Peralta CCD – OPEB Substantive Plan

Ronald Gerhard – December 12, 2012
GASB 45

Governmental Accounting Standards Board Statement 45 (GASB 45) is an accounting and financial reporting provision that requires governmental agencies to measure and quantify the liabilities associated with Other Post-Employment Benefits (OPEB) and report these liabilities on the entities’ financial statements. OPEB expenditures and liabilities include post-retirement health and welfare benefits (medical, pharmacy, dental, and vision) that are not associated with typical pension plans.

GASB 45 was enacted by the Governmental Accounting Standards Board in 2004 because of concern surrounding the undocumented magnitude of government employer obligations for post-employment benefits negotiated within employment contracts and collective bargaining agreements.

The requirements under GASB 45 are as follows:

- Provide within the District’s financial statements a description of OPEB benefits provided, eligibility requirements, and the number of employees and retirees covered within the plan;
- Provide an Actuarial Accrued Liability (AAL) as determined by a licensed actuarial firm based upon the benefits provided. An actuarial study is required no less than once every two years; and
- Report as an expense the annual liability incurred and, in addition, the cumulative unfunded liability of the actuarial accrued liability on the District’s balance sheet.

History

As determined by the 2005 actuarial study, the Peralta Community College District’s OPEB liability was reported as $133.8 million (Actuarial Report dated December 5, 2005 attached). As a way to manage and finance this liability, the Peralta Community College District elected to issue taxable OPEB bonds. On July 28, 2005, the Board of Trustees approved Resolution No. 05/06-08 authorizing the issuance of bonds in the aggregate principal amount not-to-exceed $250 million (resolution attached). On August 19, 2005, Peralta’s Bond Counsel and General Counsel filed with the Superior Court for the County of Alameda a complaint for validation. The purpose of this complaint was to validate, through the judicial process, the issuance of OPEB bonds “as an obligation imposed by law “ or to find that the bonds are legal and permissible obligations imposed by law. The authorization for issuance was validated by judgment by Superior Court of the State of California on November 7, 2005. Since there were no appeals to the judgment during the 30 day appeal time, the judgment was final and unappealable on December 7, 2005 (court validation attached). On December 13, 2005, the Board of Trustees approved Resolution No. 05/06-28 authorizing the sale of limited obligation bonds to refinance retiree health benefit obligations of the District, approving final form of financing documents, designating an investment management firm, and approving official actions (resolution attached). On December 19, 2005, the District issued $153,749,832.25 taxable 2005 limited obligation OPEB bonds. The bonds were structured as two series. The first series, Series A, was current interest bonds in five maturities totaling $20,015,000. The second series, Series B, was six (6) tranches...
of convertible auction rate securities (CARS) totaling $133,734,832.25. These six tranches of CARS were initially structured as capital appreciation bonds sold at a fixed rate (yield) that convert on a specific date to a variable rate security or in this case, an auction rate security (ARS). ARS were a viable security (market existed that determined the variable rate) until 2008 when at such time the markets collapsed. The auction rate market for municipal securities remains a non-performing market. As a result, these bonds are considered to be a non-performing security.

In an effort to mitigate the risk associated with the variable interest rates securities or CARS, in 2006 the District entered into forward starting interest rate SWAP agreements on November 28, 2006 with Morgan Stanley Capital Services. There are six SWAPS each matched to a series or tranche of CARS that became effective on the conversion date of each series from CABS to CARS. These SWAP agreements were a hedge to the variable interest rates the District would otherwise pay to the CARS bond holders. This type of swap had the net effect of recasting the CARS into a synthetic fixed rate security. So effectively, rather than paying the variable interest rate at the conversion date, Morgan Stanley agrees to pay the variable rate and the District agrees to pay Morgan Stanley a fixed interest rate.

According to historical documents and records, the CARS structure was selected based upon the belief that investment earnings, at an anticipated annual return of 6%, would be sufficient to pay for retiree health care costs over the life of the OPEB bonds and that the variable interest rates would be below the 6%. Further, the District anticipated that it would maintain its retiree health care costs at a constant 6.7% of annual budget through the final maturity of the bonds in 2049, as opposed to experiencing an increase in such costs to almost 9% of the budget through fiscal year 2020. In fiscal year 2011, the District revised and restructured its OPEB program because the core assumptions that supported the program did not materialize. These core assumptions included: 6% annual return on investments, single digit increase in medical costs, and annual cost of living adjustments from the State. An overview of the restructuring that occurred in fiscal year 2011 is discussed throughout the remainder of this document.

Debt Restructurings

In 2006 and 2009, the District restructured the 2005 OPEB bonds. For the 2006 transaction, three short maturities of current interest bonds were restructured to mature in 2049. In the 2009 transaction, two short maturities of current interest bonds were restructured to mature in 2011 to 2015. In addition, the first series of convertible capital appreciation bonds (B-1) was restructured as current interest bonds in anticipation of the conversion of the CABS to ARS which had no effective market. The B-1 SWAP associated with the B-1 tranches of securities was not terminated. As a result, these transactions increased the overall debt service to the program. All of the Morgan Stanley SWAPs are still outstanding. Since the B-1 SWAP was not terminated during the 2009 restructuring, it has passed its forward starting date of August 2010 and became effective. Per the swap agreement, the District is currently making payments to Morgan Stanley due to changes in the short term interest rates.

In October of 2011, the District restructured the current interest bonds that were issued in 2006 and 2009. The purpose of this restructuring was to provide debt service payment relief to the
unrestricted general fund. In planning for the 2010-11 fiscal year, the District was in a position where it had to cut in excess of $15 million to balance its operating fund (unrestricted general fund). Further, plans were developed to cut the District’s operating fund in anticipation of additional reductions at the State level, increases attributed to CalPERS employer contribution increases, increases in health and welfare expenditure for current employees, and increases in debt services payments attributed to OPEB bonds. A summary of the debt services prior to and after the restructuring is provided below.

<table>
<thead>
<tr>
<th></th>
<th>Debt Service Prior to Restructuring</th>
<th>Debt Service Post Restructuring</th>
</tr>
</thead>
<tbody>
<tr>
<td>Estimated Debt Service in 2012</td>
<td>$8,104,282.78</td>
<td>$1,637,033.92</td>
</tr>
<tr>
<td>Estimated Debt Service in 2013</td>
<td>$9,159,220.60</td>
<td>$4,247,467.76</td>
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<tr>
<td>Estimated Debt Service in 2014</td>
<td>$10,366,629.27</td>
<td>$5,810,280.98</td>
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<tr>
<td>Estimated Debt Service in 2015</td>
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<td>$6,727,396.13</td>
</tr>
<tr>
<td>Estimated Debt Service in 2016</td>
<td>$19,823,770.80</td>
<td>$7,646,992.27</td>
</tr>
<tr>
<td>Estimated Debt Service in 2017</td>
<td>$9,247,141.55</td>
<td>$13,312,115.32</td>
</tr>
</tbody>
</table>

After fiscal year 2017, the average annual increase in debt service will be approximately 3%. Due to this refunding, the District’s unrestricted general fund will save approximately $29 million in debt service payments over this six-year period.

**Revocable Trust**

As part of establishing an OPEB program, the District had set up a revocable trust for the bond proceeds managed by Lehman Brothers’ asset arm, Neuberger Berman. A revocable trust is one that may be altered or terminated during the life of the program. In 2005, when the trust was initially established, the District chose a revocable trust because of the belief that the bond proceeds could, under certain circumstances, be used to redeem bonds or upon retirement of all debt, remaining monies could be transferred to the general fund. After further review of the trust documents and the bond indenture itself (see Appendix II), the only two permissible uses of the bond proceeds are: 1) to fully fund the actuarial determined liability and then contingent upon fully funding the liability; and 2) paying for debt services related to the OPEB bonds. Given that the bond indenture serves as the primary authority on the permissible uses of these funds, the trust documents are now in the process of being revised to reflect this. Further, once the trust documents are revised, the revocable trust will be converted into an irrevocable trust or a trust that is a combination of the two. An irrevocable trust cannot be changed or terminated by the creator without the agreement of the beneficiary. After consultation with the District’s external auditors who are certified public accountants, as well as the District’s bond and disclosure counsel, it is understood that the conversion from a revocable to an irrevocable trust or a combination of the two will have no impact regarding limiting the District’s use of the bond proceeds, as it is already defined in the bond indenture. In addition, the conversion will remove the long-term liabilities associated with the OPEB program from the District’s balance sheet as the trust assets will offset those liabilities.
Bylaws and Management Structure

At its April 2011 meeting, the Peralta Community College District Retirement Board (RB) approved bylaws and a charter that clearly articulates the mission and purpose of the RB in addition to laying the framework on how business was to be conducted. The RB is made up of five voting members. In terms of facilitating meetings and conducting operations, the RB has appointed Ronald Gerhard, Vice Chancellor for Finance, as Chair and Trustee Bill Withrow as Vice Chair. As called for within the bylaws, the Chair and Vice Chair will serve in their respective capacity for two years at which time the RB will make new appointments. In addition, the RB solicited nominations from the various constituent groups that are beneficiaries of the trust to serve as advisory RB members. These members have access to all information provided to the five regular RB members and participate in open discussion and dialog during the meetings. In total, there are six advisory members; each of the three collective bargaining groups within the Peralta District has an advisory seat and the Peralta Retiree Organization (PRO) has three seats. The RB meets quarterly.

Discretionary Trustee

Prior to the RB approving the Discretionary Trustee contract with Neuberger Berman, the RB members were exposed to a tremendous amount of risk from a fiduciary perspective. That is, the RB members had a fiduciary responsibility to evaluate and monitor the investment manager on an ongoing basis to ensure investments were placed and held within the parameters of the Investment Policy Statement (IPS). This very technical and administrative responsibility is often outside of the level of investment skill set of most RB members. Customarily, due to the nature and very detailed level of investment knowledge needed to carry out this task, other comparable OPEB Retirement Boards have hired a Discretionary Trustee whose primary role is to act as the fiduciary agent and directly advise the RB on all investment matters. With the inclusion of a Discretionary Trustee, the fiduciary liability exposure to the RB and its members are reduced significantly.

At the January 26, 2012 RB meeting, Neuberger Berman was selected to serve as the Discretionary Trustee of the OPEB trust. Functioning in this role, the Neuberger Berman Discretionary Trustee will ensure that the IPS is adhered to by the investment managers, will constantly monitor the investment managers and evaluate them against their established benchmarks, and advise or make recommendations to the RB on changes to the IPS as circumstances and the markets change. Additionally, Neuberger Berman will also function as the custodian of the plan assets.

Other Post-Employment Benefits – Level of Benefits Provided

The Peralta Community College District negotiates with three recognized employee bargaining units. The results of these negotiations often impact the level of benefits provided to employees and future retirees and associated costs to the District. Those bargaining units are Service Employees International Union (SEIU) Local 1021, International Union of Operating Engineers
(IUOE) Local 39, and California Federation of Teachers Local 1603 (Peralta Federation of Teachers). Prior to July 1, 2012, active employees and eligible dependents were able to participate and obtain medical and dental coverage in the District’s sponsored plans. Employees hired on or before June 30, 2004 are eligible to receive District paid benefits for the duration of the employee’s life. Employees hired after June 30, 2004 and retired from the District are eligible to receive District paid benefits until the age of 65, at which time the employee would then have coverage under Medi-Cal/Medicare as the primary source of medical coverage with the District’s coverage becoming secondary.

Effective July 1, 2012, the District and the three bargaining units successfully negotiated numerous changes including plan design changes, employee contributions and the incorporation of a variable rate cap limiting the amount the District pays for medical and dental benefits.

The plan design changes for medical plans introduce a mid-level self-funded medical plan which provides the same level of benefits as the District’s traditional self-funded plan, but exclusively utilizes the network provided by Anthem Blue Cross. The District continues to offer its traditional self-funded PPO plan which allows employees to see practitioners outside of the Anthem Blue Cross network, but employees will now have to pay the premium difference between this mid-level plan (PPO Lite) and the traditional PPO plan. Employees who choose the PPO Lite plan are now required to pay monthly: $15 for employee only coverage; $30 for employee + dependent coverage; and $45 for employee + family coverage. Employees who choose the PPO Traditional plan are required to pay the monthly difference between the monthly premium cost to the District for the PPO Lite plan and the monthly premium cost to the District for the PPO Traditional plan. The District continues to offer the Kaiser plan free to employees. Copies of the agreements with the respective unions are provided. Additionally, the two tables below provide cost data based upon these plan design changes.

<table>
<thead>
<tr>
<th>2012-13</th>
<th>MONTHLY</th>
<th>ANNUAL</th>
<th>PFT AND ADM AND L1021</th>
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<tr>
<td></td>
<td>Kaiser</td>
<td>PPO Lite</td>
<td>PPO Traditional</td>
</tr>
<tr>
<td>Single</td>
<td>622.64</td>
<td>666.55</td>
<td>729.10</td>
</tr>
<tr>
<td>EE +1</td>
<td>1,245.27</td>
<td>1,489.24</td>
<td>1,628.99</td>
</tr>
<tr>
<td>EE + 2 or more</td>
<td>1,762.06</td>
<td>2,237.32</td>
<td>2,447.27</td>
</tr>
</tbody>
</table>

**EMPLOYER OBLIGATION**

<table>
<thead>
<tr>
<th>Single</th>
<th>Kaiser</th>
<th>PPO Lite</th>
<th>PPO Traditional</th>
<th>Kaiser</th>
<th>PPO Lite</th>
<th>PPO Traditional</th>
</tr>
</thead>
<tbody>
<tr>
<td>EE +1</td>
<td>1,245.27</td>
<td>1,459.24</td>
<td>1,489.24</td>
<td>14,943.24</td>
<td>17,510.88</td>
<td>17,870.88</td>
</tr>
<tr>
<td>EE + 2 or more</td>
<td>1,762.06</td>
<td>2,192.32</td>
<td>2,237.32</td>
<td>21,144.72</td>
<td>26,847.84</td>
<td>29,367.24</td>
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<table>
<thead>
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<th>2012-13</th>
<th>MONTHLY</th>
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<th>L39</th>
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<td></td>
<td>Kaiser</td>
<td>PPO Lite</td>
<td>PPO Traditional</td>
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<tr>
<td>Single</td>
<td>609.25</td>
<td>648.22</td>
<td>710.40</td>
</tr>
<tr>
<td>EE +1</td>
<td>1,218.50</td>
<td>1,448.29</td>
<td>1,587.22</td>
</tr>
<tr>
<td>EE + 2 or more</td>
<td>1,724.18</td>
<td>2,175.80</td>
<td>2,384.52</td>
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</table>

**EMPLOYER OBLIGATION**

<table>
<thead>
<tr>
<th>Single</th>
<th>Kaiser</th>
<th>PPO Lite</th>
<th>PPO Traditional</th>
<th>Kaiser</th>
<th>PPO Lite</th>
<th>PPO Traditional</th>
</tr>
</thead>
<tbody>
<tr>
<td>EE +1</td>
<td>1,218.50</td>
<td>1,418.29</td>
<td>1,475.54</td>
<td>14,622.00</td>
<td>17,019.48</td>
<td>17,706.48</td>
</tr>
<tr>
<td>EE + 2 or more</td>
<td>1,724.18</td>
<td>2,130.80</td>
<td>2,216.73</td>
<td>20,690.16</td>
<td>25,569.60</td>
<td>26,600.76</td>
</tr>
</tbody>
</table>
The District and all three collective bargaining units also agreed upon the maximum contribution the District will pay for dental benefits. The District currently provides two dental plans, one with Delta Dental and the other with United Healthcare Dental. For all employees, the maximum District paid benefit is limited to the United Healthcare Dental family rate. For fiscal year 2012-13 the rates are:

<table>
<thead>
<tr>
<th></th>
<th>Dental Coverage for Managers &amp; Confidentials (Except Confidentials who elected furlough)</th>
<th>Dental Coverage for Regular Represented Employees in Local 39, 1021, and PFT</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Delta Dental</td>
<td>United Health Care Dental</td>
</tr>
<tr>
<td></td>
<td>Delta Dental</td>
<td>United Health Care Dental</td>
</tr>
<tr>
<td><strong>Employee Pays</strong></td>
<td>47.34</td>
<td>0.00</td>
</tr>
<tr>
<td></td>
<td>26.95</td>
<td>26.95</td>
</tr>
<tr>
<td><strong>Total Cost</strong></td>
<td>74.29</td>
<td>26.95</td>
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<tr>
<td><strong>Two- Party Coverage</strong></td>
<td>Delta Dental</td>
<td>United Health Care Dental</td>
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<tr>
<td></td>
<td>83.19</td>
<td>0.00</td>
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<tr>
<td></td>
<td>43.11</td>
<td>43.11</td>
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<tr>
<td><strong>Total Cost</strong></td>
<td>126.30</td>
<td>43.11</td>
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<tr>
<td><strong>Family Coverage</strong></td>
<td>Delta Dental</td>
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<tr>
<td></td>
<td>127.48</td>
<td>0.00</td>
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<tr>
<td></td>
<td>65.69</td>
<td>65.69</td>
</tr>
<tr>
<td><strong>Total Cost</strong></td>
<td>193.17</td>
<td>65.69</td>
</tr>
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</table>

With the incorporation of these plan design changes, employee contributions, and the District paid cap, the annual projected savings to the District is approximately $500,000. In addition to this annual savings, the District also will realize a long-term savings (or reduction in the long-term liability) as reflected in the reduction of the actuarial determined Other-Post Employment Benefit (OPEB) liability. Prior to these changes, the District’s actuarial determined OPEB liability was approximately $221 million. Based upon a new commissioned study that reflects these changes, the actuarial determined liability is $XXXX.

