of, the Related Documents to which it is a party in each case do not (i) violate the Organizational Documents of the Borrower, (ii) violate the law of the United States of America or of the State or (iii) conflict with or constitute a breach of or default under any material agreement or other instrument known to such counsel to which the Borrower is a party, or to the best of such counsel's knowledge, after reasonable review, any court order, consent decree, statute, rule, regulation or any other law to which the Borrower is subject; (g) the Borrower is not an investment company required to register under the Investment Company Act of 1940, as amended; and (h) to our knowledge after due inquiry, there are no actions, suits, proceedings or investigations against the Borrower by or before any court, arbitrator or any other Governmental Authority in connection with the Related Documents or the Project that are pending.

EXHIBIT H-2

OPINIONS REQUIRED FROM BOND COUNSEL

An opinion of bond counsel, dated as of the Effective Date, to the effect that: (a) each of the TIFIA Bond, the Indenture, the TIFIA Supplemental Indenture, and Sales Tax Revenue Bond Third Supplemental Indenture has been duly authorized, executed, and delivered by the Borrower in accordance with the Organizational Documents of the Borrower and in compliance with all applicable laws; (b) each of the TIFIA Bond, the Indenture, the TIFIA Supplemental Indenture, and the Sales Tax Revenue Bond Third Supplemental Indenture, is in full force and effect and constitutes the legal, valid, and binding obligation of the Borrower, enforceable in accordance with its respective terms and conditions; (c) the TIFIA Bond is secured by the Trust Estate and is a Bond entitled to the benefits of a Bond under the Indenture, enforceable under the laws of the State without any further action by the Borrower or any other Person; (d) the Indenture creates the valid and binding assignment and pledge of the Trust Estate to secure the payment of the principal of, interest on, and other amounts payable in respect of, the TIFIA Bond, irrespective of whether any party has notice of the pledge and without the need for any physical delivery, recordation, filing or further act; (e) all actions by the Borrower that are required for the use of Revenues as required under the Indenture and under the TIFIA Loan Agreement have been duly and lawfully made; (f) the Borrower has complied with the requirements of State law to lawfully pledge the Trust Estate and use the Revenues as required by the terms of the Indenture and the TIFIA Loan Agreement; (g) the Borrower is legally eligible to be a debtor in either a voluntary or involuntary case under the United States Bankruptcy Code pursuant to [*insert State law citation*]; and (h) the Borrower is not entitled to claim governmental immunity in any breach of contract action under the TIFIA Loan Agreement or the TIFIA Bond or by the Trustee under the Indenture Documents or the Sales Tax Indenture Documents.

EXHIBIT I

[Reserved]

Exhibit 1

EXHIBIT J

FORM OF CERTIFICATE OF TRUSTEE

SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY I-10 TOLL REVENUE SECOND LIEN BOND, 2019 TIFIA SERIES (TIFIA – 2019-[____])

The undersigned, U.S. BANK NATIONAL ASSOCIATION (the “*Trustee*”), by its duly appointed, qualified and acting authorized officer, certifies with respect to the above referenced bond (the “*TIFIA Bond*”) dated as of [____], 2019, as follows:

1. This Certificate is being provided in connection with that certain Master Indenture (I-10 Corridor Contract 1 Project), dated as of [____] 2019 (the “*Master Indenture*”), as supplemented and amended by the First Supplemental Indenture, dated as of [____], 2019 (the “*First Supplemental Indenture*” and, together with the Master Indenture, the “*Indenture*”), by and between San Bernardino County Transportation Authority (the “*Borrower*”) and the Trustee. Capitalized terms used in this Certificate which are not otherwise defined shall have the meanings given to such terms in the Indenture.
2. That the Trustee is a national banking association duly organized and validly existing under the laws of the United States of America and is duly licensed and in good standing under the laws of the United States of America.
3. All approvals, consents and orders of any governmental authority or agency having jurisdiction in the matter which would constitute a condition precedent to the performance by the Trustee of its duties and obligations under the documents pertaining to the issuance of the TIFIA Bond have been obtained by the Trustee and are in full force and effect.
4. That the documents pertaining to the issuance of the TIFIA Bond to which the Trustee is a party were executed and the TIFIA Bond was authenticated on behalf of the Trustee by one or more of the persons whose names and offices appear on Annex One attached hereto and made part hereof, that each person was at the time of the execution of such documents and the authentication of the TIFIA Bond and now is duly appointed, qualified and acting incumbent of his or her respective office, that each such person was authorized to execute such documents and to authenticate the TIFIA Bond, and that the signature appearing after the name of each such person is a true and correct specimen of that person’s genuine signature.
5. That the undersigned is authorized to act as Trustee and accept the trusts conveyed to it under the Indenture (“*Trusts*”), has accepted the Trusts so conveyed and in so accepting the Trusts and so acting is in violation of no provision of its articles of association or bylaws, any law, regulation or court order or administrative order or any agreement or other instrument to which it is a party or by which it may be bound.
6. That attached to this Certificate as Annex One is a full, true and correct copy of excerpts from resolutions of the board of directors of the Trustee and other applicable documents

