

RESOLUTION NO. RS2011- 114

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The Metropolitan Government of  
Nashville and Davidson County  
(Tennessee)

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Resolution authorizing and providing for the issuance, sale and payment of subordinate lien water and sewer revenue bonds; amending Resolution RS2009-995; and supplementing Resolution RS2010-1442 to make certain modifications thereto.

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Resolution authorizing and providing for the issuance, sale and payment of subordinate lien water and sewer revenue bonds; amending Resolution RS2009-995; and supplementing Resolution RS2010-1442 to make certain modifications thereto.

NOW, THEREFORE, be it resolved by the Metropolitan Council of The Metropolitan Government of Nashville and Davidson County as follows:

**ARTICLE I  
DEFINITIONS AND STATUTORY AUTHORITY**

**SECTION 101. Definitions.** The following terms shall, for all purposes of the Resolution, have the following meanings:

**Account** or **Accounts** shall mean, as the case may be, each or all of the accounts established in Section 502(a).

**Accountant's Certificate** shall mean a certificate signed by an independent certified public accountant of recognized national standing or a firm of certified public accountants of recognized national standing, selected by the Metropolitan Government, who may be the accountant or firm of accountants who regularly audit the books of the Metropolitan Government relating to the System.

**Accreted Value** shall mean, as of any date of computation with respect to any Capital Appreciation Bond, an amount equal to the principal amount of such Bond plus the interest accrued on such Bond from the date of original issuance of such Bond to the periodic date specified in the Supplemental Resolution authorizing such Capital Appreciation Bond on which interest on such Bond is to be compounded (hereinafter, a "Periodic Compounding Date") next preceding the date of computation or the date of computation if a Periodic Compounding Date, such interest to accrue at the interest rate per annum of the Capital Appreciation Bonds set forth in the Supplemental Resolution authorizing such Bonds, compounded periodically on each Periodic Compounding Date, plus, if such date of computation shall not be a Periodic Compounding Date, a portion of the difference between the Accreted Value as of the immediately preceding Periodic Compounding Date (or the date of original issuance if the date of computation is prior to the first Periodic Compounding Date succeeding the date of original issuance) and the Accreted Value as of the immediately succeeding Periodic Compounding Date, calculated based upon an assumption that, unless otherwise provided in the Supplemental Resolution authorizing such Capital Appreciation Bonds, Accreted Value accrues in equal daily amounts on the basis of a year consisting of twelve 30-day months.

**Additionally Secured Series** shall mean a Series of Bonds for which the payment of the principal or Redemption Price, if any, of, and interest on, the Bonds of such Series shall be secured, in addition to the pledge created pursuant to Section 501(a) and 501(b) hereof in favor of all of the Bonds, by amounts on deposit in a separate account to be designated therefor in the Debt Service Reserve Fund.

**Alternate Variable Rate Taxable Index** shall mean such index as, at the time, is in general use as a proxy for short-term interest rates on debt obligations of state and local governments the interest on which is not excluded from gross income for federal income tax purposes, as determined by an Authorized Finance Officer.

**Alternate Variable Rate Tax-Exempt Index** shall mean such index as, at the time, is in general use as a proxy for short-term interest rates on debt obligations of state and local governments the interest on which is excluded from gross income for federal income tax purposes, as determined by an Authorized Finance Officer.

**Annual Budget** shall mean the annual budget or budgets of the System, as amended or supplemented, adopted or in effect for a particular Fiscal Year as provided in Section 709.

**Appreciated Value** shall mean, with respect to any Deferred Income Bond, (i) as of any date of computation prior to the Current Interest Commencement Date with respect to such Deferred Income Bond, an amount equal to the principal amount of such Bond plus the interest accrued on such Bond from the date of original issuance of such Bond to the periodic date specified in the Supplemental Resolution authorizing such Deferred Income Bond on which interest on such Bond is to be compounded (hereinafter, a "Periodic Compounding Date") next preceding the date of computation or the date of computation if a Periodic Compounding Date, such interest to accrue at the interest rate per annum of the Deferred Income Bonds set forth in the Supplemental Resolution authorizing such Bonds, compounded periodically on each Periodic Compounding Date, plus, if such date of computation shall not be a Periodic Compounding Date, a portion of the difference between the Appreciated Value as of the immediately preceding Periodic Compounding Date (or the date of original issuance if the date of computation is prior to the first Periodic Compounding Date succeeding the date of original issuance) and the Appreciated Value as of the immediately succeeding Periodic Compounding Date, calculated based upon an assumption that, unless otherwise provided in the Supplemental Resolution authorizing such Deferred Income Bonds, Appreciated Value accrues in equal daily amounts on the basis of a year consisting of twelve 30-day months and (ii) as of any date of computation on and after the Current Interest Commencement Date, the Appreciated Value on the Current Interest Commencement Date.

**Authorized Newspaper** shall mean a newspaper or financial journal customarily published at least once a day for at least five days (other than legal holidays) in each calendar week and printed in the English language, which is of general circulation in the Borough of Manhattan, City and State of New York (which may include The Bond Buyer and The Wall Street Journal).

**Authorized Finance Officer** shall mean the Director of Finance and any other persons authorized in writing by the Director of Finance to act as an Authorized Finance Officer hereunder.

**Balloon Date** shall mean any date of a Principal Installment or any date on which a Holder may elect to have Balloon Obligations redeemed, prepaid, purchased directly or indirectly by the Metropolitan Government, or otherwise paid, in a Balloon Year.

**Balloon Obligations** shall mean any Series of Bonds 25% or more of the Principal Installments of which is due or may be required to be paid in any 12-month period; provided that, in calculating the principal amount of such Bonds due or required to be redeemed, prepaid, purchased, or otherwise paid in any 12-month period, such principal amount shall be reduced to the extent that all or any portion of such amount is required to be redeemed or amortized prior to such 12-month period.

**Balloon Year** shall mean any 12-month period in which more than 25% of the original principal amount of related Balloon Obligations mature or are subject to mandatory redemption or could, at the option of the holders thereof, be required to be redeemed, prepaid, purchased directly or indirectly by the Metropolitan Government, or otherwise paid.

**Bond** or **Bonds** shall mean any bonds, notes, loan agreements or other obligations or evidences of indebtedness, as the case may be, authenticated and delivered under and Outstanding pursuant to this Resolution.

**Bond Registrar** shall mean the officer of the Metropolitan Government, such transfer agent duly registered pursuant to the Securities Exchange Act of 1934, as amended (or successor provision of law), or such bank or trust company organized under the laws of the United States of America or of any State of the United States of America or national banking association, located within or without the State of Tennessee, appointed by the Metropolitan Government to perform the duties of Bond Registrar enumerated in Section 703 with respect to one or more Series of Bonds.

**Book Entry Bond** shall mean a Bond authorized to be issued to, and issued to and, except as provided in Section 309(d), restricted to being registered in the name of, a Securities Depository for the participants in such Securities Depository or the beneficial owners of such Bond.

**Code** shall mean the Internal Revenue Code of 1986, as amended, or any successor, and the applicable regulations (including final, temporary and proposed) promulgated by the United States Department of the Treasury thereunder, including Treasury Regulations issued pursuant to Sections 103 and 141 through 150, inclusive, of said Internal Revenue Code of 1986.

**Capitalized Interest Account** shall mean the Capitalized Interest Account established within the Construction Fund in Section 502(a).

**Capital Appreciation Bonds** shall mean any Bonds issued under the Resolution as to which interest is (a) compounded periodically on dates that are specified in the Supplemental Resolution authorizing such Capital Appreciation Bonds and (b) payable only at the maturity, earlier redemption or other payment thereof pursuant to the Resolution or the Supplemental Resolution authorizing such Capital Appreciation Bonds.

**Certified Interest Rate** shall mean, as of any date of determination:

(a) with respect to Bonds that were or will be, at the date of the original issuance thereof, the subject of a Counsel's Opinion to the effect that the interest thereon is excluded from gross income for federal income tax purposes pursuant to Section 103 of the Code, a rate of interest equal to the average of the Variable Rate Tax-Exempt Index for the five (5) years preceding such date of determination; and

(b) with respect to Bonds that were not and will not be, at the date of the original issuance thereof, the subject of a Counsel's Opinion to the effect that the interest thereon is excluded from gross income for federal income tax purposes pursuant to Section 103 of the Code, a rate of interest equal to the average of the Variable Rate Taxable Index for the five (5) years preceding such date of determination.

**Charter** shall mean the Charter of the Metropolitan Government approved by referendum on June 28, 1962, as amended from time to time.

**Commitment**, when used with respect to Balloon Obligations, shall mean a binding written commitment from a financial institution, surety, or insurance company to refinance such Balloon Obligations on or prior to any Balloon Date thereof, including without limitation any Credit Facility for such Balloon Obligations.

**Construction Fund** shall mean the Construction Fund established in Section 502(a).

**Consultant** shall mean a firm of engineers, accountants or water and sewer consultants of national reputation for advising municipalities with respect to the setting of rates and charges for the use of water and sewer systems, as selected by an Authorized Finance Officer.

**Consulting Engineer** shall mean the engineer or engineering firm or corporation, if any, retained by the Metropolitan Government to perform the acts and carry out the duties provided for such Consulting Engineer in the Resolution. In the event that the Metropolitan Government shall retain an engineer or engineering firm or corporation as aforesaid, such engineer or engineering firm or corporation shall have a nationwide and favorable reputation for skill and experience in such work.

**Contracts** shall mean all Credit Facility Agreements, including any Reimbursement Obligations, and all Qualified Hedge Agreements.

**Costs** shall mean any and all costs permitted to be financed by applicable Tennessee law through the issuance of a Series of Bonds.

**Counsel's Opinion** shall mean an opinion signed by an attorney or firm of attorneys of recognized standing in the field of law relating to municipal bonds (who may be counsel to the Metropolitan Government) selected by the Metropolitan Government.

**Credit Facility** shall mean any letter of credit, insurance policy, guaranty, surety bond, standby bond purchase agreement, line of credit, revolving credit agreement, or similar obligation, arrangement or instrument (other than a Reserve Fund Credit Facility) issued by a bank, insurance company, or any entity that is used by the Metropolitan Government to perform one or more of the following tasks: (i) enhancing the Metropolitan Government's credit by assuring owners of any of the Bonds that principal of and interest on such Bonds will be paid promptly when due; (ii) providing liquidity for the owners of Bonds through undertaking to cause Bonds to be bought from the owners thereof when submitted pursuant to an arrangement prescribed by a Supplemental Resolution; or (iii) remarketing any Bonds so submitted to the Credit Issuer (whether or not the same Credit Issuer is remarketing the Bonds).

**Credit Facility Agreement** shall mean an agreement between the Metropolitan Government and a Credit Issuer pursuant to which the Credit Issuer issues a Credit Facility.

**Credit Issuer** shall mean any issuer of a Credit Facility then in effect for all or part of the Bonds.

**Current Interest Commencement Date** shall mean, with respect to any particular Deferred Income Bonds, the date specified in the Supplemental Resolution authorizing such Deferred Income Bonds (which date must be prior to the maturity date for such Deferred Income Bonds) after which interest accruing on such Deferred Income Bonds shall be payable periodically on dates specified in such Supplemental Resolution, with the first such payment date being the first such periodic date immediately succeeding such Current Interest Commencement Date.

**Date of Issuance** shall mean, with respect to any Series of Bonds, the date upon which such Bonds are or have been authenticated and delivered by the Bond Registrar therefor.

**Debt Service Fund** shall mean the Debt Service Fund established in Section 502(a).

**Debt Service Requirement** shall mean:

(a) with respect to the Prior First Lien Bonds and Subordinated Indebtedness, the total principal and interest coming due, whether at maturity or upon mandatory redemption, in any specified period; and with respect to the Prior Second Lien Bonds, their "Debt Service Requirement", as such term is defined in the Prior Second Lien Resolution.

(b) with respect to the Bonds, the total Principal Installments and interest accruing in any specified period, provided that:

(i) If any Bonds Outstanding or proposed to be issued shall bear interest at a Variable Rate, including Hedged Obligations if the interest thereon calculated as set forth below is expected to vary and Bonds secured by a Credit Facility if the interest thereon calculated as set forth below is expected to vary, the interest coming due in any specified future period shall be determined as if the Variable Rate in effect at all times during such future period equaled, at the option of the Metropolitan Government either (1) the average of the actual Variable Rates which were in effect (weighted according to the length of the period during which each such Variable Rate was in effect) for the most recent 12-month period immediately preceding the date of calculation for which such information is available (or shorter period if such information is not available for a 12-month period), or (2) the Certified Interest Rate.

(ii) With respect to any Bonds secured by a Credit Facility, the Debt Service Requirement therefor shall include (1) any commission or commitment fee obligations with respect to such Credit Facility, (2) the outstanding and unpaid amount of any Reimbursement Obligation and interest thereon, (3) any additional interest owed on Bonds which have been purchased by a Credit Issuer pursuant to a Credit Facility Agreement, and (4) any remarketing agent fees; provided if (a) the Credit Facility requires the Credit Issuer to make all interest payments on the Bonds, (b) the Reimbursement Obligation provides for payments by the Metropolitan Government or the Credit Issuer based on levels of, or changes or differences in, interest rates, currency exchange rates, or stock or other indices, and (c) the Credit Issuer, upon the execution of the Credit Facility Agreement, would qualify as a Qualified Hedge Provider if the Credit Facility Agreement were to be construed as a Hedge Agreement and the related Bonds as Hedged Obligations, then interest on such Bonds shall be calculated by adding (x) the amount of interest payable on such Bonds pursuant to their terms and (y) the amount of payments for interest to be made by the Metropolitan Government under the Credit Facility Agreement, and subtracting (z) the amounts payable by the Credit Issuer to the Metropolitan Government as interest on such Bonds as specified in the Credit Facility Agreement; but only to the extent the Credit Issuer is not in default under the Credit Facility and if such default has occurred and is continuing, interest on such Bonds shall be calculated as if there were no Credit Facility. In determining the amounts described in this paragraph for any future period, the Metropolitan Government (A) may assume that any Credit Facility presently in effect will remain in effect even if such Credit Facility has an expiration date prior to the maturity of the related Bonds and (B) may assume that the current payments relating to the Credit Facility will remain in effect or may estimate such payments in the future provided that the Metropolitan Government obtains a certificate from a Financial Adviser that such estimates are reasonable.

(iii) With respect to any Hedged Obligations, the interest on such Hedged Obligations during any Hedge Period and for so long as the provider of the related Hedge Agreement has not defaulted on its payment obligations thereunder shall be calculated by adding (x) the amount of interest payable by the Metropolitan Government on such Hedged Obligations pursuant to their terms and (y) the amount of Hedge Payments payable by the Metropolitan Government under the related Hedge Agreement and subtracting (z) the amount of Hedge Receipts payable by the provider of the related Hedge Agreement at the rate specified in the related Hedge Agreement;

provided, however, that to the extent that the provider of any Hedge Agreement is in default thereunder, the amount of interest payable by the Metropolitan Government on the related Hedged Obligations shall be the interest calculated as if such Hedge Agreement had not been executed. In determining the amount of Hedge Payments or Hedge Receipts that are not fixed throughout the Hedge Period (i.e., which are variable), payable or receivable for any future period, such Hedge Payments or Hedge Receipts for any period of calculation (the "**Determination Period**") shall be computed by assuming that the variables comprising the calculation (e.g., indices) applicable to the Determination Period are equal to the average of the actual variables which were in effect (weighted according to the length of the period during which each such variable was in effect) for the most recent 12-month period immediately preceding the date of calculation for which such information is available (or shorter period if such information is not available for a 12-month period).

(iv) For the purpose of calculating the Debt Service Requirement on Balloon Obligations (1) which are subject to a Commitment or (2) which do not have a Balloon Year commencing within 12 months from the date of calculation or (3) which are issued in anticipation of the issuance of Bonds that are not Balloon Obligations or (4) which are issued pursuant to a Supplemental Resolution which contemplates that the principal of Bonds tendered for payment at the option of the holder thereof prior to the stated maturity of such Bonds will be paid from the proceeds of the remarketing of such tendered Bonds (or from the issuance of new Bonds authorized by such Supplemental Resolution), at the option of the Metropolitan Government, the actual principal and interest on such Balloon Obligations shall be included in the Debt Service Requirement, subject to the other assumptions contained herein, or such Balloon Obligations shall be assumed to be amortized in substantially equal annual amounts to be paid for principal and interest over an assumed amortization period of 30 years at an assumed interest rate (which shall be the interest rate certified by a Financial Adviser to be the interest rate at which the Metropolitan Government could reasonably expect to borrow the same amount by issuing Bonds with the same priority of lien as such Balloon Obligations and with a 30-year term). For the purpose of calculating the Debt Service Requirement on Balloon Obligations not described in the preceding sentence, the principal payable on such Bonds during the Balloon Year shall be calculated as if paid on the Balloon Date.

(v) The principal and interest portions of the Accreted Value of Capital Appreciation Bonds or the Appreciated Value of Deferred Income Bonds shall be included in the calculation of Debt Service Requirement in the manner prescribed in Section 207(a).

(vi) Interest on Bonds shall be excluded from the determination of Debt Service Requirement to the extent amounts on deposit in the Capitalized Interest Account of the Construction Fund are scheduled to be applied thereto during such period.

(vii) Scheduled interest payments on Tax Credit Bonds during any period shall be reduced to reflect Tax Credit Payments attributable to such scheduled interest payments.

(c) For purposes of calculating the accrual of Principal Installments and interest on the Bonds, (i) Principal Installments of a Series will be deemed to accrue daily in equal amounts from the preceding Principal Installment date for such Series (but in no event shall any accrual be made for any Principal Installment more than one year prior to the due date of such Principal Installment or from the Date of Issuance of Bonds of such Series, whichever date is later); (ii) each fixed payment obligation (other than Principal Installments) will be deemed to accrue daily in equal amounts from the preceding relevant payment obligation date (but in no event more than one year prior to such payment obligation date or the initial incurrence of the payment obligation, whichever is later); and (iii) principal and interest

portions of the Accreted Value of Capital Appreciation Bonds or the Appreciated Value of Deferred Income Bonds shall accrue in the manner provided in Section 207(a).

**Debt Service Reserve Fund** shall mean the Debt Service Reserve Fund established in Section 502(a).

**Debt Service Reserve Requirement** shall mean, with respect to each separate account in the Debt Service Reserve Fund, the amount specified in the Supplemental Resolution establishing such account.

**Defaulted Interest** shall have the meaning given to such term in Section 308.

**Defeasance Securities** shall mean, unless otherwise provided with respect to the Bonds of a Series in the Supplemental Resolution authorizing such Bonds, such securities as are described by applicable provisions of Tennessee law as permitted to be acquired for the purpose of providing for the refunding outstanding debt service obligations.

**Deferred Income Bonds** shall mean any Bonds issued under the Resolution as to which interest accruing prior to the Current Interest Commencement Date is (i) compounded periodically on dates specified in the Supplemental Resolution authorizing such Deferred Income Bonds and (ii) payable only at the maturity, earlier redemption or other payment thereof pursuant to the Resolution or the Supplemental Resolution authorizing such Deferred Income Bonds.

**Depository** shall mean any bank, trust company, national banking association, savings and loan association, savings bank or other banking association or state or federal agency selected by the Metropolitan Government as a depository of moneys and securities held under the provisions of the Resolution.

**Director of Finance** shall mean the Director of Finance of the Metropolitan Government appointed pursuant to the provisions of the Charter of the Metropolitan Government or, in the absence of such appointment or in the event the person so appointed is unable or incapable of acting in such capacity, the person appointed by the Metropolitan Mayor to undertake the duties otherwise performed by the Director of Finance.

**Director of Law** shall mean the Director of Law of the Metropolitan Government appointed pursuant to the provisions of the Charter or, in the absence of such appointment or in the event the person so appointed is unable or incapable of acting in such capacity, the person appointed by the Metropolitan Mayor to undertake the duties otherwise performed by the Director of Law, or his or her designee.

**Escrow Agent** shall mean, with respect to the refunding or defeasance of any particular Bond or Bonds at any one time, the entity with which moneys or investments shall be deposited in trust for the Holders of such Bond or Bonds to be refunded or defeased, and who shall agree, through an appropriate agreement with the Metropolitan Government, to perform the duties of Escrow Agent with respect to such Bond or Bonds as provided in the Resolution or the Supplemental Resolution authorizing the Series of which such Bond or Bonds are a part.