**Plan Structure**

The revised OPEB plan structure consists of four basic elements. The first element is the associated liabilities. These liabilities consist of the debt service associated with the bonds sold to fund the revocable trust, the six tranches of SWAP agreements, and lastly the actuarial study projecting the actuarial accrued liability directly related to the existing OPEB obligation.
The second element is the restricted assets set aside to fund the ongoing expenses and liabilities within the OPEB program. The two assets within the program are the investments currently held in the revocable trust originating from the bond sale in 2005 and the OPEB reserve fund held in the Alameda County Treasurer’s Office.

The third element is the annual expenses incurred related to the operations of the OPEB program. These expenses are a result of fulfilling the OPEB obligations to existing retirees, setting aside funds to pay for future obligations for current employees when they retire, annual debt service payments associated with the bonds (short-term portion of the liability previously discussed), operational expenses related to maintaining the trust, and periodic payments that are contractually required under the existing B-1 SWAP to Morgan Stanley (short-term portion of the total SWAP liability previously discussed).

The fourth element is the revenues that have been and will continue to be transferred into the revocable trust to fund the expenses and liabilities. These revenues include the OPEB Charge that is now being applied to all budgets that support positions eligible for OPEB, in addition to any appreciation in market value of the portfolio within the revocable trust.

The pictorial below provides an overview of the elements, sub-elements, and their relationships.

Central to the long term sustainability and funding of the OPEB Program, as outlined in the elements above, is for the revenues (OPEB Charge and Trust appreciation) to be able to support the annual expenses of the trust as well as to fund the long term liabilities, i.e. Actuarial Accrued Liability (AAL). The following sections provide a more focused explanation on the long-term
sustainability of the OPEB program and the revenues identified to support the liability associated with the OPEB program.

The District has appropriated additional resources to fund the gap between the OPEB Trust assets and the District’s AAL. As a result of a multi-year savings plan, the estimated actual balance held in the District’s OPEB Reserve Fund, as of June 30, 2011, exceeded $14,000,000. Amounts deposited into an unrestricted OPEB Reserve Fund (other than amounts attributable to the OPEB Charge) are available to pay for any lawful expenditures of the District, including but not limited to SWAP Agreement termination payments, debt service on the 2005 Bonds, or Other Post-Employment Benefits. However, amounts in the OPEB Reserve Fund (other than amounts attributable to the OPEB Charge) may be withdrawn from and spent on expenses unrelated to the Other Post-Employment Benefit program without any legal obligation of the District to replenish such amounts. Although the OPEB Reserve Fund is available to pay for debt services on the bonds (except for funds attributable to the OPEB Charge), the District has budgeted, for fiscal year 2012-13, sufficient amounts from the General Fund to satisfy debt service obligations on the 2005 Bonds and related refundings.

Beginning in fiscal year 2010-11, the District implemented an OPEB Charge (see attached GASB 45 Accounting Advisory issued by the State Chancellor’s Office and letter from the California Department of Education on new financial reporting requirements) to supplement funds available in the OPEB Trust to pay for Other Post-Employment Benefits. The OPEB Charge is a uniformly applied District-paid charge to all programs and is a function of the current projected Annual Required Contribution (ARC) calculated as a percentage of payroll for all OPEB eligible active employees. Based on the then current actuarial study, the OPEB Charge was initially calculated at 12.5%.

The funds, to which the OPEB Charge is applied each fiscal year will be accounted for in the OPEB Reserve Fund. At the end of each fiscal year, such amounts will be transferred to the OPEB Trust to be invested in accordance with the Investment Policy Statement, applied to satisfy the Normal Cost and the unfunded past-service liability of active employees of the District. For fiscal year 2011-12, the OPEB Charge resulted in approximately $7 million of additional deposits into the OPEB Trust. Based upon the most recent actuarial study, effective July 1, 2012, the OPEB Charge was increased from 12.9% to 14% and is expected to result in approximately $7 million in deposits to the OPEB Trust during fiscal year 2012-13. The District estimates that the OPEB Charge will, over the course of a 25-year period, result in approximately $150 million of deposits to the OPEB Trust, not including any interest earnings or appreciation through investments. Going forward, the District will continue to collect the OPEB Charge, as well as implement a long-term plan of debt management and finance for the Other Post-Employment Benefit Program, and convert(or restructure) the CARS to a viable and more affordable form of debt.

The illustration below displays the relationships between the General Fund, OPEB Reserve Fund and the OPEB Trust. The arrows and values represent the flow of funds for the fiscal year ending June 30, 2011. This illustration was also presented to bond rating agencies, as well as the accreditation commission.
The District has taken great strides over the last year to address the issues and concerns raised by the PCCD Governing Board and the ACCJC about the long-term sustainability and solvency of the OPEB Program. Two of the major achievements that will aid in the long-term sustainability of the program are the debt service restructuring that was completed on October 28, 2011 and the implementation of the OPEB Charge. As previously noted, the debt service restructuring will provide the District with budgetary relief of approximately $29 million over the next five fiscal years and the OPEB Charge has created an ongoing and dedicated revenue stream that will, over time, fund the Actuarial Accrued Liability.

In an effort to project and measure the impact of the restructuring on the long-term fiscal solvency of the District’s OPEB program, Neuberger Berman, the District’s Investment Managers, conducted a series of simulations with the purpose of projecting the value of the assets held within the Revocable Trust at the end of 25 years. A summary of the results are shown below.
Assuming a 7.1% average annual return on the assets held within the trust, annual medical expense costs increase between 6.2 and 7.2% over the next 25 years (consistent with the most recent actuarial study), and with the OPEB Charge consistently applied, the estimated current value of the assets held in the trust is $278,350,596. This is $57 million greater than the AAL of $221,198,000 as of June 30, 2011. It is anticipated that any valuation in excess of the AAL will be used to satisfy the OPEB bond debt service obligations, which is consistent with the OPEB bond indentures and the trust agreement.
Appendix
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PERALTA COMMUNITY COLLEGE DISTRICT

RETIREE HEALTHCARE PLAN

GASB 45 Actuarial Valuation
Preliminary Results

John Bartel and Doug Pryor

Revised
December 8, 2005

Agenda

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<td>Results – 4.5% Discount Rate</td>
<td>25</td>
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<td>Results – 7.0% Discount Rate</td>
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<td>33</td>
</tr>
<tr>
<td>Other Issues</td>
<td>37</td>
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# Benefit Summary

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<tr>
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<th>Local 39</th>
<th>Local 790</th>
<th>Non Union</th>
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<tr>
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<td>PERS/STRS retirement</td>
<td>PERS/STRS retirement</td>
</tr>
<tr>
<td></td>
<td>10 years service</td>
<td>10 years service</td>
<td>10 years service</td>
</tr>
<tr>
<td>(5 years if hired before 7/1/04)</td>
<td></td>
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<table>
<thead>
<tr>
<th><strong>Medical Benefit</strong></th>
<th></th>
<th></th>
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</thead>
<tbody>
<tr>
<td><strong>Hired before 7/1/2004</strong></td>
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<tr>
<td></td>
<td>Survivor coverage</td>
<td>Survivor coverage</td>
<td>Survivor coverage</td>
<td>Survivor coverage</td>
</tr>
</tbody>
</table>

| **Hired on or after 7/1/2004** | Coverage ends at age 65 | No survivor benefits. Surviving spouse can buy coverage to 65 |

## Life Insurance
- Coverage: age 50 to 66
- Amount: $1.5 \times \text{Pay}$, $100,000 maximum

## Dental & Vision
- None
### Active Premium Rates\(^1\)

**Kaiser**

<table>
<thead>
<tr>
<th></th>
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<tr>
<td><strong>Employee Only</strong></td>
<td>$326.97</td>
<td>$365.24</td>
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<td><strong>Two - Party</strong></td>
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<td>925.33</td>
<td>1,033.61</td>
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</tbody>
</table>

\(^1\) Rates effective for September through August.

---

### Active Funding Level\(^1\)

**Core Source**

<table>
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<td><strong>Employee Only</strong></td>
<td>$510.72</td>
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<tr>
<td><strong>Family</strong></td>
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\(^1\) Rates effective for September through August.
## PREMIUMS

### Retiree Premium Rates

**Kaiser**

<table>
<thead>
<tr>
<th>Plan</th>
<th>Under age 65</th>
<th>Over age 65*</th>
<th>Under age 65</th>
<th>Over age 65*</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Retiree Only</strong></td>
<td>$346.81</td>
<td>$360.61</td>
<td>$385.62</td>
<td>$258.80</td>
</tr>
<tr>
<td><strong>Two- Party</strong></td>
<td>693.62</td>
<td>-</td>
<td>771.24</td>
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<tr>
<td>✓ Both in Medicare</td>
<td>-</td>
<td>721.22</td>
<td>-</td>
<td>517.60</td>
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<tr>
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<td>-</td>
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<tr>
<td>✓ Parents in Medicare</td>
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<td>1,224.21</td>
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<td>927.17</td>
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* Medicare Senior Advantage premium

---

## PREMIUMS

### Retiree Funding Level

**Core Source**

<table>
<thead>
<tr>
<th>Plan</th>
<th>Under age 65</th>
<th>Over age 65</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Retiree Only</strong></td>
<td>$617.85</td>
<td>$308.93</td>
</tr>
<tr>
<td><strong>Two- Party</strong></td>
<td>1,752.54</td>
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<tr>
<td>✓ Both in Medicare</td>
<td>-</td>
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<td>✓ One in Medicare</td>
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<td><strong>Family</strong></td>
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* Rates effective for September through August.
### Medical Coverage
#### Active

<table>
<thead>
<tr>
<th></th>
<th>Single</th>
<th>2-Party</th>
<th>Family</th>
<th>Grand Total</th>
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<tbody>
<tr>
<td>Active</td>
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<td>134</td>
<td>364</td>
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<td>138</td>
<td>143</td>
<td>116</td>
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<tr>
<td>Total</td>
<td>244</td>
<td>267</td>
<td>250</td>
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### Medical Coverage
#### Retiree

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<thead>
<tr>
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<th>Family</th>
<th>Self-pay</th>
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<tr>
<td>Early Retirement (&lt;65)</td>
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<td>CoreSource</td>
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<td>44</td>
<td>13</td>
<td>5</td>
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<td>9</td>
<td>14</td>
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<td>30</td>
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<tr>
<td>Total</td>
<td>37</td>
<td>58</td>
<td>19</td>
<td>6</td>
<td>120</td>
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<td>Medicare (&gt;=65)</td>
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<td>CoreSource</td>
<td>137</td>
<td>154</td>
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<td>Kaiser</td>
<td>97</td>
<td>119</td>
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<td>10</td>
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<td>234</td>
<td>273</td>
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<td>554</td>
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<td>Retiree Grand Total</td>
<td>271</td>
<td>331</td>
<td>35</td>
<td>37</td>
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## DATA SUMMARY

### Participant Statistics

#### Actives

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<tr>
<th></th>
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<th>Local 39</th>
<th>Local 790</th>
<th>Non Union</th>
<th>Total</th>
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<tbody>
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#### Retirees

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<tr>
<th></th>
<th>PFT</th>
<th>Local 39</th>
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# DATA SUMMARY

## Actives - Total

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<thead>
<tr>
<th>Age</th>
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<th>1 to 4</th>
<th>5 to 9</th>
<th>10 to 14</th>
<th>15 to 19</th>
<th>20 to 24</th>
<th>25 &amp; Over</th>
<th>Total</th>
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<tbody>
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<td>1</td>
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<td>31,482</td>
<td>48,654</td>
<td>35,980</td>
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<td>33,152</td>
<td>33,152</td>
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<tr>
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<td>Average Salary</td>
<td>31,482</td>
<td>48,654</td>
<td>35,980</td>
<td>33,152</td>
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<td>7</td>
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<tr>
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<td>Average Salary</td>
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<td>59,537</td>
<td>52,623</td>
<td>47,929</td>
<td>51,727</td>
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<td>61,708</td>
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<td>68,997</td>
<td>54,980</td>
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<td>55,675</td>
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<td>55,003</td>
<td>52,533</td>
<td>53,626</td>
<td>52,419</td>
<td>54,868</td>
<td>52,777</td>
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<td>1/1/2004</td>
<td>7/1/2005</td>
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<td></td>
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</tr>
<tr>
<td><strong>Interest rate</strong></td>
<td>• Discount rate 6.0%</td>
<td>• 4.5% (not pre-funded &amp; assets invested in General Fund)</td>
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<td>• 7.0% (pre-funded &amp; assets diversified in separate trust)</td>
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<tr>
<td><strong>Medical Trend</strong></td>
<td>Initial 15%</td>
<td>Kaiser 12%</td>
<td></td>
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<tr>
<td></td>
<td>Ultimate 6%</td>
<td>CS 13%</td>
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<td></td>
<td>Years 7 yrs</td>
<td>Years 10 yr 10 yr</td>
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<td><strong>Aggregate Payroll</strong></td>
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<tr>
<td><strong>Inflation</strong></td>
<td>?</td>
<td>3.0%</td>
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<tr>
<td><strong>Retirement</strong></td>
<td>Rates from 50 to 70:</td>
<td>CalPERS 1997-2002 Experience Study</td>
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<tr>
<td></td>
<td>Avg ret age ≈ 60</td>
<td>Avg ret age ≈ 62</td>
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<tr>
<td></td>
<td></td>
<td>CalSTERS 2001 Experience Study</td>
<td></td>
<td></td>
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<td>Avg ret age ≈ 62</td>
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<td><strong>Mortality, Turnover, Disability</strong></td>
<td>Mortality: 1983 GAM</td>
<td>CalPERS 1997-2002 Experience Study</td>
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<td>Turnover: Sarason Table T-5</td>
<td>CalSTERS 2001 Experience Study</td>
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<td></td>
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<td><strong>Participation</strong></td>
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<tr>
<td></td>
<td></td>
<td>Not currently covered: 80%</td>
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<td></td>
</tr>
<tr>
<td>Assumption</td>
<td>1/1/2004</td>
<td>7/1//2005</td>
<td></td>
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</tr>
<tr>
<td>■ Spouses</td>
<td>• Actives Blue Cross – actual marital status</td>
<td>• Actives Currently covered – actual marital status</td>
<td></td>
<td></td>
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<td></td>
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</tr>
<tr>
<td></td>
<td>• Kaiser – 54% married</td>
<td>• Not currently covered – 80% married</td>
<td></td>
<td></td>
<td></td>
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<td>• Retirees – actual marital status</td>
<td>• Retirees – actual marital status</td>
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<td></td>
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</tr>
<tr>
<td>■ Dependents</td>
<td>5% have dependent coverage pre-65</td>
<td>10% have dependent coverage pre-65</td>
<td></td>
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</table>

