

TRUST INDENTURE

Dated as of [closing date], 2014

Between

THE CITY OF OVERLAND PARK, KANSAS

and

**BOKF, N.A., D/B/A BANK OF KANSAS CITY
OVERLAND PARK, KANSAS
as Trustee**

Relating to:

**\$1,655,975
TAXABLE SALES TAX REVENUE BONDS
SERIES 2014**

(QUIVIRA 95 SHOPS COMMUNITY IMPROVEMENT DISTRICT PROJECT)

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TRUST INDENTURE

THIS TRUST INDENTURE (the “Indenture”) made and entered into as of [closing date], 2014, between the **CITY OF OVERLAND PARK, KANSAS**, a municipal corporation and political subdivision duly organized and existing under the laws of Kansas (the “Issuer”), and **BOKF, N.A., d/b/a Bank of Kansas City**, a national banking association duly organized and existing under the laws of the United States of America, having a corporate trust office located in Overland Park, Kansas, and being qualified to accept and administer the trusts hereby created, as trustee (the “Trustee”);

RECITALS

1. The City of Overland Park, Kansas (the “Issuer”), is a municipal corporation and a city of the first class, duly created, organized and existing under the laws of the State of Kansas.

2. The Issuer has the authority to create a community improvement district, impose a community improvement district sales tax and issue community improvement district sales tax revenue bonds for the purpose of financing projects within the community improvement district, pursuant to the Community Improvement District Act, K.S.A. 12–6a26 *et seq.*, as amended (the “CID Act”).

3. On November 7, 2011, the Governing Body of the Issuer passed Ordinance No. CID-2940 creating a community improvement district to be known as the Quivira 95 Shops Community Improvement District (the “CID”) and imposing a community improvement district sales tax in the amount of one percent (1%) (the “CID Sales Tax”) for the purpose of financing certain improvements within the CID, as more particularly described in **Exhibit A** attached hereto (the “CID Improvements”).

4. The Issuer has determined that it is in the best interests of the Issuer to issue \$1,655,975 principal amount of Taxable Sales Tax Revenue Bonds, Series 2014 (Quivira 95 Shops Community Improvement District Project) (the “Bonds”) to finance the CID Improvements and to pay costs of issuance of the Bonds.

5. On December 15, 2014, the Governing Body of the Issuer passed an ordinance (the “Ordinance”), authorizing the issuance of the Bonds pursuant to this Indenture for the above purposes.

6. Pursuant to the Ordinance, the Issuer is authorized to execute and deliver this Indenture for the purpose of issuing and securing the Bonds as hereinafter provided.

7. The Developer has completed all of the CID Improvements, the Issuer has approved CID Improvement Costs in an amount in excess of the proceeds of the Bonds to be deposited with the Trustee in the Project Fund and the Issuer desires to provide for the reimbursement to the Developer of such approved CID Improvement Costs upon receipt of funds by the Trustee in the Project Fund to the extent funds are available.

GRANTING CLAUSES

To determine the terms and conditions upon which Bonds are to be authenticated, issued and delivered and to secure the payment of all of the Bonds issued and Outstanding under this Indenture from time to time according to their tenor and effect and to secure the performance and observance of all the covenants, agreements and conditions contained in this Indenture and in the Bonds, and in consideration of the premises, the acceptance by the Trustee of the trusts created by this Indenture, the purchase and acceptance of the Bonds by the Registered Owners thereof, the Issuer hereby transfers in trust, pledges and assigns to the Trustee, and hereby grants a security interest to the Trustee in the property described in paragraphs (a), (b) and (c) below (said property referred to herein as the "Trust Estate"):

- (a) All CID Sales Tax Revenues as defined and identified herein; and
- (b) All moneys, investments and securities from time to time held by the Trustee under the terms of this Indenture; and
- (c) All other property of every name and nature, from time to time hereafter by delivery or by writing mortgaged, pledged, delivered or hypothecated as and for additional security under this Indenture by the Issuer or anyone on its behalf or with its written consent in favor of the Trustee.

TO HAVE AND TO HOLD, all and singular, the Trust Estate with all rights and privileges hereby transferred, pledged, assigned and granted or agreed or intended so to be to the Trustee and its successors and assigns in trust;

IN TRUST NEVERTHELESS, upon the terms and conditions herein set forth for the equal and proportionate benefit, security and protection of all present and future Owners of the Bonds Outstanding, without preference, priority or distinction as to participation in the lien, benefit and protection hereof of one Bond over or from the others;

PROVIDED, NEVERTHELESS, and these presents are upon the express condition that if the Issuer or its successors or assigns shall well and truly pay or cause to be paid the principal of and premium, if any, on such Bonds with interest, according to the provisions set forth in the Bonds, or shall provide for the payment or redemption of such Bonds by depositing or causing to be deposited with the Trustee the entire amount of funds or securities requisite for payment or redemption thereof when and as authorized by the provisions of **Article XII**, and shall also pay or cause to be paid all other sums payable hereunder by the Issuer, then these presents and the estate and rights hereby granted shall cease, terminate and become void, and thereupon the Trustee, on payment of its lawful charges and disbursements then unpaid, on demand of the Issuer, shall duly execute, acknowledge and deliver to the Issuer such instruments of satisfaction or release as may be necessary or proper to discharge this Indenture of record, and if necessary shall grant, reassign and deliver to the Issuer, all and singular the property, rights, privileges and interests by it hereby granted, conveyed and assigned, and all substitutes, or any part thereof, not previously disposed of or released as herein provided; otherwise this Indenture shall be and remain in full force.

THIS INDENTURE FURTHER WITNESSETH, and it is hereby expressly declared, covenanted and agreed by and between the parties hereto, that all Bonds issued and secured hereunder are to be issued, authenticated and delivered and that all the Trust Estate is to be held and applied under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as hereinafter expressed, and the Issuer does hereby agree and covenant with the Trustee, for the benefit of the respective Owners from time to time of the Bonds, as follows:

ARTICLE I

DEFINITIONS AND RULES OF CONSTRUCTION

Section 101. Definitions of Words and Terms. In addition to words and terms defined elsewhere in this Indenture, the following capitalized words and terms as used in this Indenture shall have the following meanings:

“**Accounts**” means the account created pursuant to **Section 401** hereof.

“**Act**” means the Community Improvement District Act, K.S.A. 12–6a26 *et seq.*, as amended or supplemented from time to time.

“**Administrative Office**” means (a) with respect to the initial Trustee, for notice and administration purposes, initially, 7500 College, Suite 1450, Overland Park, Kansas 66210, and (b) with respect to any successor Trustee, its office for notice and administration purposes designated as such by the successor Trustee.

“**Approved Investor**” means any investor that is a Qualified Institutional Buyer.

“**Authorized Denominations**” means the original denomination of \$1,655,975 as may be reduced by redemption in increments of \$5,000 or any amount in excess thereof.

“**Authorized Developer Representative**” means the individual designated as such to act on behalf of the Developer as evidenced to the Trustee by a certificate, bearing such authorized officer’s signature and signed by an authorized officer of the Developer.

“**Authorized Issuer Representative**” means the Mayor, the City Manager or the Deputy City Manager, or such other person at the time designated to act on behalf of the Issuer as evidenced by written certificate furnished to the Trustee containing the specimen signature of such person and signed on behalf of the Issuer by its Mayor, City Manager or Deputy City Manager. Such certificate may designate an alternate or alternates, each of whom shall be entitled to perform all duties of the Authorized Issuer Representative.

“**Bond Counsel**” means Kutak Rock LLP, or other firm of nationally recognized bond counsel.

“**Bond Purchase Agreement**” means the Bond Purchase Agreement between the Issuer and the Original Purchaser.

“**Bond Register**” means the books for the registration, transfer and exchange of the Bonds kept at the office of the Trustee.

“**Bond Registrar**” means the Trustee and any other commercial bank or trust institution organized under the laws of any state of the United States of America or any national banking association designated pursuant to this Indenture or any Supplemental Indenture as bond registrar for any series of Bonds at which the principal of, redemption premium, if any, and interest on such Bonds shall be payable.

“**Bonds**” means \$1,655,975 principal amount of Taxable Sales Tax Revenue Bonds, Series 2014 (Quivira 95 Shops Community Improvement District Project), of the City of Overland Park, Kansas.

“**Business Day**” means a day which is not (a) a Saturday or Sunday, (b) any other day on which banking institutions in New York, New York, or the city or cities in which the Administrative Office of the Trustee is located, are required or authorized to close or (c) a day on which the New York Stock Exchange or Federal Reserve Banks are closed.

“**CID**” means Quivira 95 Shops Community Improvement District created by Ordinance No. CID-2940 of the Issuer.

“**CID Act**” means the Kansas Community Improvement District Act, K.S.A. 12-6a26 *et seq.*, as amended.

“**CID Improvements**” means the facilities and costs eligible to be paid under the CID Act, to be financed with the proceeds of the Bonds issued under the CID Act, as more particularly described on **Exhibit A** attached hereto.

“**CID Improvements Costs**” means costs permitted under the CID Act to be paid out of proceeds of the Bonds with respect to the CID Improvements and which have been previously approved by the Issuer for reimbursement to the Developer in an amount not less than the amount to be deposited in the Project Fund pursuant to **Section 402(a)(3)**.

“**CID Sales Tax**” means the community improvement district sales tax in the amount of one percent (1%) imposed on the selling of tangible personal property at retail or rendering or furnishing services taxable pursuant to the Kansas Retailer’s Sales Tax Act within the CID.

“**CID Sales Tax Revenues**” means the revenues derived, received by the Issuer and collected within the CID from the CID Sales Tax after November 30, 2014, including any interest earnings thereon, but less the Issuer Administrative Fee.

“**City**” means the City of Overland Park, Kansas, and any successors or assigns.

“**Costs of Issuance**” means issuance costs with respect to the Bonds, including but not limited to the following:

- (a) counsel fees (including bond counsel and Issuer’s counsel, as well as any other specialized counsel fees incurred in connection with the borrowing);

(b) financial advisor fees of any financial advisor to the Issuer incurred in connection with the issuance of the Bonds;

(c) trustee, escrow agent and paying agent fees;

(d) accountant fees, feasibility consultant fees and other expenses related to issuance of the Bonds;

(e) registration fees of the State Treasurer and fees of the Attorney General of the State relating to authoring the transcript for the Bond to be registered with the State; and

(f) fees and expenses of the Issuer incurred in connection with the issuance of the Bonds.

“**Costs of Issuance Fund**” means the fund by that name created by **Section 401** hereof.

“**Debt Service Fund**” means the fund by that name created by **Section 401** hereof.

“**Defaulted Interest**” means interest on the Bond which is payable but not paid on any Interest Payment Date.

“**Developer**” means 95Q Corner Properties, LLC, a Kansas limited liability company, its successors and assigns, as provided in the Development Agreement.

“**Development Agreement**” means the Development Agreement dated January 9, 2012, by and between the Issue and the Developer, as amended and supplemented from time to time.

“**Event of Default**” shall have the meaning set forth in **Section 901** hereof.

“**Financing Documents**” means this Indenture, the Bonds, the Development Agreement, the Bond Purchase Agreement and any and all other documents or instruments that evidence or are a part of the transactions referred to in this Indenture, the Development Agreement or contemplated by this Indenture or the Development Agreement; and any and all future renewals and extensions or restatements of, or amendments or supplements to, any of the foregoing; provided, however, that when the words “Financing Documents” are used in the context of the authorization, execution, delivery, approval or performance of Financing Documents by a particular party, the same shall mean only those Financing Documents that provide for or contemplate authorization, execution, delivery, approval or performance by such party.

“**Fiscal Year**” means the twelve month period ending on December 31.

“**Funds**” means the funds created by **Section 401** hereof.

“**Government Obligations**” means the following:

(a) bonds, notes, certificates of indebtedness, treasury bills or other securities constituting direct obligations of, or obligations the principal of and interest on which are fully and unconditionally guaranteed by, the United States of America; and

(b) evidences of direct ownership of a proportionate or individual interest in future interest or principal payments on specified direct obligations of, or obligations the payment of the principal of and interest on which are unconditionally guaranteed by, the United States of America, which obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state thereof in the capacity of custodian.

“**Indenture**” means this Trust Indenture as originally executed by the Issuer and the Trustee, as from time to time amended and supplemented by Supplemental Indentures in accordance with the provisions of this Indenture.

“**Interest Payment Date**” means June 1 and December 1, of each year the Bonds are Outstanding, commencing June 1, 2015.

“**Issue Date**” means [closing date], 2014.

“**Issuer**” means the City of Overland Park, Kansas created pursuant to the laws of the State, and its successors and assigns or any body, agency or instrumentality succeeding to or charged with the powers, duties and functions of the Issuer.

“**Issuer Administrative Fee**” means an amount equal to the greater of \$5,000 or 1% of the CID Sales Tax collected for the preceding calendar year.

“**Maturity**” when used with respect to any Bond means the date on which the principal of such Bond becomes due and payable as therein and herein provided, whether at the Stated Maturity thereof or at a call for redemption or otherwise.

“**Officer’s Certificate**” means a written certificate of the Developer, substantially in the form described in **Section 1301** hereof signed by the Authorized Developer Representative on behalf of the Developer, which certificate shall be deemed to constitute a representation of, and shall be binding upon, the Developer with respect to matters set forth therein.

“**Opinion of Bond Counsel**” means a written opinion of Kutak Rock LLP or any legal counsel acceptable to the Issuer and the Trustee who shall be nationally recognized as expert in matters pertaining to the validity of obligations of governmental issuers.