**Event of Default** shall have the meaning given to such term in Section 801.

**Fiduciary** or **Fiduciaries** shall mean the Bond Registrars, the Paying Agents, any Escrow Agent in respect of the refunding or defeasance of Bonds, or any or all of them, as may be appropriate.

**Financial Adviser** shall mean an investment banking or financial advisory firm, commercial bank, or any other person who or which is retained by the Metropolitan Government for the purpose of passing on questions relating to the availability and terms of specified types of bonds or the financial condition or operation of the System and is actively engaged in and, in the good faith opinion of the Metropolitan Government, has a favorable reputation for skill and experience in providing financial advisory services of the type with respect to which the Financial Adviser has been retained.

**Fiscal Year** shall mean the 12-month period established by the Metropolitan Council or provided by law from time to time as the fiscal year for the System, and which, as of the date of adoption of this Resolution, is the 12-month period commencing on July 1 of any year and ending on June 30 of the following year.

**Fund** or **Funds** shall mean, as the case may be, each or all of the Funds established in Section 502.

**Hedge Agreement** shall mean, without limitation, (i) any contract known as or referred to or which performs the function of an interest rate swap agreement, currency swap agreement, forward payment conversion agreement, or futures contract; (ii) any contract providing for payments based on levels of, or changes or differences in, interest rates, currency exchange rates, or stock or other indices; (iii) any contract to exchange cash flows or payments or series of payments; (iv) any type of contract called, or designed to perform the function of, interest rate floors, collars, or caps, options, puts, or calls, to hedge or minimize any type of financial risk, including, without limitation, payment, currency, rate, or other financial risk; and (v) any other type of contract or arrangement that the Metropolitan Government determines is to be used, or is intended to be used, to manage or reduce the cost of any Bonds, to convert any element of any Bonds from one form to another, to maximize or increase investment return, to minimize investment return risk, or to protect against any type of financial risk or uncertainty.

**Hedge Payments** shall mean amounts payable by the Metropolitan Government pursuant to any Hedge Agreement, other than Termination Payments.

**Hedge Receipts** shall mean amounts payable by any provider of a Hedge Agreement pursuant to such Hedge Agreement, other than Termination Payments.

**Hedge Period** shall mean the period during which a Hedge Agreement is in effect.

**Hedged Obligations** shall mean any Bonds with respect to which the Metropolitan Government shall have entered into a Qualified Hedge Agreement.

**Holder** shall mean any person who shall be the registered owner of any Bond or Bonds.

**Investment Securities** shall mean and include any securities which are legal investments for monies of the System, as prescribed by applicable provisions of Tennessee law.

**Metropolitan Clerk** shall mean the Metropolitan Clerk of the Metropolitan Government appointed pursuant to the provisions of the Charter or his or her designee.

**Metropolitan Mayor** shall mean the Metropolitan Mayor of the Metropolitan Government elected pursuant to the provisions of the Charter or his or her designee acting on his or her behalf pursuant to the Charter.

**Metropolitan Council** shall mean the Metropolitan County Council of the Metropolitan Government.

**Metropolitan Government** shall mean The Metropolitan Government of Nashville and Davidson County.

**Net Revenues** shall mean, for any period, the Revenues during such period, minus the Operation and Maintenance Expenses during such period.

**One-Month LIBOR Rate** shall mean, as of any date of determination, the offered rate for deposits in U.S. dollars for a one-month period which appears on the Telerate Page 3750 at approximately 11:00 A.M., London time, on such date, or if such date is not a date on which dealings in U.S. dollars are transacted in the London interbank market, then on the next preceding day on which such dealings were transacted in such market.

**Operation and Maintenance Expenses** shall mean the current expenses, paid or accrued, of operation, maintenance and repair of the System, including administration costs, as calculated in accordance with generally accepted accounting principles. Notwithstanding the foregoing, Operation and Maintenance Expenses shall not include payments in lieu of taxes or any reserve for renewals or replacements or any allowance for depreciation or amortization, and there shall be included in Operation and Maintenance Expenses only that portion of the total administrative, general and other expenses of the Metropolitan Government which are properly allocable to the System.

**Outstanding** shall mean, as of any date, Bonds theretofore or thereupon being authenticated and delivered under the Resolution except:

(a) Bonds cancelled (or, in the case of Book Entry Bonds, to the extent provided in Section 309(f), portions thereof deemed to have been cancelled) by the Bond Registrar therefor at or prior to such date;

(b) Bonds (or portions of Bonds) for the payment or redemption of which moneys, equal to the principal amount or Redemption Price thereof, as the case may be, with interest to the date of maturity or redemption date, shall be held in trust under the Resolution and set aside for such payment or redemption (whether at or prior to the maturity or redemption date), provided that if such Bonds (or portions of Bonds) are to be redeemed, notice of such redemption shall have been given as provided in Article IV or in the Supplemental Resolution authorizing the Series of which such Bonds are a part or provision shall have been made for the giving of such notice;

(c) Bonds in lieu of or in substitution for which other Bonds shall have been authenticated and delivered pursuant to Article III or Section 405 or 1106 unless proof satisfactory to the Metropolitan Government is presented that any such Bonds are held by a bona fide purchaser in due course; and

(d) Bonds (or, in the case of Book Entry Bonds, to the extent provided in Section 309(h), portions thereof) deemed to have been paid as provided in Section 1201 or in the Supplemental Resolution authorizing the Series of which such Bonds are a part.

**Paying Agent** shall mean an officer of the Metropolitan Government, a transfer agent duly registered pursuant to the Securities Exchange Act of 1934, as amended, or a bank or trust company organized under the laws of any state of the United States of America or a national banking association appointed to act in such capacity hereunder.

**Principal Installment** shall mean, as of any date of calculation and with respect to any Series, so long as any Bonds thereof are Outstanding, the principal amount of Bonds of such Series due on a certain future date, whether at stated maturity or as a result of mandatory redemption requirements, or which may, at the option of the holders thereof, be required to be redeemed, prepaid, purchased or otherwise paid, as set forth in a Supplemental Resolution.

**Prior Bonds** shall mean, collectively, Prior First Lien Bonds and Prior Second Lien Bonds.

**Prior First Lien Bonds** shall mean the Metropolitan Government's outstanding Water and Sewer Revenue Refunding Bonds, Series 1986; Water and Sewer Revenue Bonds, Series 1993; Water and Sewer Revenue Refunding Bonds, Series 1998A; Water and Sewer Revenue Bonds, Series 1998B; Water and Sewer Revenue Refunding Bonds, Series 2002; Water and Sewer Revenue Refunding Bonds, Series 2007; Water and Sewer Revenue Refunding Bonds, Series 2008A; and Water and Sewer Revenue Refunding Bonds, Series 2008B.

**Prior Second Lien Bonds** shall mean the Metropolitan Government's outstanding Water and Sewer Revenue Refunding Bonds, Series 2010A; Water and Sewer Revenue Bonds Federally Taxable, Series 2010B (Build America Bonds – Direct Payment); Water and Sewer Revenue Bonds Federally Taxable, Series 2010C (Recovery Zone Economic Development Bonds); Water and Sewer Revenue Refunding Bonds Federally Taxable, Series 2010D; and any other series of bonds that may hereafter be issued pursuant to the Prior Second Lien Resolution.

**Prior First Lien Resolution** shall mean Metropolitan Council Resolution R85-762, adopted on November 5, 1985, as supplemented and amended, including without limitation as supplemented and amended by Substitute Resolution No. R93-770 of the Metropolitan Council.

**Prior Second Lien Resolution** shall mean Metropolitan Council Substitute Resolution RS2010-1442, adopted on November 16, 2010, as supplemented and amended.

**Prior Resolution** shall mean, collectively, the Prior First Lien Resolution and the Prior Second Lien Resolution.

**Project Account** shall mean the Project Account established within the Construction Fund in Section 502(a).

**Prudent Utility Practice** shall mean, in respect of any particular utility industry, any of the practices, methods and acts which, in the exercise of reasonable judgment, in light of the facts, including but not limited to the practices, methods and acts engaged in or approved by a significant portion of such utility industry prior thereto, known at the time the decision was made, would have been expected to accomplish the desired result at the lowest reasonable cost consistent with reliability, safety and expedition. It is recognized that Prudent Utility Practice is not intended to be limited to the optimum practice or act to the exclusion of all others, but rather is a spectrum of possible practices, methods or acts which could have been expected to accomplish the desired result at the lowest reasonable cost consistent with reliability, safety and expedition.

**Qualified Hedge Agreement** shall mean any Hedge Agreement with a Qualified Hedge Provider.

**Qualified Hedge Provider** shall mean an entity whose senior unsecured long term obligations, financial program rating, counterparty rating, or claims paying ability, or whose payment obligations under the related Hedge Agreement are absolutely and unconditionally guaranteed or insured or

collateralized by an entity whose senior unsecured long term obligations, financial program rating, counterparty rating, or claims paying ability, is sufficient to satisfy applicable Tennessee law.

**Rate Stabilization Fund** shall mean the fund bearing such name and established by Section 502(a) of the Prior Second Lien Resolution.

**Rating** shall mean a rating in one of the categories by a Rating Agency, disregarding pluses, minuses, and numerical gradations.

**Rating Agencies** or **Rating Agency** shall mean any nationally recognized credit rating agency.

**Redemption Price** shall mean, with respect to any Bond, the principal amount thereof plus the applicable premium, if any, payable upon redemption thereof pursuant to such Bond or a Supplemental Resolution.

**Refunding Bonds** shall mean Bonds authenticated and delivered pursuant to Section 204, and all Bonds thereafter authenticated and delivered in lieu of or in substitution for such Bonds pursuant to Article III or Section 405 or Section 1106.

**Regular Record Date** shall have the meaning given to such term in Section 308.

**Reimbursement Obligation** shall mean the obligation of the Metropolitan Government to directly reimburse any Credit Issuer for amounts paid by such Credit Issuer under a Credit Facility, whether or not such obligation to so reimburse is evidenced by a promissory note or other similar instrument. The term Reimbursement Obligation includes obligations pursuant to a Credit Facility Agreement either to make payments for interest based on levels of, or changes or differences in, interest rates, currency exchange rates, or stock or other indices, in return for the Credit Issuer's fixed obligations under the Credit Facility or to make fixed payments for interest in return for the Credit Issuer's payments based on such variables.

**Reserve Fund Credit Facility** shall mean a municipal bond insurance policy, surety bond, letter of credit, line of credit, guarantee or other agreement which provides for payment of amounts equal to all or any portion of the Debt Service Reserve Requirement.

**Resolution** shall mean this resolution, sometimes referred to herein as the "Subordinate Lien Water and Sewer System Revenue Bond Resolution", as from time to time amended or supplemented by Supplemental Resolutions in accordance with the terms hereof.

**Revenue Fund** shall mean the Revenue Fund established in Section 502(a).

**Revenues** shall mean (a) all revenues, income, rents, service fees and receipts properly allocable to the System resulting from ownership and operation of the System, excluding any customer deposits or other deposits subject to refund, unless such deposits have become property of the Metropolitan Government, (b) the proceeds of any insurance covering business interruption loss relating to the System and (c) interest received or to be received on any moneys or securities held in any of the funds or accounts established by the Prior Resolution or the Resolution, with the exception of (i) moneys held in the Construction Fund or any account thereof and (ii) moneys held in the Debt Service Reserve Fund during any period in which the investment earnings thereon are directed by Supplemental Resolution to the Construction Fund or an account thereof. The computation of Revenues with respect to any period of time hereunder shall be increased by the amount of transfers during such period from the Rate Stabilization Fund to the Revenue Fund pursuant to Section 509(a) of the Prior Second Lien Resolution,

and decreased by the amount of any transfers during such period from the Revenue Fund to the Rate Stabilization Fund pursuant to Section 506(e) of the Prior Second Lien Resolution. "Revenues" shall not include any Tax Credit Payments, grant proceeds or, except as set forth in (b) above, insurance proceeds.

**Securities Depository** shall mean, with respect to a Book Entry Bond, the person, association or corporation specified in the Supplemental Resolution authorizing the Bonds of the Series of which such Book Entry Bond is a part to serve as the securities depository for such Book Entry Bond, or its nominee, and its successor or successors and any other person, firm, association or corporation which may at any time be substituted in its place pursuant to the Resolution or such Supplemental Resolution.

**Series** shall mean that portion of the Bonds authenticated and delivered in a single transaction and identified pursuant to the Supplemental Resolution authorizing such Bonds as a separate Series of Bonds, regardless of variations in maturity, interest rate or other provisions, together with any Bonds thereafter authenticated and delivered in lieu of or in substitution for such Bonds pursuant to Article III or Section 405 or Section 1106.

**Series 2009 Commercial Paper Obligations** shall mean the commercial paper notes as may be issued from time to time pursuant to Resolution RS 2009-995 of the Metropolitan Council, together with the Metropolitan Government's obligations to any provider of liquidity in connection therewith.

**SIFMA Municipal Swap Index** shall mean the rate determined on the basis of an index based upon the weekly interest rates of tax-exempt variable rate issues included in a database maintained by Municipal Market Data or any successor indexing agent which meets specific criteria established by The Securities Industry and Financial Markets Association.

**Special Record Date** shall have the meaning given to such term in Section 308.

**Subordinated Indebtedness** shall mean any bonds, notes, loan agreements or other evidences of indebtedness issued from time to time and payable from and, if applicable, secured by the Revenues of the System on a basis subordinate to the pledge of Revenues in favor of the Bonds, including, without limitation, the Series 2009 Commercial Paper Obligations.

**Supplemental Resolution** shall mean any resolution supplemental to or amendatory of the Resolution adopted by the Metropolitan Government in accordance with Article X hereof.

**Surplus Fund** shall mean the Surplus Fund established in Section 502(a).

**System** shall mean each and every part of the water system and sewer system of the Metropolitan Government that shall be owned and operated by the Metropolitan Government for water supply, transmission, treatment and distribution and for sewage collection, transmission, treatment and disposal or distribution now existing and hereafter acquired by lease, contract, purchase or otherwise or constructed, including any interest or participation of the Metropolitan Government in any facilities in connection with said system, together with all additions, betterments, extensions and improvements to said system or any part thereof hereafter constructed or acquired and together with all lands, easements, licenses and rights of way and all other works, property or structures and contract rights and other tangible and intangible assets now or hereafter owned or used in connection with or related to said System. Notwithstanding the foregoing definition of the term System, such term shall not include any properties or interests in properties of the Metropolitan Government (a) which the Metropolitan Government determines shall not constitute a part of the System for the purpose of the Resolution at the time of the acquisition thereof by the Metropolitan Government or (b) as to which there shall be filed with the records of the Metropolitan Government a certificate of a Consultant stating, in its opinion, that the exclusion of such properties or

interests in properties from the System will not materially impair the ability of the Metropolitan Government to comply during the current or any future Fiscal Year with the provisions of Section 711.

**Tax Credit Bonds** shall mean any Bonds with respect to which the Metropolitan Government has received a Counsel's Opinion to the effect that the Metropolitan Government is entitled to receive payments by the United States Department of the Treasury or other agency of the United States government in offset of the debt service on such Bonds.

**Tax Credit Payment Account** shall mean a Tax Credit Payment Account established in the Debt Service Fund pursuant to Section 502(a) and 507(c).

**Tax Credit Payments** shall mean any amounts payable to the Issuer by the United States Department of the Treasury or other agency of the United States government with respect to Tax Credit Bonds.

**Termination Payment** shall mean an amount payable by the Metropolitan Government or a Qualified Hedge Provider upon termination of a Qualified Hedge Agreement.

**Variable Rate** shall mean a rate of interest applicable to the Bonds, other than a fixed rate of interest which applies to a particular maturity of the Bonds so long as that maturity of the Bonds remains Outstanding.

**Variable Rate Taxable Index** shall mean the One-Month LIBOR Rate or, if the One-Month LIBOR Rate no longer shall be available, the Alternate Variable Rate Taxable Index.

**Variable Rate Tax-Exempt Index** shall mean the SIMFA Municipal Swap Index or, if the SIMFA Municipal Swap Index no longer shall be available, the Alternate Variable Rate Tax-Exempt Index.

Except where the context otherwise requires, words importing the singular number shall include the plural number and vice versa, and words importing persons shall include firms, associations, corporations, districts, agencies and bodies.

**SECTION 102. Authority for the Resolution.** The Resolution is adopted pursuant to the provisions of Sections 9-21-101 et seq. and 7-34-101 et seq., and all other applicable provisions of Tennessee law.

**SECTION 103. Resolution to Constitute Contract.** In consideration of the acceptance of any and all of the Bonds by those who shall hold the same from time to time, the Resolution shall be deemed to be and shall constitute a contract between the Metropolitan Government and the Holders from time to time of the Bonds and any Credit Issuer or Qualified Hedge Provider; and the pledge made in the Resolution and the covenants and agreements therein set forth to be performed on behalf of the Metropolitan Government shall be, except as expressly set forth in the Resolution or in a Supplemental Resolution and subject to any limitations set forth therein, for the equal benefit, protection and security of the Holders of any and all of the Bonds and any Credit Issuer or Qualified Hedge Provider, all of which Bonds, regardless of the time or times of their authentication and delivery or maturity, shall be of equal rank without preference, priority or distinction of any of the Bonds over any other thereof except as expressly provided in or permitted by the Resolution.

**ARTICLE II**  
**ISSUANCE OF BONDS; SUBORDINATE INDEBTEDNESS; CREDIT FACILITIES AND**  
**HEDGE AGREEMENTS**

**SECTION 201. Authorization of Bonds.**

(a) The Metropolitan Government is hereby authorized to issue from time to time, as hereinafter provided, Bonds of the Metropolitan Government. The aggregate principal amount of the Bonds which may be executed, authenticated and delivered under the Resolution is not limited except as may hereafter be provided in the Resolution or in any Supplemental Resolution or as may be limited by law.

(b) The Bonds may, if and when authorized by the Metropolitan Government pursuant to one or more Supplemental Resolutions, be issued in one or more Series. The designation of each Series shall bear such designation as the Metropolitan Government may determine. Each Bond shall bear upon its face the designation so determined by the Metropolitan Government for the Series to which it belongs.