<table>
<thead>
<tr>
<th>Assumption</th>
<th>1/1/2004</th>
<th>7/1//2005</th>
</tr>
</thead>
<tbody>
<tr>
<td>■ Medical Plan at Retirement</td>
<td>Same as current retiree elections</td>
<td>• Currently covered - same as current election</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Not currently covered – weighted average active premium</td>
</tr>
<tr>
<td>■ Medicare eligible rate</td>
<td>n/a</td>
<td>100%</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Everyone eligible for Medicare will elect Part B coverage</td>
</tr>
<tr>
<td>■ Medicare D</td>
<td>n/a</td>
<td>• Kaiser - estimated</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• CoreSource – attestation</td>
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</table>
**DEFINITIONS**

**Present Value of Projected Benefits (PVPB)**

**Without Assets**
- Current Normal Cost
- Future Normal Costs
- Unfunded AAL

**With Assets**
- Current Normal Cost
- Future Normal Costs
- Accrual / Assets
- Unfunded AAL

- **PVPB** - Present Value of all Projected Benefits:
  - Discounted value, at measurement (valuation date – 6/30/05), of all future expected benefit payments
  - Expected benefit payments based on various (actuarial) assumptions

- **AAL** – Actuarial Accrued Liability:
  - Discounted value, at measurement (valuation date – 6/30/05), of benefits “earned” (based on actuarial cost method) through measurement
    - Service at measurement
    - Salary, inflation, etc. projected same as PVPB calculation
  - Portion of PVPB “earned” at measurement

- **Normal Cost**:
  - Value of benefits “earned” during current year
  - Portion of PVPB allocated to current year

- **Actuarial Cost Method**:
  - Determines how benefits are “earned” (or allocated) to each year of service
  - Has no effect on PVPB
  - Has significant effect on AAL and Normal Cost
### ACTUARIAL METHODS

<table>
<thead>
<tr>
<th>Method</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Cost Method</strong></td>
<td>• Choice of 6 methods: Entry Age; Frozen Entry Age; Attained Age; Frozen Attained Age; Projected Unit Credit; &amp; Aggregate&lt;br&gt;• Entry Age Normal consistent with CalPERS/CalSTRS and acceptable to GASB.</td>
</tr>
<tr>
<td><strong>Initial Unfunded Liability Amortization</strong></td>
<td>• Amortized as level percentage of pay over 20 years&lt;br&gt;• &lt; 30 years acceptable to GASB</td>
</tr>
<tr>
<td><strong>&quot;Implied Subsidy&quot;</strong></td>
<td>• Employer cost for allowing retirees to participate, irrespective of employer contribution&lt;br&gt;• Community rated plans not required to value implied subsidy</td>
</tr>
</tbody>
</table>

### GASB Terminology

<table>
<thead>
<tr>
<th>GASB Terminology</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Annual Required Contribution (ARC)</strong></td>
<td>• Actuarially determined contribution, using funding method, amortization period, assumptions, etc.</td>
</tr>
<tr>
<td><strong>Annual Other Post Employment Benefit (OPEB) Cost (AOC)</strong></td>
<td>• Similar to GASB 27 Annual Pension Cost&lt;br&gt;• ARC, adjusted for:&lt;br&gt;  - Interest on NOO and&lt;br&gt;  - Amortization of NOO</td>
</tr>
<tr>
<td><strong>Net OPEB Obligation (NOO)</strong></td>
<td>• Historical difference between ARC and AOC&lt;br&gt;• NOO (end of year) = NOO (beginning of year) + AOC (for year) - actual contributions (made during year)</td>
</tr>
</tbody>
</table>
Simplified Example - Active

(Assumes 0% Interest and Other Simplifying Assumptions)

If:

<table>
<thead>
<tr>
<th></th>
<th>Age</th>
<th>Service</th>
<th>PERSable Wages</th>
</tr>
</thead>
<tbody>
<tr>
<td>At Hire:</td>
<td>28</td>
<td>0</td>
<td>-</td>
</tr>
<tr>
<td>Current:</td>
<td>40</td>
<td>12</td>
<td>$ 60,000</td>
</tr>
<tr>
<td>At Retirement:</td>
<td>58</td>
<td>30</td>
<td>-</td>
</tr>
</tbody>
</table>

Then:

- \( PVPB_{40} = \$ 100,000 \)
- \( AAL_{40} = \frac{12}{30} \times 100,000 = 40,000 \)
- \( Assets = 0 \)
- \( UAAL = 40,000 \)
- \( NC_{40/41} = \frac{1}{30} \times 100,000 = 3,350 \)

Simplified Example - Active

Normal Cost = \$ 3,350

UAAL Amortization = \( \frac{1}{10} \times 40,000 = 4,000 \)

ARC - $ = 7,350

ARC - % = \( \frac{7,350}{60,000} = 12.3\% \)

Pay as You Go Cost = 0

<table>
<thead>
<tr>
<th>Net OPEB Obligation</th>
<th>Without Trust</th>
<th>With Trust</th>
</tr>
</thead>
<tbody>
<tr>
<td>BoY NOO</td>
<td>$ 0</td>
<td>$ 0</td>
</tr>
<tr>
<td>+ ARC</td>
<td>7,350</td>
<td>7,350</td>
</tr>
<tr>
<td>- Payments</td>
<td>0</td>
<td>(7,350)</td>
</tr>
<tr>
<td>EoY NOO</td>
<td>7,350</td>
<td>0</td>
</tr>
</tbody>
</table>
### Simplified Example - Retiree

**If:**

<table>
<thead>
<tr>
<th>Age</th>
<th>Service</th>
<th>Annual Payment</th>
</tr>
</thead>
<tbody>
<tr>
<td>60</td>
<td>25</td>
<td>-</td>
</tr>
<tr>
<td>62</td>
<td>25</td>
<td>$6,000</td>
</tr>
</tbody>
</table>

**Then:**

- **PVPB\(_{62}\)** = $100,000
- **AAL\(_{62}\)** = \((25/25) \times 100,000\) = 100,000
- **Assets** = 0
- **UAAL** = 100,000
- **NC\(_{62/63}\)** = \((0/25) \times 100,000\) = 0

**Normal Cost** = $0

**UAAL Amortization** = \((1/10) \times 100,000\) = 10,000

**ARC - $** = 10,000

**ARC - %** = N/A

**Pay as You Go Cost** = $6,000

<table>
<thead>
<tr>
<th>Net OPEB Obligation</th>
<th>Without Trust</th>
<th>With Trust</th>
</tr>
</thead>
<tbody>
<tr>
<td>BoY NOO</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>+ ARC</td>
<td>10,000</td>
<td>10,000</td>
</tr>
<tr>
<td>- Payments</td>
<td>(-6,000)</td>
<td>(-10,000)</td>
</tr>
<tr>
<td>EoY NOO</td>
<td>4,000</td>
<td>0</td>
</tr>
</tbody>
</table>
### RESULTS

#### 4.5% Discount Rate

**Actuarial Obligations**  
(amounts in $000's)

<table>
<thead>
<tr>
<th></th>
<th>PFT</th>
<th>Local 39</th>
<th>Local 790</th>
<th>Non Union</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Present Value of Benefits</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Actives</td>
<td>$56,022</td>
<td>$13,850</td>
<td>$44,049</td>
<td>$10,371</td>
<td>$124,291</td>
</tr>
<tr>
<td>Retirees</td>
<td>43,344</td>
<td>7,841</td>
<td>16,361</td>
<td>7,386</td>
<td>74,932</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>99,366</td>
<td>21,691</td>
<td>60,410</td>
<td>17,757</td>
<td>199,224</td>
</tr>
<tr>
<td><strong>AAL</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Actives</td>
<td>$27,386</td>
<td>$7,262</td>
<td>$23,210</td>
<td>$5,224</td>
<td>$63,083</td>
</tr>
<tr>
<td>Retirees</td>
<td>43,344</td>
<td>7,841</td>
<td>16,361</td>
<td>7,386</td>
<td>74,932</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>70,731</td>
<td>15,103</td>
<td>39,571</td>
<td>12,610</td>
<td>138,015</td>
</tr>
<tr>
<td><strong>Normal Cost</strong></td>
<td>2,698</td>
<td>556</td>
<td>1,787</td>
<td>499</td>
<td>5,540</td>
</tr>
</tbody>
</table>

#### Annual Required Contribution (ARC)

(amounts in $000’s)

<table>
<thead>
<tr>
<th></th>
<th>PFT</th>
<th>Local 39</th>
<th>Local 790</th>
<th>Non Union</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>ARC - $</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Normal cost</td>
<td>$2,698</td>
<td>$556</td>
<td>$1,787</td>
<td>$499</td>
<td>$5,540</td>
</tr>
<tr>
<td>UAL Amortization</td>
<td>4,043</td>
<td>863</td>
<td>2,262</td>
<td>721</td>
<td>7,890</td>
</tr>
<tr>
<td><strong>Total ARC</strong></td>
<td>6,741</td>
<td>1,419</td>
<td>4,049</td>
<td>1,220</td>
<td>13,430</td>
</tr>
<tr>
<td><strong>Total Payroll</strong></td>
<td>19,729</td>
<td>2,961</td>
<td>11,289</td>
<td>6,184</td>
<td>40,164</td>
</tr>
<tr>
<td><strong>ARC - %</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Normal cost</td>
<td>13.7%</td>
<td>18.8%</td>
<td>15.8%</td>
<td>8.1%</td>
<td>13.8%</td>
</tr>
<tr>
<td>UAL Amortization</td>
<td>20.5%</td>
<td>29.1%</td>
<td>20.0%</td>
<td>11.7%</td>
<td>19.6%</td>
</tr>
<tr>
<td><strong>Total ARC</strong></td>
<td>34.2%</td>
<td>47.9%</td>
<td>35.9%</td>
<td>19.7%</td>
<td>33.4%</td>
</tr>
</tbody>
</table>
### RESULTS

#### 7% Discount Rate

**Actuarial Obligations**

( Amounts in $000’s )

<table>
<thead>
<tr>
<th></th>
<th>PFT</th>
<th>Local 39</th>
<th>Local 790</th>
<th>Non Union</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Present Value of Benefits</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Actives</td>
<td>$34,524</td>
<td>$8,049</td>
<td>$25,946</td>
<td>$6,473</td>
<td>$74,992</td>
</tr>
<tr>
<td>• Retirees</td>
<td>34,251</td>
<td>6,064</td>
<td>12,741</td>
<td>5,773</td>
<td>58,829</td>
</tr>
<tr>
<td>• Total</td>
<td>68,775</td>
<td>14,113</td>
<td>38,687</td>
<td>12,246</td>
<td>133,821</td>
</tr>
<tr>
<td><strong>AAL</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Actives</td>
<td>$19,673</td>
<td>$4,964</td>
<td>$16,075</td>
<td>$3,696</td>
<td>$44,407</td>
</tr>
<tr>
<td>• Retirees</td>
<td>34,251</td>
<td>6,064</td>
<td>12,741</td>
<td>5,773</td>
<td>58,829</td>
</tr>
<tr>
<td>• Total</td>
<td>53,923</td>
<td>11,028</td>
<td>28,816</td>
<td>9,469</td>
<td>103,236</td>
</tr>
<tr>
<td><strong>Normal Cost</strong></td>
<td>1,711</td>
<td>321</td>
<td>1,043</td>
<td>316</td>
<td>3,390</td>
</tr>
</tbody>
</table>

#### 7% Discount Rate

**Annual Required Contribution (ARC)**

( Amounts in $000’s )

<table>
<thead>
<tr>
<th></th>
<th>PFT</th>
<th>Local 39</th>
<th>Local 790</th>
<th>Non Union</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>ARC - $</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Normal cost</td>
<td>$1,711</td>
<td>$321</td>
<td>$1,043</td>
<td>$316</td>
<td>$3,390</td>
</tr>
<tr>
<td>• UAL Amortization</td>
<td>3,832</td>
<td>784</td>
<td>2,048</td>
<td>673</td>
<td>7,337</td>
</tr>
<tr>
<td>• Total ARC</td>
<td>5,543</td>
<td>1,105</td>
<td>3,091</td>
<td>989</td>
<td>10,727</td>
</tr>
<tr>
<td><strong>Total Payroll</strong></td>
<td>19,729</td>
<td>2,961</td>
<td>11,289</td>
<td>6,184</td>
<td>40,164</td>
</tr>
<tr>
<td><strong>ARC - %</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Normal cost</td>
<td>8.7%</td>
<td>10.8%</td>
<td>9.2%</td>
<td>5.1%</td>
<td>8.4%</td>
</tr>
<tr>
<td>• UAL Amortization</td>
<td>19.4%</td>
<td>26.5%</td>
<td>18.1%</td>
<td>10.9%</td>
<td>18.3%</td>
</tr>
<tr>
<td>• Total ARC</td>
<td>28.1%</td>
<td>37.3%</td>
<td>27.4%</td>
<td>16.0%</td>
<td>26.7%</td>
</tr>
</tbody>
</table>
### Results

#### Sensitivity

*(amounts in $000’s)*

#### 4.50% Discount Rate

<table>
<thead>
<tr>
<th></th>
<th>20-year amortization</th>
<th>30-year amortization</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Present Value of Benefits</strong></td>
<td>$199,224</td>
<td>$199,224</td>
</tr>
<tr>
<td><strong>Funded Status</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• AAL</td>
<td>138,015</td>
<td>138,015</td>
</tr>
<tr>
<td>• Assets</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>• UAAL</td>
<td>138,015</td>
<td>138,015</td>
</tr>
<tr>
<td><strong>ARC - $</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Normal cost</td>
<td>5,540</td>
<td>5,540</td>
</tr>
<tr>
<td>• UAAL Amortization</td>
<td>7,890</td>
<td>5,569</td>
</tr>
<tr>
<td>• Total ARC</td>
<td>13,430</td>
<td>11,109</td>
</tr>
<tr>
<td><strong>Total ARC %</strong></td>
<td>33.4%</td>
<td>27.7%</td>
</tr>
<tr>
<td><strong>ARC Reduction per $10 million POB</strong></td>
<td>1.4%</td>
<td>1.0%</td>
</tr>
</tbody>
</table>

#### 7.00% Discount Rate

<table>
<thead>
<tr>
<th></th>
<th>20-year amortization</th>
<th>30-year amortization</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Present Value of Benefits</strong></td>
<td>$133,821</td>
<td>$133,821</td>
</tr>
<tr>
<td><strong>Funded Status</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• AAL</td>
<td>103,236</td>
<td>103,236</td>
</tr>
<tr>
<td>• Assets</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>• UAAL</td>
<td>103,236</td>
<td>103,236</td>
</tr>
<tr>
<td><strong>ARC - $</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Normal cost</td>
<td>3,390</td>
<td>3,390</td>
</tr>
<tr>
<td>• UAAL Amortization</td>
<td>7,337</td>
<td>5,696</td>
</tr>
<tr>
<td>• Total ARC</td>
<td>10,727</td>
<td>9,086</td>
</tr>
<tr>
<td><strong>Total ARC %</strong></td>
<td>26.7%</td>
<td>22.6%</td>
</tr>
<tr>
<td><strong>ARC Reduction per $10 million POB</strong></td>
<td>1.8%</td>
<td>1.4%</td>
</tr>
</tbody>
</table>
### Results

**Projected Benefit Payments**

( amounts in $000’s )