“**Opinion of Counsel**” means a written opinion in the form described in **Section 1301** hereof of legal counsel addressed to the Issuer and the Trustee, for the benefit of the Issuer, the Trustee and the Owners of the Bonds, who is acceptable to the Issuer, the Developer and the Trustee.

“**Ordinance**” means Ordinance No. CID-3069 of the Issuer authorizing the issuance of the Bonds.

“**Original Purchaser**” means 95Q Corner Properties, LLC, a Kansas limited liability company.

“**Outstanding**” means, when used with respect to Bonds, as of any particular date, the Bonds theretofore issued and delivered under this Indenture, except:

- (a) Bonds theretofore cancelled by the Trustee or delivered to the Trustee for cancellation;
- (b) Bonds deemed to be paid in accordance with the provisions of **Section 1201** hereof; and
- (c) Bonds in exchange for or in lieu of which other Bonds have been registered and delivered hereunder.
- (d) Bonds alleged to have been destroyed, lost or stolen which have been paid as provided in **Section 207** of this Indenture.

“**Paying Agent**” means the Trustee and any other commercial bank or trust institution organized under the laws of any state of the United States of America or any national banking association designated pursuant to this Indenture or any Supplemental Indenture as paying agent for the Bonds at which the principal of, redemption premium, if any, and interest on the Bonds shall be payable.

“**Permitted Investments**” means any of the following securities and obligations, if and to the extent the same are at the time legal for investment of the Issuer’s moneys held in the funds and accounts referred to in **Section 601** and **Section 602** hereof:

- (a) Government Obligations;
- (b) bonds or other obligations of the State, or any political subdivision of the State, that at the time of their purchase are rated in either of the two highest rating categories by a nationally recognized rating service;
- (c) repurchase agreements with any bank, bank holding company, savings and loan association, trust company, or other financial institution organized under the laws of the United States or any state (including the Trustee and its affiliates), that are continuously and fully secured by any one or more of the securities described in clause (a) or (b) above and have a market value, exclusive of accrued interest, at all times at least equal to the principal amount of such repurchase agreement and are held in a custodial or trust account for the benefit of the Issuer;
- (d) obligations of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Financing Bank, the Federal Intermediate Credit Corporation, Federal Banks for Cooperatives, Federal Land Banks, Federal Home Loan Banks, Farmers Home Administration and Federal Home Loan Mortgage Corporation;
- (e) certificates of deposit, time deposits or other deposits, whether negotiable or non-negotiable, issued by any bank or trust company organized under the laws of the United States or any state (including the Trustee and its affiliates), provided that such

certificates of deposit or time deposits shall be either (1) continuously and fully insured by the Federal Deposit Insurance Corporation, or (2) continuously and fully secured by such securities as are described above in clauses (a), (b) or (d), which shall have a market value, exclusive of accrued interest, at all times at least equal to the principal amount of such certificates of deposit or time deposits;

(f) money market mutual funds that are registered with the Securities and Exchange Commission meeting the requirements of Rule 2a-7 under the Investment Company Act of 1940 and which invest in securities as are described above in (a), (b) or (d); and

(g) any other securities or investments that are lawful for the investment of moneys held in such funds or accounts under the laws of the State.

“Person” means any natural person, firm, association, corporation, partnership, limited liability company, joint stock company, joint venture, trust, unincorporated organization or firm, or a government or any agency or political subdivision thereof or other public body.

“Principal Payment Date” means the maturity date or redemption date of any Bond.

“Project Fund” means the fund by that name created by **Section 401** hereof.

“Qualified Institutional Buyer” means a qualified institutional buyer as defined in Rule 144A promulgated by the Securities Exchange Commission under the Securities Act of 1933.

“Record Date” for the interest payable on any Interest Payment Date means the 15th day (whether or not a Business Day) of the calendar month next preceding such Interest Payment Date.

“Redemption Account” means the account by that name created within the Debt Service Fund.

“Redemption Date” when used with respect to any Bond to be redeemed means the date fixed for such redemption pursuant to the terms of this Indenture.

“Redemption Price” when used with respect to any Bond to be redeemed means the price at which such Bond is to be redeemed pursuant to the terms of this Indenture, including the redemption premium, if any, but excluding installments of interest whose maturity is on or before the Redemption Date.

“Registered Owner” or **“Owner”** or **“Bondowner”** when used with respect to any Bond means the person in whose name such Bond is registered on the Bond Register.

“Responsible Officer” means, with respect to the Trustee, any officer or authorized representative in its corporate trust office or similar group administering the trusts hereunder or any other officer of the Trustee customarily performing functions similar to those performed by any of the above designated officers to whom a particular matter is referred by the Trustee

because of such officer's or authorized representative's knowledge of and familiarity with the particular subject.

"Revenue Fund" means the fund by that name created by **Section 401** hereof.

"State" means the State of Kansas.

"Supplemental Indenture" means any indenture supplemental or amendatory to this Indenture entered into by the Issuer and the Trustee pursuant to **Article XI** of this Indenture.

"Trust Estate" means the Trust Estate described in the Granting Clauses of this Indenture.

"Trustee" means BOKF, N.A. d/b/a Bank of Kansas City, Overland Park, Kansas, in its capacity as Trustee hereunder, and its successors or successors and any other corporation or association which at any time may be substituted in its place pursuant to and at the time serving as trustee under this Indenture.

"Value" as of any particular time of determination, means, (a) with respect to cash the face value thereof and (b) with respect to any investments, the lower of the cost of the investment or the market price of the investment on the date of valuation.

Section 102. Rules of Construction.

For all purposes of this Indenture, except as otherwise expressly provided or unless the context otherwise requires:

(a) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders.

(b) Words importing the singular number shall include the plural and vice versa and words importing person shall include firms, associations and corporations, including public bodies, as well as natural persons.

(c) Terms used in an accounting context and not otherwise defined shall have the meaning ascribed to them by generally accepted principles generally accepted in the United States of America.

(d) All references in this instrument to designated "Articles," "Sections" and other subdivisions are to be the designated Articles, Sections and other subdivisions of this instrument as originally executed.

(e) The words "herein," "hereof" and "hereunder" and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision.

(f) The Article and section headings herein and in the Table of Contents are for convenience only and shall not affect the construction hereof.

(g) Whenever an item or items are listed after the word “including,” such listing is not intended to be a listing that excludes items not listed.

ARTICLE II

THE BONDS

Section 201. Authorization, Amount and Title of Bonds. No Bonds may be issued under this Indenture except in accordance with the provisions of this Article. The total principal amount of Bonds that may be issued under this Indenture is limited to \$1,655,975. The Bonds of each series shall consist of fully registered bonds without coupons in Authorized Denominations, and shall be numbered from R-1 upward.

Section 202. Authorization of the Bonds. There shall be issued under and secured by this Indenture one series of Bonds designated as “Taxable Sales Tax Revenue Bonds, Series 2014 (Quivira 95 Shops Community Improvement District Project)” in the principal amount of \$1,655,975 (the “Bonds”), for the purpose providing funds to finance the CID Improvements Costs and pay certain Costs of Issuance of the Bonds.

The Bonds shall be dated the Issue Date, shall become due on December 1, 2034, in the amounts and in the years (subject to redemption and payment prior to their maturities as provided in **Article III** hereof) and shall bear interest at the rates of five percent (5%) per annum (computed on the basis of a 360-day year of twelve 30-day months):

The Bonds shall bear interest at the above specified rate from the later of the Issue Date or the most recent Interest Payment Date to which interest has been paid on the Interest Payment Dates in the manner set forth in **Section 202** hereof, payable semiannually on each Interest Payment Date.

The Bonds shall be executed in the manner set forth herein and delivered to the Trustee for authentication but, prior to or simultaneously with the authentication and delivery of the Bonds by the Trustee there shall be filed with the Trustee the following:

(a) An original or copy, certified as true and correct by the City Clerk of the Issuer, of the Ordinance passed by the Governing Body of the Issuer authorizing the issuance of the Bonds;

(b) A copy, certified by the Authorized Developer Representative on behalf of the Developer, of the authorization of the Developer to execute and deliver the Financing Documents to which it is a party, and approving this Indenture and the issuance and sale of the Bonds;

(c) An original executed counterpart of the Indenture

(d) Copies of Financing Documents other than the Indenture;

(e) An Opinion of Bond Counsel dated the Issue Date;

- (f) An Opinion of Counsel to the Issuer dated the Issue Date;
- (g) An Opinion of Counsel to the Developer and Original Purchaser dated the Issue Date;
- (h) A request and authorization to the Trustee on behalf of the Issuer, executed by an Authorized Issuer Representative, to authenticate the Bonds and deliver said Bonds to, or on the order of, the Original Purchaser upon payment to the Trustee, for the account of the Issuer, of the purchase price thereof. The Trustee shall be entitled to rely conclusively upon such request and authorization as to the names of the purchasers and the amount of such purchase price;
- (i) Such other certificates, statements, receipts and documents as shall reasonably be required by the Financing Documents for the delivery of the Bonds, or as shall be reasonably required by the Trustee or Bond Counsel.

When the documents specified above shall have been filed with the Trustee, and when the Bonds shall have been executed and authenticated as required by this Indenture, the Trustee shall deliver the Bonds to or upon the order of the Original Purchaser, but only upon payment to the Trustee of the purchase price of the Bonds as set forth in the request and authorization of the Issuer. The proceeds of the sale of the Bonds, including premium thereon, if any, shall be immediately paid over and applied as provided in this Indenture.

Section 203. Reserved.

Section 204. Method and Place of Payment of the Bonds. The principal of, or Redemption Price and interest on the Bonds shall be payable in any coin or currency which, on the respective dates of payment thereof, is legal tender for the payment of public and private debts.

The principal of, Redemption Price or interest payable on each Bond on any Interest Payment Date or maturity shall be paid to the Bondowner of such Bond as shown on the Bond Register at the close of business on the Record Date for such interest (a) by check or draft mailed by the Trustee to the address of such Bondowner shown on the Bond Register or at such other address as is furnished to the Trustee in writing by such Bondowner, or (b) as long as the Bonds are owned by a single Registered Owner, by electronic transfer to such Bondowner upon written notice given to the Trustee by such Bondowner, not less than 15 days prior to the Record Date for such interest, containing the electronic transfer instructions including the bank (which shall be in the continental United States), ABA routing number and account number to which such Bondowner wishes to have such transfer directed.

Notwithstanding the foregoing provisions of this Section, any Defaulted Interest with respect to any Bond shall cease to be payable to the Bondowner of such Bond on the relevant Record Date and shall be payable to the Bondowner in whose name such Bond is registered at the close of business on the "Special Record Date" for the payment of such Defaulted Interest, which Special Record Date shall be fixed as hereinafter specified in this paragraph. The Issuer shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each Bond and the date of the proposed payment (which date shall be at least 30 days after

receipt of such notice by the Trustee) and shall deposit with the Trustee at the time of such notice an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment. Following receipt of such funds the Trustee shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than 15 nor less than 10 days prior to the date of the proposed payment. The Trustee shall promptly notify the Issuer of such Special Record Date and, in the name and at the expense of the Issuer, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, by first-class mail, postage prepaid, to each Bondowner of a Bond entitled to such notice at the address of such Bondowner as it appears on the Bond Register not less than 10 days prior to such Special Record Date.

The Trustee shall keep a record of payment of principal and Redemption Price of and interest on all Bonds and at least annually shall forward a copy or summary of such records to the Issuer.

Section 205. Registration, Transfer and Exchange of Bonds. The Trustee shall cause to be kept at its corporate trust office the Bond Register in which, subject to such reasonable regulations as it may prescribe, the Trustee shall provide for the registration, transfer and exchange of Bonds as herein provided. The Trustee is hereby appointed “Bond Registrar” for the purpose of registering Bonds and transfers of Bonds as herein provided.

The Bonds shall be sold and subsequently transferred only to purchasers who constitute Approved Investors and only with the consent of the Issuer. Each such Approved Investor shall execute and deliver to the Trustee an Investor Letter in the form attached hereto as **Exhibit D**.

Bonds may be transferred or exchanged only upon the Bond Register maintained by the Trustee as provided in this Section. Upon surrender for transfer or exchange of the Bond at the corporate trust office of the Trustee, the Issuer shall execute, and the Trustee shall authenticate and deliver, in the name of the designated transferee, a new Bond of the same maturity and of a like aggregate principal amount.

Bonds presented for transfer or exchange shall be accompanied by a written instrument or instruments of transfer or authorization for exchange, in a form and with guarantee of signature satisfactory to the Trustee, duly executed by the Bondowner thereof or by the Bondowner’s duly authorized agent.

In all cases in which the privilege of transferring or exchanging Bonds is exercised, the Trustee shall authenticate and deliver Bonds in accordance with the provisions of this Indenture. Any additional costs or fees that might be incurred in the secondary market, other than fees of the Trustee, are the responsibility of the Bondowner of the Bonds. In the event the Bondowner fails to provide a correct taxpayer identification number to the Trustee, the Trustee may make a charge against such Bondowner sufficient to pay any governmental charge required to be paid as a result of such failure. In compliance with Section 3406 of the Code, such amount may be deducted by the Trustee from amounts otherwise payable to such Bondowner hereunder or under the Bonds.

The Issuer and the Trustee shall not be required (a) to register the transfer or exchange of any Bond that has been called for redemption after notice of such redemption has been mailed by the Trustee pursuant to **Section 305** hereof and during the period of 15 days next preceding the date of mailing of such notice of redemption; or (b) to register the transfer or exchange of any Bond during a period beginning at the opening of business on the day after receiving written notice from the Issuer of its intent to pay Defaulted Interest and ending at the close of business on the date fixed for the payment of Defaulted Interest pursuant to **Section 205** hereof.