**SECTION 202. General Provisions for Issuance of Bonds of Each Series.**

(a) When authorized pursuant to a Supplemental Resolution, the officers of the Metropolitan Government specified in Section 303 may execute all (but not less than all) the Bonds of each Series for issuance under the Resolution and deliver such Bonds to the Bond Registrar therefor for completion, authentication and delivery. Such Bond Registrar shall authenticate and deliver such Bonds upon the order of the Metropolitan Government, but only upon satisfaction by the Metropolitan Government of the conditions specified in Article X of the Resolution and in the Supplemental Resolution authorizing the Series of which such Bonds are a part and upon satisfaction by the Metropolitan Government of the following conditions:

(i) receipt of a Counsel's Opinion to the effect that (A) the Metropolitan Government has the right and power under applicable Tennessee law to adopt the Resolution, and the Resolution has been duly and lawfully adopted by the Metropolitan Government, is in full force and effect and is valid and binding upon the Metropolitan Government in accordance with its terms, and no other authorization for the Resolution is required; (B) the Resolution creates the valid pledge which it purports to create in the Revenues and, if such Series of Bonds shall be an Additionally Secured Series, the separate account in the Debt Service Reserve Fund established for the benefit of such Bonds, subject to the provisions of the Resolution permitting the application thereof for the purposes and on the terms and conditions set forth in the Resolution; and (C) the Bonds of such Series are valid and binding obligations of the Metropolitan Government as provided in the Resolution and are entitled to the benefits of the Resolution and of applicable Tennessee law, and such Bonds have been duly and validly authorized and issued in accordance with applicable Tennessee law and in accordance with the Resolution. Such Opinion may take exception as to the effect of, or for restrictions or limitations imposed by or resulting from, bankruptcy, insolvency, moratorium, reorganization or other laws affecting creditors' rights and may state that no opinion is being rendered as to the availability of any particular remedy. No opinion need be expressed as to the priority of the pledge created by the Resolution over the rights of other persons in the Revenues and, if applicable, such separate account in the Debt Service Reserve Fund;

(ii) adoption of a Supplemental Resolution authorizing such Bonds, which shall specify such terms and conditions relative to the Bonds of such Series, and such other matters relative thereto, as the Metropolitan Government may determine;

(iii) if such Series shall be an Additionally Secured Series, evidence of the funding of the account within the Debt Service Reserve Fund designated therefor in the manner prescribed by the Supplemental Resolution;

(iv) execution by an Authorized Finance Officer of a certificate stating that upon the issuance of such Series the Metropolitan Government will not be in default in the performance of any of the covenants, conditions, agreements or provisions contained in the Resolution;

(v) except in the case of the Bonds issued under the first Supplemental Resolution, execution by an Authorized Finance Officer of a certificate (A) setting forth the amounts of Net Revenues for any twelve (12) consecutive month period within the twenty-four (24) consecutive months immediately preceding the date of issuance of the Bonds of the Series with respect to which such certificate is being given; and (B) stating that the Net Revenues for such 12 month period were at least equal to 110% of the maximum Debt Service Requirement on the Prior Bonds and the Bonds in any future Fiscal Year (calculated with respect to all Outstanding Bonds, the Prior Bonds then outstanding and the Bonds of the Series with respect to which such certificate is given); provided, however, that the Net Revenues for such twelve (12) month period may be adjusted for the purposes of such certificate (X) to reflect for such period revisions in the rates, fees, rentals and other charges of the Metropolitan Government for the product and services of the System made after the commencement of such period and preceding the Date of Issuance of the Bonds of the Series with respect to which such certificate is given; (Y) to reflect any increase in Net Revenues due to any new facilities of the System having been placed into use and operation subsequent to the commencement of such period and prior to the Date of Issuance of such Bonds, as certified by a Consultant; and (Z) to include an amount equal to the average annual contribution to Net Revenues for the first three full Fiscal Years commencing after the date of acquisition thereof, estimated to be made by facilities anticipated to be acquired and expected to be placed into use and operation within two years of the Date of Issuance of such Bonds, as certified by a Consultant;

(vi) in the case of a Series of Tax Credit Bonds, a Counsel's Opinion addressed to the Metropolitan Government regarding the status of such Series of Bonds as Tax Credit Bonds; and

(vii) delivery of such further documents, moneys and securities as are required by the provisions of this Article II or Article X or any Supplemental Resolution adopted pursuant to Article X.

(b) All the Bonds of each Series of like maturity shall be identical in all respects, except as to interest rates, redemption provisions, denominations, numbers and letters. After the issuance of the Bonds of any Series, no Bonds of such Series shall be issued except in lieu of or in substitution for other Bonds of such Series pursuant to Article III or Section 405 or Section 1106.

### **SECTION 203. Bonds Other Than Refunding Bonds.**

(a) One or more Series of Bonds may be issued at any time for the purpose of financing capital improvements to the System and any and all other Costs related thereto or to the issuance of the Bonds. Bonds of each such Series shall be authenticated and delivered only upon compliance with the terms and conditions set forth in Section 202.

(b) The proceeds of each Series of Bonds authorized under this Section 203 shall be applied simultaneously with the delivery of such Bonds as provided in the Supplemental Resolution authorizing such Series.

#### **SECTION 204. Refunding Bonds.**

(a) One or more Series of Refunding Bonds may be issued at any time to refund all or any debt of the Metropolitan Government payable from the Revenues or any portion thereof, including Outstanding Bonds, Prior Bonds or Subordinated Indebtedness. Refunding Bonds shall be issued in a principal amount sufficient, together with other moneys available therefor, to accomplish such refunding and to make the deposits in the Funds and Accounts under the Resolution required by the provisions of the Supplemental Resolution authorizing such Bonds or to make any deposits or payments required by the Prior Resolution or resolution authorizing Subordinate Indebtedness, as applicable.

(b) In addition to the conditions set forth in Section 202, the Bonds of each Series of Refunding Bonds issued pursuant to subsection (a) of this Section 204 may be authenticated and delivered only upon the filing with the records of the Metropolitan Government of a certificate of an Authorized Finance Officer certifying that all conditions relating to the payment or prepayment of such debt as set forth in the documents relating thereto have been satisfied.

(c) The proceeds, including accrued interest, of the Refunding Bonds of each Series shall be applied simultaneously with the delivery of such Bonds for the purposes of making deposits in such Funds and Accounts under the Resolution as shall be provided by the Supplemental Resolution authorizing such Series of Refunding Bonds and shall be applied to the refunding purposes thereof or to the payment or prepayment purposes thereof in the manner provided in said Supplemental Resolution.

(d) Refunding Bonds may be issued without the requirement of complying with Section 202(a)(v) (i) if the refunding will constitute a refunding of all Outstanding Bonds, including the retirement of related Contracts, or (ii) upon the execution by an Authorized Finance Officer of a certificate stating that the refunding will result in a reduction in the future Debt Service Requirement on the Bonds and the Prior Bonds in all future Fiscal Years.

(e) In determining compliance with Section 202(a)(v), there shall be deleted from the calculation of maximum Debt Service Requirement the Debt Service Requirement on any Bonds or Prior Bonds being refunded by the Bonds with respect to which the certificate described in Section 202(a)(v) is being given.

#### **SECTION 205. Credit Facilities and Hedge Agreements.**

(a) The Metropolitan Government may obtain or cause to be obtained one or more Credit Facilities providing for payment of all or a portion of the principal of, premium, if any, or interest due or to become due on such Bonds, providing for the purchase of such Bonds by the Credit Issuer, or providing funds for the purchase of such Bonds by the Metropolitan Government. In connection therewith, the Metropolitan Government may enter into Credit Facility Agreements with such Credit Issuers providing for, among other things, (i) the payment of fees and expenses to such Credit Issuers for the issuance of such Credit Facilities; (ii) the terms and conditions of such Credit Facilities and the Bonds affected thereby; and (iii) the security, if any, to be provided for the issuance of such Credit Facilities.

(b) The Metropolitan Government may secure any Credit Facility by an agreement providing for the purchase of the Bonds secured thereby with such adjustments to the rate of interest, method of determining interest, maturity, or redemption provisions for such Bonds as are specified by the Metropolitan Government in the applicable Supplemental Resolution. The Metropolitan Government may in a Credit Facility Agreement agree to directly reimburse such Credit Issuer for amounts paid under the terms of such Credit Facility, together with interest thereon; provided, however, that no Reimbursement Obligation shall be created for purposes of the Resolution until amounts are paid under

such Credit Facility. Any such Credit Facility shall be for the benefit of and secure such Bonds or portion thereof as specified in the applicable Supplemental Resolution. The Metropolitan Government's obligations under a Credit Facility may be payable from and/or secured by a pledge of, and lien on, the Revenues as described Section 501, if and as set forth in a Supplemental Resolution.

(c) In connection with the issuance of any Bonds or at any time thereafter so long as such Bonds remain Outstanding, the Metropolitan Government may enter into Hedge Agreements with Qualified Hedge Providers, and no other providers, with respect to any Bonds. The Metropolitan Government shall authorize the execution, delivery, and performance of each Qualified Hedge Agreement in a Supplemental Resolution, in which it shall designate the Bonds to which such Qualified Hedge Agreement relates. The Metropolitan Government's obligation to pay Hedge Payments on a Qualified Hedge Agreement may be payable from and/or secured by a pledge of, and lien on, the Revenues as described in Section 501 (other than with respect to Termination Payments), if and as set forth in a Supplemental Resolution.

**SECTION 206. Additional Prior Second Lien Bonds; Subordinated Indebtedness.**

(a) Except as set forth in this Article II, no obligations payable from the Revenues or any portion thereof shall be issued or incurred by the Metropolitan Government other than (i) Prior Second Lien Bonds, which may be issued only upon satisfaction of the conditions set forth in subsection (b) below, and (ii) Subordinated Indebtedness.

(b) The Metropolitan Government may issue from time to time one or more series of Prior Second Lien Bonds with a lien on the Revenues senior to the Bonds only in accordance with the Prior Second Lien Resolution and upon execution by an Authorized Finance Officer of a certificate:

(i) stating that upon the issuance of such series the Metropolitan Government will not be in default in the performance of any of the covenants, conditions, agreements or provisions contained in the Resolution or the Prior Resolution; and

(ii) either:

(A) (1) setting forth the amounts of Net Revenues for any twelve (12) consecutive month period within the twenty-four (24) consecutive months immediately preceding the date of issuance of the Prior Second Lien Bonds of the series with respect to which such certificate is being given; and (2) stating that the Net Revenues for such 12 month period were at least equal to 110% of the maximum Debt Service Requirement on the Prior Bonds and the Bonds in any future Fiscal Year (calculated with respect to the Outstanding Bonds, the Prior Bonds then outstanding and the Prior Bonds proposed to be issued, but not with respect to any Prior Bonds or Bonds being refunded thereby); provided, however, that the Net Revenues for such twelve (12) month period may be adjusted for the purposes of such certificate (x) to reflect for such period revisions in the rates, fees, rentals and other charges of the Metropolitan Government for the product and services of the System made after the commencement of such period and preceding the date of issuance of the Prior Second Lien Bonds of the series with respect to which such certificate is given; (y) to reflect any increase in Net Revenues due to any new facilities of the System having been placed into use and operation subsequent to the commencement of such period and prior to the date of issuance of such Prior Second Lien Bonds, as certified by a Consultant; and (z) to include an amount equal to the average annual contribution to Net Revenues for the first three full Fiscal Years commencing after the date of acquisition thereof, estimated to be made by facilities anticipated to be acquired and expected to be placed

into use and operation within two years of the date of issuance of such Prior Second Lien Bonds, as certified by a Consultant; or

(B) setting forth that such series of Prior Second Lien Bonds is a refunding issue, the issuance of which will result in a reduction in the future Debt Service Requirement on the Bonds and the Prior Bonds in all future Fiscal Years.

**SECTION 207. Special Provisions Relating to Capital Appreciation Bonds and Deferred Income Bonds.**

(a) The principal and interest portions of the Accreted Value of Capital Appreciation Bonds or the Appreciated Value of Deferred Income Bonds becoming due at maturity or by virtue of mandatory redemption requirements shall be included in the calculations of accrued and unpaid and accruing interest or Principal Installments made under the definitions of Debt Service Requirement only from and after the date (the "Calculation Date") which is one year prior to the date on which such Accreted Value or Appreciated Value, as the case may be, becomes so due, and the principal and interest portions of such Accreted Value or Appreciated Value shall be deemed to accrue in equal daily installments from the Calculation Date to such due date.

(b) For the purposes of (i) receiving payment of the Redemption Price if a Capital Appreciation Bond is redeemed prior to maturity, or (ii) receiving payment of a Capital Appreciation Bond if the principal of all Bonds is declared immediately due and payable following an Event of Default, as provided in Section 801 of the Resolution or (iii) computing the principal amount of Bonds held by the Holder of a Capital Appreciation Bond in giving to the Metropolitan Government any notice, consent, request, or demand pursuant to the Resolution for any purpose whatsoever, the principal amount of a Capital Appreciation Bond shall be deemed to be its then-current Accreted Value.

(c) For the purposes of (i) receiving payment of the Redemption Price if a Deferred Income Bond is redeemed prior to maturity, or (ii) receiving payment of a Deferred Income Bond if the principal of all Bonds is declared immediately due and payable following an Event of Default, as provided in Section 801 of the Resolution or (iii) computing the principal amount of Bonds held by the Holder of a Deferred Income Bond in giving to the Metropolitan Government any notice, consent, request, or demand pursuant to the Resolution for any purpose whatsoever, the principal amount of a Deferred Income Bond shall be deemed to be its then current Appreciated Value.

**ARTICLE III  
GENERAL TERMS AND PROVISIONS OF BONDS**

**SECTION 301. Medium of Payment; Form and Date; Letters and Numbers.**

(a) The Bonds of each Series shall be payable, with respect to interest, principal and Redemption Price, in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

(b) Unless otherwise provided in a Supplemental Resolution, the Bonds of each Series shall be issued in the form of fully registered Bonds without coupons. The Bonds of each Series shall be in substantially the form set forth in the Supplemental Resolution authorizing the Series of which such Bonds are a part.

(c) Each Bond shall be lettered and numbered as provided in the Supplemental Resolution or Supplemental Resolutions authorizing the Series of which such Bond is a part and so as to be distinguished from every other Bond.

(d) The Bonds of each Series shall be dated the date of their authentication, except as otherwise may be provided in the Supplemental Resolution authorizing the Series of which such Bonds are a part, and shall bear interest as provided in such Supplemental Resolution.

**SECTION 302. Legends.** The Bonds of each Series may contain or have endorsed thereon such provisions, specifications and descriptive words not inconsistent with the provisions of the Resolution as may be necessary or desirable to comply with custom, the rules of any securities exchange or commission or brokerage board, or otherwise, as may be determined by the Metropolitan Government prior to the authentication and delivery thereof.

**SECTION 303. Execution and Authentication.**

(a) The Bonds executed and delivered on or after the effective date of the Resolution shall be executed in the name of the Metropolitan Government by the manual or facsimile signature of the Metropolitan Mayor and its corporate seal (or a facsimile thereof) shall be impressed, imprinted, engraved or otherwise reproduced thereon and attested by the manual or facsimile signature of its Metropolitan Clerk, and approved as to form and legality by the Director of Law by his or her manual or facsimile signature, or in such other manner as may be required or permitted by the Charter and applicable law. In case any one or more of the officers who shall have signed or sealed any of the Bonds shall cease to be such officer before the Bonds so signed and sealed shall have been authenticated and delivered by the Bond Registrar therefor, such Bonds may, nevertheless, be authenticated and delivered as herein provided, and may be issued as if the persons who signed or sealed such Bonds had not ceased to hold such offices. Any Bond of a Series may be signed and sealed on behalf of the Metropolitan Government by such persons as at the time of the execution of such Bonds shall be duly authorized or hold the proper office in the Metropolitan Government, although at the date borne by the Bonds of such Series such persons may not have been so authorized or have held such office.

(b) The Bonds of each Series shall bear thereon a certificate of authentication, in the form set forth in the Supplemental Resolution authorizing the Series of which such Bonds are a part, executed manually by the Bond Registrar therefor. Only such Bonds as shall bear thereon such certificate of authentication shall be entitled to any right or benefit under the Resolution, and no such Bond shall be valid or obligatory for any purpose until such certificate of authentication shall have been duly executed by the Bond Registrar therefor. Such certificate of the Bond Registrar upon any Bond executed on behalf of the Metropolitan Government shall be conclusive evidence that the Bond so authenticated has been duly authenticated and delivered under the Resolution and that the Holder thereof is entitled to the benefits of the Resolution.

**SECTION 304. Interchangeability of Bonds.** Except as otherwise provided in a Supplemental Resolution, the Bonds, upon surrender thereof at the office of the Bond Registrar therefor with a written instrument of transfer satisfactory to such Bond Registrar, duly executed by the registered owner or its duly authorized attorney, may, at the option of the registered owner thereof, and upon payment by such registered owner of any charges which such Bond Registrar may make as provided in Section 306, be exchanged for an equal aggregate principal amount of Bonds of the same Series, maturity, interest rate and redemption provisions of any other authorized denominations.

**SECTION 305. Negotiability, Transfer and Registry.**

(a) Except as otherwise provided in a Supplemental Resolution, the Bonds shall be transferable only upon the books of the Metropolitan Government, which shall be kept for such purposes at the respective offices of the Bond Registrar(s) therefor, by the registered owner thereof or by its attorney duly authorized in writing, upon surrender thereof together with a written instrument of transfer satisfactory to such Bond Registrar duly executed by the registered owner or its duly authorized attorney. Upon the transfer of any Bond, there shall be issued in the name of the transferee a new Bond or Bonds of the same aggregate principal amount and Series, maturity, interest rate and redemption provisions as the surrendered Bond.

(b) The Metropolitan Government and each Fiduciary may deem and treat the person in whose name any Bond shall be registered upon the books of the Metropolitan Government as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal or Redemption Price, if any, of and interest on such Bond and for all other purposes, and all such payments so made to any such registered owner or upon its order shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and neither the Metropolitan Government nor any Fiduciary shall be affected by any notice to the contrary.

**SECTION 306. Regulations with Respect to Exchanges and Transfers.** In all cases in which the privilege of exchanging or transferring Bonds is exercised, the appropriate officers of the Metropolitan Government shall execute and the Bond Registrar therefor shall authenticate and deliver Bonds in accordance with the provisions of the Resolution. All Bonds surrendered in any such exchanges or transfers shall forthwith be delivered to the Bond Registrar therefor and cancelled or retained by such Bond Registrar. For every such exchange or transfer of Bonds, the Metropolitan Government or the Bond Registrar therefor may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer. Unless otherwise provided in a Supplemental Resolution, neither the Metropolitan Government nor the Bond Registrar therefor shall be required (a) to transfer or exchange Bonds of any Series for the period next preceding any interest payment date for the Bonds of such Series beginning with the Regular Record Date for such interest payment date and ending on such interest payment date, or for the period next preceding any date for the proposed payment of Defaulted Interest with respect to such Bonds beginning with the Special Record Date for the date of such proposed payment and ending on the date of such proposed payment, (b) to transfer or exchange Bonds of any Series for a period beginning 15 days before the mailing of any notice of redemption and ending on the day of such mailing, or (c) to transfer or exchange any Bonds called for redemption.

**SECTION 307. Bonds Mutilated, Lost, Stolen or Destroyed.** If any Bond becomes mutilated or is lost, stolen or destroyed, an Authorized Finance Officer may cause to be executed and the Bond Registrar therefor shall authenticate and deliver a new Bond of like Series, date of issue, maturity date, principal amount, interest rate per annum and redemption provisions as the Bond so mutilated, lost, stolen or destroyed, provided that (a) in the case of such mutilated Bond, such Bond is first surrendered to the Metropolitan Government, (b) in the case of any such lost, stolen or destroyed Bond, there is first furnished evidence of such loss, theft or destruction satisfactory to such Authorized Finance Officer together with indemnity satisfactory to such Authorized Finance Officer, (c) all other reasonable requirements of such Authorized Finance Officer are complied with, and (d) expenses in connection with such transaction are paid by the Holder. Any Bond surrendered for exchange shall be cancelled. Any such new Bonds issued pursuant to this Section in substitution for Bonds alleged to be lost, stolen or destroyed shall constitute original additional contractual obligations on the part of the Metropolitan Government, whether or not the Bonds so alleged to be lost, stolen or destroyed be at any time enforceable by anyone,

and shall be equally secured by, and entitled to equal and proportionate benefits with all other Bonds issued under the Resolution in, the Revenues and, if such new Bond shall be part of an Additionally Secured Series, in the amounts on deposit in the separate subaccount in the Debt Service Reserve Account in the Debt Service Fund established for the benefit of such Series. If any such Bond lost, stolen or destroyed shall have matured or be about to mature, instead of issuing a new Bond pursuant to this Section, an Authorized Finance Officer may cause the same to be paid, upon being indemnified as aforesaid, without surrender thereof.

**SECTION 308. Payment of Interest on Bonds; Interest Rights Preserved.** Interest on any Bond which is payable, and is punctually paid or duly provided for, on any interest payment date shall be paid to the person in whose name that Bond is registered at the close of business on the date (hereinafter, the "Regular Record Date") which is the 15th day of the calendar month next preceding such interest payment date (or such other date as may be provided in the Supplemental Resolution authorizing the Series of which such Bond is a part).

Except as may otherwise be provided by Supplemental Resolution, any interest on any Bond which is payable, but is not punctually paid or duly provided for, on any interest payment date (hereinafter, "Defaulted Interest") shall forthwith cease to be payable to the registered owner on the relevant Regular Record Date by virtue of having been such owner; and such Defaulted Interest shall be paid by the Metropolitan Government to the persons in whose names the Bonds are registered at the close of business on a date (hereinafter, the "Special Record Date") for the payment of such Defaulted Interest, which shall be fixed in the following manner: the Metropolitan Government shall notify the Bond Registrar therefor in writing of the amount of Defaulted Interest proposed to be paid on each Bond and the date of the proposed payment, and at the same time the Metropolitan Government shall deposit with the Paying Agents 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 Paying Agents for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the persons entitled to such Defaulted Interest as in this Section provided. Thereupon such Bond Registrar 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 and not less than 10 days after the receipt by such Bond Registrar of the notice of the proposed payment. Such Bond Registrar shall promptly notify the Metropolitan Government of such Special Record Date and, in the name and at the expense of the Metropolitan Government, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first class postage prepaid, to each Holder of a Bond at its address as it appears upon the registry books, not less than 10 days prior to such Special Record Date. Such Bond Registrar may, in its discretion, in the name and at the expense of the Metropolitan Government, cause a similar notice to be published at least once in an Authorized Newspaper, but such publication shall not be a condition precedent to the establishment of such Special Record Date.