that evidence the Trustee's trust powers and the authority of the officers referred to above to act on behalf of the Trustee; and that these excerpts and other applicable documents were in effect on the date or dates such officers acted and remain in full force and effect today, and such excerpts and documents have not been amended since the date of the last amendment thereto shown on any such copy, as applicable.

7. That receipt is acknowledged of all instruments, certifications and other documents or confirmations required to be received by the Trustee pursuant to Section 14.06 of the Indenture.
8. That receipt is also acknowledged of that certain TIFIA Loan Agreement, dated as of [_____], 2019 (the "**TIFIA Loan Agreement**"), between the Borrower and the United States Department of Transportation, acting by and through the Executive Director of the Build America Bureau (the "**TIFIA Bondholder**").
9. That the Trustee also accepts its appointment and agrees to perform the duties and responsibilities of Trustee and of Bond registrar and paying agent for and in respect of the TIFIA Bond as set forth in the Indenture and the TIFIA Loan Agreement, including from time to time redeeming or prepaying all or a portion of the TIFIA Bond as provided in Section 4.01 of the Indenture and Section 10 of the TIFIA Loan Agreement. In accepting such duties and responsibilities, the Trustee shall be entitled to all of the privileges, immunities, rights and protections set forth in Sections 8.01 and 8.02 of the Indenture.
10. That all funds and accounts for the payment of the TIFIA Bond pursuant to the Indenture (including, but not limited to, the TIFIA Loan Prepayment Account) have been established as provided in the Indenture.

[SIGNATURE PAGE FOLLOWS]

Dated: [_____], 20[__]

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By: _____
Authorized Officer

ANNEX ONE TO EXHIBIT J

OFFICERS OF TRUSTEE
AND
RESOLUTIONS OF BOARD OF DIRECTORS OF TRUSTEE

EXHIBIT K⁸
FORM OF BORROWER'S OFFICER'S CERTIFICATE

Reference is made to that certain TIFIA Loan Agreement, dated as of [____], 2019 (the "TIFIA Loan Agreement"), by and among San Bernardino County Transportation Authority (the "Borrower") and the United States Department of Transportation, acting by and through the Executive Director of the Build America Bureau (the "TIFIA Lender"). Capitalized terms used in this certificate and not defined shall have the respective meanings ascribed to such terms in the TIFIA Loan Agreement.

The undersigned, [____], Executive Director of the San Bernardino County Transportation Authority, as Borrower's Authorized Representative, does hereby certify on behalf of the Borrower and not in her personal capacity, as of the date hereof:

- (a) pursuant to Section 13(a)(ii) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, attached hereto as Exhibit A are complete and fully executed copies of each Indenture Document[, together with any amendments, waivers or modifications thereto, in each case that has been entered into on or prior to the Effective Date,] and each such agreement is in full force and effect, and all conditions contained in such documents to the closing of the transactions contemplated thereby have been fulfilled or effectively waived by the TIFIA Lender in its sole discretion;
- (b) pursuant to Section 13(a)(vii) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, attached hereto as Exhibit B is a certificate from Borrower's Authorized Representative (A) as to the satisfaction of certain conditions precedent set forth in Section 13(a) (*Conditions Precedent to Effectiveness*) as required by the TIFIA Lender, (B) designating the Borrower's Authorized Representative, and (C) confirming such person's position and incumbency;
- (c) pursuant to Section 13(a)(ix) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, attached hereto as Exhibit C is an original fully executed counterpart (or a certified copy) of the Traffic and Revenue Study, accompanied by a letter from the preparer of such study, dated as of [____], 2019 and certifying as to the matters set forth therein;
- (d) pursuant to Section 13(a)(x) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, attached hereto as Exhibit D is a certified, fully executed copy of the Consulting Engineer's Report, accompanied by a letter from the Consulting Engineer, dated as of [____], 2019 and certifying as to the matters set forth therein;
- (e) pursuant to Section 13(a)(xi) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, attached hereto as Exhibit E are certified, complete, and fully executed copies of the Principal Project Contracts listed below, together with any amendments,