<table>
<thead>
<tr>
<th>Year</th>
<th>Cash</th>
<th>Implied Subsidy</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005</td>
<td>$4,681</td>
<td>$73</td>
<td>$4,754</td>
</tr>
<tr>
<td>2006</td>
<td>5,233</td>
<td>85</td>
<td>5,318</td>
</tr>
<tr>
<td>2007</td>
<td>5,782</td>
<td>139</td>
<td>5,921</td>
</tr>
<tr>
<td>2008</td>
<td>6,356</td>
<td>138</td>
<td>6,494</td>
</tr>
<tr>
<td>2009</td>
<td>6,969</td>
<td>232</td>
<td>7,201</td>
</tr>
<tr>
<td>2010</td>
<td>7,523</td>
<td>308</td>
<td>7,831</td>
</tr>
<tr>
<td>2011</td>
<td>8,049</td>
<td>391</td>
<td>8,440</td>
</tr>
<tr>
<td>2012</td>
<td>8,672</td>
<td>384</td>
<td>9,056</td>
</tr>
<tr>
<td>2013</td>
<td>9,138</td>
<td>419</td>
<td>9,557</td>
</tr>
<tr>
<td>2014</td>
<td>9,593</td>
<td>457</td>
<td>10,050</td>
</tr>
</tbody>
</table>

### Results

**Projected Benefit Payments**

Closed Group  
( amounts in $000’s )

[Graph showing projected payments over 50 years]
RESULTS

Survey

Sample Percentile Graph

- 100th Percentile
- 75th Percentile
- 50th Percentile
- 25th Percentile
- 0th Percentile

0% 5% 10% 15% 20% 25% 30% 35% 40% 45% 50%

Percent of Pay

- 100th Percentile 16.2%
- 75th Percentile 10.2%
- 50th Percentile 7.6%
- 25th Percentile 2.8%
- 0th Percentile 0.7%

Peralta Community College 14%

Miscellaneous

Percentile 93%
RESULTS

Survey

Annual Required Contribution - As % of Payroll

0% 5% 10% 15% 20% 25% 30% 35% 40%
Percent of Pay

Miscellaneous

100th Percentile 33.4%
75th Percentile 23.0%
50th Percentile 17.9%
25th Percentile 5.4%
0th Percentile 1.5%
Peralta Community College 33.4%
Percentile 100%

RESULTS

Survey

Actuarial Accrued Liability - As % of Payroll

0% 50% 100% 150% 200% 250% 300% 350% 400% 450%
Percent of Pay

Miscellaneous

100th Percentile 396%
75th Percentile 209%
50th Percentile 152%
25th Percentile 48%
0th Percentile 11%
Peralta Community College 344%
Percentile 95%
OTHER ISSUES

- Timing
  - Methods & Assumptions: September 1, 2005
  - Present preliminary results: November 15, 2005
RESOLUTION NO. 05/06–08

RESOLUTION OF THE BOARD OF TRUSTEES OF THE PERALTA COMMUNITY COLLEGE DISTRICT AUTHORIZING ISSUANCE OF BONDS IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED $250,000,000 TO REFINANCE EMPLOYEE HEALTH BENEFIT OBLIGATIONS OF THE DISTRICT

WHEREAS, the Peralta Community College District (the "District") is obligated to pay health care benefits for certain current District employees and retired District employees (the "Health Benefit Obligations"); and

WHEREAS, the annual obligation of the District to pay the Health Benefit Obligations is subject to fluctuation from year to year in future year due to the differentiation in benefits between certain groups of employees and other factors; and

WHEREAS, the District is authorized under the provisions of Articles 10 and 11 of Chapter 3 of Part 1 of Division 2 of Title 5 of the California Government Code, commencing with Section 53570 of said Code (the "Bond Law"), to issue its bonds for the purpose of refunding outstanding obligations of the District such as the Health Benefit Obligations; and

WHEREAS, in order to refund the Health Benefit Obligations and thereby provide a more orderly and constant level of payments in respect of the Health Benefit Obligations, the District has determined that it is in the best financial interests of the District to issue bonds of the District under the Bond Law, the proceeds of which will be applied to pay the Health Benefit Obligations as they come due and payable; and

WHEREAS, the Board of Trustees wishes at this time to authorize the issuance of such bonds and the institution of judicial proceedings to determine the validity thereof;

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of the Peralta Community College District as follows:

Section 1. Authorization of Bonds. The Board of Trustees hereby authorizes the issuance of bonds of the District under the Bond Law in the aggregate principal amount of not to exceed $250,000,000 (the "Bonds") for the purpose of refunding the Health Benefit Obligations. The Bonds may be issued in one or more series from time to time by the District, as determined by the Board of Trustees.

Section 2. Material Terms of the Bonds. The Bonds shall be issued under an Indenture of Trust between the District and U.S. Bank National Association, as trustee, the form of which is subject to final approval by resolution of the Board of Trustees to be adopted following the successful conclusion of the proceedings authorized under Section 3. The Indenture of Trust shall provide the following material terms and conditions applicable to the Bonds:

(a) the term of the Bonds shall not exceed 45 years;
(b) interest on the Bonds shall be computed at either a fixed or adjustable rate of interest;

(c) interest on the Bonds shall be included in gross income of the owners thereof for federal income tax purposes;

(d) principal of and interest on the Bonds shall be payable from any source of legally available funds of the District, including but not limited to amounts held in the General Fund of the District; and

(e) proceeds of the Bonds shall be held and invested by the District, and such proceeds and the earnings on the investment thereof shall be applied to pay the Health Benefit Obligations of the District as they become due and payable.

Section 3. Institution of Judicial Validation Proceedings. In order to determine the validity of the Bonds which are hereby authorized to be issued under the provisions of Section 1, the Board of Trustees hereby authorizes the law firm of Jones Hall, A Professional Law Corporation, in concert with general counsel to the District, to prepare and cause to be filed and prosecuted to completion all proceedings required for the judicial validation of the bonds in the Superior Court of Alameda County, under and under the provisions of Sections 860 et seq. of the Code of Civil Procedure of the State of California.

Section 4. Sale of the Bonds. The Bonds shall be sold to an underwriting firm to be selected by the District in accordance with a resolution of the Board of Trustees adopted following the successful conclusion of the proceedings authorized under Section 3.

Section 5. Engagement of Professional Services. In connection with the issuance and sale of the Bonds, the District hereby appoints the firms of Dale Scott & Company and Mark Harris of the Pineapple Group to act as financial advisors to the District, the firm of Jones Hall, A Professional Law Corporation, to act as bond counsel to the District, and U.S. Bank National Association to act as trustee for the Bonds. The Vice Chancellor of Financial Services is authorized and directed to execute an agreement with each of such firms, in the respective forms on file with the Clerk of the Board. As provided in each such agreement, compensation payable to each firm is entirely contingent upon the successful issuance and sale of the Bonds.

Section 6. Effective Date. This Resolution shall take effect from and after the date of its passage and adoption.

**********
I hereby certify that the foregoing Resolution was passed and adopted by the Board of Trustees of the Peralta Community College District at a regular meeting thereof duly held on July 28, 2005 by a majority vote of all of its members.

Adopted by the following votes:

AYES: Trustees Clifton, Gonzalez Yuen, Galassa, Handy, Hodge, President Riley, Student Trustee advisory vote Andrews & Watkins-Tanner

NOES: None

ABSENT: None

BOARD OF TRUSTEES OF THE
PERALTA COMMUNITY COLLEGE
DISTRICT

By [Signature]
President

ATTEST:
[Signature]
Clerk of the Board
Charles F. Adams (State Bar #69952)  
Courtney L. Jones (State Bar #178686)  
Jones Hall, A Professional Law Corporation  
650 California Street, 18th Floor  
San Francisco, California 94108  
Telephone: (415) 391-5780  
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Thuy Thi Nguyen (State Bar #213125)  
Peralta Community College District  
333 East Eighth Street  
Oakland, California 94606  
Telephone: (510) 466-7200  
ttnghuy@peralta.edu  

Attorneys for Plaintiff

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF ALAMEDA  
UNLIMITED CIVIL JURISDICTION

PERALTA COMMUNITY COLLEGE DISTRICT,  
Plaintiff,  

vs.  

ALL PERSONS INTERESTED IN THE  
MATTER OF THE ISSUANCE AND SALE OF  
BONDS FOR THE PURPOSE OF REFUNDING  
CERTAIN OBLIGATIONS OWED BY THE  
PERALTA COMMUNITY COLLEGE DISTRICT  
IN RESPECT OF EMPLOYEE HEALTH CARE  
BENEFITS, AND ALL PROCEEDINGS  
LEADING THERETO, INCLUDING THE  
ADOPTION OF A RESOLUTION  
AUTHORIZING THE ISSUANCE AND SALE  
OF SUCH BONDS,

Defendants.

COMPLAINT FOR VALIDATION  
($860 et seq. of the  
Code of Civil Procedure)  
[Fee Exemption:  
Govt. Code § 6103]

Attached Documents:  
Ex. A Evidence of 
Obligation  
Ex. B Excerpt from 2005-06  
District Budget  
Ex. C Resolution  
Ex. D Indenture

Plaintiff, the Peralta Community College College District (the  
"District"), brings this action against all interested persons
under §860 et seq. of the Code of Civil Procedure and §53511 of
the Government Code and alleges:

1. The District is and was at all times mentioned herein a
community college district duly organized and existing under the
Constitution and laws of the State of California. Plaintiff is a
"public agency" authorized to bring this action under §860 of the

2. The governing body of the Plaintiff is the "Board of
Trustees" thereof with its principal place of business located at
333 East Eighth Street in the City of Oakland, Alameda County,
California.

3. The District has entered into binding agreements (the
"Employee Health Care Agreements") with certain employees,
including current and retired employees, under which the District
is obligated to pay a defined portion of the premiums for health
care insurance covering such employees and certain of such
employees' family members. The Employee Health Care Agreements
obligate the District to appropriate funds to pay such health care
insurance premiums.

4. The obligation of the District to pay health care
insurance benefits evidenced by the Employee Health Care
Agreements (the "Health Benefit Obligations") is an obligation
imposed by law and, as such, the District is obligated to satisfy
the Health Benefit Obligations from any money available in any
fund in the District's treasury. Accordingly, the District's
obligation to make payments to fund the Health Benefit Obligations
in accordance with the Employee Health Care Agreements is exempt
from the debt limitation of Article XVI, Section 18, of the
Complaint
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California Constitution.

5. The total unfunded liability of the District to pay the Health Benefit Obligations as of January 1, 2004 was approximately $140,000,000 as evidenced by the actuarial study entitled "Retiree Medical Study" attached hereto as Exhibit A and by this reference incorporated as if fully set forth herein. The amount which the District has budgeted and appropriated to pay the Health Benefit Obligations for the current fiscal year ending June 30, 2006, is $14,866,020 as evidenced on page 5 of the District fiscal year 2005-06 Tentative Budget adopted on June 28, 2005, which Tentative Budget is attached hereto as Exhibit B and by this reference incorporated as if fully set forth herein.

6. The District is authorized under §§53570 and 53584 of the Government Code to provide for the refunding of its obligations (which constitute a "revenue bond" within the meaning of §53571 of the Government Code), including the Health Benefit Obligations, by issuing bonds or other evidences of indebtedness and applying the proceeds of such to the retirement of such obligations.

7. On July 28, 2005, the Board of Trustees of the District adopted its Resolution No. 05-06-08 entitled "RESOLUTION OF THE BOARD OF TRUSTEES OF THE PERALTA COMMUNITY COLLEGE DISTRICT AUTHORIZING ISSUANCE OF BONDS IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED $250,000,000 TO REFINANCE EMPLOYEE HEALTH BENEFIT OBLIGATIONS OF THE DISTRICT" (the "Resolution"). A true and correct copy of the Resolution, as certified by the Clerk of the Board of the District, is attached hereto as Exhibit C and by this reference incorporated as if fully set forth herein.
8. The Resolution authorizes the issuance of bonds of the District (the "Bonds") payable from any source of legally available funds of the District, including but not limited to the District's General Fund, under §§53570 and 53584 of the Government Code solely for the purpose of refunding the Health Benefit Obligations and paying financing costs relating thereto, so long as the proceeds of the Bonds are held and invested by the District for such purpose, and such proceeds and the earnings on the investment thereof are applied solely to pay the Health Benefit Obligations of the District as they become due and payable.

9. The Resolution authorizes the Bonds to be issued under an Indenture of Trust (the "Indenture of Trust") between the District and U.S. Bank National Association, as trustee (the "Trustee"). The form of the Indenture of Trust is attached hereto as Exhibit D and by this reference incorporated as if fully set forth herein. The Bonds will be issued in substantially the forms attached as Appendix A to the Indenture of Trust and by this reference incorporated as if fully set forth herein.

10. The Indenture provides that the proceeds from the sale of the Bonds will be deposited with the Trustee, who in turn will apply such proceeds and the earnings on the investment thereof to pay the Health Benefit Obligations of the District as they become due and payable, in accordance with requisitions submitted by the District to the Trustee from time to time.

11. The Bonds will be issued in an aggregate principal amount of not to exceed $250,000,000 and may be issued in one or more series from time to time by the District. Such aggregate principal amount has been determined by the District to be
sufficient, together with the earnings on the investment thereof, to pay the Health Benefit Obligations of the District as they become due and payable, plus an amount necessary to pay the costs of issuance of the Bonds, including underwriter's discount relating thereto. The Bonds will bear interest at a fixed or adjustable rate of interest, and will mature not later than forty-five years from their date of issuance.

12. Defendants herein are all persons having or claiming to have an interest in the proceedings, including the adoption of the Resolution. The names and capacities of those persons having or claiming an interest in the Resolution and the proceedings leading up to the adoption of the Resolution are unknown to the District, who therefore names such persons as provided under §860 et seq. of the Code of Civil Procedure.

13. The Oakland Tribune is a newspaper published and of general circulation in the jurisdiction of the Peralta Community College District and is the newspaper most likely to give notice to persons interested in these proceedings. Publication of the Summons in said newspaper should be ordered by the Court under §861 of the Code of Civil Procedure and §6063 of the Government Code. The District is informed and believes, and thereon alleges, that the proceedings held thereunder and the Resolution are of general knowledge to the persons affected thereby or interested therein. The only other notice reasonably practicable is notice given by (1) posting a copy of the Summons in the District administrative offices, and (2) mailing copies of the Summons and Complaint to those persons, if any, or their attorneys of record, who either have expressly notified one or more of the attorneys of
record herein of their interest in this matter or have filed and
served legal actions against Plaintiff challenging, inter alia,
the validity of the Resolution, the Bonds or any other related
contracts or agreements approved by the Resolution or contemplated
by the Board of Trustees of the District in connection with the
issuance of the Bonds.

14. This action is brought in this Court under §860 of the
Code of Civil Procedure as a special in rem proceeding for the
judicial examination, approval and confirmation of the proceedings
leading up to and including the adoption of the Resolution
authorizing the issuance and sale of the Bonds by the District.

15. All such proceedings by and for the District and the
provisions of the Resolution were and are in the best interests of
the District and all interested parties, and were and are in
conformity with the provisions of all laws and enactments at any
time in force or controlling upon said proceedings, whether of
law, statute or ordinance, and whether federal, state or municipal
and were and are in conformity with all requirements of all
regulatory bodies, agencies or officials having authority over or
asserting authority over said proceedings or any part thereof.