Subject to the foregoing provisions of this Section, each Bond delivered under the Resolution upon transfer of or in exchange for or in lieu of any other Bond shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Bond.

**SECTION 309. Book Entry Bonds.**

(a) Anything in the Resolution to the contrary notwithstanding, if and to the extent provided in the Supplemental Resolution authorizing the Bonds of the Series of which such Additional Obligation is a part, any Additional Obligation may be authorized and issued as a Book Entry Bond.

(b) For all purposes of the Resolution, the Holder of a Book Entry Bond shall be the Securities Depository therefor and neither the Metropolitan Government nor any Fiduciary shall have any responsibility or obligation to the beneficial owner of such Bond or to any direct or indirect participant in such Securities Depository. Without limiting the generality of the foregoing, neither the Metropolitan Government nor any Fiduciary shall have any responsibility or obligation to any such participant or to the beneficial owner of a Book Entry Bond with respect to (i) the accuracy of the records of the Securities Depository or any participant with respect to any beneficial ownership interest in such Bond, (ii) the delivery to any participant of the Securities Depository, the beneficial owner of such Bond or any other person, other than the Securities Depository, of any notice with respect to such Bond, including any notice of the redemption thereof, or (iii) the payment to any participant of the Securities Depository, the beneficial owner of such Bond or any other person, other than the Securities Depository, of any amount with respect to the principal or Redemption Price of, or interest on, such Bond. The Metropolitan Government and the Fiduciaries may treat the Securities Depository therefor as, and deem such Securities Depository to be, the absolute owner of a Book Entry Bond for all purposes whatsoever, including (w) payment of the principal or Redemption Price of, and interest on, such Bond, (x) giving notices of redemption and of other matters with respect to such Bond, (y) registering transfers with respect to such Bond and (z) giving to the Metropolitan Government any notice, consent, request or demand pursuant to the Resolution for any purpose whatsoever. The Paying Agents shall pay the principal or Redemption Price of, and interest on, a Book Entry Bond only to or upon the order of the Securities Depository therefor, and all such payments shall be valid and effective to satisfy fully and discharge the Metropolitan Government's obligations with respect to such principal or Redemption Price, and interest, to the extent of the sum or sums so paid. Except as otherwise provided in Section 309(d) or in any Supplemental Resolution authorizing a Book Entry Bond, no person other than the Securities Depository shall receive a Bond or other instrument evidencing the Metropolitan Government's obligation to make payments of the principal or Redemption Price thereof, and interest thereon.

(c) The Metropolitan Government, in its sole discretion and without the consent of any other person, may, by notice to the Bond Registrar therefor and a Securities Depository, terminate the services of such Securities Depository with respect to the Book Entry Bonds for which such Securities Depository serves as securities depository if the Metropolitan Government determines that (i) the Securities Depository is unable to discharge its responsibilities with respect to such Bond or (ii) a continuation of the requirement that all of the Bonds issued as Book Entry Bonds be registered in the registration books of the Metropolitan Government in the name of the Securities Depository, is not in the best interests of the beneficial owners of such Bonds or of the Metropolitan Government. Additional or other terms and provisions relating to the termination or resignation of a Securities Depository may be provided in the Supplemental Resolution authorizing a Book Entry Bond.

(d) Upon the termination of the services of a Securities Depository with respect to a Book Entry Bond pursuant to Section 309(c)(ii), such Bond shall no longer be restricted to being registered in the registration books kept by the Bond Registrar therefor in the name of a Securities Depository. Upon the termination of the services of a Securities Depository with respect to a Book Entry Bond pursuant to Section 309(c)(i), the Metropolitan Government may within 90 days thereafter appoint a substitute securities depository which, in the opinion of the Metropolitan Government, is willing and able to undertake the functions of Securities Depository under the Resolution upon reasonable and customary terms. If no such successor can be found within such period, such Book Entry Bond shall no longer be restricted to being registered in the registration books kept by such Bond Registrar in the name of a Securities Depository. In the event that a Book Entry Bond shall no longer be restricted to being registered in the registration books kept by such Bond Registrar in the name of a Securities Depository, (i) the Metropolitan Government shall execute and such Bond Registrar shall authenticate and deliver, upon presentation and surrender of the Book Entry Bond, Bond certificates as requested by the Securities Depository so terminated of like Series, principal amount, maturity, interest rate and redemption

provisions, in authorized denominations, to the identifiable beneficial owners in replacement of such beneficial owners' beneficial ownership interests in such Book Entry Bond and (ii) the Metropolitan Government shall notify such Bond Registrar and the Paying Agents that such Bond is no longer restricted to being registered in the registration books kept by such Bond Registrar in the name of a Securities Depository.

(e) Anything in the Resolution to the contrary notwithstanding, payment of the Redemption Price of a Book Entry Bond, or portion thereof, called for redemption prior to maturity may be paid to the Securities Depository by check or draft mailed to the Securities Depository or by wire transfer. Anything in the Resolution to the contrary notwithstanding, such Redemption Price may be paid without presentation and surrender to the Paying Agent of the Book Entry Bond, or portion thereof, called for redemption; provided, however, that payment of (i) the principal payable at maturity of a Book Entry Bond and (ii) the Redemption Price of a Book Entry Bond as to which the entire principal amount thereof has been called for redemption shall be payable only upon presentation and surrender of such Book Entry Bond to the Paying Agent; and provided, further, that no such Redemption Price shall be so payable without presentation and surrender unless the Securities Depository therefor shall have procedures in effect that provide for the reduction, on its records, of the aggregate amount of securities (and related positions therein) held by it upon such payment without presentation and surrender. Anything in the Resolution to the contrary notwithstanding, upon any such payment to the Securities Depository without presentation and surrender, for all purposes of (x) the Book Entry Bond as to which such payment has been made and (y) the Resolution, the unpaid principal amount of such Book Entry Bond Outstanding shall be reduced automatically by the principal amount so paid. In such event, the Paying Agent shall notify forthwith the Bond Registrar therefor as to the particular Book Entry Bond as to which such payment has been made, and the principal amount of such Bond so paid, and such Bond Registrar shall note such payment on the registration books of the Metropolitan Government maintained by it, but failure to make any such notation shall not affect the automatic reduction of the principal amount of such Book Entry Bond Outstanding as provided in this subsection.

(f) For all purposes of the Resolution authorizing or permitting the purchase of Bonds, or portions thereof, by, or for the account of, the Metropolitan Government for cancellation, and anything in the Resolution to the contrary notwithstanding, a portion of a Book Entry Bond may be deemed to have been purchased and cancelled without surrender thereof upon delivery to the Bond Registrar therefor of a certificate executed by the Metropolitan Government and a participant of the Securities Depository therefor to the effect that a beneficial ownership interest in such Bond, in the principal amount stated therein, has been purchased by, or for the account of, the Metropolitan Government through the participant of the Securities Depository executing such certificate; provided, however, that any purchase for cancellation of the entire principal amount of a Book Entry Bond shall be effective for purposes of the Resolution only upon surrender of such Book Entry Bond to such Bond Registrar; and provided, further, that no portion of a Book Entry Bond may be deemed to have been so purchased and cancelled without surrender thereof unless the condition set forth in the second proviso to the second sentence of Section 309(e) shall have been satisfied. Anything in the Resolution to the contrary notwithstanding, upon delivery of any such certificate to such Bond Registrar, for all purposes of (i) the Book Entry Bond to which such certificate relates and (ii) the Resolution, the unpaid principal amount of such Book Entry Bond Outstanding shall be reduced automatically by the principal amount so purchased. In such event, such Bond Registrar shall note such reduction on the registration books of the Metropolitan Government maintained by it, but failure to make any such notation shall not affect the automatic reduction of the principal amount of such Book Entry Bond Outstanding as provided in this subsection.

(g) Anything in the Resolution to the contrary notwithstanding, a Securities Depository may make a notation on a Book Entry Bond (i) redeemed in part or (ii) purchased by, or for the account of, the Metropolitan Government in part for cancellation, to reflect, for informational purposes only, the date of

such redemption or purchase and the principal amount thereof redeemed or deemed cancelled, but failure to make any such notation shall not affect the automatic reduction of the principal amount of such Book Entry Bond Outstanding as provided in Section 309(e) or (f), as the case may be.

(h) Anything in the Resolution to the contrary notwithstanding, in the case of a Book Entry Bond, the Metropolitan Government shall be authorized to defease, redeem or purchase (by or for the account of the Metropolitan Government), or issue Refunding Bonds to refund, less than all of the entire Outstanding principal amount thereof (in portions thereof of \$5,000 or integral multiples thereof, or such other denominations as shall be specified in the Supplemental Resolution authorizing such Book Entry Bond), and in the event of such partial defeasance, redemption, purchase or refunding, the provisions of the Resolution relating to the defeasance, redemption, purchase or refunding of a Bond or Bonds shall be deemed to refer to the defeasance, redemption, purchase or refunding of a portion of a Bond.

**SECTION 310. Cancellation and Destruction of Bonds.** Except as provided in Section 309, and except as may be otherwise provided in a Supplemental Resolution providing for the issuance thereof, all Bonds paid or redeemed, either at or before maturity, shall be delivered to the Bond Registrar(s) therefor when such payment or redemption is made, and such Bonds, together with all Bonds purchased by the Metropolitan Government and delivered to such Bond Registrar(s) for cancellation, shall thereupon promptly be cancelled (other than Book Entry Bonds, to the extent provided in Section 309(f), that have been deemed to have been cancelled). Bonds so cancelled may at any time be destroyed by such Bond Registrar(s), who shall execute a certificate of destruction in duplicate by the signature of one of its authorized officers describing the Bonds so destroyed, and one executed certificate shall be filed with the Metropolitan Government and the other executed certificate shall be retained by such Bond Registrar(s).

#### **ARTICLE IV REDEMPTION OF BONDS**

**SECTION 401. Privilege of Redemption and Redemption Price.** Bonds subject to redemption prior to maturity pursuant to their terms or the terms of the Resolution shall be redeemable, upon notice given as provided in this Article IV, at such times, at such Redemption Prices and upon such terms, in addition to the terms contained in this Article IV, as may be specified in such Bonds or in the Supplemental Resolution authorizing the Series of which such Bonds are a part.

**SECTION 402. Redemption of Bonds.** Unless other requirements are specified in the applicable Supplemental Resolution, in the case of any redemption of Bonds other than a mandatory redemption, the Metropolitan Government shall give written notice to the Bond Registrar(s) therefor and the Paying Agents of the redemption date, of the Series, and of the principal amounts of the Bonds of each maturity of such Series and of the Bonds of each interest rate within a maturity to be redeemed (which Series, maturities, interest rates within a maturity and principal amounts thereof to be redeemed shall be determined by the Metropolitan Government in its sole discretion, subject to any limitations with respect thereto contained in the Resolution or any Supplemental Resolution authorizing the Series of which such Bonds are a part). Such notice shall be filed with such Bond Registrars and the Paying Agents for the Bonds to be redeemed at least 40 days prior to the redemption date (or such shorter period (a) as shall be specified in the Supplemental Resolution authorizing the Series of the Bonds to be redeemed or (b) as shall be acceptable to such Bond Registrars and Paying Agents). In the event notice of redemption shall have been given as in Section 404 provided, and unless such notice shall have been revoked or shall cease to be in effect in accordance with the terms thereof, there shall be paid on or prior to the redemption date to the appropriate Paying Agents an amount which, in addition to other moneys, if any, available therefor held by such Paying Agents, will be sufficient to redeem on the redemption date at the Redemption Price thereof, plus interest accrued and unpaid to the redemption date, all of the Bonds to be redeemed.

**SECTION 403. Selection of Bonds to be Redeemed.** If less than all of the Bonds of like maturity or interest rate within a maturity of any Series shall be called for prior redemption, the particular Bonds or portions of Bonds to be redeemed shall be selected in such manner as the Metropolitan Government in its discretion may deem fair and appropriate; provided, however, that for any Bond of a denomination of more than the minimum denomination for such Series, the portion of such Bond to be redeemed shall, unless otherwise specified in the Supplemental Resolution relating to such Series, be in a principal amount equal to such minimum denomination or an integral multiple thereof, and that, in selecting portions of such Bonds for redemption, each such Bond shall be treated as representing that number of Bonds of such minimum denomination which is obtained by dividing the principal amount of such Bond to be redeemed in part by the amount of such minimum denomination. Notwithstanding the foregoing, the Securities Depository for any Book Entry Bonds shall select Bonds for redemption within particular maturities according to its stated procedures.

**SECTION 404. Notice of Redemption.** When any Bonds shall become subject to redemption, the Metropolitan Government shall give notice, or provide for the giving of notice, of the redemption of such Bonds, which notice shall specify the Series, maturities and interest rates within maturities of the Bonds to be redeemed, the redemption date and the place or places where amounts due upon such redemption will be payable and, if less than all of the Bonds of any like Series, maturity and interest rate are to be redeemed the letters and numbers or other distinguishing marks of such Bonds so to be redeemed, and, in the case of Bonds to be redeemed in part only, such notice shall also specify the respective portions of the principal amount thereof to be redeemed. Such notice shall further state that on such date, if there shall be sufficient moneys available therefor, then there shall become due and payable upon each Bond to be redeemed the Redemption Price thereof, or the Redemption Price of the specified portions of the principal thereof in the case of Bonds to be redeemed in part only, together with interest accrued to the redemption date, and that from and after such date interest thereon shall cease to accrue and be payable. Such notice shall be mailed by first class mail, postage prepaid, by or on behalf of the Metropolitan Government, not less than 20 days nor more than 60 days prior to the redemption date, to the Holders of any Bonds or portions of Bonds which are to be redeemed, at their last addresses, if any, appearing upon the registry books. Failure to give notice of redemption by mail, or any defect in such notice, to the Holder of any Bond shall not affect the validity of the proceedings for the redemption of any other Bonds. Any such notice may, by Supplemental Resolution, be made conditional upon the occurrence of certain events, including without limitation the receipt of funds sufficient to make the redemption or the issuance of Bonds by the Metropolitan Government. Notwithstanding the foregoing, a Supplemental Resolution authorizing the Bonds of a Series may specify a different method for the giving of a notice of redemption, or a different time by which such notice shall be given.

**SECTION 405. Payment of Redeemed Bonds.** Unless otherwise set forth in a Supplemental Resolution, notice having been given in the manner provided in Section 404 or in the manner provided in the Supplemental Resolution authorizing the Bonds of a Series, on the redemption date so designated, (a) unless such notice shall have been revoked or shall cease to be in effect in accordance with the terms thereof and (b) if there shall be sufficient moneys available therefor, then the Bonds or portions thereof so called for redemption shall become due and payable on such redemption date at the Redemption Price, plus interest accrued and unpaid to the redemption date, and, if presentation and surrender shall be required hereby, upon presentation and surrender thereof at the office specified in such notice, such Bonds, or portions thereof, shall be paid at the Redemption Price, plus interest accrued and unpaid to the redemption date. If there shall be drawn for redemption less than all of a Bond, if presentation and surrender thereof are required hereby, the Metropolitan Government shall execute and the Bond Registrar shall authenticate and the Paying Agent shall deliver, upon the surrender of such Bond, without charge to the owner thereof, for the unredeemed balance of the principal amount of the Bond so surrendered, Bonds of like Series, maturity, interest rate and redemption provisions in any of the authorized denominations. If, on the redemption date, moneys for the redemption of all the Bonds or portions thereof of any like

Series, maturity and interest rate to be redeemed, together with interest to the redemption date, shall be held by the Paying Agents so as to be available therefor on said date and if notice of redemption shall have been given as aforesaid, then, from and after the redemption date interest on the Bonds or portions thereof of such Series, maturity and interest rate so called for redemption shall cease to accrue and become payable. If said moneys shall not be so available on the redemption date, such Bonds or portions thereof shall continue to bear interest until paid at the same rate as they would have borne had they not been called for redemption.

**ARTICLE V**  
**ESTABLISHMENT OF FUNDS AND APPLICATION THEREOF**

**SECTION 501. The Pledge Effected by the Resolution.**

(a) The Bonds are special obligations of the Metropolitan Government payable solely from and secured solely by the Revenues. The taxing power of the Metropolitan Government is not available for the payment of the Bonds. The Revenues are hereby pledged for the payment of the principal and Redemption Price of, and interest on, the Bonds in accordance with their terms and the provisions of the Resolution, subject only to (i) the prior pledge thereof in favor of the Prior Bonds, and (ii) the provisions of the Prior Resolution and the Resolution requiring or permitting the application thereof for the purposes and on the terms and conditions set forth therein. The Revenues shall immediately be subject to the lien of this pledge without physical delivery thereof or further act, and the lien of this pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Metropolitan Government, without regard to whether such parties have notice thereof.

(b) There are also hereby pledged, as security for the payment of the principal or Redemption Price, if any, of, and interest on, the Bonds, amounts on deposit in (i) the Extension and Replacement Fund and the Subordinate Debt Fund established by the Prior First Lien Resolution, and (ii) the Rate Stabilization Fund and the Surplus Fund established by the Prior Second Lien Resolution, all subject to the prior pledge of such amounts in favor of the Prior Bonds and the provisions of the Prior Resolution requiring or permitting the application of such amounts for the purposes and on the terms and conditions set forth therein.

(c) There are hereby pledged, as additional security for the payment of the principal or Redemption Price, if any, of, and interest on, the Bonds of each Additionally Secured Series secured thereby, subject only to the provisions of the Resolution permitting the application thereof for the purposes and on the terms and conditions set forth in the Resolution, amounts on deposit in the separate account established in the Debt Service Reserve Fund with respect to such Additionally Secured Series. Such amounts on deposit in such separate account established in the Debt Service Reserve Fund shall immediately be subject to the lien of this pledge without physical delivery thereof or further act, and the lien of this pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Metropolitan Government, without regard to whether such parties have notice thereof.

(d) There are hereby pledged, as additional security for the payment of the principal or Redemption Price, if any, of, and interest on, any Series of Tax Credit Bonds, any Tax Credit Payments attributable to such Series of Tax Credit Bonds, and all amounts on deposit in the applicable Tax Credit Payment Account in the Debt Service Fund. Such amounts on deposit in any separate Tax Credit Payment Account shall immediately be subject to the lien of this pledge without physical delivery thereof or further act, and the lien of this pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Metropolitan Government, without regard to whether such parties have notice thereof.

(e) To the extent permitted by applicable law, a Supplemental Resolution may extend the pledge of the Revenues to the payment of all or a portion of the Metropolitan Government's obligations under a Contract, provide that such obligations are payable from the Revenues, and establish the priority of the payment of such obligations (provided that no Contract payment shall be made prior to the payment of debt service on Bonds and no Termination Payment shall be made except as provided in Section 506 hereof), in any case subject to the requirements and limitations set forth in this Article V and the prior pledge of the Revenues in favor of the Prior Bonds.

(f) Nothing contained in the Resolution shall be construed to prevent the Metropolitan Government from acquiring, constructing or financing through the issuance of its bonds, notes or other evidences of indebtedness any facilities which do not constitute a part of the System for the purposes of the Resolution; provided that such bonds, notes or other evidences of indebtedness shall not be payable out of or secured by the Revenues or any Fund or Account held under the Resolution and neither the cost of such facilities nor any expenditure in connection therewith or with the financing thereof shall be payable from the Revenues or from any such Fund or Account.

**SECTION 502. Establishment of Funds and Accounts.**

(a) The following Funds and Accounts, to be held by the Metropolitan Government, are hereby established:

- (i) Construction Fund, which shall contain a Project Account and a Capitalized Interest Account;
- (ii) Revenue Fund;
- (iii) Debt Service Fund, which shall contain one or more Tax Credit Payment Accounts, if applicable; and
- (iv) Debt Service Reserve Fund, which shall contain one or more accounts as Additionally Secured Series are issued.

(b) There may be established within any Fund or Account established hereunder such further accounts or subaccounts as set forth in a Supplemental Resolution or as an Authorized Finance Officer may determine.