The Issuer and the Trustee may deem and treat the Person in whose name any Bond is registered on the Bond Register as the absolute Bondowner of such Bond, whether such Bond is overdue or not, for the purpose of receiving payment of, or on account of, the principal or Redemption Price of and interest on said Bond and for all other purposes. All payments so made to any such Bondowner or upon the Bondowner's order shall be valid and effective to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and neither the Issuer nor the Trustee shall be affected by any notice to the contrary.

At reasonable times and under reasonable regulations established by the Trustee, the Bond Register may be inspected and copied by the Bondowner (or a designated representative thereof) or any designated representative of such Bondowner whose authority is evidenced to the satisfaction of the Trustee.

Section 206. Execution, Registration, Authentication and Delivery of Bonds. Each of the Bonds, including any Bonds issued in exchange or as substitutions for the Bonds initially delivered, shall be executed for and on behalf of the Issuer by the manual or facsimile signature of the Mayor, attested by the manual or facsimile signature of the City Clerk and the seal of the City shall be affixed thereto or imprinted thereon. The Mayor and City Clerk are hereby authorized and directed to prepare and execute the Bonds in the manner herein specified, and to cause the Bonds to be registered in the office of the City Clerk, which registration shall be evidenced by the manual or facsimile signature of the City Clerk with the seal of the City affixed thereto or imprinted thereon. The Bonds shall also be registered in the office of the State Treasurer, which registration shall be evidenced by the manual or facsimile signature of the State Treasurer with the seal of the State Treasurer affixed thereto or imprinted thereon. In case any officer whose signature appears on any Bonds ceases to be such officer before the delivery of such Bonds, such signature shall nevertheless be valid and sufficient for all purposes, as if such person had remained in office until delivery. Any Bond may be signed by such persons who at the actual time of the execution of such Bond are the proper officers to sign such Bond although at the date of such Bond such persons may not have been such officers.

The Mayor and City Clerk are hereby authorized and directed to prepare and execute the Bonds as herein specified, and when duly executed, to deliver the Bonds to the Trustee for authentication.

The Bonds shall have endorsed thereon a certificate of authentication substantially in the form attached hereto as **Exhibit B** hereof, which shall be manually executed by an authorized officer or employee of the Trustee, but it shall not be necessary that the same officer or employee sign the certificate of authentication on all of the Bonds that may be issued hereunder at any one time. No Bond shall be entitled to any security or benefit under this Indenture or be valid or

obligatory for any purpose unless and until such certificate of authentication has been duly executed by the Trustee. Such executed certificate of authentication upon any Bond shall be conclusive evidence that such Bond has been duly authenticated and delivered under this Indenture. Upon authentication, the Trustee shall deliver the Bonds to the Purchaser upon instructions of the Issuer or its representative.

Section 207. Mutilated, Lost, Stolen or Destroyed Bonds. If (a) any mutilated Bond is surrendered to the Trustee or the Trustee receives evidence to its satisfaction of the destruction, loss or theft of any Bond, and (b) there is delivered to the Issuer and the Trustee such security or indemnity as may be required by each of them, then, in the absence of notice to the Issuer or the Trustee that such Bond has been acquired by a bona fide purchaser, the Issuer shall execute and, upon the Issuer's request, the Trustee shall authenticate and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost or stolen Bond, a new Bond of the same maturity and of like tenor and principal amount.

If any such mutilated, destroyed, lost or stolen Bond has become or is about to become due and payable, the Issuer, in its discretion, may pay such Bond instead of issuing a new Bond.

Upon the issuance of any new Bond under this Section, the Issuer may require the payment by the Bondowner of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Trustee) connected therewith.

Every new Bond issued pursuant to this Section shall constitute a replacement of the prior obligation of the Issuer, and shall be entitled to all the benefits of this Indenture equally and ratably with all other Outstanding Bonds.

Section 208. Cancellation and Destruction of Bonds upon Payment. All Bonds that have been paid or redeemed or that otherwise have been surrendered to the Trustee, either at or before maturity, shall be cancelled by the Trustee immediately upon the payment, redemption and surrender thereof to the Trustee and subsequently destroyed in accordance with the customary practices of the Trustee.

ARTICLE III

REDEMPTION OF BONDS

Section 301. Redemption of Bonds Generally. The Bonds are subject to redemption prior to maturity in accordance with their terms and the terms and provisions set forth in this **Article III**.

Section 302. Optional Redemption of the Bonds. The Bonds are subject to redemption and payment prior to maturity, by the Issuer, at the written direction of the Developer, on any date in Authorized Denominations, at a Redemption Price of 100% of the principal amount thereof, plus accrued interest to the redemption date, without premium.

Any provision in this Indenture to the contrary notwithstanding, unless moneys sufficient to pay the principal of and premium, if any, and interest on the Bonds to be redeemed shall have

been received by the Trustee prior to the giving of such notice, the notice of redemption pursuant to this **Section 302** shall state that it is conditioned upon receipt by the Trustee of sufficient moneys to redeem the Bonds, and such notice and optional redemption shall be of no effect if by no later than the scheduled redemption date, sufficient moneys to redeem the Bonds are not on deposit with and available to the Trustee.

Section 303. Mandatory Redemption of the Bonds. The Bonds are subject to mandatory redemption on any Interest Payment Date, at the Redemption Price of 100% of the principal amount being redeemed, together with accrued interest thereon to the date fixed for redemption, in an amount equal to the amount which is on deposit in the Redemption Account of the Debt Service Fund forty-five (45) days prior to such Interest Payment Date (or if such date is not a Business Day, the immediately preceding Business Day).

Section 304. Selection by Trustee of Bonds to be Redeemed. The Bonds may be redeemed only in Authorized Denominations.

Nothing contained herein shall prohibit the reduction of the principal amount of a Bond to a principal amount less than an Authorized Denomination as a result of mandatory redemptions pursuant to **Section 303** hereof provided that the original principal amount of such Bond was in an Authorized Denomination.

The Trustee shall promptly notify the Issuer in writing of the Bonds selected for redemption and, in the case of any Bond selected for partial redemption, the principal amount thereof to be redeemed.

Section 305. Notice and Effect of Call for Redemption. If the Issuer shall call any Bonds for redemption pursuant to **Section 303** or if Bonds are called from redemption pursuant to **Section 304** (for which no further action is required by the Issuer or the Developer), the Trustee shall give written notice of redemption to the Bondowner (unless waived by the Bondowner). Said written notice shall be deposited in the United States first-class mail not less than 30 days and not more than 60 days prior to the Redemption Date.

All official notices of redemption shall be dated and shall contain the following information:

- (a) the Redemption Date;
- (b) the Redemption Price;
- (c) if less than all Outstanding Bonds are to be redeemed, the identification (and, in the case of partial redemption of any Bonds, the respective principal amounts) of the Bonds to be redeemed;
- (d) a statement that on the Redemption Date the Redemption Price will become due and payable upon each such Bond or portion thereof called for redemption and that interest thereon shall cease to accrue from and after the Redemption Date;

(e) the place where such Bonds are to be surrendered for payment of the Redemption Price, which shall be the principal office of the Trustee; and

(f) in the event there will be an application of credits against mandatory sinking fund installments as a result of the redemption, the effective schedule of sinking fund installments after the application of such credits.

With respect to optional redemptions, such notice may be conditioned upon moneys being on deposit with the Trustee on or prior to the Redemption Date in an amount sufficient to pay the Redemption Price on the Redemption Date. If such notice is conditional and either the Trustee receives written notice from the Issuer that moneys sufficient to pay the Redemption Price will not be on deposit on the Redemption Date, or such moneys are not received on the Redemption Date, then such notice shall be of no force and effect, the Trustee shall not redeem such Bonds and the Trustee shall give notice, in the same manner in which the notice of redemption was given, that such moneys were not or will not be so received and that such Bonds will not be redeemed.

The failure of the Bondowner to receive notice given as heretofore provided or an immaterial defect therein shall not invalidate any redemption.

At or prior to any Redemption Date, moneys shall be deposited with the Trustee in an amount of money sufficient to pay the Redemption Price of all the Bonds or portions of Bonds that are to be redeemed on such Redemption Date.

Provided moneys have been deposited with the Trustee in an amount of money sufficient to pay the Redemption Price of all the Bonds or portions of Bonds that are to be redeemed on such Redemption Date and notice of redemption has been given as aforesaid, the Bonds or portions of Bonds to be redeemed shall become due and payable on the Redemption Date, at the Redemption Price therein specified, and from and after the Redemption Date such Bonds or portion of Bonds shall cease to bear interest. Upon surrender of such Bonds for redemption in accordance with such notice, the Redemption Price of such Bonds shall be paid by the Trustee. Installments of interest due on or prior to the Redemption Date shall be payable as herein provided for payment of interest. Upon surrender for any partial redemption of any Bond, there shall be prepared for the Bondowner a new Bond or Bonds of the same maturity in the amount of the unpaid principal as provided herein. All Bonds that have been surrendered for redemption shall be cancelled and destroyed by the Trustee as provided herein and shall not be reissued.

Section 306. Payments Due on Saturdays, Sundays and Holidays. In any case where an Interest Payment Date is not a Business Day, then payment of principal, Redemption Price or interest need not be made on such Interest Payment Date but may be made on the next succeeding Business Day with the same force and effect as if made on such Interest Payment Date, and no interest shall accrue for the period after such Interest Payment Date.

ARTICLE IV

**CREATION OF FUNDS AND ACCOUNTS;
DEPOSIT AND APPLICATION OF BOND PROCEEDS**

Section 401. Creation of Funds and Accounts. There are hereby created and ordered to be established with the Trustee the following separate funds and accounts, which funds and accounts shall be held in the custody of the Trustee pursuant to this Indenture:

- (a) City of Overland Park, Kansas – Quivira 95 Shops CID Revenue Fund (the “Revenue Fund”).
- (b) City of Overland Park, Kansas – Quivira 95 Shops CID Project Fund (the “Project Fund”).
- (c) City of Overland Park, Kansas – Quivira 95 Shops CID Debt Service Fund (the “Debt Service Fund” and within such Fund the “Redemption Account”).
- (d) City of Overland Park, Kansas – Quivira 95 Shops CID Costs of Issuance Fund (the “Costs of Issuance Fund”).

Said funds and accounts shall be segregated and kept separate and apart from all other moneys, revenues, funds and accounts of the Trustee and shall not be commingled with any other moneys, revenues, funds and accounts of the Trustee. The funds and accounts referred to above shall be maintained and administered in the manner provided in this Indenture so long as any of the Bonds remain Outstanding hereunder.

Section 402. Deposit of Bond Proceeds.

- (a) The Issuer shall deposit with the Trustee all of the proceeds of the Bonds in the amount of \$1,655,975, and the Trustee shall deposit and apply such proceeds, together with other moneys deposited with the Trustee, as follows:
 - (1) Accrued interest, if any, received from the sale of the Bonds shall be deposited in the Debt Service Fund;
 - (2) The sum of \$_____ shall be deposited in the Costs of Issuance Fund;
 - (3) The sum of \$_____ shall be deposited in the Project Fund.

Section 403. Application of Moneys in the Project Fund.

- (a) **Deposits.** The Trustee shall deposit and credit to the accounts with the Project Fund, as and when received:
 - (1) the amounts required to be deposited therein under **Section 402** hereof; and

(2) interest earnings and other income on Permitted Investments required to be deposited in the Project Fund pursuant to **Section 602** hereof.

(b) **Disbursements.** Moneys in the Project Fund shall be immediately disbursed to the Developer for reimbursement of CID Improvements Costs, which costs have been previously approved by the Issuer.

Section 404. Debt Service Fund.

(a) The Trustee shall make deposits and credits to the applicable account of the Debt Service Fund, as and when received, as follows:

(1) the amounts required to be deposited therein by **Sections 402**;
and

(2) interest earnings and other income on Permitted Investments required to be deposited in the Debt Service Fund pursuant to **Section 602** hereof; and

(3) all other moneys received by the Trustee under and pursuant to any of the provisions of this Indenture, or the Financing Agreement or any other Financing Document, when accompanied by directions from the person depositing such moneys that such moneys are to be paid into the Debt Service Fund.

(b) The moneys in the Debt Service Fund shall be held in trust and shall be applied solely in accordance with the provisions of this Indenture to pay the principal of and interest on the Bonds as the same become due and payable at maturity or mandatory redemption. Moneys in the Debt Service Fund shall be expended solely as follows: (a) to pay interest on the Bonds as the same becomes due; and (b) to pay principal of the Bonds as the same mature or become due and upon mandatory redemption thereof.

(c) The Issuer hereby authorizes and directs the Trustee to withdraw sufficient funds from the Debt Service Fund to pay principal of and interest on the Bonds as the same become due and payable at maturity or upon redemption and to make said funds so withdrawn available to the Trustee and any Paying Agent for the purpose of paying said principal and interest.

(d) After payment in full of the principal of and interest on the Bonds (or after provision has been made for the payment thereof as provided in this Bond Indenture), and the fees, charges and expenses of the Trustee, any Paying Agent and the Issuer, and any other amounts required to be paid under this Indenture, all amounts remaining in the Debt Service Fund shall be paid to the Issuer to be used in accordance with the Act.

Section 405. Reserved.

Section 406. Application of Moneys in the Costs of Issuance Fund. Moneys in the Costs of Issuance Fund shall be used to pay the Costs of Issuance of the Bonds after receipt by

the Trustee of written disbursement requests signed by the Authorized Developer Representative on behalf of the Developer and by the Authorized Issuer Representative in substantially the form of **Exhibit C** hereto. Any funds remaining in the Costs of Issuance Fund, after payment of all Costs of Issuance, but not later than six (6) months after issuance of the Bonds, shall be transferred to the Redemption Account.