WHEREFORE, Plaintiff prays for entry of judgment as follows:

1. That the Court order that the jurisdiction of interested
persons be by publication of the Summons under §861 of the Code of
Civil Procedure and §6063 of the Government Code in The Oakland
Tribune commencing as soon as is practicable, and by posting a
copy of the Summons in the District administrative office prior to
completion of publication, and that said jurisdiction shall be
complete ten (10) days after completion of publication of the

2. That the Court find that this action is properly brought
under $860 et seq. of the Code of Civil Procedure.

3. That judgment be entered determining that:

(a) This action is properly brought under §53511 of the
Government Code and §860 of the Code of Civil Procedure;

(b) All proceedings by and for Plaintiff in connection with
the Resolution, the Bonds and the refunding of the Health Benefit
Obligations of the District, and any related contracts or
agreements approved by the Resolution or contemplated by the Board
of Trustees of the District in connection with the issuance of the
Bonds and the refunding of the Health Benefit Obligations, were
and are valid, legal and binding obligations in accordance with
their terms and were and are in conformity with the applicable
provisions of all laws and enactments at any time in force or
controlling upon such proceedings, whether imposed by law,
constitution, statute or ordinance, and whether federal, state or
municipal, including but not limited to the provisions of Article
XVI, Section 18, of the California Constitution;

(c) All conditions, things and acts required by law to
exist, happen or be performed precedent to the adoption of the
Resolution, and the terms and conditions thereof, and including
the authorization for the issuance of the Bonds and the execution
and delivery of all related contracts or agreements approved by
the Resolution or contemplated by the Board of Trustees of the
District in connection with the issuance of the Bonds, have
existed, happened and been performed in the time, form and manner
required by law;

(d) The District has the authority under California law to issue the Bonds and to execute and deliver the Indenture and all contracts and agreements enacted pursuant thereto;

(e) The District has the authority under California law to provide for the refunding of its obligations, by issuing the Bonds and applying the proceeds of the Bonds to the payment and refunding of its Health Benefit Obligations;

(f) The District will be obligated to satisfy its obligations under the Bonds from any generally available funds of the District, and the Board of Trustees of the District will be obligated to make all annual appropriations of such funds as may be required to satisfy its annual obligations under the Bonds;

(g) The Bonds and all agreements related thereto, are exempt from and not subject to the debt limitations set forth in Article XVI, Section 18, of the California Constitution;

(h) The Bonds (and all contracts and agreements related thereto) are obligations imposed by law;

(i) The Bonds and any and all contracts and agreements executed and delivered in connection therewith are valid and binding obligations under the Constitution and laws of the State of California; and

(j) The District's incurrence of any and all indebtedness and/or liability in connection with the Bonds (and all contracts and agreements related thereto) is exempt from and not subject to the debt limitations set forth in Article XVI, Section 18, of the California Constitution.

4. For costs incurred herein.
5. For such other and further relief as the Court may deem just and proper.

Dated: August 18, 2005

CHARLES F. ADAMS, ESQ.
COURTNEY L. JONES, ESQ.
Jones Hall
A Professional Law Corporation

THUY THI NGUYEN, ESQ.
Peralta Community College
District

Attorneys for Plaintiff

By
Courtney L. Jones
IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF ALAMEDA

UNLIMITED CIVIL JURISDICTION

PERALTA COMMUNITY COLLEGE DISTRICT, )

Plaintiff,

vs.

ALL PERSONS INTERESTED IN THE )
MATTER OF THE ISSUANCE AND SALE OF )
BONDS FOR THE PURPOSE OF REFUNDING )
CERTAIN OBLIGATIONS OWED BY THE )
PERALTA COMMUNITY COLLEGE DISTRICT )
IN RESPECT OF EMPLOYEE HEALTH CARE )
BENEFITS, AND ALL PROCEEDINGS )
LEADING THERETO, INCLUDING THE )
ADOPTION OF A RESOLUTION )
AUTHORIZING THE ISSUANCE AND SALE )
OF SUCH BONDS,

Defendants.

It appearing from the complaint in the herein action that the }}
herein action is one brought pursuant to §860 et seq. of the Code }}
of Civil Procedure and based upon the Ex Parte Application for
Order of Publication of Summons and Other Notice in Validation Action,

IT IS ORDERED that publication of Summons in the form attached hereto be made in The Oakland Tribune, an adjudicated newspaper of general circulation published in the geographical jurisdiction of the Peralta Community College District, for the period of time and in the manner prescribed in §861 of the Code of Civil Procedure and §6063 of the Government Code.

IT IS FURTHER ORDERED that a copy of the summons and complaint be posted for a period of three weeks, commencing no later than the date of first publication of summons in The Oakland Tribune, or as soon thereafter as is reasonably practicable, in the Administrative Office of the District located at 333 East Eighth Street, Oakland, California 94606.

IT IS FURTHER ORDERED that copies of the summons and complaint be served upon those persons, if any, or their attorneys of record, who either have expressly notified one or more of the attorneys of record herein of their interest in this matter or have filed and served legal actions, against Plaintiff challenging, inter alia, the validity of the July 28, 2005 resolution of the Board of Trustees of the Peralta Community College District authorizing and approving the issuance of bonds or of the execution and delivery of the Bonds related contracts or agreements approved by the resolution or contemplated by the Board of Trustees of the District in connection with the issuance of the bonds.

IT IS FURTHER ORDERED that jurisdiction of all interested persons in this action shall be complete after the date that is Order of Publication
not less than ten (10) days after the completion of publication of said Summons pursuant to §6063 of the Government Code, and that the posting and mailing is otherwise completed in conformance with this Order.

Dated: **August 29, 2005**

[Signature]

Judge of the Superior Court

Order of Publication

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF ALAMEDA

UNLIMITED CIVIL JURISDICTION

PERALTA COMMUNITY COLLEGE DISTRICT,

Plaintiff,

vs.

ALL PERSONS INTERESTED IN THE
MATTER OF THE ISSUANCE AND SALE OF
BONDS FOR THE PURPOSE OF REFUNDING
CERTAIN OBLIGATIONS OWED BY THE
PERALTA COMMUNITY COLLEGE DISTRICT
IN RESPECT OF EMPLOYEE HEALTH CARE
BENEFITS, AND ALL PROCEEDINGS
LEADING THERETO, INCLUDING THE
ADOPTION OF A RESOLUTION
AUTHORIZING THE ISSUANCE AND SALE
OF SUCH BONDS,

Defendants.

SUMMONS
CITATION JUDICIAL
($860 et seq. of the
Code of Civil Procedure)

[Fee Exemption:
Govt. Code § 6103]

Issued: 8/12/2005

Arthur Sims
Executive Officer/Clerk

Sandra Cole
NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU
WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND NOT LATER THAN THE
26th DAY OF SEPTEMBER, 2005, WHICH IS AT LEAST TEN (10) DAYS AFTER
COMPLETION OF PUBLICATION OF THIS SUMMONS. READ THE INFORMATION
BELOW.

AVISO! USTED HA SIDO DEMANDADO. EL TRIBUNAL PUEDE DECIDIR
CONTRA UD. SIN AUDIENCIA A MENOS QUE UD. RESPONDA NO MAS TARDE DE
EL 26 DE SEPTIEMBRE, 2005, QUE ES DIEZ (10) DIAS DESPUES DE
TERMINACION DE PUBLICACION DE ESTA CITACION. LEA LA INFORMACION
QUE SIGUE.

TO ALL PERSONS INTERESTED IN THE MATTER OF THE ISSUANCE AND
SALE OF BONDS FOR THE PURPOSE OF REFUNDING CERTAIN OBLIGATIONS
OWED BY THE CITY OF FAIRFIELD TO THE CALIFORNIA PUBLIC EMPLOYEES'
RETIREMENT SYSTEM UNDER THE PUBLIC EMPLOYEES' RETIREMENT LAW, AND
ALL PROCEEDINGS LEADING THERETO, INCLUDING THE ADOPTION OF A
RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF SUCH BONDS.

PLEASE TAKE NOTICE that a complaint has been filed by
plaintiff against you pursuant to California Code of Civil
Procedure Section 860 et seq. and California Government Code
Section 53510 et seq. for the purpose of validating the proposed
issuance of Bonds, the proceeds of which will be issued for the
purpose of discharging the City's unfunded accrued actuarial
liability to the California Public Employees' Retirement System,
and to validate other related matters. If you wish to contest the
legality or validity of this lawsuit you must appear and answer
said complaint by filing a written pleading in response to said
complaint not later than the 26th day of September, 2005, which
date is at least 10 days after completion of publication of this
Summons.

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summons. Your pleading must be in the form required by the
California Rules of Court. Your original pleading must be filed in
this Court with proper filing fees and proof that a copy thereof
was served on Plaintiff's attorneys.

Unless you do so, your default will be entered upon
application by the plaintiff, the plaintiff may apply to the court
for the relief demanded in the complaint. PERSONS WHO CONTEST THE
LEGALITY OR VALIDITY OF THE MATTER WILL NOT BE SUBJECT TO PUNITIVE
ACTION, SUCH AS WAGE GARNISHMENT OR SEIZURE OF THEIR REAL OR
PERSONAL PROPERTY.

YOU MAY SEEK THE ADVICE OF AN ATTORNEY IN ANY MATTER
CONNECTED WITH THE COMPLAINT OR THIS SUMMONS. SUCH ATTORNEY SHOULD
BE CONSULTED PROMPTLY SO THAT YOUR PLEADING MAY BE FILED OR
ENTERED WITHIN THE TIME REQUIRED BY THIS SUMMONS.

SI USTED DESEA SOLICITAR EL CONSEJO DE UN ABOGADO EN ESTE
ASUNTO, DEBERIA HACERLO INMEDIATAMENTE, DE ESTA MANERA, SU REPUESTA
ESCrita, SI HAY ALGUNA, PUEDE SER REGISTRADA A TIEMPO.

The name and address of the Court is (El nombre y direccion
del Superior Tribunal es):

Superior Court of the State of California
In and for the County of Alameda
Renee C. Davidson Alameda County Courthouse
1225 Fallon Street
Oakland, California  94612

The names and addresses of Plaintiffs' attorneys are (Los
nombres y direcciones del abogado del demandante son):

Summons
-3-
50
Charles F. Adams (State Bar #69952)  
Courtney L. Jones (State Bar #178686)  
Jones Hall, A Professional Law  
Corporation  
650 California Street, 18th Floor  
San Francisco, California 94108  
Telephone: (415) 391-5780  

Thuy Thi Nguyen (State Bar #213125)  
Peralta Community College District  
333 East Eighth Street  
Oakland, California 94606  
Telephone: (510) 466-72  

DATED ___________________________  

By _______________________________

Clerk  
(Actuario)
Charles F. Adams (State Bar #69952)  
Courtney L. Jones (State Bar #178686)  
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Telephone: (510) 466-7200  
ttnguyen@peralta.edu  

Attorneys for Plaintiff

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF ALAMEDA

UNLIMITED CIVIL JURISDICTION

PERALTA COMMUNITY COLLEGE DISTRICT,  
Plaintiff,  

vs.  

ALL PERSONS INTERESTED IN THE  
MATTER OF THE ISSUANCE AND SALE OF  
BONDS FOR THE PURPOSE OF REFUNDING  
CERTAIN OBLIGATIONS OWED BY THE  
PERALTA COMMUNITY COLLEGE DISTRICT  
IN RESPECT OF EMPLOYEE HEALTH CARE  
BENEFITS, AND ALL PROCEEDINGS  
LEADING THERETO, INCLUDING THE  
ADOPTION OF A RESOLUTION  
AUTHORIZING THE ISSUANCE AND SALE  
OF SUCH BONDS,  

Defendants.  

No. RG 05-2288682

PROOF OF PUBLICATION OF  
SUMMONS IN SUPPORT OF  
PLAINTIFF’S REQUEST TO  
ENTER DEFAULT  

($860 et seq. of the  
Code of Civil Procedure)  

[Fee Exemption:  
Govt. Code § 6103]
PROOF OF PUBLICATION

In the matter of:

NO. RG 05-228682
Peralta Community College District, Plaintiff,
vs. All persons interested in the matter of the issuance and sale of bonds, Defendants

I am a citizen of the United States; I am over the age of eighteen years, and not a party to or interested in the above-mentioned matter. I am the Legal Advertising Clerk of the printer and publisher of The Oakland Tribune, a newspaper published in the English language in the City of Oakland, County of Alameda, State of California.

I declare that The Oakland Tribune is a newspaper of general circulation as defined by the laws of the State of California as described by the court's order, dated December 6, 1985. In the action entitled The Matter of the Amendment and Establishment of the Bonding of The Oakland Tribune in a Newspaper of General Circulation, Case Number 297758, the court ordered that "The Oakland Tribune is a newspaper of general circulation within the City of Oakland, and the County of Alameda, and the State of California, within the meaning and intent of Chapter 1, Division 7, Title 1 [§ 6000 et seq.], of the Government Code of the State of California." This order has not been revised, vacated, or set aside.

The

PUBLIC NOTICE

data that the motion, of which the annexed is a printed copy, has been filed in each Superior Court and at the office of the Los Angeles Times Publishing Company, and that a copy of this notice has been delivered to the office of the Los Angeles Times Publishing Company.

September 1, 8, 15, 2005

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.

[Signature]

Public Notice Advertising Clerk
TO THE CLERK: On the complaint or cross-complaint filed
a. on (date): August 19, 2005
b. by (name): Peralta Community College District
c. [X] Enter default of defendant (names): All Persons Interested In the Matter...
d. [X] I request a court judgment under Code of Civil Procedure sections 585(b), 585(c), 989, etc., against defendant (names):
   All Persons Interested In the Matter...
   (Testimony required. Apply to the clerk for a hearing date, unless the court will enter a judgment on an affidavit under Code Civ. Proc., § 585(d).)
e. [ ] Enter clerk’s judgment
   (1) [ ] for restitution of the premises only and issue a writ of execution on the judgment. Code of Civil Procedure section 1174(c) does not apply. (Code Civ. Proc., § 1169.)
   [ ] Include in the judgment all tenants, subtenants, named claimants, and other occupants of the premises. The Prejudgment Claim of Right to Possession was served in compliance with Code of Civil Procedure section 415.46.
   (2) [ ] under Code of Civil Procedure section 585(a). (Complete the declaration under Code Civ. Proc., § 585.5 on the reverse (item 5).)
   (3) [ ] for default previously entered on (date):

2. Judgment to be entered.
   a. Demand of complaint $ -0-
   b. Statement of damages *
      (1) Special $ -0-
      (2) General $ -0-
   c. Interest $ -0-
   d. Costs (see reverse) $ -0-
   e. Attorney fees $ -0-
   f. TOTALS $ -0-
   g. Daily damages were demanded in complaint at the rate of: $ per day beginning (date):
      (* Personal injury or wrongful death actions; Code Civ. Proc., § 425.11.)

3. [ ] (Check if filed in an unlawful detainer case) Legal document assistant or unlawful detainer assistant information is on the reverse (complete item 4).
   Date: September 27, 2005
   Courtney L. Jones
   (TYPE OR PRINT NAME)
   (SIGNATURE OF PLAINTIFF OR ATTORNEY FOR PLAINTIFF)

   (1) [X] Default entered as requested on (date): 10/3/05
   (2) [ ] Default NOT entered as requested (state reason):
   Clerk, by
   [ ] Deputy
4. Legal document assistant or unlawful detainer assistant (Bus. & Prof. Code, § 6400 et seq.). A legal document assistant or unlawful detainer assistant did not give advice or assistance with this form. (If declarant has received any help or advice for pay from a legal document assistant or unlawful detainer assistant, state):
   a. Assistant's name:
   b. Street address, city, and zip code:
   c. Telephone no.:
   d. County of registration:
   e. Registration no.:
   f. Expires on (date):

5. Declaration under Code of Civil Procedure Section 585.5 (required for entry of default under Code Civ. Proc., § 585(e)).
   a. is on a contract or installment sale for goods or services subject to Civ. Code, § 1801 et seq. (Unruh Act).
   b. is on a conditional sales contract subject to Civ. Code, § 2981 et seq. (Rees-Levering Motor Vehicle Sales and Finance Act).
   c. is on an obligation for goods, services, loans, or extensions of credit subject to Code Civ. Proc., § 395(b).