**SECTION 503. Construction Fund.**

(a) The proceeds of each Series of Bonds issued pursuant to Section 203 hereof shall be deposited in the Construction Fund, for further allocation between the Project Account and a Capitalized Interest Account for such Series, all as directed by the provisions of the Supplemental Resolution authorizing such Series of Bonds. Amounts deposited in the Project Account for a Series of Bonds shall be applied to the Costs as directed by the Supplemental Resolution. Amounts deposited in the Capitalized Interest Account for a Series of Bonds shall be transferred to the Debt Service Account for such Series of Bonds as and when needed to pay interest on such Series of Bonds, all as directed by the Supplemental Resolution. Amounts remaining on deposit in a Capitalized Interest Account beyond the period of time prescribed by the Supplemental Resolution for payment of interest on a Series of Bonds shall be transferred to the Project Account established by such Supplemental Resolution.

(b) The Metropolitan Government shall withdraw amounts from the Project Account for the payment of amounts due and owing on account of the Costs of the System upon determination of an

Authorized Finance Officer that an obligation in the amount to be paid from the Project Account has been incurred by the Metropolitan Government and that each item thereof is a proper and reasonable charge against such Project Account, and that such amount has not been paid theretofore.

(c) At such time as there are no additional Costs to be paid from a Project Account, any moneys remaining therein may be transferred to another Project Account, to the Debt Service Fund to redeem Bonds of such Series, to the account within the Debt Service Reserve Fund attributable to such Series of Bonds, if applicable, or put to another use, in any case as directed by an Authorized Finance Officer and subject to a Counsel's Opinion to the effect that such application is permitted by applicable law and will not adversely affect any applicable exemption from federal income taxation of the interest on any Series of Bonds (or the Metropolitan Government's right to any Tax Credit Payments attributable thereto).

(d) Nothing in this Section 503 shall be construed to prevent the Metropolitan Government from permanently discontinuing the acquisition or construction of any portion of the System, the Costs of which are at the time being paid out of the Construction Fund, if the Metropolitan Council determines by resolution that such discontinuance is necessary or desirable in the conduct of the business of the Metropolitan Government and not disadvantageous to the Holders of the Bonds.

(e) Notwithstanding anything herein to the contrary, to the extent that an Event of Default described in Section 801(a) shall have occurred and be continuing and no other moneys are available hereunder to cure such Event of Default, no moneys on deposit in the Construction Fund may be applied as set forth above in this Section 503. In such event, moneys on deposit in the Construction Fund shall be applied in accordance with Article VIII hereof.

**SECTION 504. Revenues and Revenue Fund.** Except as provided by Section 603, all Revenues shall be deposited promptly as collected by the Metropolitan Government to the credit of the Revenue Fund.

**SECTION 505. Payment of Operation and Maintenance Expenses.** Operation and Maintenance Expenses shall be paid from the Revenue Fund as they become due and payable.

**SECTION 506. Payments into Certain Funds.** The Metropolitan Government shall make monthly withdrawals from the Revenue Fund, to the extent of amounts available therein, in order to make the following deposits and payments, in the order and amounts set forth below:

(a) for deposit in the Debt Service Fund an amount sufficient to provide for the timely payments required by Section 507, in amounts calculated as prescribed by Section 507(b); and

(b) for deposit in the Debt Service Reserve Fund an amount sufficient to satisfy the requirements of Section 508 for such month.

Amounts thereafter remaining in the Revenue Fund may be used to (i) make in-lieu-of-tax payments to the Metropolitan Government, (ii) pay debt service on System indebtedness, including Subordinated Indebtedness, fund debt service reserves in connection therewith and pay all related financing costs thereof, including without limitation any liquidity and credit enhancement charges or fees, (iii) fund capital improvements to the System; and (iv) make any other legal expenditure of System funds, including Termination Payments.

**SECTION 507. Debt Service Fund.**

(a) Sufficient moneys shall be deposited to the Debt Service Fund from the Revenue Fund for the purpose of paying the Bonds as they become due and payable and, if and to the extent directed by a Supplemental Resolution, for the purpose of making payments under Contracts. Specifically:

(i) Unless otherwise provided in a Supplemental Resolution, on or before each interest payment date for a Series of Bonds, there shall be deposited in the Debt Service Fund an amount which, together with available moneys already on deposit therein (including Capitalized Interest Account transfers and Hedge Receipts and Termination Payments attributable to such Series of Bonds, which shall be deposited directly to the Debt Service Fund) and amounts scheduled to be deposited therein from a Tax Credit Payment Account, is not less than the interest coming due on such Bonds on such interest payment date. Such amount shall be used solely to pay interest on the Bonds when due or pay Reimbursement Obligations for Credit Facilities under which the Credit Issuer makes all interest payments on the Bonds.

(ii) Unless otherwise provided in a Supplemental Resolution or a Hedge Agreement, on or before each payment date for Hedge Payments under a Qualified Hedge Agreement, the Metropolitan Government shall deposit in the Debt Service Fund an amount which, together with any Hedge Receipts and other moneys already on deposit therein and available to make such payment, is not less than such Hedge Payments coming due on such payment date. Such amount shall be used solely to pay Hedge Payments under Qualified Hedge Agreements when due.

(iii) Unless otherwise provided in a Supplemental Resolution or a Contract, on or before each payment date for amounts due on Contracts, other than for Reimbursement Obligations and Qualified Hedge Agreements, the Metropolitan Government shall deposit in the Debt Service Fund an amount which, together with any other moneys already on deposit therein and available to make such payment, is not less than the amount coming due on such payment date. Such amount shall be used solely for such Contract payments when due.

(iv) Unless otherwise provided in a Supplemental Resolution, on or before each Principal Installment date for a Series of Bonds, the Metropolitan Government shall deposit in the Debt Service Fund an amount which, together with any other moneys already on deposit therein and available to make such payment, is not less than the principal payable on such Bonds on such Principal Installment date, other than principal to be paid from a source other than Revenues. Such amount shall be used solely for the payment of principal of the Bonds as the same shall become due and payable or to pay Reimbursement Obligations for Credit Facilities under which the Credit Issuer makes all principal payments on the Bonds.

(b) Without limiting Section 507(a), and except as may otherwise be set forth in a Supplemental Resolution, the payment required to be made each month from the Revenue Fund to the Debt Service Fund shall be calculated to provide for the deposit obligations described in Section 507(a) which will have accrued by the end of the month of such payment to the Debt Service Fund. For purposes of calculating the accrual of such deposit obligations, (i) Principal Installments of a Series will be deemed to accrue daily in equal amounts from the preceding Principal Installment date for such Series (but in no event shall any accrual be made for any Principal Installment more than one year prior to the due date of such Principal Installment or from the Date of Issuance of Bonds of such Series, whichever date is later); (ii) each fixed payment obligation (other than Principal Installments) will be deemed to accrue daily in equal amounts from the preceding relevant payment obligation date (but in no event more than one year prior to such payment obligation date or the initial incurrence of the payment obligation, whichever is later); (iii) principal and interest portions of the Accreted Value of Capital Appreciation

Bonds or the Appreciated Value of Deferred Income Bonds shall accrue in the manner provided in Section 207(a); and (iv) variable payment obligations, whether interest related to Bonds issued with Variable Rates or otherwise, shall accrue as estimated by the Metropolitan Government. Any monthly deposit in excess of the amount required by this subsection (b) shall be credited against the next ensuing monthly payment or payments.

(c) There shall be established within the Debt Service Fund a Tax Credit Payment Account for each Series of Tax Credit Bonds. Tax Credit Payments received by the Metropolitan Government shall be deposited directly into the applicable Tax Credit Payment Account and such amounts shall be applied solely to the payment of debt service on the applicable Series of Tax Credit Bonds, at the times and in the manner otherwise described in this Section 507.

(d) Nothing herein shall limit the right of the Metropolitan Government to use amounts on deposit in the Debt Service Fund, together with such other amounts as may be determined by an Authorized Finance Officer, to defease all or a portion of Bonds attributable to such Debt Service Fund deposits, purchase all or a portion of such Bonds in the open market, or redeem all or a portion of such Bonds at their Redemption Price; provided that the amount thereafter remaining in the Debt Service Fund shall not be less than the remaining requirement of such Fund, as set forth in Section 506(a) and this Section 507. Any Bonds so purchased or redeemed by the Metropolitan Government which are subject to mandatory redemption requirements may be applied as a credit against such mandatory redemption requirements as prescribed by the Supplemental Resolution authorizing such Bonds.

#### **SECTION 508. Debt Service Reserve Fund.**

(a) There shall be deposited into the Debt Service Reserve Fund the amounts specified, if any, in Supplemental Resolutions with respect to one or more Additionally Secured Series. The Metropolitan Government shall establish by Supplemental Resolution an account within the Debt Service Reserve Fund for each separately secured Additionally Secured Series. Each such account shall be for the benefit and security of one or more Additionally Secured Series and need not secure all Additionally Secured Series. Each such account shall be initially funded, maintained and replenished as prescribed by Supplemental Resolution. In the event that deposits are required hereunder for two or more accounts within the Debt Service Reserve Fund, transfers from the Revenue Fund to such accounts shall be made on a pro rata basis in proportion to the respective monthly funding requirements. Whenever, on the date that interest or principal is due on any Additionally Secured Series, there are insufficient moneys therefor in the Debt Service Fund, the Metropolitan Government shall, without further instructions, apply so much as may be needed of the moneys in the related account of the Debt Service Reserve Fund to prevent default in the payment of such interest or principal, with priority to interest payments.

(b) Whenever the moneys on deposit in an account established in the Debt Service Reserve Fund shall exceed the Debt Service Reserve Requirement related thereto, and after giving effect to any Reserve Fund Credit Facility that may be credited to such account in accordance with the provisions of the Supplemental Resolution establishing such subaccount, such excess shall be transferred from such account of the Debt Service Reserve Fund to the Debt Service Fund to redeem Bonds allocable thereto or to such other Fund or Account as may be directed by an Authorized Finance Officer, subject to a Counsel's Opinion to the effect that such application is permitted by applicable law and will not adversely affect any applicable exemption from federal income taxation of the interest on any Series of Bonds (or the Metropolitan Government's right to any Tax Credit Payments applicable thereto).

(c) Whenever the amount in an account within the Debt Service Reserve Fund attributable to an Additionally Secured Series, together with the amount in the Debt Service Fund for such Series, is sufficient to pay in full all such Bonds secured thereby in accordance with their terms (including the

maximum amount of principal or applicable sinking fund Redemption Price and interest which could become payable thereon), the applicable funds on deposit in such account of the Debt Service Reserve Fund shall be transferred to the Debt Service Fund and applied to the timely payment of principal or Redemption Price, if applicable, and interest on the outstanding Bonds secured thereby.

(d) In the event of the refunding or defeasance of any Bonds of an Additionally Secured Series, the Metropolitan Government may withdraw from the separate account in the Debt Service Reserve Fund established for the benefit of the Bonds of such Additionally Secured Series all or any portion of the amounts accumulated therein and deposit such amounts with the Escrow Agent for the Bonds being refunded or defeased to be held for the payment of the principal or Redemption Price, if applicable, and interest on the Bonds being refunded or defeased; provided that such withdrawal shall not be made unless the amount thereafter remaining in such separate account in such account shall not be less than the remaining Debt Service Reserve Requirement related thereto.

(e) The Metropolitan Government may satisfy the Debt Service Reserve Requirement for an Additionally Secured Series by purchasing and depositing to the applicable account of the Debt Service Reserve Fund one or more Reserve Fund Credit Facilities, and may provide for the reimbursement of payments made by the providers of such Reserve Fund Credit Facilities from amounts required to be deposited to such account of the Debt Service Reserve Fund, all as may be set forth in a Supplemental Resolution.

**SECTION 509. Application of Revenues Pursuant to the Prior Resolution.** Notwithstanding anything in this Article V to the contrary, so long as the Prior First Lien Bonds are outstanding, the Revenues shall be collected, held and applied according to the requirements of the Prior First Lien Resolution. Until such time as the modifications to the Prior First Lien Resolution set forth in Section 502 of Substitute Resolution No. R93-770 become effective, the Metropolitan Government shall only transfer amounts from the Extension and Replacement Fund established by the Prior First Lien Resolution as and when required by Section 506(a) and (b). Following the effective date of the modifications to the Prior First Lien Resolution set forth in Section 502 of Substitute Resolution No. R93-770, the Metropolitan Government shall transfer the amounts required by Section 506(a) and (b) from the Subordinate Debt Fund established by the Prior First Lien Resolution.

Notwithstanding anything in this Article V to the contrary, upon the discharge of the Prior First Lien Resolution, and so long as any Prior Second Lien Bonds are outstanding, the Revenues shall be collected, held and applied according to the requirements of the Prior Second Lien Resolution; and the Metropolitan Government shall transfer the amounts required by Section 506(a) and (b) from the Surplus Fund established by the Prior Second Lien Resolution.

## ARTICLE VI

### DEPOSITORIES OF MONEYS, SECURITY FOR DEPOSITS AND INVESTMENT OF FUNDS

#### SECTION 601. Depositories.

(a) All moneys held by the Metropolitan Government under the Resolution shall be deposited with one or more Depositories in the name of the Metropolitan Government and shall be held in trust and applied only in accordance with the provisions of the Resolution, and each of the Funds and Accounts established by the Resolution shall be a trust fund for the purposes thereof.

(b) Each Depository shall be qualified to serve as such under applicable Tennessee law, and be willing and able to accept the office on reasonable and customary terms and authorized by law to act in accordance with the provisions of the Resolution.

**SECTION 602. Deposits.**

(a) All Revenues and moneys held by any Depository under the Resolution shall be held on deposit in a manner permitted by applicable Tennessee law. Any such deposit may be made in the commercial banking department of any Fiduciary which may honor checks and drafts on such deposit with the same force and effect as if it were not a Fiduciary. To the extent permitted by applicable law, all moneys held by any Fiduciary, as such, may be deposited by such Fiduciary in its banking department on demand or, if and to the extent directed by the Metropolitan Government and acceptable to such Fiduciary, on savings or time deposit, provided that such moneys on deposit be available for use at the time when needed. Such Fiduciary shall allow and credit on such moneys such interest, if any, as it customarily allows upon similar funds of similar size and under similar conditions or as required by law.

(b) All moneys held under the Resolution by any Depository shall be held in such manner as may then be required by applicable Federal or State of Tennessee laws and regulations and applicable state laws and regulations of the state in which such Depository is located, regarding security for, or granting a preference in the case of, the deposit of public or trust funds.

(c) All moneys deposited with each Depository shall be credited to the particular Fund or Account to which such moneys belong.

**SECTION 603. Investment of Funds.** Unless further limited as to maturity by the provisions of a Supplemental Resolution, moneys held in the Funds and Accounts established under the Resolution may be invested and reinvested by the Metropolitan Government in Investment Securities which will provide moneys not later than such times as shall be needed for payments to be made from such Funds and Accounts. In making any investment in any Investment Securities with moneys in any Fund or Account established under the Resolution and held by the Metropolitan Government, the Metropolitan Government may combine such moneys with moneys in any other Fund or Account held by the Metropolitan Government, but solely for purposes of making such investment in such Investment Securities.

If provided in a Supplemental Indenture, interest earned on any moneys or investments in the Debt Service Reserve Fund shall be deposited in the Construction Fund. Otherwise, interest earned on any moneys or investments in each account of the Debt Service Reserve Fund shall be deposited in the Debt Service Fund and applied to the payment of the Bonds of the Additionally Secured Series secured thereby. Interest earned on any moneys or investments in all such other Funds and Accounts established herein shall be held in such Fund or Account for the purposes thereof.

**SECTION 604. Valuation and Sale of Investments.** Obligations purchased as an investment of moneys in any Fund created under the provisions of the Resolution shall be deemed at all times to be a part of such Fund and any profit realized from the liquidation of such investment shall be credited to such Fund, and any loss resulting from the liquidation of such investment shall be charged to the respective Fund.

In computing the amount in any Fund created under the provisions of the Resolution for any purpose provided in the Resolution, obligations purchased as an investment of moneys therein shall be valued at the amortized cost of such obligations. Such computation shall be determined as of June 30 in each year. Each Reserve Fund Credit Facility shall be valued at the lesser of the face amount thereof or the maximum amount available thereunder.

**ARTICLE VII**  
**PARTICULAR COVENANTS OF THE METROPOLITAN GOVERNMENT**

The Metropolitan Government covenants and agrees with the Holders of the Bonds as follows:

**SECTION 701. Payment of Bonds and Contracts.** The Metropolitan Government shall duly and punctually pay or cause to be paid, but solely from the Revenues, and, in the case of the Bonds of each Additionally Secured Series, the account in the Debt Service Reserve Account in the Debt Service Fund with attributable thereto, and in the case of Tax Credit Bonds, the Tax Credit Payment Account, the principal or Redemption Price, if any, of every Bond and the interest thereon, at the dates and places and in the manner provided in the Bonds, according to the true intent and meaning thereof, and all amounts due and owing under the Contracts.

**SECTION 702. Extension of Payment of Bonds.** The Metropolitan Government shall not directly or indirectly extend or assent to the extension of the maturity of any of the Bonds or the time of payment of any claims for interest by the purchase or funding of such Bonds or claims for interest or by any other arrangement, and in case the maturity of any of the Bonds or the time for payment of any such claims for interest shall be extended, such Bonds or claims for interest shall not be entitled, in case of any default under the Resolution, to the benefit of the Resolution or to any payment out of Revenues or Funds established by the Resolution, including the investments and investment income, if any, thereof, or the moneys (except moneys held in trust for the payment of particular Bonds or claims for interest pursuant to the Resolution) held by the Metropolitan Government or the Fiduciaries, except subject to the prior payment of the principal of all Bonds Outstanding the maturity of which has not been extended and of such portion of the accrued interest on the Bonds as shall not be represented by such extended claims for interest. Nothing herein shall be deemed to limit the right of the Metropolitan Government to issue Refunding Bonds.

**SECTION 703. Offices for Servicing Bonds.** Except as may be otherwise provided in any Supplemental Resolution with respect to any Series of Bonds, the Metropolitan Government shall at all times maintain one or more agencies where Bonds may be presented for payment and shall at all times maintain one or more agencies where Bonds may be presented for registration, transfer or exchange, and where notices, demands and other documents may be served upon the Metropolitan Government in respect of the Bonds or of the Resolution. The Metropolitan Government hereby appoints each Bond Registrar to maintain an agency for the registration, transfer or exchange of Bonds, and for the service upon the Metropolitan Government of such notices, demands and other documents and the Bond Registrars shall continuously maintain or make arrangements to provide such services. The Metropolitan Government hereby appoints the Paying Agent or Agents in such cities as its respective agents to maintain such agencies for the payment or redemption of Bonds.

**SECTION 704. Further Assurance.** At any and all times the Metropolitan Government shall, as far as it may be authorized by law, pass, make, do, execute, acknowledge and deliver all and every such further resolutions, acts, deeds, conveyances, assignments, transfers and assurances as may be necessary or desirable for the better assuring, conveying, granting, pledging, assigning and confirming all and singular the rights, Revenues and other moneys, securities and funds hereby pledged, or intended so to be, or which the Metropolitan Government may become bound to pledge.

**SECTION 705. Power to Issue Bonds and Pledge Revenues and Other Funds.** The Metropolitan Government is duly authorized under all applicable laws to create and issue the Bonds and to adopt the Resolution and to pledge the Revenues and, in the case of the Bonds of Additionally Secured Series, the related account in the Debt Service Reserve Fund with respect thereto, and, in the case of Tax Credit Bonds, the Tax Credit Payment Account, in the manner and to the extent provided in the

Resolution. Except to the extent otherwise provided in the Resolution, the Revenues, each separate account in the Debt Service Reserve Fund and each Tax Credit Payment Account are and will be free and clear of any pledge, lien, charge or encumbrance thereon or with respect thereto superior to, or of equal rank with, the respective pledges created by the Resolution, and all corporate or other action on the part of the Metropolitan Government to that end has been and will be duly and validly taken. The Bonds and the provisions of the Resolution are and will be the valid and legally enforceable obligations of the Metropolitan Government in accordance with their terms and the terms of the Resolution. The Metropolitan Government shall at all times, to the extent permitted by law, defend, preserve and protect the pledge of the Revenues, each separate account in the Debt Service Reserve Fund, each Tax Credit Payment Account and all the rights of the Holders of the Bonds under the Resolution against all claims and demands of all persons whomsoever.