Section 407. Nonpresentment of Bonds. If any Bond is not presented for payment when the principal thereof becomes due at maturity, if funds sufficient to pay such Bond have been made available to the Trustee all liability of the Issuer to the Bondowner thereof for the payment of such Bond shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Trustee to hold such funds, without liability for interest thereon, for the benefit of the Bondowner of such Bond, who shall thereafter be restricted exclusively to such funds for any claim of whatever nature on his part under this Indenture or on, or with respect to, said Bond. If any Bond is not presented for payment within four years following the date when such Bond becomes due at maturity, the Trustee shall repay to the Issuer the funds theretofore held by it for payment of such Bond, and such Bond shall, subject to the defense of any applicable statute of limitation, thereafter be an unsecured obligation of the Issuer, and the Bondowner thereof shall be entitled to look only to the Issuer for payment, and then only to the extent of the amount so repaid to it by the Trustee, and the Issuer shall not be liable for any interest thereon and shall not be regarded as a trustee of such money.

ARTICLE V

COLLECTION AND APPLICATION OF REVENUES

Section 501. Revenue Fund. The Issuer covenants and agrees that from and after the delivery of the Bonds, and continuing as long as any of the Bonds remain Outstanding hereunder, all of the CID Sales Tax Revenues derived and collected from the CID shall as and when received by the Issuer be transferred to the Trustee on or before each April 1 and October 1 beginning April 1, 2015, for deposit by the Trustee into the Revenue Fund held by the Trustee under the Indenture. CID Sales Tax Revenues shall be segregated and kept separate and apart from all other moneys, revenues, funds and accounts of the Issuer and shall not be commingled with any other moneys, revenues, funds and accounts of the Issuer. The Revenue Fund shall be administered and applied solely for the purposes and in the manner provided in **Section 502**.

Section 502. Application of Moneys in the Revenue Fund. The Trustee covenants and agrees that from and after the delivery of the Bonds and continuing so long as any of the Bonds shall remain Outstanding, on the 45th day preceding each Interest Payment Date (or if such date is not a Business Day, the immediately preceding Business Day) to administer and allocate all of the moneys then held in the Revenue Fund in the following order of priority:

(a) **Fees.** First, for the payment to itself, as Trustee, the sum of (i) the Trustee's fees and expenses due on the next Interest Payment Date, and (ii) any due and unpaid fees and expenses of the Trustee, and, if applicable, any past due fees and expenses of the Issuer under the Financing Documents provided the Issuer has provided written notice to the Trustee and the Developer that such amounts are past due; and

(b) **Debt Service Fund – Interest.** There shall next be deposited by the Trustee, an amount equal to the interest becoming due on the Bonds on the next Interest Payment Date; provided, that any amounts deposited in the Debt Service Fund as accrued interest in accordance with **Section 402** shall be credited against the amount required to be deposited therein.

(c) **Redemption Account.** The Trustee shall next deposit all remaining moneys held in the Revenue Fund to the Redemption Account of the Debt Service Fund to redeem Bonds pursuant to the mandatory redemption provisions of **Section 303** of this Indenture in Authorized Denominations which shall be applied to the payment of principal of and accrued interest on all Bonds which are subject to redemption on the next succeeding Interest Payment Date.

ARTICLE VI

DEPOSIT AND INVESTMENT OF MONEYS

Section 601. Moneys to be Held in Trust. All moneys deposited with or paid to the Trustee for the funds and accounts held under this Indenture, and all moneys deposited with or paid to any Paying Agent under any provision of this Indenture shall be held by the Trustee or Paying Agent in trust and shall be applied only in accordance with the provisions of this Indenture, and, until used or applied as herein provided, shall constitute part of the Trust Estate and be subject to the lien, terms and provisions hereof and shall not be commingled with any other funds of the Issuer or the Developer except as provided under **Section 602** hereof for investment purposes. Neither the Trustee nor any Paying Agent shall be under any liability for interest on any moneys received hereunder except to the extent such moneys are not invested in Permitted Investments.

Section 602. Investment of Moneys. Moneys held in each of the funds and accounts under this Indenture shall, pursuant to written directions of the Authorized Issuer Representative, or in the absence of such written direction in investments provided for in subsection (f) of the definition of Permitted Investments, be invested and reinvested by the Trustee in accordance with the provisions of this Indenture in Permitted Investments which mature or are subject to redemption by the owner thereof prior to the date such funds are expected to be needed. The Trustee may make any investments permitted by the provisions of this Section through its own

bond department or short-term investment department or that of any affiliate of the Trustee and may pool moneys for investment purposes. Any such Permitted Investments shall be held by or under the control of the Trustee and shall be deemed at all times a part of the fund or account in which such moneys are originally held.

The interest accruing on each fund or account and any profit realized from such Permitted Investments shall be credited to such fund or account, and any loss resulting from such Permitted Investments shall be charged to such fund or account. The Trustee shall sell or present for redemption and reduce to cash a sufficient amount of such Permitted Investments whenever it shall be necessary to provide moneys in any fund or account for the purposes of such fund or account and the Trustee shall not be liable for any loss resulting from such investments.

ARTICLE VII

RESERVED

ARTICLE VIII

PARTICULAR COVENANTS AND PROVISIONS

Section 801. Authority to Issue Bonds and Execute Indenture. The Issuer covenants that it is duly authorized under the Constitution and laws of the State to execute this Indenture, to issue the Bonds and to pledge and assign the Trust Estate in the manner and to the extent herein set forth; that all action on its part for the execution and delivery of this Indenture and the issuance of the Bonds has been duly and effectively taken; and that the Bonds in the hands of the Registered Owners thereof are and will be valid and enforceable obligations of the Issuer according to the import thereof, subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights to the extent applicable and their enforcement may be subject to the exercise of judicial discretion in appropriate cases.

Section 802. Limited Obligations. The Bonds and the interest thereon shall be special, limited obligations of the Issuer payable (except to the extent paid out of Bond proceeds or the income from the temporary investment thereof and proceeds) solely out of the CID Sales Tax Revenues, and are secured by a transfer, pledge and assignment of and a grant of a security interest in the Trust Estate to the Trustee and in favor of the Registered Owners of the Bonds, as provided in this Indenture. The Bonds and interest thereon shall not be deemed to constitute a debt or liability of the Issuer, the State or of any political subdivision thereof within the meaning of any state constitutional provision or statutory limitation and shall not constitute a pledge of the full faith and credit of the Issuer, the State or of any political subdivision thereof; but shall be payable solely from the CID Sales Tax Revenues and the funds provided for in this Indenture. The issuance of the Bonds shall not, directly, indirectly or contingently, obligate the State, the Issuer or any political subdivision thereof to levy any form of taxation therefor or to make any appropriation for their payment. The State shall not in any event be liable for the payment of the principal of, redemption premium, if any, or interest on the Bonds or for the performance of any pledge, mortgage, obligation or agreement of any kind whatsoever which may be undertaken by the Issuer. No breach by the Issuer of any such pledge, mortgage, obligation or agreement may

impose any liability, pecuniary or otherwise, upon the State or any charge upon its general credit or against its taxing power.

Section 803. Instruments of Further Assurance. The Issuer will do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, such Supplemental Indentures and such further acts, instruments, financing statements and other documents as the Trustee may reasonably require for the better assuring, transferring, pledging and assigning to the Trustee, and granting a security interest unto the Trustee in and to the Trust Estate and the other property and revenues herein described. An executed counterpart of the Tax Compliance Agreement and all other documents or instruments required by the Trustee shall be delivered to and held by the Trustee.

Section 804. Performance of Covenants. The Issuer shall (to the extent within its control) faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Indenture, in the Bonds, the Financing Documents to which it is a party and in all proceedings pertaining thereto.

Section 805. Inspection of Books. The Issuer covenants and agrees that all books and documents in its possession relating to the Bonds, this Indenture and the Development Agreement, and the transactions relating thereto shall at all reasonable times be open to inspection by such accountants or other agencies as the Trustee may from time to time designate. The Trustee covenants and agrees that all books and documents in its possession relating to the Bonds, this Indenture and the Development Agreement, and the transactions relating thereto shall be open to inspection by the Issuer during business hours upon reasonable notice.

Section 806. Enforcement of Rights. The Issuer agrees that the Trustee, as assignee, transferee, pledgee, and owner of a security interest under this Indenture in its name or in the name of the Issuer may enforce all rights of the Issuer and the Trustee and all obligations of the Developer under and pursuant to the Development Agreement and any other Financing Documents for and on behalf of the Bondowner, whether or not the Issuer is in default hereunder. The Development Agreement and all other Financing Documents shall be delivered to and held by the Trustee.

ARTICLE IX

DEFAULT AND REMEDIES

Section 901. Events of Default. The term “event of default,” wherever used in this Indenture, means any one of the following events (whatever the reason for such event and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

- (a) default in the performance, or breach, of any covenant or agreement of the Issuer in this Indenture (other than a covenant or agreement a default in the performance or breach of which is specifically dealt with elsewhere in this Section), and continuance of such default or breach for a period of 60 days after there has been given to the Issuer

and the Developer by the Trustee or to the Issuer, the Developer and the Trustee by the Registered Owners of 100% in principal amount of the Bonds Outstanding, a written notice specifying such default or breach and requiring it to be remedied; provided, that if such default cannot be fully remedied within such 60-day period, but can reasonably be expected to be fully remedied, such default shall not constitute an event of default if the Issuer shall immediately upon receipt of such notice commence the curing of such default and shall thereafter prosecute and complete the same with due diligence and dispatch; or

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

Anything herein contained to the contrary notwithstanding, nothing herein contained shall require the Issuer to expend any funds of the Issuer to remedy any default other than funds which are CID Sales Tax Revenues pledged to the payment of the Bonds.

Section 902. Exercise of Remedies by the Trustee. Upon the occurrence and continuance of any event of default under this Indenture, unless the same is waived or cured as provided in this Indenture, the Trustee shall have the following rights and remedies, in addition to any other rights and remedies provided under this Indenture or by law:

(a) **Right to Bring Suit, etc.** The Trustee may pursue any available remedy at law or in equity by suit, action, mandamus or other proceeding to enforce the payment of the principal of, premium, if any, and interest on the Bonds Outstanding, including interest on overdue principal (and premium, if any) and on overdue installments of interest, and any other sums due under this Indenture, to realize on or to foreclose any of its interests or liens under this Indenture or any other Financing Document, to enforce and compel the performance of the duties and obligations of the Issuer as set forth in this Indenture and to enforce or preserve any other rights or interests of the Trustee under this Indenture with respect to any of the Trust Estate or otherwise existing at law or in equity.

(b) **Exercise of Remedies at Direction of Bondowner.** If requested in writing to do so by the Registered Owner of the Bonds and if indemnified as provided in **Section 1002(e)** of this Indenture, the Trustee shall be obligated to exercise such one or more of the rights and remedies conferred by this Article as the Trustee, being advised by counsel, shall deem most expedient in the interests of the Bondowner.

(c) **Appointment of Receiver.** Upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Trustee and of the Bondowner under this Indenture, the Trustee shall be entitled, as a matter of right, to the appointment of a receiver or receivers of the Trust Estate, pending such proceedings, with such powers as the court making such appointment shall confer.

(d) **Suits to Protect the Trust Estate.** The Trustee shall have power to institute and to maintain such proceedings as it may deem expedient to prevent any impairment of the Trust Estate by any acts which may be unlawful or in violation of this Indenture and to protect its interests and the interests of the Bondowner in the Trust Estate, including power to institute and maintain proceedings to restrain the enforcement of or compliance with any governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, rule or order would impair the security under this Indenture or be prejudicial to the interests of the Bondowner or the Trustee, or to intervene (subject to the approval of a court of competent jurisdiction) on behalf of the Bondowner in any judicial proceeding to which the Issuer or the Developer is a party and which in the judgment of the Trustee, being advised by counsel, has a substantial bearing on the interests of the Registered Owners.

(e) **Enforcement Without Possession of Bonds.** All rights of action under this Indenture or any of the Bonds may be enforced and prosecuted by the Trustee without the possession of any of the Bonds or the production thereof in any suit or other proceeding relating thereto, and any such suit or proceeding instituted by the Trustee shall be brought in its own name as trustee of an express trust. Any recovery of judgment shall, after provision for the payment of the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and subject to the provisions of **Section 906** hereof, be for the benefit of the Registered Owners of the Bonds in respect of which such judgment has been recovered.

(f) **Restoration of Positions.** If the Trustee or the Bondowner has instituted any proceeding to enforce any right or remedy under this Indenture by suit, foreclosure, the appointment of a receiver, or otherwise, and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Trustee or to such Bondowner, then and in every case the Issuer, the Developer, the Trustee and the bond owner shall, subject to any determination in such proceeding, be restored to their former positions and rights under this Indenture, and thereafter all rights and remedies of the Trustee and the bond owner shall continue as though no such proceeding had been instituted.

Section 903. Trustee May File Proofs of Claim. In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to the Issuer or any other obligor upon the Bonds or of such other obligor or their creditors, the Trustee (irrespective of whether the principal of the Bonds shall then be due and payable, as therein expressed or by declaration or otherwise, and irrespective of whether the Trustee shall have made any demand on the Issuer for the payment of overdue principal, premium or interest) shall be entitled and empowered, by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of principal (and premium, if any) and interest owing and unpaid in respect of the Outstanding Bonds and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses,

disbursements and advances of the Trustee, its agents and counsel) and of the bond owner allowed in such judicial proceeding, and

(b) to collect and receive any moneys or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Bondowner to make such payments to the Trustee, and in the event that the Trustee shall consent to the making of such payments directly to the bond owner, to pay to the Trustee any amount due to it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under **Section 1004**.

Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of the Bondowner any plan of reorganization, arrangement, adjustment or composition affecting the Bonds or the rights of the Registered Owner thereof, or to authorize the Trustee to vote in respect of the claim of the Bondowner in any such proceeding.

Section 904. Limitation on Suits by Bondowner. The Registered Owner of the Bond shall not have any right to institute any proceeding, judicial or otherwise, under or with respect to this Indenture, or for the appointment of a receiver or trustee or for any other remedy under this Indenture, unless:

(a) such Registered Owner has previously given written notice to the Trustee of a continuing event of default;

(b) the Registered Owner of 100% of the principal amount of the Bonds Outstanding shall have made written request to the Trustee to institute proceedings in respect of such event of default in its own name as Trustee under this Indenture;

(c) such Registered Owner has offered to the Trustee indemnity as provided in **Section 1002(e)**, **Section 1002(k)** and **Section 1004** of this Indenture against the costs, expenses and liabilities to be incurred in compliance with such request;

(d) the Trustee for 60 days after its receipt of such notice, request and offer of indemnity has failed to institute any such proceeding; and

(e) no direction inconsistent with such written request has been given to the Trustee during such 60-day period by the Registered Owner of the Outstanding Bonds.

Notwithstanding the foregoing or any other provision in this Indenture, however, the Registered Owner of any Bond shall have the right which is absolute and unconditional to receive payment of the principal of and interest on such Bond at maturity (or, in the case of redemption, on the redemption date) and nothing contained in this Indenture shall affect or impair the right of the Bondowner to institute suit for the enforcement of any such payment; provided, however, such right is limited to the availability of CID Sales Tax Revenue distributed in conformance with the terms of this Indenture. The insufficiency of CID Sales Tax Revenue to

pay the principal of or interest on the Bonds when due shall not constitute a default under this Indenture.

Section 905. Control of Proceedings by Bondowner. The Registered Owners of 100% of the Bonds Outstanding shall have the right, during the continuance of an event of default, provided indemnity has been provided to the Trustee in accordance with **Section 1002(e), Section 1002(k)** and **Section 1004**:

(a) to require the Trustee to proceed to enforce this Indenture, either by judicial proceedings for the enforcement of the payment of the Bonds and the foreclosure of this Indenture, or otherwise; and

(b) to direct 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, provided that:

(1) such direction shall not be in conflict with any rule of law or this Indenture;

(2) the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction

(3) .

Section 906. Application of Moneys Collected. Any moneys collected by the Trustee pursuant to this Article (after the deductions for payment of reasonable costs and expenses of proceedings resulting in the collection of such moneys) together with any other sums then held by the Trustee as part of the Trust Estate, shall be applied in the following order, at the date or dates fixed by the Trustee and, in case of the distribution of such money on account of principal (or premium, if any) or interest, upon presentation of the Bonds and the notation thereon of the payment if only partially paid and upon surrender thereof if fully paid:

(a) **First:** To the payment of all amounts due the Trustee under **Section 1004** of this Indenture;

(b) **Second:** To the payment of the whole amount then due and unpaid upon the Outstanding Bonds for principal (and premium, if any) and interest, in respect of which or for the benefit of which such money has been collected, with interest (to the extent that such interest has been collected by the Trustee or a sum sufficient therefor has been so collected and payment thereof is legally enforceable at the respective rate or rates prescribed therefor in the Bonds) on overdue principal and on overdue installments of interest; and in case such proceeds shall be insufficient to pay in full the whole amount so due and unpaid upon such Bonds, then to the payment of such principal and interest; and

(c) **Third:** To the payment of the remainder, if any, to the Issuer or to whosoever may be lawfully entitled to receive the same or as a court of competent jurisdiction may direct.

Whenever moneys are to be applied by the Trustee pursuant to the provisions of this Section, such moneys shall be applied by it at such times, and from time to time, as the Trustee shall determine, having due regard for the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future. Whenever the Trustee shall apply such moneys, it shall fix the date (which shall be an interest payment date unless it shall deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal to be paid on such date shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the deposit with it of any such moneys and of the fixing of any such date, and shall not be required to make payment to the Registered Owner of any unpaid Bond until such Bond shall be presented to the Trustee for appropriate endorsement or for cancellation if fully paid.

Section 907. Rights and Remedies Cumulative. No right or remedy herein conferred upon or reserved to the Trustee or to the bond owner is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

Section 908. Delay or Omission Not Waiver. No delay or omission of the Trustee or of the Bondowner to exercise any right or remedy accruing upon an event of default shall impair any such right or remedy or constitute a waiver of any such event of default or an acquiescence therein. Every right and remedy given by this Article or by law to the Trustee or to the bond owner may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by the bond owner, as the case may be.

Section 909. Waiver of Past Defaults. Before any judgment or decree for payment of money due has been obtained by the Trustee as provided in this Article, the Registered Owners of the Bonds may, by written notice delivered to the Trustee and the Issuer, waive any past default hereunder and its consequences.

Upon any such waiver, such default shall cease to exist, and any event of default arising therefrom shall be deemed to have been cured, for every purpose of this Indenture; but no such waiver shall extend to or affect any subsequent or other default or impair any right or remedy consequent thereon.

ARTICLE X

THE TRUSTEE

Section 1001. Acceptance of Trusts; Certain Duties and Responsibilities. The Trustee accepts the trusts imposed upon it by this Indenture and agrees to execute and perform said trusts as a corporate trustee ordinarily would perform said trusts under a corporate indenture, but only upon the following express terms and conditions and no implied covenants or obligations shall be read into this Indenture against the Trustee:

(a) Except during the continuance of an event of default,

(1) the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Indenture, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(2) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture.

(b) If an event of default has occurred and is continuing, the Trustee shall 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 a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs in exercising any rights or remedies or performing any of its duties hereunder.

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

(1) this Subsection shall not be construed to limit the effect of Subsection (a) of this Section;

(2) the Trustee shall not be liable for any error of judgment made in good faith by an authorized officer of the Trustee, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts;

(3) 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 Registered Owners of the Bonds 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; and

(4) no provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the

performance of any of its duties hereunder, or in the exercise of any of its rights or powers.

(d) Whether or not therein expressly so provided, every provision of this Indenture relating to the conduct or affecting the liability of or conveying insights and duties or affording protection to the Trustee, whether in its capacity as Trustee, Paying Agent, bond registrar or any other capacity, shall be subject to the provisions of this **Article X**.

Section 1002. Certain Rights of Trustee. Except as otherwise provided in **Section 1001** of this Indenture:

(a) The Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties. The Trustee may rely conclusively on any such certificate or other paper or document and shall not be required to make any independent investigation in connection therewith.

(b) The Trustee shall be entitled to rely upon an Officer's Certificate as to the sufficiency of any request or direction of the Developer mentioned herein, the existence or nonexistence of any fact or the sufficiency or validity of any instrument, paper or proceeding, or that a resolution in the form therein set forth has been adopted by the Developer, and is in full force and effect.

(c) Whenever in the administration of this Indenture the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee (unless other evidence be herein specifically prescribed) may, in the absence of bad faith on its part, rely upon an Officer's Certificate and prior to the occurrence of default of which the Trustee has been notified as provided in **Section 1003** or of which by said Section the Trustee is deemed to have notice, the Trustee may also accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient, but may at its discretion secure such further evidence deemed necessary or advisable but shall in no case be bound to secure the same.

(d) The Trustee may consult with counsel, and the advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by the Trustee hereunder in good faith and in reliance thereon.

(e) Notwithstanding anything in this Indenture to the contrary, the Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture whether at the request or direction of the bond owner pursuant to this Indenture or otherwise, unless the bond owner or other party shall have offered to the Trustee reasonable security or indemnity satisfactory to the Trustee against the fees, advances, costs, expenses and liabilities (except as may result from the Trustee's own negligence or

willful misconduct) which might be incurred by it in connection with such rights or powers.

(f) The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Issuer, personally or by agent or attorney.

(g) The Trustee assumes no responsibility for the correctness of the recitals contained in this Indenture and in the Bonds, except the certificate of authentication on the Bonds, or for the recording or re-recording, filing or re-filing of this Indenture or any financing statements (other than continuation statements) in connection therewith, or for insuring the Project or collecting any insurance moneys, or for the validity of the execution by the Issuer of this Indenture or of any Supplemental Indentures or instruments of further assurance. The Trustee makes no representations to the value or condition of the Trust Estate or any part thereof, or as to the title thereto or as to the security afforded thereby or hereby, or as to the validity or sufficiency of this Indenture or of the Bonds. The Trustee shall not be accountable for the use or application by the Issuer or the Developer of any of the Bonds or the proceeds thereof or of any money paid to or upon the order of the Issuer or the Developer under any provision of this Indenture.

(h) The Trustee, in its individual or any other capacity, may become the owner or pledgee of Bonds and may otherwise deal with the Issuer or the Developer with the same rights it would have if it were not Trustee.

(i) All money received by the Trustee shall, until used or applied or invested as herein provided, be held in trust for the purposes for which they were received. Money held by the Trustee in trust hereunder need not be segregated from other funds except to the extent required by law or by this Indenture. The Trustee shall not be responsible or liable for interest on any money received by it hereunder or for any loss suffered in connection with any investment of moneys made by it as long as the investments are authorized and directed pursuant to **Section 602** of this Indenture.

(j) The Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents, receivers or attorneys and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder and the Trustee may in all cases pay such reasonable compensation to all such agents, receivers and attorneys as may reasonably be employed in connection with the trusts hereof.

(k) Notwithstanding anything elsewhere in this Indenture contained, before taking any action under this Indenture, the Trustee may require that satisfactory indemnity be furnished to it for the reimbursement of all reasonable costs and expenses

(including without limitation attorney's fees and expenses) to which it may be put and to protect it against all liability which it may incur in or by reason of such action.

(l) The permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty, and the Trustee shall not be answerable for other than its negligence or its willful misconduct.

(m) The Trustee shall not be required to give any bond or security in respect of the execution of the said trusts and powers or otherwise in respect to the premises.

(n) Any action taken by the Trustee pursuant to this Indenture upon the request or authorized consent of any person who, at the time of making such request or giving such authority or consent is the Bondowner of any Bond, shall be conclusive and binding upon all future Bondowner of the same Bond and upon Bonds delivered in exchange therefor or upon transfer or in substitution thereof.

(o) At any and all reasonable times the Trustee and its duly authorized agents, attorneys, experts, engineers, accountants and representatives shall have the right, but shall not be required, to inspect any and all books, papers and records of the Issuer pertaining to the CID Improvements and the Bonds, and to take such memoranda from and in regard thereto as may be desired.

(p) The Trustee shall have the right, but shall not be required, to demand, with respect to the execution of any Bonds, the withdrawal of any cash, the release of any property, or any action whatsoever within the purview of this Indenture, any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, in addition to that by the terms hereof required, as a condition of such action by the Trustee deemed desirable for the purpose of establishing the right to the withdrawal of any cash, the release of any property, or the taking of any other action by the Trustee.

Section 1003. Notice of Defaults. The Trustee shall not be required to take notice or be deemed to have notice of any default hereunder, unless the Trustee shall be specifically notified in writing of such default by the Issuer, the Developer, or the Registered Owners of 100% in principal amount of all Bonds Outstanding, and in the absence of such notice so delivered, the Trustee may conclusively assume there is no default except as aforesaid. Within 30 days after the Trustee has received notice of any default or the occurrence of any default hereunder of which the Trustee is deemed to have notice, the Trustee shall give written notice of such default by first-class mail to the Registered Owner of Bonds as shown on the bond register maintained by the Trustee, unless such default shall have been cured or waived. For the purpose of this Section, the term "default" means any event which is, or after notice or lapse of time or both would become, an Event of Default.

Section 1004. Compensation and Reimbursement. The Trustee shall be entitled to payment or reimbursement:

(a) from time to time for reasonable compensation for all services (including extraordinary services if required) rendered by it hereunder (which compensation shall

not be limited by any provision of law in regard to the compensation of a trustee of an express trust);

(b) except as otherwise expressly provided herein, upon its request, for all reasonable expenses, disbursements and advances reasonably incurred or made by the Trustee in accordance with any provision of this Indenture (including the reasonable compensation and the expenses and disbursements of its agents and counsel, as well as extraordinary costs and expenses), except any such expense, disbursement or advance as may be attributable to the Trustee's negligence or bad faith; and

(c) to indemnify the Trustee for, and to hold it harmless against, any loss, liability or expense incurred without negligence or bad faith on its part, arising out of or in connection with the acceptance or administration of this trust, including the costs and expenses of defending itself against any action, suit, demand, judgment, claim or liability in connection with the exercise or performance of any of its powers or duties hereunder.

As security for the payment of such compensation, expenses, reimbursements and indemnity under this Section, the Trustee shall be secured under this Indenture by a first lien prior to the Bonds, and shall have the right to use and apply any trust moneys held by it under **Article IV** hereof.

Section 1005. Corporate Trustee Required; Eligibility. There shall at all times be a Trustee hereunder which shall be a bank or trust company organized and doing business under the laws of the United States of America or of any state thereof, authorized under such laws to exercise corporate trust powers, subject to supervision or examination by federal or state authority, and having a combined capital and surplus of at least \$50,000,000. If such entity publishes reports of condition at least annually, pursuant to law or to the requirements of such supervising or examining authority, then for the purposes of this Section, the combined capital and surplus of such entity shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section, it shall resign immediately in the manner and with the effect specified in this Article.

Section 1006. Resignation and Removal of Trustee.

(a) The Trustee may resign at any time by giving written notice thereof to the Issuer, the Developer, the Registered Owner of Bonds as shown by the list of bondowners required by this Indenture to be kept at the office of the Trustee. If an instrument of acceptance by a successor Trustee shall not have been delivered to the Trustee within 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.