6. Declaration of mailing (Code Civ. Proc., § 587). A copy of this Request for Entry of Default was
   a. not mailed to the following defendants, whose addresses are unknown to plaintiff or plaintiff's attorney (names):
   b. first-class, postage prepaid, in a sealed envelope addressed to each defendant's attorney of record or, if none, to each defendant's last known address as follows:
      (1) Mailed on (date):
      (2) To (specify names and addresses shown on the envelopes):

I declare under penalty of perjury under the laws of the State of California that the foregoing items 4, 5, and 6 are true and correct.

Date: September 27, 2005

Courtney L. Jones

(Signature of declarant)

7. Memorandum of costs (required if money judgment requested). Costs and disbursements are as follows (Code Civ. Proc., § 1033.5):
   a. Clerk's filing fees
   b. Process server's fees
   c. Other (specify):
   d. 
   e. TOTAL
   f. Costs and disbursements are waived.

9. I am the attorney, agent, or party who claims these costs. To the best of my knowledge and belief this memorandum of costs is correct and these costs were necessarily incurred in this case.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: September 27, 2005

Courtney L. Jones

(Signature of declarant)

8. Declaration of nonmilitary status (required for a judgment). No defendant named in item 1c of the application is in the military service so as to be entitled to the benefits of the Servicemembers Civil Relief Act (50 U.S.C. App. § 501 et seq.).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: September 27, 2005

Courtney L. Jones

(Signature of declarant)
Charles F. Adams (State Bar #69952)
Courtney L. Jones (State Bar #173865)
Jones Hall, A Professional Law Corporation
650 California Street, 18th Floor
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Thuy Thi Nguyen (State Bar #213125)
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Oakland, California 94606
Telephone: (510) 466-7200
ttnguyen@peralta.edu

Attorneys for Plaintiff

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF ALAMEDA

UNLIMITED CIVIL JURISDICTION

PERALTA COMMUNITY COLLEGE DISTRICT, )
   Plaintiff, ) No. RG 05-228682
   )
   vs. )
   )
ALL PERSONS INTERESTED IN THE ) MEMORANDUM OF POINTS AND
MATTER OF THE ISSUANCE AND SALE OF ) AUTHORITIES IN SUPPORT OF
BONDS FOR THE PURPOSE OF REFUNDING ) PLAINTIFF’S APPLICATION
CERTAIN OBLIGATIONS OWED BY THE ) FOR DEFAULT JUDGMENT
PERALTA COMMUNITY COLLEGE DISTRICT ) ($860 et seq. of the Code
IN RESPECT OF EMPLOYEE HEALTH CARE ) of Civil Procedure)
BENEFITS, AND ALL PROCEEDINGS ) [Fee Exemption:
LEADING THERETO, INCLUDING THE ) Govt. Code § 6103]
ADOPTION OF A RESOLUTION )
AUTHORIZING THE ISSUANCE AND SALE )
OF SUCH BONDS,

Defendants.

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## CONSTITUTIONS

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Ed. C. §72290

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Labor C. §2120.2
Labor C. §2160
Labor C. §2140
Labor C. §2122.2
Labor C. §2120.3
I. INTRODUCTION

Plaintiff, the Peralta Community College District (the "District"), brings this action under Code of Civil Procedure Sections 860 et seq. to validate proceedings relating to the following: (1) the issuance of Bonds the proceeds of which will be used to refinance the District’s existing obligation to pay certain health care insurance benefits evidenced by agreements between the District and certain employees, including current and retired employees, (2) the execution and delivery of an indenture of trust and any other related agreements or contracts authorized or contemplated by the Board of Trustees of the District, and (3) the adoption of a resolution authorizing the foregoing.

Under Code of Civil Procedure Section 861 and this Court’s Order of August 29, 2005, jurisdiction over defendants, all persons interested in these proceedings, has been obtained by (1) publication of the Summons in The Oakland Tribune and (2) by posting a copy of the summons and complaint in the District administrative offices for a period of three weeks.

No answer was filed by September 26, 2005, the statutory deadline to file an answer. Accordingly, Plaintiff seeks entry of a default judgment and a default judgment by the court.

II. FACTUAL BACKGROUND

Government Code Section 53201 authorizes the governing board of a school district to provide for any health and welfare benefits for the benefit of its officers and employees, including its retired employees and retired members of the governing board. Gov.C. 53201. In providing such benefits, the school district may
contract with one or more insurers for a health care plan. Gov.C. 
53202. Furthermore, the Health Insurance Act of 2003 (Labor Code 
2120 et seq.) requires the District, as a "large employer" under 
the Health Act (Labor C. 2122.3), to provide health care coverage 
for its employees and dependents commencing January 1, 2006. 
Labor C. 2120.1 subd. (a).

In furtherance of its obligation to provide health care 
benefits to its employees, the District has committed through 
certain agreements (the "Employee Health Care Agreements") to 
provide certain health care benefits to its employees. Under the 
Employee Health Care Agreements, certain employees and certain of 
their family members are entitled to receive post-retirement 
health care benefits. To that end, the Employee Health Care 
Agreements obligate the District each year to appropriate District 
funds to pay a defined portion of the premiums for health care 
insurance covering such retirees and certain of such retirees' 
family members (the "Health Benefit Obligations").

California Education Code Section 42140 requires the 
superintendent of a school district that provides health benefits 
for employees upon their retirement, which benefits will continue 
after the employee reaches 65 years of age, to annually report to 
the governing board of the district information regarding the 
estimated accrued but unfunded costs of those benefits. Such 
information is to be obtained by an actuarial report performed at 
least every three years. Ed.C. 42140 subd. (a).

Under Education Code Section 42140, the District obtained an 
actuarial study from The Epler Company, dated February 27, 2004 
(the "Study"). A true and correct copy of the Study is attached
to the Complaint as Exhibit A and by this reference incorporated herein. The Study determined that the amount of actuarial liability for retiree benefits, as of January 1, 2004, was $140,000,000 on a present value basis. See Study, page 2. As part of the Study, a projection of expected annual expense to the District to pay benefits on behalf of its retirees on a pay-as-you-go basis was prepared. The projection estimates annual expenses to the District of between $4 million and $11 million in each year through 2035, decreasing gradually thereafter assuming no more retirees are admitted to the program. Study, page 7. Three alternative funding scenarios are also presented in the Study. Study, page 7.

Government Code Sections 53570 et seq. and Sections 53580 et seq. (the "Refunding Law") authorize the District to issue bonds for the purpose of refinancing any "Revenue Bonds", which is defined to include any "evidence of indebtedness" (see Gov.C. 53570 subd. (b)), and to apply the proceeds of such bonds to refinance the underlying obligations.

For the purpose of realizing substantial cash flow savings in the current and immediately succeeding fiscal years and creating a more level amortization schedule in connection with the Health Benefit Obligations, on July 28, 2005, the Board of Trustees of the District adopted a resolution (see Exhibit C attached to the Complaint and by this reference incorporated as if fully set forth herein) (the "Resolution") authorizing the issuance of bonds of the District in the maximum aggregate principal amount of $250,000,000 (the "Refunding Bonds") under the Refunding Law and an indenture of trust (the "Indenture") for the purpose of
refinancing the Health Benefit Obligations. The proceeds of the Refunding Bonds will be deposited in trust with U.S. Bank Trust National Association, as trustee, and applied to pay the Health Benefit Obligations as they come due and payable, and the related costs of issuance of the Refunding Bonds. The plan of financing adopted in the Resolution is intended to save the District a significant amount of money and create an obligation with level debt service without diminishing in any form or manner the health care benefits provided to District employees.

III. THIS ACTION IS PROPERLY BROUGHT UNDER CODE OF CIVIL PROCEDURE SECTIONS 860 ET SEQ. AND GOVERNMENT CODE SECTIONS 53511 AND 53589.5.

Code of Civil Procedure Section 860\(^1\) authorizes a public agency to institute validation proceedings in cases where another statute authorizes its use. In the instant case, Government Code Section 53511 authorizes a local agency to "bring an action to determine the validity of its bonds, warrants, contracts, obligations or evidences of indebtedness" and Government Code Section 53589.5 authorizes a local agency to bring a validation action "to determine the validity of any issuance or proposed issuance of refunding bonds" and any agreement entered into in connection therewith. For the reasons discussed below, the District submits that these statutory requirements are met.

Since Government Code Section 53510 defines a "local agency" to include any "public district" and Government Code Section 53570 defines a "local agency" to include any "school district,"

Plaintiff Peralta Community College District is a proper party.
authorized to bring this validation action. Moreover, all of the
documents and transactions which are the subject of this action
are the type authorized to be validated under Government Code
Sections 53511 and 53589 since they constitute evidences of
indebtedness, contracts or obligations of the District or are
refinancing bonds and agreements relating thereto.

IV. THE DISTRICT HAS THE POWER TO AUTHORIZE THE BONDS,
THE INDENTURE OF TRUST AND ANY RELATED AGREEMENTS.
The governing board of any school district may initiate and
carry on any program, activity, or may otherwise act in any manner
which is not in conflict with or inconsistent with, or preempted
by, any law and which is not in conflict with the purposes for
which school districts are established. Ed.C. 35160. It may
execute any powers delegated by law to it or to the district of
which it is governing board, and shall discharge any duty imposed
by law upon it or upon the district of which it is the governing
board. Ed.C. 35161.

As presented in Section III of this Memorandum, the Board of
Trustees has the authority under the Refunding Law to provide for
the issuance and sale of the Bonds and the execution and delivery
of the related agreements including, inter alia, an Indenture of
Trust which specifies the terms and conditions upon which the
Bonds are to be issued. Since the District has such power, the
Bonds, the above-mentioned Indenture of Trust and any related
agreements are valid and will become legal and binding obligations
of the District upon issuance or execution and delivery of the
same.
Furthermore, California courts frequently defer to the judgment of a governing body of a public agency with respect to a determination that a particular action is necessary to the full discharge of such public agency's duties.\textsuperscript{2} See, e.g., Long Beach v. Lisenby (1919) 180 Cal. 52, 60-61 (determination of the method by which an outstanding indebtedness shall be funded is within the discretion of the governing body of the municipality); H.D. Haley & Co. v. McVay (1924) 70 Cal. App. 438 at 442 (in the exercise of their powers, supervisors are necessarily endowed with a large amount of discretion).

Additionally, the District is not creating any additional indebtedness by its issuance of the Bonds (except for any discounts which are being funded out of proceeds of the Bonds and are authorized by the Refunding Law, specifically Government Code Section 53587) but is simply changing the form and clarifying the terms of a pre-existing obligation, the Health Benefit Obligations.

Thus, it is clear that the District, through its Board of Trustees, has the express power to issue the Bonds and enter into the Indenture of Trust.

V. THE CONSTITUTIONAL DEBT LIMITATION IS INAPPLICABLE.

A. The Health Benefit Obligations Constitute Obligations Imposed By Law.

As discussed below, the validity of the Bonds directly depends on the validity of the District's obligations to provide health care benefits to its current and retired employees, since the Bonds are merely refinancing those obligations and therefore
share the same characterization. Therefore, the initial question is whether the Health Benefit Obligations are valid obligations of the District.

Article XVI, Section 16 of the California Constitution (the "Constitutional Debt Limitation") restricts the power of certain local government entities, including school districts, to incur debts without the express approval of the electorate. The Constitutional Debt Limitation was aimed at "the practice ... of extravagance and expenditure in engaging in improvements of various kinds which has resulted in an enormous increase of municipal indebtedness." City of Long Beach v. Lisenby (1919) 180 Cal. 52, 56. Judicial interpretation, however, has narrowed the applicability of Article XVI, Section 18 by creating several exceptions to the Constitutional Debt Limitation.

One such exception is for "obligations imposed by law." The California Supreme Court first recognized this exception in Lewis v. Widber (1893) 99 Cal. 412. There, the California Supreme Court addressed whether payment by the City and County of San Francisco of a municipal employee's salary, which was fixed by statute, for a month of service performed in the preceding fiscal year could be made in the subsequent fiscal year when all of the revenues of the preceding fiscal year had been expended, thus requiring payment of the salary from revenues of the following fiscal year. The City claimed that such payment was barred by the debt limitation provision. The Court held that payment of such officer's salary out of the next year's revenues would not violate the Constitutional Debt Limitation, stating:
"[T]he stated salary of a public officer fixed by statute is a matter over which the municipality has no control, and with respect to which it has no discretion; and the payment of his salary is a liability established by the legislature at the date of the creation of the office. It, therefore, is not an indebtedness or liability incurred by the municipality within the meaning of said clause of the constitution."

Lewis at 413.

Subsequent courts have further extended the "obligation imposed by law" exception created in Lewis. See e.g., Lotts v. Board of Park Commissioners (1936) 13 Cal. App. 2d 625 (debt limitation did not bar the city parks department from paying a judgment for back wages since the salary owed was not a debt which could be incurred at the discretion of the board); County of Los Angeles v. Byram (1951) 36 Cal.2d 694 (Constitutional Debt limitation did not bar payment of the cost of constructing a courthouse where state law required boards of supervisors to provide suitable quarters for the courts since state law established the legislative policy and specifically imposed the execution of it on the board of supervisors); Compton Community College Fed'n of Teachers v. Compton Community College Dist. (1985) 165 Cal. App. 3d 82 (payment of a retroactive salary increase agreed to in collective bargaining negotiations was not barred by the Constitutional Debt Limitation since the district "had a specific duty to employ the teachers needed to provide education to its citizens and to pay them according to a set salary schedule."); Wright v. Compton Unified Sch. Dist., 46 Cal. App. 3d 177, 120 Cal. Rptr. 115 (1975) (Constitutional Debt limitation did not bar payment of legal services by a school district for defending its employees in a defamation action
because the district had a statutory duty to provide a defense for its employees to civil actions brought against them arising from acts within the scope of their employment).

In analyzing the applicability of the obligation imposed by law exception, California courts have drawn a line between "general" legal duties, which are subject to the Constitutional Debt Limitation, and "specific" legal duties, which are exempt from its application. The court in Compton Community College Fed'n of Teachers, supra, referred to this distinction as follows:

"The problem is defining what counts as a "specific" legal duty as opposed to only a "general" one. [In County of Los Angeles v. Byram, supra, we have already seen that the statute requiring "adequate quarters" for the courts was deemed sufficiently specific to avoid the constitutional debt limitation. So was the duty to have a chief clerk in the registrar of voters office [in Lewis v. Widber, supra]. In contrast, the statutory duty to bury indigents was found to be too "general" to justify an exemption for a private undertaker who contracted to provide that service for the city [in Pacific Undertakers v. Widber (1896) 113 Cal.201]." Id at 91-92.

In Compton, the school district entered into a contract late in the academic year agreeing to a salary increase for teachers for that year, which was to be applied retroactively to the beginning of the academic year. The district did not pay the retroactive portion of the salary increase during the same academic year, and in the subsequent year, after all revenues from the previous year were spent, alleged it was barred from paying the retroactive portion of the salary increase under the Constitutional Debt Limitation.

In rejecting the argument that the district had no specific duty to arrive at any particular salary schedule during collective
bargaining negotiations, the court cited state laws making
education one of the highest priorities of state and local
government (Compton at 92, citing Cal. Const., art. IX, §§ 1, 5,
arc. XVI, §8), requiring the district to hire qualified teachers
(Compton at 92, citing Ed. C. 72290) and requiring public school
employers to meet with employee organizations to negotiate wages
and other terms and conditions of employment (Compton at 92,
citing Gov.C. 3543.2). Thus, the court held that the law imposed
a sufficiently specific legal duty upon the district to provide
post-secondary education and to employ members of a certain
profession for this purpose, and although the terms of
compensation were not established by law and the district had
discretion to negotiate those terms, the duty was still
sufficiently specific to exempt the retroactive salary increases
from the Constitutional Debt Limitation. See Compton at 94.

The opinion set forth in Compton provides overwhelming
support for the District's position that California law imposes a
specific duty upon the District to employ teachers and negotiate
the terms and conditions of employment, including the provision of
health benefits, thus exempting the Health Benefit Obligations
from the Constitutional Debt Limitation.