**SECTION 706. Power to Fix and Collect Rates, Fees and Charges.** The Metropolitan Government has, and will have as long as any Bonds are Outstanding, good right and lawful power to acquire, construct, reconstruct, improve, maintain, operate and repair the System and to fix, establish, maintain and collect rates, fees and charges with respect to the use of the capability of and sale of the output, capacity, use or service of the System subject to the terms of contracts relating thereto and subject to the jurisdiction of any applicable regulatory authority.

**SECTION 707. Creation of Liens; Sale and Lease of Property.**

(a) Except as described in Article II, the Metropolitan Government shall not issue any bonds, notes, debentures or other evidences of indebtedness of similar nature, other than the Bonds, payable out of or secured by a security interest in or pledge of the Revenues, any separate account in the Debt Service Reserve Fund, any Tax Credit Payment Account or other moneys, securities or funds held or set aside by the Metropolitan Government or by the Fiduciaries under the Resolution and shall not create or cause to be created any lien or charge on the Revenues, any separate account in the Debt Service Reserve Fund, any Tax Credit Payment Account or such moneys, securities or funds.

(b) No part of the System shall be sold, mortgaged, leased or otherwise disposed of, except as follows:

(i) the Metropolitan Government may sell or exchange at any time and from time to time any property or facilities constituting part of the System only if (A) the Metropolitan Government shall determine that such property or facilities are not needed or useful in the operation of the System, or (B) the net book value of the property or facilities sold or exchanged is not more than 5% of the net book value of the property and facilities of the System, or (C) there shall be filed with the records of the Metropolitan Government a certificate of a Consultant or a Consulting Engineer stating, in its opinion, that the sale or exchange of such property or facilities will not materially impair the ability of the Metropolitan Government to comply during the current or any future Fiscal Year with the provisions of Section 711. The proceeds of any sale or exchange of any property or facilities constituting a part of the System not used to acquire other property necessary or desirable for the safe or efficient operation of the System shall forthwith be deposited in the Revenue Fund; provided, however, that the amount of any such deposit to the Revenue Fund shall not constitute or be deemed to constitute Revenues for purposes of Section 711 of the Resolution;

(ii) The Metropolitan Government may lease or make contracts or grant licenses for the operation of, or make arrangements for the use of, or grant easements or other rights with respect to, any part of the System, provided that any such lease, contract, license, arrangement, easement or right (A) does not impede the operation by the Metropolitan Government or its

agents of the System and (B) does not materially adversely affect the rights or security of the Holders of the Bonds under the Resolution. Any payments received by the Metropolitan Government under or in connection with any such lease, contract, license, arrangement, easement or right in respect of the System or any part thereof shall constitute Revenues for all purposes of the Resolution;

(iii) The limitations imposed upon the Metropolitan Government by subsection (b)(ii) (A) and (B) shall not apply to any disposition of property by the Metropolitan Government where: (A) such property is leased back to the Metropolitan Government under a lease having a term of years (including renewal options) (1) of not less than 75% of the remaining useful life of the property as estimated by the Metropolitan Government computed from the date of disposition and lease if such property is disposed of by sale or a lease for more than 90% of the remaining estimated useful life or any other means of disposition except as set forth in the following clause (2), or (2) 75% of the term of the lease out by the Metropolitan Government if such property is disposed of by a lease for less than 90% of the useful life of the property so estimated, (B) fair value to the Metropolitan Government (as determined by the Metropolitan Government) is received by the Metropolitan Government for the property subject to such transaction, and (C) there shall have been delivered to the Metropolitan Council a Counsel's Opinion to the effect that the disposition and lease will not have a material adverse effect on the interests of the Holders of Outstanding Bonds (in rendering such opinion, such counsel may rely on such certifications of (1) any banking or financial institution serving as financial advisor to the Metropolitan Government, as to financial and economic matters, (2) the Consulting Engineer, as to matters within its field of expertise and (3) such other experts, as to matters within their fields of expertise as it, in its reasonable judgment, determines necessary or appropriate). The proceeds of any such transaction not used to acquire other property necessary or desirable for the safe or efficient operation of the System shall forthwith be deposited in the Revenue Fund; and

(iv) The Metropolitan Government may permanently discontinue the acquisition or construction of any portion of the System as provided in Section 503(d).

**SECTION 708. Limits on Additional Prior Bonds.** The Metropolitan Government shall not issue or incur, cause to be issued or incurred or consent to the issuance or incurrence of any indebtedness or other obligations pursuant to the Prior First Lien Resolution, and the lien of the Prior First Lien Resolution shall not extend to any other indebtedness or obligations issued thereunder. The Metropolitan Government may, however, from time to time issue or incur, cause to be issued or incurred or consent to the issuance or incurrence of indebtedness or other obligations pursuant to the Prior Second Lien Resolution upon satisfaction of the applicable provisions of Article II hereof.

**SECTION 709. Annual Budget.** The Metropolitan Government shall adopt an operating budget ("Annual Budget") covering the fiscal operations of the Department of Water and Sewerage Services prior to the beginning of each Fiscal Year. The Annual Budget need not necessarily be the budget prepared by the Metropolitan Government for Metropolitan Government budgeting purposes. The Annual Budget for the ensuing Fiscal Year shall set forth in reasonable detail the estimated Revenues, payments with respect to all obligations assumed or incurred by the Metropolitan Government with respect to the System (including, without limitation, the Prior Bonds, the Bonds and Subordinated Indebtedness) and Operation and Maintenance Expenses and other expenditures for the System for such Fiscal Year, and shall include appropriations for the estimated payments with respect to such obligations for such Fiscal Year, the estimated Operation and Maintenance Expenses for the System for such Fiscal Year, including provisions for any general reserve for Operation and Maintenance Expenses or other reserves determined necessary or desirable by the Metropolitan Government and the estimated amount to be expended during such Fiscal Year from the Renewal and Replacement Fund established pursuant to

the Prior First Lien Resolution, the Surplus Fund established by the Prior Second Lien Resolution and the Rate Stabilization Fund established by the Prior Second Lien Resolution. Such Annual Budget also shall set forth such detail with respect to such Revenues, payments with respect to such obligations, Operation and Maintenance Expenses and other expenditures and may set forth such additional material as the Metropolitan Government may determine. The Metropolitan Government may at any time, as necessary, adopt an amended Annual Budget for the remainder of the then current Fiscal Year. In the event the Metropolitan Government does not adopt an Annual Budget for a Fiscal Year on or before the first day of such Fiscal Year, the Annual Budget for the preceding Fiscal Year shall be deemed to have been adopted and be in effect for such Fiscal Year until the Annual Budget for such Fiscal Year has been adopted.

**SECTION 710. Operation and Maintenance of the System.** The Metropolitan Government shall at all times use its best efforts to operate or cause to be operated the System properly and in an efficient and economical manner, consistent with Prudent Utility Practice, and shall use its best efforts to maintain, preserve, reconstruct and keep the same or cause the same to be so maintained, preserved, reconstructed and kept, with the appurtenances and every part and parcel thereof, in good repair, working order and condition, and shall from time to time make, or use its best efforts to cause to be made, all necessary and proper repairs, replacements and renewals so that at all times the operation of the System may be properly and advantageously conducted.

**SECTION 711. Rates, Fees and Charges.**

(a) The Metropolitan Government shall at all times fix, establish, maintain, charge and collect rates, fees and charges for the use or the sale of the output, capacity or service of the System which shall be sufficient to produce Net Revenues in each Fiscal Year at least equal to the greater of:

(i) 110% of the sum of the Debt Service Requirement on the Prior Bonds and the Outstanding Bonds in such Fiscal Year; or

(ii) 100% of the sum of:

(A) the Debt Service Requirement on the Prior Bonds, the Outstanding Bonds and Subordinated Indebtedness in such Fiscal Year,

(B) the amounts required to be paid during such Fiscal Year into the Debt Service Reserve Fund and the Operating Reserve Fund established by the Prior First Lien Resolution,

(C) the amounts required to be paid during such Fiscal Year into the Debt Service Reserve Fund established by the Prior Second Lien Resolution,

(D) the amounts required to be paid during such Fiscal Year into the Debt Service Reserve Fund established by the Resolution, and

(E) the amount of all other charges and liens whatsoever payable out of Revenues during such Fiscal Year, including payments in lieu of taxes and any payments required during such Fiscal Year under Contracts to the extent not otherwise provided for in this subsection (ii).

(b) For purposes of this Section 711, the Metropolitan Government may, when calculating the Debt Service Requirement on Subordinated Indebtedness, make the adjustments and assumptions set forth in subsection (b) of the definition of "Debt Service Requirement", as if such provisions were

applicable to Subordinated Indebtedness; provided however, that there shall be disregarded any scheduled principal amount of Subordinated Indebtedness which are notes or other evidences of indebtedness issued in anticipation of the issuance of Bonds or Prior Second Lien Bonds, the payment of which is to be paid from the proceeds of such Bonds or Prior Second Lien Bonds.

(b) If the Metropolitan Government fails to prescribe, fix, maintain, and collect rates, fees, and other charges, or to revise such rates, fees, and other charges, in accordance with the provisions of this section in any Fiscal Year, but the Metropolitan Government in the next Fiscal Year has promptly taken all available measures to revise such rates, fees and other charges as advised by a Consultant retained by the Metropolitan Government to review the operations of the System, there shall be no Event of Default as described in Section 801 until at least the end of such next Fiscal Year and only then if Net Revenues are less than the amount required by this section.

#### **SECTION 712. Maintenance of Insurance.**

(a) With respect to the System, the Metropolitan Government will carry adequate public liability, fidelity, and property insurance, such as is maintained by similar utility systems; provided, the Metropolitan Government shall not be required to insure beyond the limits of immunity provided by Sections 29-20-101 *et seq.*, Tennessee Code Annotated, as amended, and provided further, the Metropolitan Government may self-insure against any risks that the Metropolitan Council deems appropriate provided the Metropolitan Government maintains adequate reserves, in such amounts as the Metropolitan Government determines is reasonable, for such self insurance. All such policies shall be for the benefit of and made payable to the Metropolitan Government and shall be on deposit with the Metropolitan Government.

(b) The proceeds received by the Metropolitan Government from any insurance policy shall be deposited in the Revenue Fund.

#### **SECTION 713. Accounts and Reports.**

(a) The Metropolitan Government shall keep or cause to be kept proper books of record and account (separate from all other records and accounts) in accordance with generally accepted accounting principles (or other comprehensive basis of accounting) in which complete and correct entries shall be made of its transactions relating to the System, the amount of Revenues and the application thereof and each Fund and Account established under the Resolution, and which, together with all other books and papers of the Metropolitan Government, including insurance policies, relating to the System, shall, subject to the terms thereof, at all times be subject to the inspection of the Holders of an aggregate of not less than 5% in principal amount of the Bonds then Outstanding or their representatives duly authorized in writing.

(b) The Metropolitan Government shall annually, within 180 days after the close of each Fiscal Year, file with the records of the Metropolitan Government and otherwise as provided by law, a copy of an annual report for such Fiscal Year, accompanied by an Accountant's Certificate, relating to the System and including reasonably detailed information relating to the following: (i) the assets and liabilities of the System as of the end of such Fiscal Year; (ii) the Revenues and Operation and Maintenance Expenses of the System for such Fiscal Year; and (iii) a summary, with respect to each Fund and Account established under the Resolution, of the receipts therein and disbursements therefrom during such Fiscal Year and the amount held therein at the end of such Fiscal Year; provided, however, that nothing herein shall preclude such annual report from being included as part of the audited financial statements of the Metropolitan Government generally. Such Accountant's Certificate shall state whether or not, to the knowledge of the signer, the Metropolitan Government is in default with respect to any of

the covenants, agreements or conditions on its part contained in the Resolution, and if so, the nature of such default.

(c) The reports, statements and other documents required to be prepared or obtained by the Metropolitan Government pursuant to any provisions of the Resolution shall be available for the inspection of Holders of the Bonds at the office of the Metropolitan Government and shall be mailed to each Holder of a Bond who shall file a written request therefor with the Metropolitan Government. The Metropolitan Government may charge each Holder of a Bond requesting such reports, statements and other documents a reasonable fee to cover reproduction, handling and postage.

**SECTION 714. Payment of Taxes and Charges.** The Metropolitan Government will from time to time duly pay and discharge, or cause to be paid and discharged, all taxes, assessments and other governmental charges, or required payments in lieu thereof, lawfully imposed upon the properties of the Metropolitan Government or upon the rights, revenues, income, receipts, and other moneys, securities and funds of the Metropolitan Government when the same shall become due (including all rights, moneys and other property transferred, assigned or pledged under the Resolution), and all lawful claims for labor and material and supplies, except those taxes, assessments, charges or claims which the Metropolitan Government shall in good faith contest by proper legal proceedings if the Metropolitan Government shall in all such cases have set aside of its books reserves deemed adequate with respect thereto. Notwithstanding the foregoing, no payments in lieu of taxes may be paid to the Metropolitan Government from Revenues prior the payment of debt service on the Prior Bonds and the Bonds.

**SECTION 715. Compliance with Prior Resolution.** For so long as any issue of the Prior Bonds (or any portion thereof) shall remain Outstanding, the Metropolitan Government shall comply with the provisions of the Prior Resolution.

**SECTION 716. General.**

(a) The Metropolitan Government shall at all times maintain its corporate existence (or, if the Metropolitan Government shall be dissolved or abolished, a successor shall be named to assume the rights and obligations of the Metropolitan Government) and shall do and perform or cause to be done and performed all acts and things required to be done or performed by or on behalf of the Metropolitan Government under the provisions of applicable Tennessee law and the Resolution.

(b) Upon the date of authentication and delivery of any of the Bonds, all conditions, acts and things required by law and the Resolution to exist, to have happened and to have been performed prior to and in connection with the issuance of such Bonds shall exist, have happened and have been performed, and the issuance of such Bonds, together with all other obligations of the Metropolitan Government, shall comply in all respects with the applicable laws of the State of Tennessee.

**ARTICLE VIII  
REMEDIES OF HOLDERS OF THE BONDS**

**SECTION 801. Events of Default.** If one or more of the following Events of Default shall happen:

(a) if default shall be made in the due and punctual payment of any Principal Installment of or any interest on any Bond when and as the same shall become due and payable (determined without giving effect to any payments made with funds provided by any Credit Issuer pursuant to any Credit Facility);

(b) if default shall be made by the Metropolitan Government in the performance or observance of any other of the covenants, agreements or conditions on its part in the Resolution, as supplemented, or in the Bonds contained, and such default shall continue for a period of 90 days after written notice thereof to the Metropolitan Government by the Holders of not less than 10% in principal amount of the Bonds Outstanding;

(c) if there shall occur the dissolution (without a successor being named to assume the rights and obligations) or liquidation of the Metropolitan Government or the filing by the Metropolitan Government of a voluntary petition in bankruptcy, or adjudication of the Metropolitan Government as a bankrupt, or assignment by the Metropolitan Government for the benefit of its creditors, or the entry by the Metropolitan Government into an agreement of composition with its creditors, or the approval by a court of competent jurisdiction of a petition applicable to the Metropolitan Government in any proceeding for its reorganization instituted under the provisions of the Bankruptcy Code, as amended, or under any similar act in any jurisdiction which may now be in effect or hereafter enacted;

(d) if an order or decree shall be entered, with the consent or acquiescence of the Metropolitan Government, appointing a receiver or receivers of the System, or any part thereof, or of the rents, fees, charges or other revenues therefrom, or if such order or decree, having been entered without the consent or acquiescence of the Metropolitan Government, shall not be vacated or discharged or stayed within 90 days after the entry thereof; or

(e) for so long as any issue of the Prior Bonds (or any portion thereof) shall remain Outstanding, if a default shall occur under the Prior Resolution related to such issue;

then, and in each and every such case, so long as such Event of Default shall not have been remedied, unless the principal of all the Bonds shall have already become due and payable, the Holders of not less than 25% in principal amount of the Bonds Outstanding or any Credit Issuer securing not less than 25% in principal amount of the Bonds Outstanding (by notice in writing to the Metropolitan Government), may declare the principal of all the Bonds then Outstanding, and the interest accrued thereon, to be due and payable immediately, and upon any such declaration the same shall become and be immediately due and payable, anything contained to the contrary in the Resolution or in any of the Bonds notwithstanding; provided, however, that in the event that a Supplemental Resolution authorizing Bonds for which a Credit Facility is provided provides that the principal of such Bonds, and the accrued interest thereon, may not be declared due and payable immediately (nor such declaration be rescinded and annulled, as provided in the following sentence) without the consent in writing of the Credit Issuer therefor, then such Bonds, and the interest accrued thereon, shall not become due and payable immediately as aforesaid (nor may such declaration be rescinded and annulled, as provided in the following sentence) without such written consent, and, in that event, the remedies available to the Holders of such Bonds (or such Credit Issuer, on behalf of such Holders) shall be limited to those set forth in Sections 802, 804 and 805. The right of the Holders of not less than 25% in principal amount of the Bonds to make such declaration as aforesaid, however, is subject to the condition that if, at any time after such declaration, but before the Bonds shall have matured by their terms, all overdue installments of interest upon the Bonds, together with interest on such overdue installments of interest to the extent permitted by law and all other sums then payable by the Metropolitan Government under the Resolution (except the principal of, and interest accrued since the next preceding interest date on, the Bonds due and payable solely by virtue of such declaration) shall either be paid by or for the account of the Metropolitan Government or provision shall be made for such payment, and all defaults under the Bonds or under the Resolution (other than the payment of principal and interest due and payable solely by reason of such declaration) shall be made good or adequate provision shall be made therefor, then and in every such case the Holders of 25% in principal amount of the Bonds Outstanding, by written notice to the Metropolitan Government, may rescind such declaration and annul such default in its entirety, but no such rescission or annulment shall extend to or affect any

subsequent default or impair or exhaust any right or power consequent thereon. Notwithstanding anything in this Section 801 to the contrary, no declaration of acceleration shall become effective hereunder until the Prior Second Lien Bonds have been declared to be accelerated pursuant to the terms of the Prior Second Lien Resolution.

**SECTION 802. Accounting and Examination of Records After Default.**

(a) The Metropolitan Government covenants that if an Event of Default shall have happened and shall not have been remedied, the books of record and account of the Metropolitan Government and all other records relating to the System shall at all times be subject to the inspection and use of the Holders and of their agents and attorneys.

(b) The Metropolitan Government covenants that if an Event of Default shall have happened and shall not have been remedied, the Metropolitan Government, upon demand of the Holders of not less than 25% in principal amount of the Bonds of the time Outstanding, will account, as if it were the trustee of an express trust, for all Revenues and other moneys, securities and funds pledged or held under the Resolution for such period as shall be stated in such demand.