⁸ To be revised to conform to corresponding conditions precedent.

waivers or modifications thereto, in each case that has been entered into on or prior to the Effective Date and each such agreement is in full force and effect:

- (i) the Design-Build Contract;
 - (ii) the Toll Services Contract;
 - (iii) the Caltrans DB Cooperative Agreement;
 - (iv) the Toll Facility Agreement; and
 - (v) the TCA Cooperative Agreement.
- (f) pursuant to Section 13(a)(xii) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, the Borrower has obtained all Governmental Approvals necessary to commence construction of the Project and all such Governmental Approvals are final, non-appealable and in full force and effect (and are not subject to any notice of violation, breach or revocation);
- (g) pursuant to Section 13(a)(xiii) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, attached hereto as Exhibit F is the Base Case Financial Model, which Base Case Financial Model (i) demonstrates that projected Revenues are sufficient to meet the Loan Amortization Schedule, (ii) demonstrates a Senior Debt Service Coverage Ratio for each Calculation Period through the Final Maturity Date that is not less than [___x], (iii) demonstrates a Second Lien Debt Service Coverage Ratio for each Calculation Period through the Final Maturity Date that is not less than [___x], (iv) demonstrates a Total Debt Service Coverage Ratio for each Calculation Period through the Final Maturity Date that is not less than [___x], (v) demonstrates a Total Loan Life Coverage Ratio for each Calculation Date through the Final Maturity Date that is not less than [___x], and (vi) does not reflect (1) the payment of any interest on any Additional Obligations before the Debt Service Payment Commencement Date or (2) the commencement of amortization of the principal amount of any Additional Obligations before the commencement of the amortization of the principal amount of the TIFIA Loan;
- (h) pursuant to Section 13(a)(xvi) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, attached hereto as Exhibit G is a true, correct and complete copy of the final NEPA Determination, which document also demonstrates the Borrower's compliance with CEQA. The NEPA Determination has not been revoked or amended on or prior to the date hereof;
- (i) pursuant to Section 13(a)(xviii) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, (i) the Borrower's Federal Employer Identification Number is 33-0072823 and attached hereto as Exhibit H is evidence thereof, (ii) the Borrower's Data Universal Numbering System number is [____], and (iii) the Borrower has registered with, and obtained confirmation of active registration status from, the federal System for Award Management (www.SAM.gov), and attached hereto as Exhibit [___] is evidence of each of (ii) and (iii);

- (j) pursuant to Section 13(a)(xiv) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, (i) the Borrower is authorized pursuant to Cal. Gov. Code [§5450-5451] to pledge, assign, and grant the Liens on the Trust Estate purported to be pledged, assigned, and granted pursuant to the Indenture, without the need for notice to any Person, physical delivery, recordation, filing or further act, (ii) no recordation or filing of documents or instruments, nor any other action, is necessary or desirable to establish and enforce the Trustee's Lien on the Trust Estate (for the benefit of the Secured Parties) to the extent contemplated by the Indenture Documents, and (iii) no taxes or filing fees are due and payable in connection with the execution, delivery or performance of any Indenture Document or any instrument or certificate in connection therewith;
- (k) pursuant to Section 13(a)(xix) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, attached hereto as Exhibit I are true, correct and complete copies of certificates of insurance in respect of all insurance policies that the Borrower and each applicable Principal Project Party has obtained as of the Effective Date with respect to the Project and the Borrower, as applicable, that demonstrate that (1) each such policy meets the requirements of Section 16(f) (*Insurance*) of the TIFIA Loan Agreement and (2) each liability policy (other than workers' compensation insurance) reflects the TIFIA Lender as an additional insured;
- (l) pursuant to Section 13(a)(xx) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, attached hereto as (i) Exhibit J-1 is a copy of the Borrower's Organizational Documents, as in effect on the Effective Date, which Organizational Documents are in full force and effect and have not been amended since the date of the last amendment thereto shown on the certificate, and (ii) Exhibit J-2 is a copy of all resolutions authorizing the Borrower to execute and deliver, and to perform its respective obligations under, the TIFIA Loan Documents to which it is a party, and such resolutions have not been subsequently modified, rescinded or amended, are in full force and effect in the form adopted, and are the only resolutions adopted by the Borrower relating to the matters described therein;
- (m) pursuant to Section 13(a)(xxiii) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, attached hereto as Exhibit K are complete and fully executed copies of each performance security instrument delivered to or by the Borrower pursuant to any Principal Project Contract as of the Effective Date, each of which performance security instrument is (A) in compliance with the requirements for such performance security pursuant to the applicable Principal Project Contract and (B) is in full force and effect;
- (n) pursuant to Section 13(a)(xxiv) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, the representations and warranties of the Borrower set forth in the TIFIA Loan Agreement and in each other Related Document to which the Borrower is a party are true and correct on and as of the date hereof, except to the extent that such representations and warranties expressly relate to an earlier date, in which case such representations and warranties were true and correct as of such earlier date; and
- (o) pursuant to Section 13(a)(xxv) (*Conditions Precedent to Effectiveness*) of the TIFIA Loan Agreement, (i) the maximum principal amount of the TIFIA Loan (excluding any