As noted in Compton and equally applicable here, education
has been legislatively declared "essential to the preservation of
the rights and liberties of the people" (Cal. Const. Art. IX §1)
and declared by the California Supreme court as a "fundamental
interest" protected by the equal protection provisions of the
California Constitution. See Serrano v. Priest (1976) 18 Cal.3d
728, 763-67, cert. den. Furthermore, the legislature has granted
broad authority to governing boards of school districts to act in any manner which is not in conflict with or inconsistent with any law and which is not in conflict with the purposes for which school districts are established. Ed.C. 35160. The legislature has recognized by statute that school districts have diverse needs unique to their individual communities and programs and should have the flexibility to create their own unique solutions. Ed.C. 35160. In order to discharge their constitutional mandate to educate students, school districts must necessarily hire qualified instructors. Finally, as in Compton, the governing board has a specific legal duty to engage in employment negotiations regarding terms and conditions of employment, including the provision of health and welfare benefits. See Gov.C. 3543.2.5

Thus, the District has a specific legal duty to employ teachers needed to provide education to its students and to negotiate the terms of their compensation. In Compton, the issue was the payment of teachers' salaries. Here, the issue is the payment of premiums for employee health care benefits. Both are terms of employment which school districts are required by law to negotiate in good faith with employee organizations. See Gov.C. 3543.2.

Although no statute specifically mandated the District to provide post-retirement health care benefits at the time it entered into the Employee Health Care Agreements, thus arguably making the Health Benefit Obligations matters within the "discretion" of the District and therefore subject to the debt limitation provision, it is not necessary that the law set the exact amount of the liability in order for such liability to
qualify for exemption from the debt limitation provision. Compton at 93. As long as the law imposes a sufficiently specific duty to perform a certain function on the District it may use some discretion in discharging that duty and still qualify for exemption from the Constitutional Debt Limitation as an obligation imposed by law. Id.

Another case illustrating the application of the obligation imposed by law exception is Wright v. Compton Unified Sch. Dist. (1975) 46 Cal.App.3d 177. There, the school district was not relieved of its duty to pay a private lawyer who had represented several district officials and employees who were charged with defamation. The Constitutional Debt Limitation did not relieve the District from paying the lawyer where state law had imposed a duty to provide legal representation in such a case at district expense. This was the case notwithstanding that the law did not set forth a specific total fee or limit the attorney to a certain hourly rate. Rather, it gave the district discretion to use a salaried public lawyer.

In so holding, the court stated:

"Government Code section 995 expressly imposes upon a public entity... the specific duty to provide a defense for its employees to civil actions brought against them which arise out of acts performed in the scope of their employment. In the instant case, the fulfillment of such duty... took the form of a contract between the district and plaintiff. The obligation represented by the contract, being one imposed upon the district by law, was not subject to the debt limitation... This conclusion is strengthened by the fact that... [the district] in employing plaintiff to defend its employees, discharged its duty in a manner expressly provided by law. [That is, by employing a private lawyer as authorized but not mandated under Gov. Code, § 996.]"

Compton at 95 citing Wright v. Compton Unified Sch. Dist., supra, -12-
46 Cal. App. 3d at 181.

In Wright, the specific duty to do something was to provide legal defense. Here, the District's specific duty is to provide an education to its students, to hire qualified teachers and to negotiate the terms of their employment. In both cases, the fulfillment of such duty took the form of a contract. The obligation represented by the contract in Wright, attorney fees, was deemed one imposed by law and not subject to the Constitutional Debt Limitation, even though the district had complete discretion to negotiate compensation levels. Just as in Wright, the District here had discretion to negotiate the terms and conditions of its employees' health benefits in the course of fulfilling its duties. In certain years, the District determined in its discretion that including post-retirement health care benefits in its employee benefit plan was necessary to discharge its duties. Therefore, the obligations incurred by the District to meet such terms, the Health Benefit Obligations, are justifiably excused from the application of the Constitutional Debt Limitation as an obligation imposed by law.

Although the District maintains that the foregoing analysis is sufficient to support exclusion of the Health Benefit Obligations from the Constitutional Debt Limitation, the enactment of the Health Insurance Act of 2003 (Labor C. 2120 et seq.) (the "2003 Health Act"), chaptered by the California Secretary of State on October 6, 2003 and effective January 1, 2004, provides further support for the position that an obligation incurred by a school district in order to provide health care benefits to its employees is an obligation imposed by law.
The 2003 Health Act was enacted for the purpose of ensuring that working Californians and their families are provided health care coverage. Labor C. 2120.2. The 2003 Health Act mandates that "large" and "medium" employers in California (as defined in the 2003 Health Act), including the District, either provide health care coverage to their employees and their families (see Labor C. 2160), or, alternatively, pay a user fee to the State of California so that the state may serve as purchasing agent to pool those fees to purchase coverage for all working Californians and their families. See Labor C. 2140. Although the 2003 Health Act mandates health care benefits only for "enrollees" (persons working at least 100 hours per month for any individual employer for three months) (Labor C. 2122.2) and certain "dependents" (as defined in Labor C. 2122.2), thus not mandating coverage for retired persons, the 2003 Health Act does not diminish any protection already provided pursuant to collective bargaining agreements or employer-sponsored plans that are more favorable to the employees. Labor C. 2120.3.

At the time the 2003 Health Care Act was enacted, the State Legislature included in its findings and declarations that "working Californians and their families should have health insurance coverage", that "most working Californians obtain their health insurance coverage through their employment" and that "persons without health insurance are at risk of financial ruin and that medical debt is the second most common cause of personal bankruptcy in the United States". See Stats 2003 Ch. 673, §1. Thus, although the Health Benefit Obligations were incurred by the District before enactment of the 2003 Health Act, the mandatory
nature of the Act, together with the legislative declarations and findings relating to the importance of health benefits in the employment relationship provide compelling evidence that the District had, and continues to have, a legal duty to provide health benefits in order to attract quality teachers. Given the fact that persons without health insurance are at risk of financial ruin, it would have been impossible for the District to attract qualified teachers without incurring the Health Benefit Obligations.

B. The Bonds Are Obligations Imposed By Law.

Because the Health Benefit Obligations are properly characterized as "obligations imposed by law" within the meaning of the Constitutional Debt Limitation, as described in the foregoing analysis, it follows that the Bonds are valid. The California Supreme Court's holding in Long Beach v. Lisenby, supports the conclusion that the bonds issued to refinance obligations imposed by law also are exempt from the Constitutional Debt Limitation. In Lisenby, the City of Long Beach issued warrants for the payment of tort judgments (which the Court determined to be obligations imposed by law) and thereafter adopted an ordinance authorizing the issuance of bonds to refinance the outstanding indebtedness of the City evidenced by the warrants. The court upheld the City's action, concluding that the issuance of bonds to pay outstanding debts merely represented the conversion of the debt into "a more permanent form with an extended time payment." Long Beach, 180 Cal. at 59; accord, City of Los Angeles v. Teed, 112 Cal. 319, 327, 44 P. 580 (1896)
(Dicta).

Here, the District has previously incurred indebtedness in the form of the Health Benefit Obligations, which qualify as obligations imposed by law. See Section V (A) above. The Bonds merely represent the conversion of that indebtedness into another form with a different payment term, and similarly qualify as obligations imposed by law. As the court concluded in Teed, "[a] bond is not an indebtedness or liability -- it is only the evidence or representative of an indebtedness ...." Teed, 112 Cal. at 327. The District has not yet satisfied its obligations under the Health Care Agreements, it has simply changed the form of its obligation. Therefore, since the indebtedness represented by the Bonds has not changed, the characteristics of that indebtedness remain the same and are transferred to the Bonds.

To conclude that the Bonds do not, in essence, mirror or reflect the Health Benefit Obligations would be to find that the Bonds constitute a new or different obligation of the District and would directly contradict the court's finding in Teed that "a mere change in the form of the evidence of indebtedness is not the creation of a new indebtedness." Teed, 112 Cal. at 327.

In other words, if it is legally permitted for the District to incur the long-term obligation to pay the Health Benefit Obligations in the first instance, it necessarily follows that it is legally permitted for the District to issue the Bonds to refinance these obligations. If the Court were to hold that the Bonds violate the provisions of Article XVI, Section 16 of the California Constitution, it would follow that the original obligation of the District to provide health care benefits to its
employees also violates the Constitutional Debt Limitation.

VI. THE REQUISITE PROCEDURES UNDER CODE OF CIVIL PROCEDURE
SECTIONS 860 ET SEQ. HAVE BEEN SATISFIED, AND ENTRY OF A
DEFAULT JUDGMENT IS MERITED.

On August 29, 2005, this Court issued its Order under Section
861 of the California Code of Civil Procedure requiring that the
District serve Defendants herein by: (1) publication of the
Summons in The Oakland Tribune and (2) by posting a copy of the
summons and the complaint in the District administrative offices
for a period of three weeks.

These notification procedures satisfy the requirements of the
various efforts to notify interested persons, as evidenced by the
Declaration of Posting, Proof of Publication and Declaration of No
Opposition on file herein, no pleading of any type was filed
within the statutory, court-ordered time limit.

Therefore, this Court's jurisdiction is complete. As stated
in California Code of Civil Procedure Section 862:
Jurisdiction shall be complete after the date specified
in the summons. Any party interested may, not later
than the date specified in the summons, appear and
contest the legality or validity of the matter sought to
be determined.

The present validation proceeding is expressly provided for
by the Code of Civil Procedure Sections 860, et seq. and
Government Code sections 53510 et seq. and similar proceedings
have been approved in analogous cases. See, e.g., Graydon v.
Cal. Rptr. 56, cert. denied, 449 U.S. 983 (1980) (upholding local
agency construction contract against attack in light of validation
action time limits); Walters, 61 Cal. App. 3d at 468, supra.
Therefore, this Court's jurisdiction is complete and default
judgment is warranted.

Dated: September 27, 2005

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FOOTNOTES

1 Code of Civil Procedure Section 860 authorizes a public agency "upon the existence of any matter which under any other law is authorized to be determined pursuant to this chapter, and for 60 days thereafter, [to] bring an action in the superior court of the City in which the principal office of the public agency is located to determine the validity of such matter."

2 Generally, courts decline to defer to a legislative body's judgment where: (i) the legislative body's actions are not within or closely related to the types of functions traditionally performed by counties, e.g., 
Byers v. Board of Supervisors (1968) 262 Cal. App. 2d 148, 160; (ii) there was an impermissible delegation of duties required to be performed by the City, e.g., Tax Factors, Inc. v. County of Marin (1937) 20 Cal. App. 2d 79, 85; or (iii) the City was intruding into areas subject to the control and jurisdiction of others, e.g., Hicks v. Board of Supervisors (1977) 69 Cal. App. 3d 228, 241.

3 Article XVI, Section 18 sets forth: "No county, city, town, township, board of education, or school district, shall incur any indebtedness or liability in any manner or for any purpose exceeding in any year the income and revenue provided for that year, without the assent of two-thirds of the voters thereof, voting at an election to be held for that purpose. . . ."

4 In Compton, the court concluded that under the Lotts decision discussed above, all public employee salaries are exempt from the constitutional debt limitation. Compton, 165 Cal. App. 3d at 96. "The clear intent expressed in the constitutional clause was to limit and restrict the power of the municipality as to any indebtedness or liability which it has discretion to incur or not to incur, and in our opinion the salary due an employee is an obligation of the city not responsive to [the constitutional debt limitation]." (Italics added.) Compton, 165 Cal.App.3d at 96, citing Lotts, 13 Cal.App.2d at 635.

5 In Compton, the court cited Government Code Section 3542.2 as evidence of the specific duty imposed on schools to meet with employee organizations and negotiate salary terms with their employees. The same statute requires negotiation regarding health and welfare benefits, as follows: "The scope of representation [of the employee organization] shall be limited to matters relating to wages, hours of employment, and other terms and conditions of employment. "Terms and conditions of employment" mean health and welfare benefits as defined by section 53200. . .". Government Code Section 53200 subd. (d) defines Health and Welfare Benefits as "any one or more of the following: hospital, medical, surgical, disability, legal expense or related benefits including but not limited to, medical, dental, life, legal expense, and income protection insurance or benefits."
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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
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ALL PERSONS INTERESTED IN THE  
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CERTAIN OBLIGATIONS OWED BY THE  
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IN RESPECT OF EMPLOYEE HEALTH CARE  
BENEFITS, AND ALL PROCEEDINGS  
LEADING THERETO, INCLUDING THE  
ADOPTION OF A RESOLUTION  
AUTHORIZING THE ISSUANCE AND SALE  
OF SUCH BONDS,  

Defendants.  

No. RG 05-2286682  

JUDGMENT  

($860 et seq. of the  
Code of Civil Procedure)  

[Fee Exemption:  
Govt. Code § 6103]

The motion of Plaintiff, Peralta Community College District,  
for a default judgment having come before the Court, and the Court
having reviewed the Memorandum of Points and Authorities In
Support of Plaintiff's Application For Default Judgment, the
Declarations in support thereof and the papers on file in this
action, and good cause appearing therefor;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

(1) This action is properly brought under §53511 of the

(2) All proceedings by and for Plaintiff in connection with
the Resolution, the Bonds and the refunding of the Health Benefit
Obligations of the District, and any related contracts or
agreements approved by the Resolution or contemplated by the Board
of Trustees of the District in connection with the issuance of the
Bonds and the refunding of the Health Benefit Obligations, were
and are valid, legal and binding obligations in accordance with
their terms and were and are in conformity with the applicable
provisions of all laws and enactments at any time in force or
controlling upon such proceedings, whether imposed by law,
constitution, statute or ordinance, and whether federal, state or
municipal, including but not limited to the provisions of Article
XVI, Section 18, of the California Constitution.

(3) All conditions, things and acts required by law to
exist, happen or be performed precedent to the adoption of the
Resolution, and the terms and conditions thereof, and including
the authorization for the issuance of the Bonds and the execution
and delivery of all related contracts or agreements approved by
the Resolution or contemplated by the Board of Trustees of the
District in connection with the issuance of the Bonds, have
existed, happened and been performed in the time, form and manner
required by law.

(4) The District has the authority under California law to
issue the Bonds and to execute and deliver the Indenture and all
contracts and agreements enacted pursuant thereto, and the
District has covenanted in the Indenture to use the proceeds of
the Bonds and the earnings on the investment thereof solely for
the purpose of refunding the Health Benefit Obligations and paying
financing costs relating thereto.

(5) The District has the authority under California law to
provide for the refunding of its obligations, by issuing the Bonds
and applying the proceeds of the Bonds to the payment and
refunding of its Health Benefit Obligations.

(6) The District will be obligated to satisfy its
obligations under the Bonds from any generally available funds of
the District, and the Board of Trustees of the District will be
obligated to make all annual appropriations of such funds as may
be required to satisfy its annual obligations under the Bonds.

(7) The Bonds and all agreements related thereto, are exempt
from and not subject to the debt limitations set forth in Article
XVI, Section 18, of the California Constitution.

(8) The Bonds (and all contracts and agreements related
thereto) are obligations imposed by law.

(9) The Bonds and any and all contracts and agreements
executed and delivered in connection therewith are valid and
binding obligations under the Constitution and laws of the State
of California.
(10) The District's incurrence of any and all indebtedness and/or liability in connection with the Bonds (and all contracts and agreements related thereto) is exempt from and not subject to the debt limitations set forth in Article XVI, Section 18, of the California Constitution.

(11) The institution by any person of any action or proceeding raising any issue as to which this judgment is binding and conclusive (which includes all matters herein adjudicated or which at the time of this judgment could have been adjudicated), against the Plaintiff and against all other persons is hereby permanently enjoined.

Judgment is hereby entered in favor of the Plaintiff, Peralta Community College District.