**SECTION 803. Application of Revenues and Other Moneys After Default.**

(a) During the continuance of an Event of Default, the Metropolitan Government, subject, for so long as any issue of the Prior Bonds (or any portion thereof) shall remain Outstanding, to the application thereof as provided in the Prior Resolution, and subject to the provisions of Section 509, shall apply all moneys, securities, funds and Revenues held or received by the Metropolitan Government under the Resolution (other than amounts on deposit in the Debt Service Reserve Fund and the Tax Credit Payment Account of the Debt Service Fund) as follows and in the following order:

(i) Expenses of Receiver, Paying Agent and Bond Registrar - to the payment of the reasonable and proper charges, expenses, and liabilities of the receiver and the Paying Agent and Bond Registrar under the Resolution, and any receiver appointed pursuant to Section 804;

(ii) Operation and Maintenance Expenses -- to the payment of the amounts required for Operation and Maintenance Expenses and for the reasonable renewals, repairs and replacements of the System necessary in the judgment of the Metropolitan Government to prevent a loss of Revenues. For this purpose the books of record and accounts of the Metropolitan Government relating to the System shall at all times be subject to the inspection of the Holders and their representatives and agents during the continuance of such Event of Default;

(iii) Principal Installments, Interest and Contract Payments -- to the payment of the interest and Principal Installments then due on the Bonds, and payment under related Contracts, as follows:

(A) unless the principal of all the Bonds shall have become or have been declared due and payable,

First: Interest -- to the payment to the persons entitled thereto of all installments of interest then due in the order of the maturity of such installments, together with accrued and unpaid interest on the Bonds theretofore called for redemption, and/or to the payment of amounts due under related Contracts and otherwise payable pursuant to Section 507(a)(i) and (ii) hereof, and, if the amount available shall not be sufficient

therefor, then to the payment thereof ratably, according to the amounts due thereon, to the persons entitled thereto, without any discrimination or preference; and

Second: Principal Installments -- to the payment to the persons entitled thereto of the unpaid Principal Installments of any Bonds which shall have become due, whether at maturity or by call for redemption, in the order of their due dates, and/or to the payment of amounts due under related Contracts and otherwise payable pursuant to Section 507(a)(iii) hereof and, if the amount available shall not be sufficient therefor, then to the payment thereof ratably, according to the amounts of the Principal Installments due on such date, to the persons entitled thereto, without any discrimination or preference; or

(B) if the principal of all the Bonds shall have become or have been declared due and payable, to the payment of the principal and interest then due and unpaid upon the Bonds, and of amounts then due and unpaid on related Contracts otherwise payable pursuant to Section 507(a), without preference or priority, ratably, according to the amounts due respectively for principal and interest and such Contract payments, to the persons entitled thereto without any discrimination or preference except as to any difference in the respective rates of interest specified in the Bonds;

(iv) Subordinated Indebtedness -- to the payment of principal, redemption price and interest then due on Subordinated Indebtedness in accordance with the resolutions authorizing such Subordinated Indebtedness; and

(v) Contract Payments Otherwise Payable from Revenues -- to the payment of amounts due under Contracts which are payable from Revenues and not otherwise described above.

(b) During the continuance of an Event of Default, the Metropolitan Government shall apply all amounts on deposit in each separate account in the Debt Service Reserve Fund in the following order:

(i) unless the principal of all of the Bonds shall have become or have been declared due and payable,

First: Interest -- to the payment to the persons entitled thereto of all installments of interest then due on the Bonds of each Additionally Secured Series secured by such separate account in the order of the maturity of such installments, together with accrued and unpaid interest on the Bonds of such Additionally Secured Series theretofore called for redemption, and, if the amount available shall not be sufficient to pay in full any such installment or installments maturing on the same date, then to the payment thereof ratably, according to the amounts due thereon, to the persons entitled thereto, without any discrimination or preference; and

Second: Principal Installments -- to the payment to the persons entitled thereto of the unpaid Principal Installments of any Bonds of such Additionally Secured Series which shall have become due, whether at maturity or by call for redemption, in the order of their due dates, and, if the amount available shall not be sufficient to pay in full all such Bonds due on any date, then to the payment thereof ratably, according to the amounts of Principal Installments due on such date, to the persons entitled thereto, without any discrimination or preference; or

(ii) if the principal of all of the Bonds shall have become or have been declared due and payable, to the payment of the principal and interest then due and unpaid upon the Bonds of each Additionally Secured Series secured by such separate account without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any such Bond over any other such Bond, ratably, according to the amounts due respectively for principal and interest, to the persons entitled thereto without any discrimination or preference except as to any difference in the respective rates of interest specified in such Bonds.

(c) During the continuance of an Event of Default, the Metropolitan Government shall apply all amounts on deposit in each separate Tax Credit Payment Account in the Debt Service Fund in the Debt Service Fund first to the payment of interest and then to the payment of Principal Installments on the related Series of Tax Credit Bonds.

If and whenever all overdue installments of interest on all Bonds, together with the reasonable and proper charges, expenses and liabilities of the Fiduciaries, and all other sums payable by the Metropolitan Government under the Resolution including the principal and Redemption Price of and accrued unpaid interest on all Bonds which shall then be payable by declaration or otherwise, and including all payments under the Contracts, shall either be paid by or for the account of the Metropolitan Government, and all defaults under the Resolution or the Bonds shall be made good, the Metropolitan Government and the Holders shall be restored, respectively, to their former positions and rights under the Resolution. No such restoration of the Metropolitan Government and the Holders to their former positions and rights shall extend to or affect any subsequent default under the Resolution or impair any right consequent thereon.

**SECTION 804. Appointment of Receiver.** If an Event of Default shall happen and shall not have been remedied, the Holders of the Bonds shall be entitled as a matter of right, upon application to a court of competent jurisdiction, to have appointed a receiver of the System.

**SECTION 805. Remedies Not Exclusive.** No remedy by the terms of the Resolution conferred upon or reserved to the Holders of the Bonds is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under the Resolution or existing at law or in equity or by statute on or after the date of adoption of the Resolution.

**SECTION 806. Effect of Waiver and Other Circumstances.**

(a) No delay or omission of any Holder of a Bond to exercise any right or power arising upon the happening of an Event of Default shall impair any right or power or shall be construed to be a waiver of any such Event of Default or be an acquiescence therein; and every power and remedy given by this Article to the Holders of the Bonds may be exercised from time to time and as often as may be deemed expedient by the Holders of the Bonds.

(b) Prior to the declaration of maturity of the Bonds as provided in Section 801, the Holders of not less than a majority in principal amount of the Bonds at the time Outstanding, or their attorneys-in-fact duly authorized, may on behalf of the Holders of all of the Bonds waive any past default under the Resolution and its consequences, except a default in the payment of interest on or principal or Redemption Price, if any, of any of the Bonds. No such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

**SECTION 807. Notice of Default.** The Metropolitan Government shall promptly mail written notice of the occurrence of any Event of Default to each Holder of Bonds then Outstanding at its address, if any, appearing upon the registry books of the Metropolitan Government.

## **ARTICLE IX THE FIDUCIARIES**

### **SECTION 901. Paying Agents.**

(a) The Metropolitan Government shall appoint one or more Paying Agents for the Bonds of each Series, and may at any time or from time to time appoint one or more other Paying Agents. Each Paying Agent shall be an officer of the Metropolitan Government, a transfer agent duly registered pursuant to the Securities Exchange Act of 1934, as amended, or a bank or trust company organized under the laws of any state of the United States or a national banking association, having capital stock, surplus and undivided earnings aggregating at least \$25,000,000, and willing and able to accept the office on reasonable and customary terms and authorized by law to perform all the duties imposed upon it by the Resolution.

(b) Each Paying Agent shall signify its acceptance of the duties and obligations imposed upon it by the Resolution by executing and delivering to the Metropolitan Government a written acceptance thereof.

(c) Unless otherwise provided, the designated corporate trust offices of the Paying Agents are designated as the respective offices or agencies of the Metropolitan Government for the payment of the interest on and principal or Redemption Price of the Bonds.

(d) Any Paying Agent may at any time resign and be discharged of the duties and obligations created by the Resolution by giving at least 60 days' written notice to the Metropolitan Government and the other Paying Agents, provided that no such resignation shall be effective until a successor shall have been appointed. Any Paying Agent may be removed at any time by an instrument filed with such Paying Agent and signed by an Authorized Finance Officer, provided that no such removal shall be effective until a successor shall have been appointed and the predecessor's fees and expenses shall have been paid. In the event of the resignation or removal of any Paying Agent, such Paying Agent shall pay over, assign and deliver any moneys and records held by it in such capacity to its successor.

**SECTION 902. Responsibilities of Fiduciaries.** The recitals of fact herein and in the Bonds contained shall be taken as the statements of the Metropolitan Government, and no Fiduciary assumes any responsibility for the correctness of the same. No Fiduciary makes any representations as to the validity or sufficiency of the Resolution or of any Bonds or as to the security afforded by the Resolution, and no Fiduciary shall incur any liability in respect thereof. Each Bond Registrar shall, however, be responsible for its representation contained in its certificate of authentication on the Bonds. No Fiduciary shall be under any responsibility or duty with respect to the application of any moneys paid by such Fiduciary in accordance with the provisions of the Resolution to the Metropolitan Government or to any other Fiduciary. No Fiduciary shall be under any obligation or duty to perform any act which would involve it in expense or liability or to institute or defend any suit in respect thereof, or to advance any of its own moneys, unless properly indemnified. No Fiduciary shall be liable in connection with the performance of its duties hereunder except for its own negligence, misconduct or default.

**SECTION 903. Evidence on Which Fiduciaries May Act.**

(a) Each Fiduciary, upon receipt of any notice, resolution, request, consent, order, certificate, report, opinion, bond or other paper or document furnished to it pursuant to any provision of the Resolution, shall examine such instrument to determine whether it conforms to the requirements of the Resolution and shall be protected in acting upon any such instrument believed by it to be genuine and to have been signed or presented by the proper party or parties. Each Fiduciary may consult with counsel, who may or may not be counsel to the Metropolitan Government, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it under the Resolution in good faith and in accordance therewith.

(b) Whenever any Fiduciary shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action under the Resolution, such matter (unless other evidence in respect thereof be therein specifically prescribed) may be deemed to be conclusively proved and established by a certificate of an Authorized Finance Officer, and such certificate shall be full warrant for any action taken or suffered in good faith under the provisions of the Resolution upon the faith thereof; but in its discretion the Fiduciary may in lieu thereof accept other evidence of such fact or matter or may require such further or additional evidence as to it may seem reasonable.

(c) Except as otherwise expressly provided in the Resolution, any request, order, notice or other direction required or permitted to be furnished pursuant to any provision thereof by the Metropolitan Government to any Fiduciary shall be sufficiently executed in the name of the Metropolitan Government by an Authorized Finance Officer.

**SECTION 904. Compensation.** The Metropolitan Government shall pay to each Fiduciary from time to time reasonable compensation for all services rendered under the Resolution, and also all reasonable expenses, charges, counsel fees and other disbursements, including those of its attorneys, agents and employees, incurred in and about the performance of its powers and duties under the Resolution, in accordance with the agreements made from time to time between the Metropolitan Government and the Fiduciary. Subject to the provisions of Section 902, the Metropolitan Government further agrees to indemnify and save each Fiduciary harmless against any liabilities which it may incur in the exercise and performance of its powers and duties hereunder and which are not due to its negligence, misconduct or default.

**SECTION 905. Certain Permitted Acts.** Any Fiduciary may become the owner of any Bonds, with the same rights it would have if it were not a Fiduciary. To the extent permitted by law, any Fiduciary may act as depository for, and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Holders of the Bonds or to effect or aid in any reorganization growing out of the enforcement of the Bonds or the Resolution, whether or not any such committee shall represent the Holders of a majority in principal amount of the Bonds then Outstanding.

**SECTION 906. Merger or Consolidation.** Any company into which any Fiduciary may be merged or converted or with which it may be consolidated, or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which any Fiduciary may sell or transfer all or substantially all of its corporate trust business, provided such company shall be a bank or trust company organized under the laws of any state of the United States or a national banking association and shall be authorized by law to perform all the duties imposed upon it by the Resolution, shall be the successor to such Fiduciary without the execution or filing of any paper or the performance of any further act.

**SECTION 907. Adoption of Authentication.** In case any of the Bonds shall have been authenticated but not delivered, any successor Bond Registrar may adopt the certificate of authentication of any predecessor Bond Registrar so authenticating such Bonds and deliver such Bonds so authenticated; and in case any of the said Bonds shall not have been authenticated, any successor Bond Registrar may authenticate such Bonds in the name of the predecessor Bond Registrar, or in the name of the successor Bond Registrar, and in all such cases such certificate shall have the full force which it is anywhere in said Bonds or in the Resolution provided that the certificate of the Bond Registrar shall have.

## **ARTICLE X SUPPLEMENTAL RESOLUTIONS**

**SECTION 1001. Supplemental Resolutions Effective Without Delivery of Counsel's Opinion as to No Material Adverse Effect and Without Consent of Holders of the Bonds.** For any one or more of the following purposes and at any time or from time to time, a Supplemental Resolution of the Metropolitan Government may be adopted, which, upon its adoption and compliance with the provisions of Section 1004, shall be fully effective in accordance with its terms:

(a) to close the Resolution against, or provide limitations and restrictions in addition to the limitations and restrictions contained in the Resolution on, the authentication and delivery of Bonds or the issuance of other evidences of indebtedness;

(b) to add to the covenants and agreements of the Metropolitan Government in the Resolution other covenants and agreements to be observed by the Metropolitan Government which are not contrary to or inconsistent with the Resolution as theretofore in effect;

(c) to add to the limitations and restrictions in the Resolution other limitations and restrictions to be observed by the Metropolitan Government which are not contrary to or inconsistent with the Resolution as theretofore in effect;

(d) to authorize Bonds of a Series and, in connection therewith, specify and determine the matters and things referred to in Article II, and also any other matters and things relative to such Bonds which are not contrary to or inconsistent with the Resolution as theretofore in effect, or to amend, modify or rescind any such authorization, specification or determination at any time prior to the first authentication and delivery of such Bonds;

(e) to provide for the issuance, execution, delivery, authentication, payment, registration, transfer and exchange of Bonds in loan agreement form payable to the counterparty thereto, and, in connection therewith, to specify and determine any matters and things relative thereto;

(f) to confirm, as further assurance, any security interest or pledge under, and the subjection to any security interest or pledge created or to be created by, the Resolution of the Revenues;

(g) if and to the extent authorized in a Supplemental Resolution authorizing an Additionally Secured Series of Bonds, to specify the qualifications of any provider of a Reserve Fund Credit Facility and to establish the terms of reimbursement of such a provider of a Reserve Fund Credit Facility from amounts on deposit in the Debt Service Reserve Fund; and

(h) to modify any of the provisions of the Resolution in any other respect whatever, provided that (i) such modification shall be, and be expressed to be, effective only after all Bonds of each Series Outstanding at the date of the adoption of such Supplemental Resolution shall cease to be Outstanding, and (ii) such Supplemental Resolution shall be specifically referred to in the text of all Bonds of any

Series authenticated and delivered after the date of the adoption of such Supplemental Resolution and of Bonds issued in exchange therefor or in place thereof.

**SECTION 1002. Supplemental Resolutions Effective Upon Delivery of Counsel's Opinion as to No Material Adverse Effect.** For any one or more of the following purposes and at any time or from time to time, a Supplemental Resolution may be adopted, which, upon delivery of a Counsel's Opinion to the effect that the provisions of such Supplemental Resolution will not have a material adverse effect on the interests of the Holders of Outstanding Bonds (in rendering such opinion, such counsel may rely on certifications of the Financial Adviser or a Consultant as to financial and economic matters, the Consulting Engineer, as to matters within its field of expertise and such other experts, as to matters within their fields of expertise as it, in its reasonable judgment, determines necessary or appropriate) and compliance with the provision of Section 1004, shall be fully effective in accordance with its terms:

(a) to cure any ambiguity, supply any omission, or cure or correct any defect or inconsistent provision in the Resolution;

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

(c) to make any other modification to or amendment of the Resolution which such counsel in its reasonable judgment shall determine will not have a material adverse effect on the interests of Holders of the Bonds.

Notwithstanding any other provision of the Resolution, in determining whether the interests of the Holders of Outstanding Bonds are materially adversely affected, such counsel shall consider the effect on the Holders of any Bonds for which a Credit Facility has been provided without regard to such Credit Facility.

**SECTION 1003. Supplemental Resolutions Effective with Consent of Holders of the Bonds.** At any time or from time to time, a Supplemental Resolution may be adopted subject to consent by Holders of the Bonds in accordance with and subject to the provisions of Article XI, which Supplemental Resolution, upon compliance with the provisions of said Article XI, shall become fully effective in accordance with its terms as provided in said Article XI.

**SECTION 1004. General Provisions.**

(a) The Resolution shall not be modified or amended in any respect except as provided in and in accordance with and subject to the provisions of this Article X and Article XI. Nothing in this Article X or Article XI contained shall affect or limit the right or obligation of the Metropolitan Government to adopt, make, do, execute, acknowledge or deliver any resolution, act or other instrument pursuant to the provisions of Section 704 or the right or obligation of the Metropolitan Government to execute and deliver to any Fiduciary any instrument which elsewhere in the Resolution it is provided shall be delivered to said Fiduciary.

(b) Any Supplemental Resolution referred to and permitted or authorized by Section 1001 or 1002 may be adopted by the Metropolitan Government without the consent of any of the Holders of the Bonds, but shall become effective only on the conditions, to the extent and at the time provided in said Sections, respectively. Prior to the effectiveness of any such Supplemental Resolution, the Metropolitan Government shall secure a Counsel's Opinion stating that such Supplemental Resolution has been duly

and lawfully adopted in accordance with the provisions of the Resolution, is authorized or permitted by the Resolution, and is valid and binding upon the Metropolitan Government in accordance with its terms.

(c) No Supplemental Resolution shall change or modify any of the rights or obligations of any Fiduciary without its written assent thereto.

(d) Promptly following the adoption thereof, the Metropolitan Government shall send to each Credit Issuer a copy of each Supplemental Resolution adopted pursuant to Section 1002 or Article XI of the Resolution, together with a full transcript of all proceedings relating to the adoption thereof.

## **ARTICLE XI AMENDMENTS**

**SECTION 1101. Mailing.** Any provision in this Article for the mailing of a notice or other paper to Holders of the Bonds shall be fully complied with if it is mailed postage prepaid to each Holder of affected Bonds then Outstanding at its address, if any, appearing upon the registry books of the Metropolitan Government.

**SECTION 1102. Powers of Amendment.** Any modification or amendment of the Resolution and of the rights and obligations of the Metropolitan Government and of the Holders of the Bonds thereunder, in any particular, may be made by a Supplemental Resolution, with the written consent given as provided in Section 1103 of the Holders of not less than a majority in principal amount of the Bonds affected by such modification or amendment Outstanding at the time such consent is given; provided, however, that if such modification or amendment will, by its terms, not take effect so long as any Bonds of any specified like Series and maturity remain Outstanding, the consent of the Holders of such Bonds shall not be required and such Bonds shall not be deemed to be Outstanding for the purpose of any calculation of Outstanding Bonds under this Section. No such modification or amendment shall permit a change in the terms of redemption or maturity of the principal of any Outstanding Bond or of any installment of interest thereon or a reduction in the principal amount or the Redemption Price thereof or in the rate of interest thereon without the consent of the Holder of such Bond, or shall reduce the percentages or otherwise affect the classes of Bonds the consent of the Holders of which is required to effect any such modification or amendment, or shall change or modify any of the rights or obligations of any Fiduciary without its written assent thereto. For the purpose of this Section, a Series shall be deemed to be affected by a modification or amendment of the Resolution if the same adversely affects or diminishes the rights of the Holders of Bonds of such Series. The Metropolitan Government may in its discretion determine whether or not in accordance with the foregoing powers of amendment Bonds of any particular Series or maturity would be affected by any modification or amendment of the Resolution and any such determination shall, absent manifest error, be binding and conclusive on the Metropolitan Government and all Holders of Bonds. For the purpose of this Section, a change in the terms of redemption of any Outstanding Bond shall be deemed only to affect such Bond, and shall be deemed not to affect any other Bond. For the purpose of this Section, the Holders of any Bonds may include the initial Holder or Holders thereof, which shall in all cases be deemed to include the underwriter of such Bonds, and the consent of such initial Holder shall be fully binding on all subsequent Holders of such Bonds.