interest that is capitalized in accordance with the terms hereof), together with the amount of any other credit assistance provided under the Act to the Borrower, does not exceed thirty-three percent (33%) of reasonably anticipated Eligible Project Costs and (ii) as required pursuant to § 603(b)(9) of the Act, the total federal assistance provided to the Project, including the maximum principal amount of the TIFIA Loan (excluding any interest that is capitalized in accordance with the terms hereof), does not exceed eighty percent (80%) of Eligible Project Costs.

IN WITNESS WHEREOF, the undersigned has executed this certificate as of the date first mentioned above.

**SAN BERNARDINO COUNTY
TRANSPORTATION AUTHORITY**

By: _____

Name:

Title: Executive Director

EXHIBIT B TO EXHIBIT K
INCUMBENCY CERTIFICATE
OF THE
SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY

Executed and Dated as of [____], 2019

The undersigned officers hereby certify as follows:

1. The President of the board of directors of the San Bernardino County Transportation Authority (the “Authority”) officially signed and executed by [his] facsimile signature and the undersigned Chief Financial Officer of the Authority, official countersigned and executed by [her] facsimile signature the following bond:

Title of Bond: San Bernardino County Transportation Authority
I-10 Toll Revenue Second Lien Bond, 2019 TIFIA Series
(I-10 Corridor Contract 1 Project) (TIFIA – 2019-[____])

Principal Amount: \$[_____] (excluding compounded interest added to principal)

Date of Bond: [____], 2019

2. Pursuant to due authorization in accordance with the provisions of the Resolution No. [____], the undersigned Executive Director or Chief Financial Officer of the San Bernardino County Transportation Authority officially executed and delivered: (i) the Master Indenture (I-10 Corridor Contract 1 Project), dated as of [____], 2019 and the First Supplemental Indenture, dated as of [____], 2019 (collectively, the “Indenture”), each between the Authority and U.S. Bank National Association, as trustee (the “Trustee”); (ii) the TIFIA Loan Agreement, dated as of [____], 2019, between the United States Department of Transportation, acting by and through the Executive Director of the Build America Bureau, and the Authority (the “Loan Agreement”); and (v) certain closing certificates relating to the authorization and the issuance of the Bond (collectively, the “Indenture Documents”). Capitalized terms used herein and not otherwise defined herein have the meanings ascribed to such terms in the Loan Agreement.

3. Said officers, at the time of signing of the Bond, the Indenture, the Loan Agreement and said closing certificates held said offices, respectively, and they now hold the same.