(b) If the Trustee has or shall acquire any conflicting interest, it shall, within 90 days after ascertaining that it has a conflicting interest, or within 30 days after receiving written notice from the Issuer that it has a conflicting interest, either eliminate such conflicting interest or resign in the manner and with the effect specified in subsection (a).

(c) The Trustee may be removed at any time by the Issuer or by an instrument or concurrent instruments in writing delivered to the Issuer and the Trustee signed by the Registered Owners of the Bonds.

(d) The Trustee shall give notice of each resignation and each removal of the Trustee and each appointment of a successor Trustee by mailing written notice of such event by first-class mail, postage prepaid, to the Registered Owners of Bonds as their names and addresses appear in the bond register maintained by the Trustee and to the Original Purchaser. Each notice shall include the name of the successor Trustee and the address of its corporate trust office.

(e) No resignation or removal of the Trustee and no appointment of a successor Trustee pursuant to this Article shall become effective until the acceptance of appointment by the successor Trustee under **Section 1008**.

Section 1007. Appointment of Successor Trustee. If the Trustee shall resign, be removed or become incapable of acting, or if a vacancy shall occur in the office of Trustee for any cause, the Issuer, or the Registered Owners of the Bonds (if an event of default hereunder has occurred and is continuing), by an instrument or concurrent instruments in writing delivered to the Issuer and the retiring Trustee, shall promptly appoint a successor Trustee. In case all or substantially all of the Trust Estate shall be in the possession of a receiver or trustee lawfully appointed, such receiver or trustee, by written instrument, may similarly appoint a temporary successor to fill such vacancy until a new Trustee shall be so appointed by the Issuer or the Bondowner. If, within 30 days after such resignation, removal or incapability or the occurrence of such vacancy, a successor Trustee shall be appointed in the manner herein provided, the successor Trustee so appointed shall, forthwith upon its acceptance of such appointment, become the successor Trustee and supersede the retiring Trustee and any temporary successor Trustee appointed by such receiver or trustee. If no successor Trustee shall have been so appointed and accepted appointment in the manner herein provided, the Bondowner may petition any court of competent jurisdiction for the appointment of a successor Trustee, until a successor shall have been appointed as above provided. The successor so appointed by such court shall immediately and without further act be superseded by any successor appointed as above provided. Every such successor Trustee appointed pursuant to the provisions of this Section shall be a bank or trust company in good standing under the law of the jurisdiction in which it was created and by which it exists, meeting the eligibility requirements of this Article and K.S.A. 10-501, as amended.

Section 1008. Acceptance of Appointment by Successor. Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to the Issuer and to the retiring Trustee an instrument accepting such appointment, and thereupon the resignation or removal of the retiring Trustee shall become effective and such successor Trustee, without any further act, deed or conveyance, shall become vested with all the estates, properties, rights, powers, trusts and duties of the retiring Trustee and the duties and obligations of the retiring Trustee shall cease and terminate; but, on request of the Issuer or the successor Trustee, such retiring Trustee shall, upon payment of its charges, execute and deliver an instrument conveying and transferring to such successor Trustee upon the trusts herein expressed all the estates, properties, rights, powers and trusts of the retiring Trustee, and shall duly assign, transfer and deliver to such successor Trustee all property and money held by such retiring Trustee hereunder. Upon request of any

such successor Trustee, the Issuer shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor Trustee all such estates, properties, rights, powers and trusts.

No successor Trustee shall accept its appointment unless at the time of such acceptance such successor Trustee shall be qualified and eligible under this Article and K.S.A> 10-501, as amended.

Section 1009. Merger, Consolidation and Succession to Business. Any bank or association into which the Trustee may be merged or with which it may be consolidated, or any bank or association resulting from any merger or consolidation to which the Trustee shall be a party, or any bank or association succeeding to all or substantially all of the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder, provided such bank or association shall be otherwise qualified and eligible under this Article, and shall be vested with all of the title to the whole property or Trust Estate and all the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any paper or any further act on the part of any of the parties hereto. In case any Bonds shall have been authenticated, but not delivered, by the Trustee then in office, any successor by merger or consolidation to such authenticating Trustee may adopt such authentication and deliver the Bonds so authenticated with the same effect as if such successor Trustee had itself authenticated such Bonds.

Section 1010. Co-Trustees and Separate Trustees. At any time or times, for the purpose of meeting the legal requirements of any jurisdiction in which any of the Trust Estate may at the time be located, or in the enforcement of any default or the exercise any of the powers, rights or remedies herein granted to the Trustee, or any other action which may be desirable or necessary in connection therewith, the Trustee shall have power to appoint, and, upon the written request of the Trustee or of the Registered Owners of 100% in principal amount of the Bonds Outstanding, the Issuer shall for such purpose join with the Trustee in the execution, delivery and performance of all instruments and agreements necessary or proper to appoint, one or more banks or trust companies approved by the Trustee either to act as co-trustee, jointly with the Trustee, of all or any part of the Trust Estate, or to act as separate trustee of any such property, in either case with such powers as may be provided in the instrument of appointment, and to vest in such person or persons in the capacity aforesaid, any property, title, protection, immunity, right or power deemed necessary or desirable, subject to the other provisions of this Section. If the Issuer does not join in such appointment within 15 days after the receipt by it of a request so to do, or in case an event of default has occurred and is continuing, the Trustee alone shall have power to make such appointment.

Should any written instrument from the Issuer be required by any co-trustee or separate trustee so appointed for more fully confirming to such co-trustee or separate trustee such property, title, right or power, any and all such instruments shall, on request, be executed, acknowledged and delivered by the Issuer.

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

(a) The Bonds shall be authenticated and delivered, and all rights, powers, duties and obligations hereunder in respect of the custody of securities, cash and other personal property held by, or required to be deposited or pledged with, the Trustee hereunder, shall be exercised solely, by the Trustee.

(b) The rights, powers, duties and obligations hereby conferred or imposed upon the Trustee in respect of any property covered by such appointment shall be conferred or imposed upon and exercised or performed by the Trustee or by the Trustee and such co-trustee or separate trustee jointly, as shall be provided in the instrument appointing such co-trustee or separate trustee, except to the extent that under any law of any jurisdiction in which any particular act is to be performed, the Trustee shall be incompetent or unqualified to perform such act, in which event such rights, powers, duties and obligations shall be exercised and performed by such co-trustee or separate trustee.

(c) The Trustee at any time, by an instrument in writing executed by it, with the concurrence of the Issuer evidenced by a resolution, may accept the resignation of or remove any co-trustee or separate trustee appointed under this Section, and, in case an event of default has occurred and is continuing, the Trustee shall have power to accept the resignation of, or remove, any such co-trustee or separate trustee without the concurrence of the Issuer. Upon the written request of the Trustee, the Issuer shall join with the Trustee in the execution, delivery and performance of all instruments and agreements necessary or proper to effectuate such resignation or removal. A successor to any co-trustee or separate trustee so resigned or removed may be appointed in the manner provided in this Section.

(d) No co-trustee or separate trustee hereunder shall be personally liable by reason of any act or omission of the Trustee, or any other such trustee hereunder.

(e) Any request, demand, authorization, direction, notice, consent, waiver or other act of Bondowner delivered to the Trustee shall be deemed to have been delivered to each such co-trustee and separate trustee.

Section 1011. Designation of Paying Agents. The Trustee is hereby designated and agrees to act as principal Paying Agent for and in respect to the Bonds. The Issuer may, in its discretion, cause the necessary arrangements to be made through the Trustee for the designation of alternate Paying Agents and for the making available of funds hereunder for the payment of the principal of and interest on the Bonds, or at the corporate trust office of designated by said alternate Paying Agents. In the event of a change in the office of Trustee, the predecessor Trustee which has resigned or been removed shall cease to be trustee of any funds provided hereunder and Paying Agent for principal of and interest on the Bonds, and the successor Trustee shall become such Trustee and Paying Agent unless a separate Paying Agent or Agents are appointed by the Issuer in connection with the appointment of any successor Trustee.

Section 1012. Annual Reports to Issuer. Not later than 30 days after each June 1 and December 1, the Trustee shall provide to the Issuer a report stating the application of CID Sales Tax Revenues to the payment of principal and interest on the Bonds and payment of any fees of the Trustee.

ARTICLE XI

SUPPLEMENTAL INDENTURES

Section 1101. Supplemental Indentures Without Consent of Bondowner. Without the consent of the Registered Owners of any Bonds, the Issuer and the Trustee may from time to time enter into one or more Supplemental Indentures for any of the following purposes:

- (a) to correct or amplify the description of any property at any time subject to the lien of this Indenture, or better to assure, convey and confirm unto the Trustee any property subject or required to be subjected to the lien of this Indenture, or to subject to the lien of this Indenture additional property; or
- (b) to add to the conditions, limitations and restrictions on the authorized amount, terms or purposes of issue, authentication and delivery of Bonds or of any series of Bonds, as herein set forth, additional conditions, limitations and restrictions thereafter to be observed; or
- (c) to evidence the appointment of a separate trustee or the succession of a new trustee under this Indenture; or
- (d) to add to the covenants of the Issuer or to the rights, powers and remedies of the Trustee for the benefit of the Registered Owners of all Bonds or to surrender any right or power herein conferred upon the Issuer; or
- (e) to cure any ambiguity, supply any omission or cure or correct any defect or inconsistent provision in this Indenture; or
- (f) 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; or
- (g) to make such modifications or changes herein that are not materially adverse, in the discretion of the Trustee, to the interests of the Registered Owner.

Section 1102. Supplemental Indentures with Consent of Bondowner. With the consent of the Registered Owners of the Bonds then Outstanding affected by such Supplemental Indenture, the Issuer and the Trustee may enter into one or more Supplemental Indentures for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture or of modifying in any manner the rights of the Registered Owners of the Bonds under this Indenture; provided, however, that no such Supplemental Indenture shall, without the consent of the Registered Owner of each Outstanding Bond affected thereby:

(a) change the stated maturity of the principal of, or any installment of interest on, any Bond, or reduce the principal amount thereof or the interest thereon or any premium payable upon the redemption thereof, or change any place of payment where, or the coin or currency in which, any Bond, or the interest thereon is payable, or impair the right to institute suit for the enforcement of any such payment on or after the stated maturity thereof (or, in the case of redemption, on or after the redemption date); or

(b) change requirements relating to the consent of Registered Owners for any such Supplemental Indenture, or the consent of Registered Owners required for any waiver provided for in this Indenture of compliance with certain provisions of this Indenture or certain defaults hereunder and their consequences; or

(c) modify the obligation of the Issuer to make payment on or provide funds for the payment of any Bond; or

(d) modify or alter the provisions of the proviso to the definition of the term “Outstanding”; or

(e) modify any of the provisions of this Section or **Section 909**, except to provide that certain other provisions of this Indenture cannot be modified or waived without the consent of the Registered Owner of each Bond affected thereby; or

(f) permit the creation of any lien ranking prior to or on a parity with the lien of this Indenture with respect to any of the Trust Estate or terminate the lien of this Indenture on any property at any time subject hereto or deprive the Registered Owner of any Bond of the security afforded by the lien of this Indenture.

It shall not be necessary for the Registered Owner of Bonds under this Section to approve the particular form of any proposed Supplemental Indenture, but it shall be sufficient if such act shall approve the substance thereof.

Section 1103. Execution of Supplemental Indentures. In executing, or accepting the additional trusts created by, any Supplemental Indenture permitted by this Article or the modification thereby of the trusts created by this Indenture, the Trustee and the Issuer shall be entitled to receive, and, subject to **Article X**, shall be fully protected in relying upon, an Opinion of Bond Counsel addressed and delivered to the Trustee and the Issuer stating that the execution of such Supplemental Indenture is authorized and permitted by and in compliance with the terms of this Indenture and the CID Act. The Trustee may, but shall not be obligated to, enter into any such Supplemental Indenture which affects the Trustee’s own rights, duties or immunities under this Indenture or otherwise.

Section 1104. Effect of Supplemental Indentures. Upon the execution of any Supplemental Indenture under this Article, this Indenture shall be modified in accordance therewith and such Supplemental Indenture shall form a part of this Indenture for all purposes; and the Registered Owner of Bonds theretofore or thereafter authenticated and delivered hereunder shall be bound thereby.

Section 1105. Reference in Bonds to Supplemental Indentures. Bonds authenticated and delivered after the execution of any Supplemental Indenture pursuant to this Article may, and if required by the Trustee, shall bear a notation in form approved by the Trustee as to any matter provided for in such Supplemental Indenture. If the Issuer shall so determine, new Bonds so modified as to conform, in the opinion of the Trustee and the Issuer, to any such Supplemental Indenture may be prepared and executed by the Issuer and authenticated and delivered by the Trustee in exchange for Outstanding Bonds.

ARTICLE XII

SATISFACTION AND DISCHARGE

Section 1201. Payment, Discharge and Defeasance of Bonds. Bonds will be deemed to be paid and discharged and no longer Outstanding under this Indenture and will cease to be entitled to any lien, benefit or security of this Indenture if the Issuer shall pay or provide for the payment of such Bonds in any one or more of the following ways:

- (a) by paying or causing to be paid the principal of (including redemption premium, if any) and interest on such Bonds, as and when the same become due and payable;
- (b) by delivering such Bonds to the Trustee for cancellation; or
- (c) by depositing in trust with the Trustee or other Paying Agent Government Obligations in an amount, together with the income or increment to accrue thereon, without consideration of any reinvestment thereof, sufficient to pay or redeem (when redeemable) and discharge the indebtedness on such Bonds at or before their respective maturity or redemption dates (including the payment of the principal of, premium, if any, and interest payable on such Bonds to the maturity or redemption date thereof); provided that, if any such Bonds are to be redeemed prior to the maturity thereof, notice of such redemption is given in accordance with the requirements of this Indenture or provision satisfactory to the Trustee is made for the giving of such notice.