**SECTION 1103. Consent of Holders of the Bonds.** The Metropolitan Government may at any time adopt a Supplemental Resolution making a modification or amendment permitted by the provisions of Section 1102 to take effect when and as provided in this Section. A copy of such Supplemental Resolution (or brief summary thereof or reference thereto), together with a request to affected Holders of the Bonds for their consent thereto, shall be mailed by the Metropolitan Government to affected Holders of the Bonds (but failure of any affected Holder of a Bond to receive such copy and request shall not affect the validity of the Supplemental Resolution when consented to as in this Section provided). Such

Supplemental Resolution shall not be effective unless and until (i) there shall have been filed with the Metropolitan Government (a) the written consents of Holders of the percentages of affected Outstanding Bonds specified in Section 1102 and (b) a Counsel's Opinion stating that such Supplemental Resolution has been duly and lawfully adopted and filed by the Metropolitan Government in accordance with the provisions of the Resolution, is authorized or permitted by the Resolution, and is valid and binding upon the Metropolitan Government in accordance with its terms, and (ii) a notice shall have been mailed as hereinafter in this Section 1103 provided. It shall not be necessary that the consents of Holders of Bonds approve the particular form of wording of the proposed modification or amendment or of the proposed Supplemental Resolution effecting such modification or amendment, but it shall be sufficient if such consents approve the substance of the proposed amendment or modification. Each such consent shall be effective only if accompanied by proof of the holding, at the date of such consent, of the Bonds with respect to which such consent is given, which proof shall be such as is permitted by Section 1202. A certificate or certificates executed by an Authorized Finance Officer stating that such Officer has examined such proof and that such proof is sufficient in accordance with Section 1202 shall be prima facie evidence that the consents have been given by the Holders of the Bonds described in such certificate or certificates. Any such consent shall be binding upon the Holder of the affected Bonds giving such consent and, anything in Section 1202 to the contrary notwithstanding, upon any subsequent Holder of such affected Bonds and of any Bonds issued in exchange therefor (whether or not such subsequent Holder thereof has notice thereof) unless such consent is revoked in writing by the Holder of such Bonds giving such consent or a subsequent Holder thereof by filing with the Metropolitan Government, prior to the time when the written statement of the Metropolitan Government hereinafter in this Section 1103 provided for is filed, such revocation. The fact that a consent has not been revoked may likewise be proved by a certificate of an Authorized Finance Officer filed with the records of the Metropolitan Government to the effect that no revocation thereof is on file with the Metropolitan Government. At any time after the Holders of the required percentages of affected Bonds shall have filed their consents to the Supplemental Resolution, an Authorized Finance Officer shall make and file with the records of the Metropolitan Government a written statement that the Holders of such required percentages of affected Bonds have filed consents. Such written statements shall be prima facie evidence that such consents have been so filed. At any time thereafter, notice stating in substance that the Supplemental Resolution adopted by the Metropolitan Government on a stated date (a copy of which is on file with the Metropolitan Government) has been consented to by the Holders of the required percentages of affected Bonds and will be effective as provided in this Section 1103, may be given to affected Holders of the Bonds by the Metropolitan Government by mailing such notice to affected Holders of the Bonds (but failure of any affected Holder of a Bond to receive such notice shall not prevent such Supplemental Resolution from becoming effective and binding as in this Section 1103 provided) not more than 90 days after the Holders of the required percentages of affected Bonds shall have filed their consents to the Supplemental Resolution and the written statement of an Authorized Finance Officer hereinabove provided for is filed. The Metropolitan Government shall file with its records proof of the mailing of such notice. A record, consisting of the certificates or statements required or permitted by this Section 1103 to be made by the Metropolitan Government, shall be proof of the matters therein stated. Such Supplemental Resolution making such amendment or modification shall be deemed conclusively binding upon the Metropolitan Government, the Fiduciaries and the Holders of all Bonds at the expiration of 40 days after the filing with the records of the Metropolitan Government of the proof of the mailing of such last mentioned notice, except in the event of a final decree of a court of competent jurisdiction setting aside such Supplemental Resolution in a legal action or equitable proceeding for such purpose commenced within such 40 day period; provided, however, that any Fiduciary and the Metropolitan Government during such 40 day period and any such further period during which any such action or proceeding may be pending shall be entitled in their absolute discretion to take such action, or to refrain from taking such action, with respect to such Supplemental Resolution as they may deem expedient.

**SECTION 1104. Modifications by Unanimous Consent.** The terms and provisions of the Resolution and the rights and obligations of the Metropolitan Government and of the Holders of the Bonds thereunder may be modified or amended in any respect upon the adoption by the Metropolitan Government of a Supplemental Resolution and the consent of the Holders of all of the affected Bonds then Outstanding, such consents to be given as provided in Section 1103 except that no notice to affected Holders of the Bonds by mailing shall be required; provided, however, that no such modification or amendment shall change or modify any of the rights or obligations of any Fiduciary without the filing with the records of the Metropolitan Government of the written assent thereto of such Fiduciary in addition to the consent of the affected Holders of the Bonds.

**SECTION 1105. Exclusion of Bonds.** Bonds owned or held by or for the account of the Metropolitan Government shall not be deemed Outstanding for the purpose of consent or other action or any calculation of affected Outstanding Bonds provided for in this Article XI, and the Metropolitan Government shall not be entitled with respect to such Bonds to give any consent or take any other action provided for in this Article. At the time of any consent or other action taken under this Article, an Authorized Finance Officer shall file with the records of the Metropolitan Government a certificate as to all Bonds so to be excluded.

**SECTION 1106. Notation on Bonds.** Bonds authenticated and delivered after the effective date of any action taken as in Article X or this Article XI provided may, if the Metropolitan Government so determines, bear a notation by endorsement or otherwise in form approved by the Metropolitan Government as to such action, and in that case upon demand of the Holder of any Bond Outstanding at such effective date and presentation of its Bond for the purpose at the principal office of the Bond Registrar therefor or upon any transfer or exchange of any Bond Outstanding at such effective date, suitable notation shall be made on such Bond or upon any Bond issued upon any such transfer or exchange by such Bond Registrar as to any such action. If the Metropolitan Government shall so determine, new Bonds so modified as in the opinion of the Metropolitan Government to conform to such action shall be prepared, authenticated and delivered, and upon demand of the Holder of any Bond then Outstanding shall be exchanged, without cost to such Holder, for Bonds of the same Series, principal amount, maturity, interest rate and redemption provisions then Outstanding, upon surrender of such Bonds. Any action taken as in Article X or this Article XI provided shall be effective and binding upon all Holders of Bonds notwithstanding that the notation is not endorsed on all Bonds.

## **ARTICLE XII MISCELLANEOUS**

### **SECTION 1201. Defeasance.**

(a) Except as otherwise set forth in a Supplemental Resolution authorizing Bonds, all or any portion of the Bonds for the payment, prepayment or redemption of which sufficient moneys or sufficient Defeasance Securities shall have been deposited with the Paying Agent or an Escrow Agent (whether upon or prior to the maturity or the redemption date of such Bonds) shall be deemed to be paid and no longer Outstanding under the Resolution; provided, however, that if such Bonds are to be redeemed prior to the maturity thereof, notice of such redemption shall have been duly given as provided in Article IV or firm and irrevocable arrangements shall have been made for the giving of such notice. Defeasance Securities shall be considered sufficient for purposes of this Section 1201 only: (i) if such Defeasance Securities are not callable by the issuer of the Defeasance Securities prior to their stated maturity, and (ii) if such Defeasance Securities fall due and bear interest in such amounts and at such times as will assure sufficient cash (whether or not such Defeasance Securities are redeemed by the Metropolitan Government pursuant to any right of redemption) to pay currently maturing interest and to pay principal and

redemption premiums, if any, when due on the Bonds without rendering the interest on any tax-exempt Bonds includable in gross income of any owner thereof for federal income tax purposes.

(b) For purposes of determining whether Bonds bearing interest at Variable Rates shall be deemed to have been paid prior to the maturity or redemption date thereof, as the case may be, in accordance with subsection (a) above, the interest to come due on such Bonds on or prior to the maturity date or redemption date thereof, as the case may be, shall be calculated at the maximum rate permitted by the terms thereof; provided, however, that if on any date, as a result of such Bonds having borne interest at less than such maximum rate for any period, the total amount of moneys and Defeasance Securities on deposit with the Escrow Agent for the payment of interest on such Bonds is in excess of the total amount which would have been required to be deposited with the Escrow Agent on such date in respect of such Bonds in order to satisfy subsection (a) above, the Escrow Agent shall, if requested by the Metropolitan Government, pay the amount of such excess to the Metropolitan Government free and clear of any trust, lien or pledge securing the Bonds or otherwise existing under the Resolution.

(c) The Metropolitan Government may at any time surrender to the Bond Registrar for cancellation by it any Bonds previously authenticated and delivered under the Resolution which the Metropolitan Government may have acquired in any manner whatsoever. All such Bonds, upon such surrender and cancellation, shall be deemed to be paid and retired.

(d) If all Bonds and related obligations secured by a lien on the Revenues have been paid or provision for payment thereof made pursuant to this Section 1201 and related Supplemental Resolution(s), then at the option of the Metropolitan Government, the terms and provisions of the Resolution may be determined as void and of no further force or effect.

**SECTION 1202. Evidence of Signatures of Holders of the Bonds and Ownership of Bonds.**

(a) Any request, consent, revocation of consent or other instrument which the Resolution may require or permit to be signed and executed by the Holders of the Bonds may be in one or more instruments of similar tenor, and shall be signed or executed by such Holders or by their attorneys appointed in writing. Proof of the execution of any such instrument, or of an instrument appointing any such attorney, shall be sufficient for any purpose of the Resolution (except as otherwise therein expressly provided) if made in the following manner, or in any other manner satisfactory to the Metropolitan Government, which may nevertheless in its discretion require further or other proof in cases where it deems the same desirable:

The fact and date of the execution by any Holder of a Bond or its attorney of such instrument may be proved by a guarantee of the signature thereon by a bank or trust company or by the certificate of any notary public or other officer authorized to take acknowledgements of deeds, that the person signing such request or other instrument acknowledged to such person the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer. Where such execution is by an officer of a corporation or association or a member of a partnership, on behalf of such corporation, association or partnership, such signature, guarantee, certificate or affidavit shall also constitute sufficient proof of the authority of such officer or member.

(b) The ownership of Bonds and the amount, numbers and other identification, and date of holding the same shall be proved by the registry books.

(c) Any request or consent by the owner of any Bond shall bind all future owners of such Bond in respect of anything done or suffered to be done by the Metropolitan Government or any Fiduciary in accordance therewith.

**SECTION 1203. Moneys Held for Particular Bonds.** The amounts held by any Fiduciary for the payment of the interest, principal or Redemption Price due on any date with respect to particular Bonds shall, on and after such date and pending such payment, be set aside on its books and held in trust by it for the Holders of the Bonds entitled thereto.

**SECTION 1204. Preservation and Inspection of Documents.** All documents received by any Fiduciary under the provisions of the Resolution shall be retained in its possession and shall be subject at all reasonable times to the inspection of the Metropolitan Government, any other Fiduciary, and by Holders of the Bonds and their agents and their representatives, any of whom may make copies thereof.

**SECTION 1205. Parties Interested Herein.** Nothing in the Resolution expressed or implied is intended or shall be construed to confer upon, or to give to, any person or corporation, other than the Metropolitan Government, the Fiduciaries, the Holders of the Bonds and any Credit Issuers and Qualified Hedge Providers, any right, remedy or claim under or by reason of the Resolution or any covenant, condition or stipulation thereof; and all the covenants, stipulations, promises and agreements in the Resolution contained by and on behalf of the Metropolitan Government shall be for the sole and exclusive benefit of the Metropolitan Government, the Fiduciaries, the Holders of the Bonds and any Credit Issuers and Qualified Hedge Providers; provided, however, that the foregoing shall not be construed so as to limit or restrict the Metropolitan Government's right to covenant in any other instrument for the benefit of any other entity that the Metropolitan Government will comply with any or all of such covenants, stipulations, promises or agreements, and that the Metropolitan Government will not amend, modify, supplement or change the same.

**SECTION 1206. No Recourse on the Bonds.** No recourse shall be had for the payment of the principal of or interest on the Bonds or for any claim based thereon or on the Resolution against any present or former member or officer of the Metropolitan Government or any person executing the Bonds.

**SECTION 1207. Publication of Notice; Suspension of Publication; Notice to Credit Enhancers.**

(a) Any publication to be made under the provisions of the Resolution in successive weeks or on successive dates may be made in each instance upon any business day of the week and need not be made in the same Authorized Newspaper for any or all of the successive publications but may be made in a different Authorized Newspaper.

(b) If, because of the temporary or permanent suspension of the publication or general circulation of any Authorized Newspaper or for any other reason, it is impossible or impractical to publish any notice pursuant to the Resolution in the manner herein provided, then such publication in lieu thereof shall constitute a sufficient publication of such notice.

(c) All notices and other documents required or permitted to be given to Holders of Bonds also shall be given to each Credit Issuer and Qualified Hedge Provider, at the address to be specified by it by notice in writing to the Metropolitan Government.

**SECTION 1208. Action by Credit Issuer When Action by Holders of the Bonds Required.** Except as otherwise provided in a Supplemental Resolution authorizing Bonds for which a Credit Facility is being provided, if not in default in respect of any of its obligations with respect to the Credit Facility

for the Bonds of a Series, or a maturity within a Series, the Credit Issuer for, and not the actual Holders of, the Bonds of a Series, or a maturity within a Series, for which such Credit Facility is being provided, shall be deemed to be the Holder of Bonds of any Series, or maturity within a Series, as to which it is the Credit Issuer at all times for the purpose of (a) giving any approval or consent to the effectiveness of any Supplemental Resolution or any amendment, change or modification of the Resolution as specified in Sections 1003, 1102, 1103 and 1104 or any other provision hereof, which requires the written approval or consent of Holders; provided, however, that the provisions of this Section shall not apply to any change in the terms of redemption or maturity of the principal of any Outstanding Bond or of any installment of interest thereon or a reduction in the principal amount or the Redemption Price thereof or in the rate of interest thereon, or shall reduce the percentages or otherwise affect the classes of Bonds the consent of the Holders of which is required to effect any such modification or amendment, or shall change or modify any of the rights or obligations of any Fiduciary without its written assent thereto and (b) giving any approval or consent, exercising any remedies or taking any other action in accordance with the provisions of Article VIII hereof.

**SECTION 1209. Severability of Invalid Provisions.** If any one or more of the covenants or agreements provided in the Resolution on the part of the Metropolitan Government or any Fiduciary to be performed should be contrary to law, then such covenant or covenants or agreement or agreements shall be deemed severable from the remaining covenants and agreements, and shall in no way affect the validity of the other provisions of the Resolution.

**SECTION 1210. Holidays.** Except as may be provided otherwise in a Supplemental Resolution, if the date for making any payment or the last date for performance of any act or the exercising of any right, as provided in the Resolution, shall be a legal holiday or a day on which banking institutions in the cities in which are located the principal offices of the Paying Agents are authorized by law to remain closed, such payment may be made or act performed or right exercised on the next succeeding day not a legal holiday or a day on which such banking institutions are authorized by law to remain closed, with the same force and effect as if done on the nominal date provided in the Resolution, and no interest shall accrue for the period after such nominal date.

### **ARTICLE XIII AMENDMENT TO RESOLUTION RS2009-995**

#### **SECTION 1301. Amendment of Resolution RS2009-995.**

(a) Section 1.01 of Resolution RS2009-995, approved by the Metropolitan Council on October 20, 2009 ("Resolution RS2009-995") is hereby amended by adding the following (in correct alphabetical order):

"Second Lien Bonds" means any outstanding bonds of the Metropolitan Government issued pursuant to the terms of the Second Lien Bond Resolution.

"Second Lien Bond Resolution" means Metropolitan Council Substitute Resolution RS2010-1442, adopted on November 16, 2010, as supplemented and amended.

"Third Lien Bonds" means any outstanding bonds of the Metropolitan Government issued pursuant to the terms of the Third Lien Bond Resolution.

"Third Lien Bond Resolution" means Metropolitan Council Resolution RS2011-\_\_\_\_, adopted on \_\_\_\_\_, 2011, as supplemented and amended.

(c) Section 2.05(a) of Resolution RS2009-995 is hereby amended by deleting the first sentence therein and substituting the following therefor:

"All of the Commercial Paper, together with the Metropolitan Government's obligations under the Facilities, shall constitute and be limited obligations of the Metropolitan Government payable solely from and secured solely by a pledge of Revenues of the System, subject to the prior pledges of such Revenues to the Senior Lien Bonds, Second Lien Bonds, Third Lien Bonds and any indebtedness hereafter issued on parity with the Second Lien Bonds or Third Lien Bonds, and subject to the prior application of such Revenues pursuant to the Senior Lien Bond Resolution, Second Lien Bond Resolution and Third Lien Bond Resolution."

**ARTICLE XIV  
SUPPLEMENT TO RESOLUTION RS2010-1442**

**SECTION 1401. Supplement to Resolution RS2010-1442.**

(a) Section 202(a)(v) of Resolution RS2010-1442, adopted by the Metropolitan Council on November 16, 2010 ("Resolution RS2010-1442") is hereby supplemented as amended by deleting such subsection in its entirety and inserting the following in the place thereof:

"(v) except in the case of the Bonds issued under the first Supplemental Resolution, execution by an Authorized Finance Officer of a certificate (A) setting forth the amounts of Net Revenues for any twelve (12) consecutive month period within the twenty-four (24) consecutive months immediately preceding the date of issuance of the Bonds of the Series with respect to which such certificate is being given; and (B) stating that the Net Revenues for such 12 month period were at least equal to the greater of (1) 120% of the maximum Debt Service Requirement on the Prior Bonds and the Bonds in any future Fiscal Year (calculated with respect to the Bonds of all Series then Outstanding, the Prior Bonds then outstanding and the Bonds of the Series with respect to which such certificate is given), and (2) 110% of the maximum Debt Service Requirement on the Prior Bonds, the Bonds and any Subordinated Indebtedness issued under the provisions of Resolution RS 2011-\_\_\_, adopted by the Metropolitan Council on December \_\_, 2011 (the "2011 Subordinate Lien Resolution") in any future Fiscal Year (calculated with respect to the Bonds of all Series then Outstanding, the Prior Bonds then outstanding, such Subordinated Indebtedness then outstanding and the Bonds of the Series with respect to which such certificate is given); provided, however, that the Net Revenues for such twelve (12) month period may be adjusted for the purposes of such certificate (X) to reflect for such period revisions in the rates, fees, rentals and other charges of the Metropolitan Government for the product and services of the System made after the commencement of such period and preceding the date of issuance of the Bonds of the Series with respect to which such certificate is given; (Y) to reflect any increase in Net Revenues due to any new facilities of the System having been placed into use and operation subsequent to the commencement of such period and prior to the Date of Issuance of such Bonds, as certified by a Consultant; and (Z) to include an amount equal to the average annual contribution to Net Revenues for the first three full Fiscal Years commencing after the date of acquisition thereof, estimated to be made by facilities anticipated to be acquired

and expected to be placed into use and operation within two years of the Date of Issuance of such Bonds, as certified by a Consultant;

(b) Section 204(e) of Resolution RS2010-1442 is hereby supplemented as amended by deleting such subsection in its entirety and inserting the following in the place thereof:

“(e) In complying with Section 202(a)(v), there shall be deleted from the calculation of maximum Debt Service Requirement the Debt Service Requirement on any Bonds, Prior Bonds and (if applicable under clause (B)(2)) Subordinated Indebtedness issued pursuant to the 2011 Subordinate Lien Resolution being refunded by the Bonds with respect to which the certificate described in Section 202(a)(v) is being given.

(c) Section 506 of Resolution RS2010-1442 is hereby supplemented by inverting the order of subsections (c) and (d) thereof.

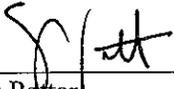
(d) Section 714 of Resolution RS2010-1442 is hereby supplemented by replacing the last sentence thereof with the following sentence: “Notwithstanding the foregoing, no payments may be paid to the Metropolitan Government from Revenues prior to the payment of debt service on the Prior Bonds, the Bonds and Subordinated Indebtedness.”

#### **ARTICLE XV EFFECTIVE DATE**

**SECTION 1501. Effective Date.** Except for Articles XIII and XIV, this Resolution shall become effective upon the Date of Issuance of the first Series of Bonds issued hereunder. Articles XIII and XIV of this Resolution shall take effect from and after its adoption, the welfare of the Metropolitan Government requiring it.

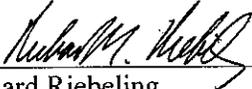
*(signature page follows)*

RECOMMENDED BY:



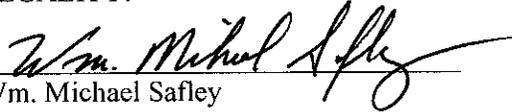
\_\_\_\_\_  
Scott Potter,  
Director of Water and Sewerage Services

APPROVED AS TO AVAILABILITY OF FUNDS BY:



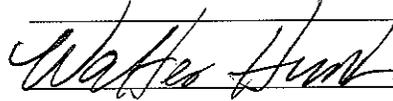
\_\_\_\_\_  
Richard Riebeling  
Director of Finance

APPROVED AS TO FORM AND LEGALITY:



\_\_\_\_\_  
Wm. Michael Safley  
Deputy Director of Law

INTRODUCED BY:



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MEMBERS OF COUNCIL

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