4. The undersigned, [____], certifies that [she] is the clerk of the board of directors of the Authority, and as such she is authorized to execute this certificate and further certifies that the following persons have been elected or appointed, are qualified, and are now acting as officers or authorized persons of the Borrower in the capacity or capacities indicated below, and that the signatures set forth opposite their respective names are their true and genuine signatures. She further certifies that any of the officers listed below is authorized to sign agreements and give written instructions with regard to any matters pertaining to the TIFIA Loan Documents and/or the Indenture Documents as the Borrower’s Authorized Representative:

<u>Name</u>	<u>Title</u>	<u>Signature</u>
[_____]	Chairman of the Board of Directors of the Authority	_____
[_____]	Clerk of the Board of Directors of the Authority	_____
[_____]	Executive Director of the Authority	_____
[_____]	Chief Financial Officer of the Authority and Auditor-Controller of the Authority	_____
[_____]	Toll Program Director of the Authority	_____
[_____]	Deputy Director of Finance of the Authority	_____

The undersigned, clerk of the board of directors, hereby further certifies by [her] signature hereto that the facsimile signature of the chair of the board of directors affixed hereto is the genuine facsimile signature of [_____] and that use of [his] facsimile signature on the Bond has been duly authorized.

Executed as of the date first above written.

SAN BERNARDINO COUNTY
TRANSPORTATION AUTHORITY

By: _____
[_____]
Clerk of the Board of Directors

EXHIBIT L
FORM OF CERTIFICATE OF SUBSTANTIAL COMPLETION

[Letterhead of Borrower]

[Date]

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

Project: I-10 Corridor Contract 1 Project (TIFIA – 2019-[____])

Dear Director:

This Notice is provided pursuant to Section 16(g)(i)(A) (*Substantial Completion*) of that certain TIFIA Loan Agreement (the “**TIFIA Loan Agreement**”), dated as of [____], 2019 by and between San Bernardino County Transportation Authority (the “**Borrower**”) and the United States Department of Transportation, acting by and through the Executive Director of the Build America Bureau (the “**TIFIA Lender**”).

Unless otherwise defined herein, all capitalized terms in this Notice have the meanings assigned to those terms in the TIFIA Loan Agreement.

I, the undersigned, in my capacity as the Borrower’s Authorized Representative and not in my individual capacity, do hereby certify to the TIFIA Lender that:

- (a) on [*insert date Substantial Completion requirements were satisfied*], the Project satisfied each of the requirements for Substantial Completion set forth in the [*Insert reference to the concession agreement, design-build or similar agreement for the Project*];
- (b) Substantial Completion has been declared under each of the above-referenced agreements and copies of the notices of Substantial Completion under such agreements are attached to this certification; and
- (c) Substantial Completion, as defined in the TIFIA Loan Agreement, has been achieved.

[Borrower’s Authorized Representative]

Name:
Title:

Exhibit L

EXHIBIT M

**CERTIFICATION REGARDING THE PROHIBITION ON THE USE OF
APPROPRIATED FUNDS FOR LOBBYING**

The undersigned, on behalf of the San Bernardino County Transportation Authority, hereby certifies, to the best of his or her knowledge and belief, that the San Bernardino County Transportation Authority:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Borrower, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of the TIFIA Loan.

(b) If any funds other than proceeds of the TIFIA Loan have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the TIFIA Loan, the Borrower shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(c) The Borrower shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when the TIFIA Lender entered into this Agreement. Submission of this certification is a prerequisite to the effectiveness of this Agreement imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Dated: _____

**SAN BERNARDINO COUNTY
TRANSPORTATION AUTHORITY⁹**

By: _____

Name:

Title:

⁹ To be executed by Borrower's Authorized Representative.

THIRD SUPPLEMENTAL INDENTURE

between

SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY

and

WELLS FARGO BANK, NATIONAL ASSOCIATION,
as Trustee

Dated as of [March] 1, 2019

Relating to

SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY
SALES TAX REVENUE BONDS
(LIMITED TAX BONDS)

(Supplementing the Indenture
Dated as of March 1, 2012)

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THIRD SUPPLEMENTAL INDENTURE

THIS THIRD SUPPLEMENTAL INDENTURE, dated as of [March] 1, 2019 (this “Third Supplemental Indenture”), between the SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY, a public entity duly established and existing under the laws of the State of California (the “Authority”) and WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association duly organized and existing under and by virtue of the laws of the United States of America, as successor trustee (the “Trustee”):

WITNESSETH:

WHEREAS, this Third Supplemental Indenture is supplemental to the Indenture, dated as of March 1, 2012 (collectively, and as supplemented and amended from time to time pursuant to its terms, the “Indenture”), between the Authority and the Trustee;

WHEREAS, in connection with the issuance of the toll revenue bonds pursuant to the hereinafter defined Toll Indenture, and the execution and delivery of a TIFIA Loan, the Authority is supplementing and amending this Indenture in order to provide for transfer of sales tax revenues as an investment in the hereinafter defined I-10 Corridor Contract 1 Project;

NOW, THEREFORE, the parties hereto hereby agree as follows:

ARTICLE XXIV

DEFINITIONS

Section 24.01. Definitions.