The Bonds may be defeased in advance of their maturity or redemption dates only with Government Obligations pursuant to subsection (c) above, subject to receipt by the Trustee of (1) a verification report in form and substance satisfactory to the Trustee prepared by independent certified public accountants, or other verification agent, satisfactory to the Trustee, and (2) an Opinion of Counsel addressed and delivered to the Trustee in form and substance satisfactory to the Trustee to the effect that the payment of the principal of and redemption premium, if any, and interest on all of the Bonds then Outstanding and any and all other amounts

required to be paid under the provisions of this Indenture has been provided for in the manner set forth in this Indenture.

The foregoing notwithstanding, the liability of the Issuer in respect of such Bonds shall continue, but the Registered Owners thereof shall thereafter be entitled to payment only out of the moneys and Government Obligations deposited with the Trustee as aforesaid.

Moneys and Government Obligations so deposited with the Trustee pursuant to this Section shall not be a part of the Trust Estate but shall constitute a separate trust fund for the benefit of the Persons entitled thereto. Such moneys and Government Obligations shall be applied by the Trustee to the payment (either directly or through any Paying Agent, as the Trustee may determine) to the Persons entitled thereto, of the principal (and premium, if any) and interest for whose payment such moneys and Government Obligations have been deposited with the Trustee.

Section 1202. Satisfaction and Discharge of Indenture. This Indenture and the lien, rights and interests created by this Indenture shall cease, determine and become null and void (except as to any surviving rights of transfer or exchange of Bonds herein provided for) if the following conditions are met:

- (a) the principal of, premium, if any, and interest on all Bonds has been paid or is deemed to be paid and discharged by meeting the conditions of **Section 1201**; and
- (b) all other sums payable under this Indenture with respect to the Bonds are paid or provision satisfactory to the Trustee is made for such payment.

Thereupon, the Trustee shall execute and deliver to the Issuer a termination statement and such instruments of satisfaction and discharge of this Indenture as may be necessary and shall pay, assign, transfer and deliver to the Issuer, or other Persons entitled thereto, all moneys, securities and other property then held by it under this Indenture as a part of the Trust Estate, other than moneys or Government Obligations held in trust by the Trustee as herein provided for the payment of the principal of, premium, if any, and interest on the Bonds.

Section 1203. Rights Retained After Discharge. Notwithstanding the satisfaction and discharge of this Indenture, the rights of the Trustee under **Section 1004** shall survive, and the Trustee shall retain such rights, powers and duties under this Indenture as may be necessary and convenient for the payment of amounts due or to become due on the Bonds and the registration, transfer and exchange of Bonds as provided herein. Nevertheless, any moneys held by the Trustee or any Paying Agent for the payment of the principal of, redemption premium, if any, or interest on any Bond remaining unclaimed for six years after the principal of all Bonds has become due and payable, whether at maturity or upon proceedings for redemption or by declaration as provided herein, shall then be deposited in the Issuer's general fund to be expended in accordance with the Act, and all liability of the Trustee or any Paying Agent or the Issuer with respect to such moneys shall thereupon cease.

ARTICLE XIII

MISCELLANEOUS PROVISIONS

Section 1301. Compliance Certificates and Opinions. Upon any application or request by the Issuer to the Trustee to take any action under any provision of this Indenture, the Issuer shall furnish to the Trustee an Officer's Certificate stating that all conditions precedent, if any, provided for in this Indenture relating to the proposed action have been complied with and an Opinion of Counsel, paid for by the Developer, stating that in the Opinion of Counsel rendering such opinion all such conditions precedent, if any, have been complied with, except that in the case of any such application or request as to which the furnishing of such documents is specifically required by any provision of this Indenture relating to such particular application or request, no additional certificate or opinion need be furnished.

Every certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture shall include:

- (a) a statement that each individual signing such certificate or opinion has read such condition or covenant and the definitions herein relating thereto;
- (b) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;
- (c) a statement that, in the opinion of each such individual, has made such examination or investigation as is necessary to enable such individual to express an informed opinion as to whether or not such condition or covenant has been complied with; and
- (d) a statement as to whether, in the opinion of each such individual, such condition or covenant has been complied with.

Section 1302. Notices, Consents and Other Instruments by Registered Owner. Any notice, consent, request, direction, approval, objection or other instrument required by this Indenture to be signed and executed by the Registered Owner other than the assignment of the Bond ownership of the Bonds, may be in any number of concurrent writings of similar tenor and may be signed or executed by such Registered Owner 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 the Bonds, if made in the following manner, shall be sufficient for any of the purposes of this Indenture, and shall be conclusive in favor of the Issuer and the Trustee with regard to any action taken, suffered or omitted under any such instrument, namely:

- (a) The fact and date of the execution by any person of any such instrument may be proved by a certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the person signing such instrument acknowledged before such officer the execution thereof, or by affidavit of any witness to such execution.

(b) The fact of ownership of the Bonds, the amount or amounts, numbers and other identification of the Bonds, and the date of holding the same shall be proved by the Bond Register of the Issuer maintained by the Trustee.

In determining whether the Registered Owner of the requisite principal amount of Bonds Outstanding have given any request, demand, authorization, direction, notice, consent or waiver under this Indenture, Bonds registered in the name of the Issuer shall be disregarded and deemed not to be Outstanding under this Indenture, except that, in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Bonds so owned shall be so disregarded. Notwithstanding the foregoing, Bonds so owned which have been pledged in good faith shall not be disregarded as aforesaid if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Bonds and that the pledgee is not the Issuer.

Section 1303. Further Authority. The officers of the Issuer, including the Mayor, City Manager, Deputy City Manager and the City Clerk, are hereby authorized and directed to execute all documents, including without limitation an agreement with the Trustee, and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Indenture and to make any changes or additions in this Indenture and the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they determine to be in the Issuer's best interest, and the execution or taking of such action shall be conclusive evidence of such determination.

Section 1304. Immunity of Officers, Directors, Members, Employees and Agents of Issuer. No recourse shall be had for the payment of the principal of or redemption premium, if any, or interest on any of the Bonds or for any claim based thereon or upon any obligation, covenant or agreement contained in this Indenture against any past, present or future officer, director, member, employee or agent of the Issuer, or of any successor public corporation, either directly or through the Issuer or any successor public corporation, under any rule of law or equity, statute or constitution, or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such officers, directors, members, employees or agents as such is hereby expressly waived and released as a condition of and consideration for the execution of this Indenture and the issuance of Bonds except in the event of theft, defalcation or misappropriation of funds by such person.

Section 1305. Limitation on Issuer Obligations. Any other term or provision in this Indenture or in any other Financing Documents or elsewhere to the contrary notwithstanding:

(a) Any and all obligations (including without limitation, fees, claims, demands, payments, damages, liabilities, penalties, assessments and the like) of or imposed upon the Issuer or its members, officers, agents, employees, representatives, advisors or assigns, whether under this Indenture or any of the other Financing Documents or elsewhere and whether arising out of or based upon a claim or claims of tort, contract, misrepresentation, or any other or additional legal theory or theories whatsoever (collectively, the “Obligations”), shall in all events be absolutely limited obligations and liabilities, payable solely out of the following, if any, available at the time the Obligation in question is asserted:

- (1) Bond proceeds and investments therefrom; and
- (2) revenues derived from the Bonds, this Indenture (including the Trust Estate to the extent provided in this Indenture);

the above provisions (1) and (2) being collectively referred to as the “exclusive sources of the Obligations”.

(b) The Obligations shall not be deemed to constitute a debt or liability of the Issuer within the meaning of any state constitutional provision or statutory limitation and shall not constitute a pledge of the full faith and credit of the Issuer, but shall be payable solely from and out of the exclusive sources of the Obligations and shall otherwise impose no liability whatsoever, primary or otherwise, upon the Issuer or any charge upon their general credit or taxing power.

(c) In no event shall any member, officer, agent, employee, representative or advisor of the Issuer, or any successor or assign of any such person or entity, be liable, personally or otherwise, for any Obligation.

(d) In no event shall this Indenture be construed as:

- (1) depriving the Issuer of any right or privilege; or
- (2) requiring the Issuer or any member, officer, agent, employee, representative or advisor of the Issuer to take or omit to take, or to permit or suffer the taking of, any action by itself or by anyone else;

which deprivation or requirement would violate or result in the Issuer’s being in violation of the Act or any other applicable state or federal law.

Section 1306. Benefit of Indenture. This Indenture shall inure to the benefit of and shall be binding upon the Issuer and the Trustee and their respective successors and assigns, subject, however, to the limitations contained herein. With the exception of rights expressly conferred in this Indenture, nothing in this Indenture or in the Bonds, express or implied, shall give to any Person, other than the parties hereto and their successors and assigns hereunder, any

separate trustee or co-trustee appointed under **Section 1010** and the Registered Owners of Outstanding Bonds, any benefit or any legal or equitable right, remedy or claim under this Indenture.

Section 1307. Severability. If any section or other part of this Indenture, whether large or small, is for any reason held invalid, the invalidity thereof shall not affect the validity of the other provisions of this Indenture.

Section 1308. Governing Law. This Indenture shall be governed exclusively by and constructed in accordance with the applicable laws of the State.

Section 1309. Execution in Counterparts. This Indenture may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 1310. Notices. Except as otherwise provided herein, it shall be sufficient service of any notice, request, demand, authorization, direction, consent, waiver or other paper required or permitted by this Indenture to be made, given or furnished to or filed with the following persons, upon receipt by such person if the same shall be delivered in person or duly mailed by registered or certified mail, postage prepaid, at the following addresses:

to Issuer:	City of Overland Park, Kansas 8500 Santa Fe Drive Overland Park, Kansas 66208 Telephone: (913) 895-6000 Facsimile: (913) 895-5095 Attention: City Manager
to Trustee:	BOKF, N.A. dba Bank of Kansas City, as Trustee 7500 College, Suite 1450 Overland Park, Kansas 66210 Telephone: (913) 234-6633 Facsimile: (816) 932-7315 Attention: Corporate Trust Department
to Developer:	95Q Corner Properties, LLC c/o KC Commercial Realty Group 5000 W. 95 th Street, Suite 200 Prairie Village, Kansas 66207 Telephone: (913) 232-5100 Facsimile: (913) 232-5104 Attention: David Bayer

or at such other addresses as the parties may indicate in writing to the other either by personal delivery, courier, or by registered mail, return receipt requested, with proof of delivery thereof. Mailed notices shall be deemed effective on the third day after mailing; all other notices shall be effective when delivered.

Notices to Bondowner shall be given by first-class mail at the address of each Bondowner as shown on the Bond Register maintained by the Trustee. Neither the failure to mail such notice, nor any defect in any notice so mailed, to any particular Bondowner shall affect the sufficiency of such notice with respect to the other Bondowner.

Section 1311. Electronic Storage. The parties hereto agree that the transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

[Remainder of the Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Issuer and the Trustee have caused this Trust Indenture to be duly executed, and their respective corporate seals to be hereunto affixed and attested, by their duly authorized officers, all as of the day and year first above written.

CITY OF OVERLAND PARK, KANSAS

By: _____
Carl Gerlach, Mayor

(SEAL)

ATTEST:

By: _____
Marian Cook
City Clerk

IN WITNESS WHEREOF, the Issuer and the Trustee have caused this Trust Indenture to be duly executed, and their respective corporate seals to be hereunto affixed and attested, by their duly authorized officers, all as of the day and year first above written.

BOKF, N.A., D/B/A BANK OF KANSAS CITY,
as Trustee
Overland Park, Kansas

(Seal)

By _____
Wendee I. Peres, Vice President

ATTEST:

By: _____
Teresa Dolson, Vice President

EXHIBIT A
CID IMPROVEMENTS

EXHIBIT B
FORM OF BOND

THIS BOND MAY NOT BE TRANSFERRED WITHOUT THE CONSENT OF THE ISSUER. EACH BOND PURCHASER MUST BE AN "APPROVED INVESTOR" THAT QUALIFIES AS A "QUALIFIED INSTITUTIONAL BUYER" AND MUST PROVIDE AN INVESTMENT LETTER IN ACCORDANCE WITH THE INDENTURE.

REGISTERED
NUMBER R-__

REGISTERED
\$ _____

THE UNITED STATES OF AMERICA
STATE OF KANSAS
CITY OF OVERLAND PARK
TAXABLE SALES TAX REVENUE BONDS
SERIES 2014
(QUIVIRA 95 SHOPS COMMUNITY IMPROVEMENT DISTRICT PROJECT)

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Dated Date</u>
5.0%	December 1, 2034	[closing date], 2014

REGISTERED OWNER:

TAX I.D. NO.:

PRINCIPAL AMOUNT: _____ DOLLARS

The City of Overland Park, Kansas a municipal corporation and political subdivision duly organized and existing under the laws of the State of Kansas (the "Issuer"), for value received, hereby promises to pay, but only out of the CID Sales Tax Revenues, as defined in the hereinafter defined Indenture, and other assets pledged therefore as hereinafter mentioned) to the Registered Owner identified above, or registered assigns, on the Maturity Date identified above (subject to any right of prior redemption hereinafter described), the Principal Amount identified; and to pay interest in any coin or currency which, on the respective dates of payment thereof, is legal tender for the payment of public and private debts until payment of such Principal Amount shall be discharged as provided in the Indenture, at the Interest Rate per annum as set forth above, payable on June 1 and December 1 (or, if such day is not a Business Day, on the next succeeding Business Day) in each year, commencing June 1, 2015 (each, an "Interest Payment Date"). The principal hereof and Redemption Price, are payable upon presentation hereof upon maturity or earlier redemption, at the designated corporate trust office of BOKF, N.A., d/b/a Bank of Kansas City, Overland Park, Kansas (together with any successor as paying agent under the Indenture, the "Trustee" and the "Paying Agent"). Interest payments are (a) payable by check or draft mailed to the Registered Owner hereof, or (b) as long as the Bonds are owned by a

single Registered Owner, by electronic transfer of funds as provided in the Indenture. Such interest is payable to the person whose name appears on the bond registration books of the Trustee, as Bond Registrar, as the Registered Owner hereof as of the close of business on the 15th day (whether or not a Business Day) of the calendar month next preceding an Interest Payment Date, at such person's address as it appears on such registration books. Capitalized terms used and not otherwise defined herein shall have the meanings ascribed to them in the Trust Indenture dated as of [closing date], 2014 (the "Indenture"), by and between the Issuer and the Trustee.

This Series 2014 Bond is being issued pursuant to the provisions of K.S.A. 12-6a26 *et seq.* as amended and supplemented (the "Act"). The Series 2014 Bonds are special limited obligations of the Issuer payable solely from and secured as to payment of principal and interest from a pledge of CID Sales Tax Revenues received from the imposition of a community improvement district sales tax in the amount of one and one-half of one percent (1.5%) (the "CID Sales Tax") on the selling of tangible personal property at retail or rendering or furnishing services taxable pursuant to the provisions of the Kansas Retailer's Sales Tax Act within the Quivira 95 Shops Community Improvement District (the "Quivira 95 Shops CID") created by the Issuer by Ordinance No. CID-3069 passed on December 15, 2014, in accordance with the Act.

The Series 2014 Bonds are in conformity with the provisions, restrictions and limitations of the Act. The Bonds mature no more than twenty-two (22) years from the date of issuance. The Series 2014 Bonds constitute valid and legally binding special obligations of the Issuer, payable solely from the CID Sales Tax as described in the Indenture. The Series 2014 Bonds and interest thereon shall not be deemed to constitute a debt or liability of the Issuer, the State or of any political subdivision thereof within the meaning of any state constitutional provision or statutory limitation and shall not constitute a pledge of the full faith and credit of the Issuer, the State or of any political subdivision thereof; but shall be payable solely from the CID Sales Tax Revenues and the funds provided for in the Indenture. The issuance of the Series 2014 Bonds shall not, directly, indirectly or contingently, obligate the State, the Issuer or any political subdivision thereof to levy any form of taxation therefor or to make any appropriation for their payment. The State shall not in any event be liable for the payment of the principal of, redemption premium, if any, or interest on the Bonds or for the performance of any pledge, mortgage, obligation or agreement of any kind whatsoever which may be undertaken by the Issuer. No breach by the Issuer of any such pledge, mortgage, obligation or agreement may impose any liability, pecuniary or otherwise, upon the State or any charge upon its general credit or against its taxing power.

This Series 2014 Bond is one of a duly authorized issue of bonds of the Issuer designated as "City of Overland Park, Kansas Taxable Sales Tax Revenue Bonds, Series 2014 (Quivira 95 Shops Community Improvement District Project)" (the "Series 2014 Bonds"), issued in the original principal amount of \$1,655,975, pursuant to the provisions of an ordinance of the Issuer passed on December 15, 2014 (the "Ordinance"), and pursuant to the Trust Indenture dated as of [closing date], 2014 (the "Indenture") by and between the Issuer and the Trustee. Capitalized terms used and not otherwise defined herein shall have the meanings ascribed to them in the Indenture. The Series 2014 Bonds are issued for the purpose of paying the cost of (i) certain CID Improvements described in the Indenture, and (ii) certain costs of issuance of the Series 2014 Bonds as more fully described in the Indenture.

Reference is hereby made to the Indenture (copy of which is on file at the corporate trust office of the Trustee in Overland Park, Kansas) and all indentures and agreements supplemental thereto and to the Ordinance for a description of the rights thereunder of the Bondholders of the Series 2014 Bonds of the nature and extent of the security, of the rights, duties and immunities of the Trustee and of the rights and obligations of the Issuer thereunder, to all the provisions of which the Bondholder of this Bond, by acceptance hereof, assents and agrees.

The Series 2014 Bonds and the interest thereon are payable from the CID Sales Tax that are available to the Trustee pursuant to the Indenture, as and to the extent provided in the Indenture. The Series 2014 Bonds and the interest thereon are secured by a pledge and assignment of the CID Sales Tax and of amounts held in certain funds and accounts established pursuant to the Indenture, subject only to the provisions of the Indenture permitting the application thereof for the purposes and on the terms and conditions set forth in the Indenture.

Redemption Provisions

Optional Redemption. At the option of the Issuer, the Series 2014 Bonds are subject to redemption and payment prior to maturity, at the written direction of the Developer, on any date in Authorized Denominations, at a Redemption Price of 100% of the principal amount thereof, plus accrued interest to the redemption date, without premium.

Special Mandatory Redemption of Series 2014 Bonds. The Series 2014 Bonds are subject to special mandatory redemption by the Issuer on any Interest Payment Date at the Redemption Price of 100% of the principal amount being redeemed, together with accrued interest thereon to the date fixed for redemption, in an amount equal to the amount which is on deposit in the Redemption Accounts of the Debt Service Fund forty-five (45) days prior to such Interest Payment Date (or if such date is not a Business Day, the immediately preceding Business Day).

If this Series 2014 Bond is called for redemption and payment is duly provided therefor as specified in the Indenture, interest shall cease to accrue hereon from and after the date fixed for redemption.

Unless waived by the Registered Owner of Series 2014 Bonds, notice of redemption of Series 2014 Bonds shall be given by mail to the Registered Owners of Series 2014 Bonds to be redeemed not less than thirty (30) and not more than sixty (60) days prior to the date fixed for redemption.

It is hereby certified and recited that any and all conditions, things and acts required to exist, to have happened and to have been performed precedent to and in the issuance of this Series 2014 Bond do exist, have happened and have been performed in due time, form and manner as required by the Indenture and by the Constitution and laws of the State, and that the amount of this Series 2014 Bond is not in excess of the amount of Series 2014 Bonds permitted to be issued under the Indenture.

This Series 2014 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 shall have been signed by the Trustee.

IN WITNESS WHEREOF, the Issuer has caused this Series 2014 Bond certificate to be executed in its name by the manual or facsimile signature of its Mayor and attested by the manual or facsimile signature of its City Clerk and its official seal to be affixed hereto or imprinted hereon, and has caused the Series 2014 Bonds to be dated the Dated Date shown herein.

CITY OF OVERLAND PARK, KANSAS

By: _____
Mayor

(SEAL)

ATTEST:

By: _____
City Clerk

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This Series 2014 Bond certificate evidences ownership of the City of Overland Park, Kansas, Taxable Sales Tax Revenue Bonds, Series 2014 (Quivira 95 Shops Community Improvement District Project), as described herein and in the within-mentioned Trust Indenture. The date of authentication of this Series 2014 Bond is _____.

BOKF, N.A., d/b/a Bank of Kansas City

By: _____
Authorized Signature

CERTIFICATE OF STATE TREASURER

OFFICE OF THE TREASURER, STATE OF KANSAS

I, the undersigned, Treasurer of the State of Kansas, hereby certify that a transcript of the proceedings leading up to the issuance of this Series 2014 Bond has been filed in my office, and that this Series 2014 Bond was registered in my office according to law on this ____ day of December, 2014.

WITNESS my hand and official seal.

By: _____
Treasurer of the State of Kansas

(SEAL)

Registration Number: _____

ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfer unto

Print or Type Name and Address of Transferee

the Series 2014 Bonds represented by this certificate and all rights thereunder, and hereby authorizes the transfer of the within Series 2014 Bond on the books kept by the Bond Registrar and Paying Agent for the registration and transfer of Series 2014 Bonds.

Dated: _____

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within Series 2014 Bond in every particular.

Signature Guaranteed By:

[Seal of Bank]

(Name of Eligible Guarantor Institution)

By: _____

Title: _____

Signature must be guaranteed by an eligible guarantor institution as defined by S.E.C. Rule 17 Ad-15 (17 C.F.R. 240. 17-Ad-15)

EXHIBIT C

**FORM OF WRITTEN REQUEST – CERTIFICATION OF EXPENDITURE
(COSTS OF ISSUANCE FUND)**

Request No:
Date:

**WRITTEN REQUEST
(Section 406 - COSTS OF ISSUANCE FUND)**

To: BOKF, N.A., d/b/a Bank of Kansas City
7500 College, Suite 1450
Overland Park, KS 66210
as Trustee

Re: \$1,655,975 City of Overland Park, Kansas Taxable Sales Tax Revenue Bonds,
Series 2014 (Quivira 95 Shops Community Improvement District Project)

You are hereby requested and directed as Bond Trustee under the Trust Indenture dated as of [closing date], 2014 (the “Bond Indenture”), between the City of Overland Park, Kansas and you, as Bond Trustee, to pay from moneys in the Costs of Issuance Fund, pursuant to **Section 406** of the Indenture, to the following payees the following amounts for the following Costs of Issuance (as defined in the Indenture):

<u>Payee</u>	<u>Amount</u>	<u>Description of Costs of Issuance</u>
--------------	---------------	---

The undersigned Authorized Developer Representative hereby states and certifies that each item listed above is a proper Costs of Issuance (as defined in the Indenture) that was incurred in connection with the issuance of the above-referenced Bonds, and the amount of this request is justly due and owing and has not been the subject of another requisition which was paid.

By: _____
Title: Authorized Developer Representative

CITY OF OVERLAND PARK, KANSAS

By: _____
Title: Authorized Issuer Representative

EXHIBIT D

FORM OF QUALIFIED INSTITUTIONAL BUYER INVESTOR LETTER

City of Overland Park, Kansas
Taxable Sales Tax Revenue Bonds
Series 2014
(Quivira 95 Shops Community Improvement District Project)

_____, 20__

City of Overland Park, Kansas
Overland Park, Kansas

Ladies and Gentlemen:

In connection with the purchase by the undersigned (the “Purchaser”) of the above-described Bonds (the “Bonds”) of the City of Overland Park, Kansas (the “Issuer”), the Purchaser hereby represents and agrees to the terms of this Investment Letter. The Bonds are authorized and issued under the Trust Indenture dated as of [closing date], 2014 (the “Indenture”), by and between the Issuer and BOKF, N.A. d/b/a Bank of Kansas City (the “Trustee”). The undersigned hereby certifies in conjunction with its purchase of the Bonds that:

1. The Purchaser is a “Qualified Institutional Buyer” (as defined in Rule 144A of the Securities Act of 1933 and understands and acknowledges that the Bonds may be sold, transferred or otherwise disposed of only to an entity that is a “Qualified Institutional Buyer” (as defined in Rule 144A of the Securities Act of 1933.

2. The Purchaser understands and acknowledges that the Bonds have not been registered under the Securities Act of 1933, as amended (the “Securities Act”), or any other applicable securities law, are being offered for sale in transactions not requiring registration under the Securities Act, and may not be offered, sold, pledged or otherwise transferred except in compliance with terms of the Indenture and the registration requirements of the Securities Act or any other applicable securities laws or pursuant to an exemption therefrom.

3. The Purchaser understands that no credit rating has been sought or obtained with respect to the Bonds, and the Purchaser acknowledges that the Bonds are a speculative investment and that there is a high degree of risk in such investment.

4. The Purchaser has been provided with such information concerning the CID Improvements and the Developer as it has requested and that it deems necessary in its decision to purchase the Bonds. The Purchaser has had an opportunity to make inquiries of such officers,

employees, agents and attorneys of the Developer and the Issuer as it considers appropriate in connection with its purchase of the Bonds.

5. The Purchaser understands that the Bonds are secured only by the CID Sales Tax Revenues, as described in the Indenture, that the Bonds will never constitute a general obligation of the Issuer, the State of Kansas or any political subdivision thereof, and that no right exists to have taxes levied by the Issuer, the State of Kansas or any political subdivision thereof for the payment of principal of or interest on the Bonds. The Bonds are special, limited obligations of the Issuer payable (except to the extent paid out of Bond proceeds or the income from the temporary investment thereof) solely out of the Trust Estate including, with respect to the Bonds, the CID Sales Tax Revenues, and are secured by a transfer, pledge and assignment of and a grant of a security interest in the Trust Estate to the Trustee and in favor of the Registered Owners of the Bonds, as provided in the Indenture.

6. The Purchaser has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of prospective investments. In reaching the conclusion that it desires to acquire the Bonds, the Purchaser has carefully evaluated all risks associated with this purchase and acknowledges that it is able to bear the economic risk of this purchase.

7. The Purchaser understands that it may need to bear the risks of this investment for an indefinite time since any sale prior to the maturity of the Bonds may not be possible or may be at a price below that which the Purchaser is paying for the Bonds.

8. The Bonds have been purchased for the Purchaser's own account for investment and not with a view to the distribution, transfer or resale thereof, provided that the disposition of the Bonds shall at all times be within the Purchaser's sole control.

9. The Purchaser acknowledges that the Issuer, Bond Counsel, and others will rely upon the truth and accuracy of the foregoing acknowledgments, representations and agreements.

10. This Investment Letter will constitute an agreement with respect to the matters herein contained as of the date hereof.

The foregoing representations shall survive the execution and delivery of the Bonds to the Purchaser and the instruments and documents contemplated thereby.

Sincerely yours,

[INVESTOR]

Name _____