(a) Definitions. Unless the context otherwise requires, or as otherwise provided in subsection (b) of this Section or in Exhibit A to this Third Supplemental Indenture, all terms which are defined in Section 1.02 of the Indenture shall have the same meanings in this Third Supplemental Indenture.

(b) Additional Definitions. Unless the context otherwise requires, the following terms shall, for all purposes of this Third Supplemental Indenture, have the following meanings:

“**Backstop Transfer Amount**” means 1/6th of the Measure I Backstop budgeted to be on deposit in the Measure I Reserve Fund established under the Toll Indenture on the following June 30th or December 31st, whichever is nearer in time as of the applicable date, as determined by the Authority in consultation with the TIFIA Lender.

“**Cash Supplement Transfer Amount**” means 1/6th of the Measure I Cash Supplement specified in Exhibit A for the following June 30th or December 31st, whichever is nearer in time as of the applicable date.

“**I-10**” means Interstate 10.

“I-10 Corridor Contract 1 Project” means the development, design, construction, right-of-way acquisition, utilities adjustment, operation and maintenance, repair, rehabilitation, reconstruction, financing, administration, or any combination of these, including the establishment of reserves for such purposes, with respect to the I-10 Express Lanes in the County, including the construction of tolled express lanes extending approximately 10 miles from the border of the County of Los Angeles to the I-10/I-15 interchange and the installation of an electronic toll enforcement and collection system.

“Measure I Backstop” means the aggregate of the Backstop Transfer Amounts designated to be transferred to the Toll Trustee pursuant to Section 5.02(B) hereof.

“Measure I Cash Supplement” means the aggregate of the Cash Supplement Transfer Amounts designated to be transferred to the Toll Trustee pursuant to Section 5.02(B) hereof and the Schedule attached to the TIFIA Loan Agreement and to this Third Supplemental Indenture as Exhibit A.

“Sales Tax Debt” means all Series of Bonds and Parity Obligations and Subordinate Obligations then outstanding and payable from Revenue.

“Third Supplemental Indenture” means this certain Third Supplemental Indenture, dated as of [March] 1, 2019, between the Authority and the Trustee.

“TIFIA Lender” means the United States Department of Transportation, acting by and through the Executive Director of the Build America Bureau, or any successor thereto or assignee thereof.

“TIFIA Loan” means the loan made to the Authority by the TIFIA Lender to finance certain costs of the I-10 Corridor Contract 1 Project pursuant to the TIFIA Loan Agreement.

“TIFIA Loan Agreement” means that certain TIFIA Loan Agreement, dated as of [___], 2019, between the Authority and the TIFIA Lender, as supplemented and amended pursuant to the terms thereof.

“Toll Indenture” means that certain Master Indenture, dated as of [March] 1, 2019, as amended and supplemented, by and between the Authority and U.S. Bank National Association, as trustee.

“Toll Trustee” means U.S. Bank National Association, a national banking association duly organized and existing under the laws of the United States of America, or any successor trustee thereto under the Toll Indenture.

Section 24.02. Rules of Construction. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, words importing the singular number shall include the plural number and vice versa, and words importing persons shall include corporations and associations, including public bodies, as well as natural persons. Defined terms shall include any variant of the terms set forth in this Article XXIV.

The terms “hereby,” “hereof,” “hereto,” “herein,” “hereunder,” and any similar terms, as used in this Third Supplemental Indenture, refer to the Indenture.

ARTICLE XXV

AMENDMENT OF INDENTURE

Section 25.01. Amendment of Section 3.05(D). Section 3.05(D) is hereby supplemented to add a further condition to Section 3.05(D) to read as follows:

(4) The Authority shall have placed on file with the Trustee and each Credit Provider a Certificate of the Authority certifying that the amount of Sales Tax Revenues collected during any twelve (12) consecutive calendar months specified by the Authority within the most recent eighteen (18) calendar months immediately preceding the date on which such proposed Subordinate Obligations will become Outstanding shall have been at least equal to 1.10 times the Maximum Annual Debt Service on all Sales Tax Debt then Outstanding and the Subordinate Obligations then proposed to be issued, which Certificate shall also set forth the computations upon which such Certificate is based; provided that, upon execution of the TIFIA Loan and for so long as any amounts in respect of the Measure I Cash Supplement or the Measure I Backstop may be transferred to the Toll Trustee pursuant to and in accordance with the Toll Indenture and the TIFIA Loan Agreement, such amount of Sales Tax Revenues shall be at least equal to 1.50 times the Maximum Annual Debt Service on all Sales Tax Debt then Outstanding and the Subordinate Obligations then proposed to be issued.

Section 25.02. Amendment of Section 5.02(B). Section 5.02(B) is hereby amended to read as follows:

(B) From any Revenues remaining in the Revenue Fund after the foregoing transfers described in (1), (2), (3), (4) and (5) of subsection (A) above, the Trustee shall transfer on the same Business Day to the Toll Trustee the Cash Supplement Transfer Amount and the Backstop Transfer Amount scheduled for such month and any deficiencies in prior Cash Supplement Transfer Amounts and Backstop Transfer Amounts that have not been made or, in the case of Backstop Amounts, any true up amounts needed to cause the balance in the Measure I Reserve Fund under the Toll Indenture to meet the requirements of the TIFIA Loan Agreement. The Cash Supplement Transfer Amounts shall be made until all amounts in Exhibit A have been transferred to the Toll Trustee. After such transfer of the Cash Supplement Transfer Amount and the Backstop Transfer Amount for such

month, except as the Authority shall otherwise direct in writing or as is otherwise provided in a Supplemental Indenture, any remaining Revenues shall be transferred to the Authority on the same Business Day or as soon as practicable thereafter. The Authority may use and apply the Revenues when received by it for any lawful purpose of the Authority, including the redemption of Bonds upon the terms and conditions set forth in the Supplemental Indenture relating to such Bonds and the purchase of Bonds as and when and at such prices as it may determine.

ARTICLE XXVI

MISCELLANEOUS

Section 26.01. Severability. If any covenant, agreement or provision, or any portion thereof, contained in this Third Supplemental Indenture, or the application thereof to any person or circumstance, is held to be unconstitutional, invalid or unenforceable, the remainder of this Third Supplemental Indenture, and the application of any such covenant, agreement or provision, or portion thereof, to other Persons or circumstances, shall be deemed severable and shall not be affected thereby, and this Third Supplemental Indenture and the Bonds issued pursuant hereto shall remain valid, and the Holders of the Bonds shall retain all valid rights and benefits accorded to them under this Indenture, the Act and the Constitution and statutes of the State.

Section 26.02. Parties Interested Herein. Nothing in this Third Supplemental Indenture expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the Authority, the Trustee, each Credit Provider, if any, and the Holders of the Bonds, any right, remedy or claim under or by reason of this Third Supplemental Indenture or any covenant, condition or stipulation hereof; and all the covenants, stipulations, promises and agreements in this Third Supplemental Indenture contained by and on behalf of the Authority shall be for the sole and exclusive benefit of the Authority, the Trustee, each Credit Provider, if any, and the Holders of the Bonds. For so long as the TIFIA Loan Agreement remains in effect, the TIFIA Lender is and shall be a third party beneficiary of this Third Supplemental Indenture and any amendments, modifications or waivers to this Third Supplemental Indenture shall require the prior written consent of the TIFIA Lender.

Section 26.03. Headings Not Binding. The headings in this Third Supplemental Indenture are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Third Supplemental Indenture.

Section 26.04. Indenture to Remain in Effect. Save and except as amended and supplemented by this Third Supplemental Indenture, the Indenture shall remain in full force and effect.

Section 26.05. Effective Date of Third Supplemental Indenture. This Third Supplemental Indenture shall take effect upon its execution and delivery.

Section 26.06. Execution in Counterparts. This Third Supplemental Indenture may be executed in several counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

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

SAN BERNARDINO COUNTY
TRANSPORTATION AUTHORITY

By: _____
Executive Director

ATTEST:

Clerk of the
San Bernardino County Transportation Authority

WELLS FARGO BANK, NATIONAL
ASSOCIATION, as Trustee

By: _____
Authorized Officer

EXHIBIT A

CASH SUPPLEMENT PAYMENTS