Dated: 11/7/05, 2005

Judge of the Superior Court
RESOLUTION NO. 05/06-28

RESOLUTION OF THE BOARD OF TRUSTEES OF THE PERALTA COMMUNITY COLLEGE DISTRICT AUTHORIZING THE SALE OF LIMITED OBLIGATION BONDS TO REFINANCE RETIREE HEALTH BENEFIT OBLIGATIONS OF THE DISTRICT, APPROVING FINAL FORM OF FINANCING DOCUMENTS, DESIGNATING INVESTMENT MANAGEMENT FIRM AND APPROVING OFFICIAL ACTIONS

WHEREAS, the Peralta Community College District (the "District") is obligated to pay retiree health care benefits for certain current District employees and retired District employees (the "Retiree Health Benefit Obligations"); and

WHEREAS, the annual obligation of the District to pay the Retiree Health Benefit Obligations is subject to fluctuation from year to year in future year due to the differentiation in benefits between certain groups of employees and other factors; and

WHEREAS, the District is authorized under the provisions of Articles 10 and 11 of Chapter 3 of Part 1 of Division 2 of Title 5 of the California Government Code, commencing with Section 53570 of said Code (the "Bond Law"), to issue its bonds for the purpose of refunding outstanding obligations of the District such as the Retiree Health Benefit Obligations; and

WHEREAS, on July 28, 2005, the Board of Trustees of the District adopted its Resolution No. 05-06-08 (the "Authorizing Resolution") authorizing the issuance of bonds under the Bond Law in the aggregate principal amount of not to exceed $250,000,000 (the "Bonds"), to be payable from the General Fund of the District, the proceeds of which will be applied to pay the Retiree Health Benefit Obligations as they come due and payable, thereby refunding the Retiree Health Benefit Obligations; and

WHEREAS, the issuance of the Bonds has been validated by judgment of the Alameda County Superior Court rendered on November 7, 2005; and

WHEREAS, the Board of Trustees wishes at this time to approve the final form of the documents relating to the issuance and sale of an initial series of the Bonds, to approve matters relating to the investment of the proceeds thereof, and to approve official actions relating to the closing of such series of Bonds;

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of the Peralta Community College District as follows:

Section 1. Form of 2005 Bonds. The Board of Trustees hereby authorizes the sale and delivery of an initial series of the Bonds in the aggregate principal amount of not to exceed $154,000,000 (the "2005 Bonds"), consisting of a series of Bonds bearing interest at a fixed rate of interest to maturity, and multiple series of Bonds on which the interest rate compounds for a designated period and then converts to an auction rate or other interest mode in accordance with the Convertible Auction Rate Securities (CARS™) program of Lehman Brothers Inc. as underwriter (the "Underwriter"). The
exact principal amount of the Bonds shall be determined based on the amount required to refinance the Retiree Health Benefit Obligations in the initial amount of $150,000,000. Nothing in this Resolution precludes the District from selling additional series of the Bonds from time to time as may be authorized by one or more resolutions hereafter adopted by the Board of Trustees.

Section 2. Sale of 2005 Bonds to Underwriter. The Board of Trustees hereby authorizes the sale of the 2005 Bonds to the Underwriter under the Bond Purchase Contract in substantially the form on file with the Clerk of the Board together with any additions thereto or changes therein approved by the Chancellor or the Vice Chancellor for Budget and Finance (each, an "Authorized Officer"), whose execution thereof shall be conclusive evidence of such approval. The Board of Trustees hereby delegates to an Authorized Officer the authority to accept an offer from the Underwriter to purchase the 2005 Bonds and to execute the Purchase Contract for and in the name and on behalf of the District. The amount of Underwriter's discount may not exceed 0.75% of the par amount of the 2005 Bonds and the fixed rate of interest on the 2005 Bonds (prior to any conversion to an auction rate or other interest mode) may not exceed 6.50% per annum.

Section 3. Approval of Form of Indenture. The Board of Trustees hereby approves the Indenture of Trust between the District and Deutsche Bank National Trust Company, as trustee (the "Trustee"), prescribing the terms and provisions of the 2005 Bonds, in substantially the form on file with the Clerk of the Board together with any additions thereto or changes therein deemed necessary or advisable by an Authorized Officer. An Authorized Officer is hereby authorized and directed to execute, and the Clerk of the Board is hereby authorized and directed to attest and affix the seal of the District to, the final form of the Indenture of Trust for and in the name and on behalf of the District. The Board hereby authorizes the delivery and performance of the Indenture of Trust. As provided in the Indenture of Trust, the Bonds shall be insured by Financial Guaranty Insurance Company ("FGIC").

Section 4. Approval of Preliminary Official Statement. The Board of Trustees hereby approves the form of Preliminary Official Statement of the District relating to the 2005 Bonds in substantially the form on file with the Clerk of the Board. An Authorized Officer is hereby authorized to certify that the Preliminary Official Statement is as of its date "deemed final" for purposes of Rule 15c2-12 of the Securities and Exchange Commission. Distribution of the Preliminary Official Statement by the Underwriter is hereby approved. An Authorized Officer is hereby authorized and directed to cause to be prepared a final official statement in substantially the form of the preliminary official statement which such changes or additions to reflect the terms of sale of the 2005 Bonds and to comply with applicable federal securities laws as such Authorized Officer shall approve after consultation with the District's General Counsel and Bond Counsel, the execution thereof by an Authorized Officer shall be conclusive evidence of approval of any such changes and additions. The Board of Trustees hereby authorizes the distribution of the Final Official Statement by the Underwriter. The Final Official Statement shall be executed in the name and on behalf of the District by an Authorized Officer.

Section 5. Taxable Status of the 2005 Bonds. The Board of Trustees hereby determines that interest payable on the 2005 Bonds will be subject to federal income taxation, and that the provisions of Section 5900 et seq. of the California Government Code (the "Taxable Bond Act") apply to the 2005 Bonds. The District may take any
action and exercise any power permitted to be taken by it under the Taxable Bond Act in connection with the issuance and sale of the 2005 Bonds and the investment of the proceeds thereof as may be deemed advisable by an Authorized Officer.

**Section 6. Investment of Bond Proceeds.** As provided in Section 53584 of the Bond Law, in Section 5903(e) of the Taxable Bond Act and in Section 53620 of the California Government Code, amounts held by the Trustee in the Retiree Health Benefit Program Fund intended for the payment of Retiree Health Benefit Obligations shall be invested in Program Fund Investments as that term is defined in the Indenture of Trust, which are deemed prudent for the investment and reinvestment of such amounts in accordance with the Indenture of Trust and this Resolution. The authority to invest and reinvest amounts on deposit in the Retiree Health Benefit Program Fund intended for the payment of Retiree Health Benefit Obligations, and to sell or exchange securities purchased for that purpose, is hereby delegated by the Board of Trustees to the Vice Chancellor for Budget and Finance, of such other officer as shall serve as the chief financial officer of the District from time to time. Such officers shall exercise the authority granted to them under this Section 6 upon the advice of and consultation with the investment management firm which is appointed under Section 7, consistent with the requirements of Section 53622 of the Government Code of the State of California and the provisions of the Indenture of Trust. In addition, the Board of Trustees hereby approves an amendment of the agreement between the District and the District’s financial advisor for the purpose of providing on-going review of the investment program, in the form on file with the Clerk of the Board, and the Vice Chancellor for Budget and Finance is hereby authorized and directed to execute such amendment in the name of the District.

**Section 7. Appointment of Investment Management Firm.** The Board of Trustees hereby engages the firm of Lehman Brothers Inc. to provide investment management services for the investment and reinvestment of amounts held in the Retiree Health Benefit Program Fund which is established under the Indenture of Trust for the purpose of paying the Retiree Health Benefit Obligations. An Authorized Officer is hereby authorized and directed to enter into an agreement with such firm to provide such services.

**Section 8. Official Actions.** The President of the Board, Clerk of the Board, Chancellor, Vice Chancellor for Budget and Finance and any and all other officers of the District are hereby authorized and directed, for and in the name and on behalf of the District, to do any and all things and take any and all actions, including execution and delivery of any and all assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance and other documents, which they, or any of them, may deem necessary or advisable in order to consummate the lawful sale and delivery of the 2005 Bonds and the consummation of the transactions approved herein, including but not limited to the approval of transactions relating to the designation of an auction agent and broker-dealer for the Bonds and the approval of agreements and commitments with FGIC. All actions heretofore taken by such officers or their designees are hereby ratified, confirmed and approved.

**Section 9. Effective Date.** This Resolution shall take effect immediately upon its passage and adoption.
I hereby certify that the foregoing Resolution was passed and adopted by the Board of Trustees of the Peralta Community College District at a regular meeting thereof duly held on December 13, 2005, by a majority vote of all of its members.

Adopted by the following votes:

AYES: Trustees Clifton, Gonzalez Yuen, Gulassa, Hodge, Riley, Withrow, President Handy, Student Trustees Andrews & Watkins-Ta
NOES: None
ABSENT: None

BOARD OF TRUSTEES OF THE PERALTA COMMUNITY COLLEGE DISTRICT

By Hon. Linda Handy

President

ATTEST:

Elihu M. Harris, Chancellor
Clerk of the Board
INDENTURE OF TRUST

Dated as of December 1, 2005

between the

PERALTA COMMUNITY COLLEGE DISTRICT

and

DEUTSCHE BANK NATIONAL TRUST COMPANY,

as Trustee

Relating to

$153,749,832.25
Peralta Community College District
Taxable 2005 Limited Obligation OPEB
(Other Post-Employment Benefit) Bonds
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INDENTURE OF TRUST

This Indenture (this "Indenture"), dated as of December 1, 2005, is between the PERALTA COMMUNITY COLLEGE DISTRICT, a community college district organized and existing under the Constitution and laws of the State of California (the "District"), and DEUTSCHE BANK NATIONAL TRUST COMPANY, a trust company organized and existing under the laws of the United States of America, as trustee (the "Trustee").

BACKGROUND:

1. The District is obligated by contract to pay health care benefits for certain retired District employees (the "Retiree Health Benefit Obligations").

2. The District is authorized under the provisions of Articles 10 and 11 of Chapter 3 of Part 1 of Division 2 of Title 5 of the California Government Code, commencing with Section 53570 of said Code (the "Bond Law"), to issue its bonds for the purpose of refunding certain outstanding indebtedness of the District, including the Retiree Health Benefit Obligations.

3. In order to refund the Retiree Health Benefit Obligations and thereby realize substantial cash flow savings in the current and immediately succeeding fiscal years, and to provide a more constant level of payments in respect of the Retiree Health Benefit Obligations, the District has determined to issue its $153,749,832.25 aggregate principal amount of Peralta Community College District Taxable 2005 Limited Obligation OPEB (Other Post-Employment Benefit) Bonds (the "Bonds") under the Bond Law and this Indenture.

4. The principal of and interest on the Bonds are payable from any source of legally available funds of the District, including amounts on deposit in the General Fund of the District.

5. The Bonds have been determined to be the legal, valid and binding obligations of the District by judgment of the Alameda Superior Court rendered on November 7, 2005 in Peralta Community College District v. All Persons Interested, etc., Case No. RG 05-2288682.

6. Payment of the principal and Accreted Value of the Bonds and the interest on the Bonds will be insured by Financial Guaranty Insurance Company (the "Bond Insurer").

7. The District has determined that all acts and proceedings required by law necessary to make the Bonds, when executed by the District, authenticated and delivered by the Trustee and duly issued, the valid, binding and legal limited obligations of the District, and to constitute this Indenture a valid and binding agreement for the uses and purposes herein set forth in accordance with its terms, have been done or taken.
AGREEMENT:

In order to secure the payment of the principal of and the interest and redemption premium (if any) on all the Outstanding Bonds under this Indenture according to their tenor, and to secure the performance and observance of all the covenants and conditions therein and herein set forth, and to declare the terms and conditions upon and subject to which the Bonds are to be issued and received, and in consideration of the premises and of the mutual covenants herein contained and of the purchase and acceptance of the Bonds by the Owners thereof, and for other valuable considerations, the receipt of which is hereby acknowledged, the District and the Trustee do hereby covenant and agree with one another, for the benefit of the Bond Insurer and the respective Owners from time to time of the Bonds, as follows:

ARTICLE I

DEFINITIONS; RULES OF CONSTRUCTION

SECTION 1.01. Definitions. Unless the context clearly otherwise requires or unless otherwise defined herein, when used in this Indenture the following terms have the meanings set forth below. In addition, terms defined in Section 1.01 of Appendix B hereto have the same meanings when such terms are used elsewhere in this Indenture.

"Accreted Value" means with respect to any Capital Appreciation Bond or Convertible Auction Rate Security, as of any date of calculation, the sum of the Principal Amount thereof and the interest accrued thereon to such date of calculation, compounded from the date of initial issuance at, (i) in the case of Capital Appreciation Bonds, the stated yield to maturity thereof and (ii) in the case of Convertible Auction Rate Securities, the stated yield to the Full Accretion Date, on the Interest Accrual Dates indicated on Appendix F hereto, assuming in any such semiannual period that such Accreted Value increases in equal daily amounts on the basis of a 360-day year comprised of twelve 30-day months. When used with respect to a Convertible Auction Rate Security following the Full Accretion Date thereof, the Accreted Value of such Convertible Auction Rate Security is the amount determined as of its Full Accretion Date.

"Administrative Expense Fund" means the fund by that name established and held by the Trustee under Section 4.05.

"Auction Rate Securities" means all Bonds issued in such Mode prior to their Fixed Rate Conversion Date, if any, in any one or more Tranches; and unless otherwise indicated, all references herein to Auction Rate Securities shall include Convertible Auction Rate Securities (CARS\textsuperscript{SM}).

"Authorized Denominations" means (a) as to Bonds issued as Fixed Rate Bonds, $5,000 principal amount or any integral multiple thereof; (b) as to Bonds issued as Auction Rate Securities, $25,000 principal amount or any integral multiple thereof; (c) as to Bonds issued as Capital Appreciation Bonds, $5,000 Maturity Amount or any integral multiple thereof; (d) as to Bonds issued as Index Bonds, $5,000 principal amount or any integral multiple thereof; (e) as to Bonds issued as Convertible Auction Rate Securities (CARS\textsuperscript{SM}), $25,000 Maturity Amount or any integral multiple thereof; and (g) any other principal amount or integral multiple thereof as provided in a Supplemental Indenture.
"Beneficial Owner" means, (a) as to Auction Rate Securities, a customer of a Broker-Dealer (other than the District) who is listed on the records of that Broker-Dealer (or, if applicable, the Auction Agent) as an owner of Auction Rate Securities; and (b) as to all Bonds that are not issued in the form of Auction Rate Securities, the beneficial owner of each such Bond, determined under the rules of DTC.

"Bond Counsel" means (a) Jones Hall, A Professional Law Corporation, or (b) any other attorney or firm of attorneys appointed by or acceptable to the District of nationally-recognized experience in the issuance of obligations issued by public agencies.

"Bond Insurance Policy" means the policy of municipal bond insurance issued by the Bond Insurer which insures the payment when due of principal and Accreted Value of the Bonds and interest on the Bonds.

"Bond Insurer" means Financial Guaranty Insurance Company, a New York stock insurance company, doing business in California as FGIC Insurance Company, its successors and assigns, as issuer of the Bond Insurance Policy.

"Bonds" means the Peralta Community College District Taxable 2005 Limited Obligation OPEB (Other Post-Employment Benefit) Bonds issued by the District in the aggregate principal amount of $153,749,832.25 under Section 2.01.

"Business Day" means a day of the year (other than a Saturday or Sunday) on which banks in California are not required or permitted to be closed, and on which the New York Stock Exchange is open.

"Calculation Agent" means the Calculation Agent for Index Bonds, designated on Appendix A hereto, if any, or its successor appointed by the District.

"Capital Appreciation Bonds" means those Bonds issued in Maturity Amounts of $5,000 or any integral multiple thereof, which by their terms accrete interest on a compounded basis payable, together with their Principal Amount, solely at maturity or upon prior redemption.

"Certificate of the District" means a certificate in writing signed by the Chancellor of the District, by the Vice Chancellor for Budget and Finance (or such other person performing the functions of chief financial officer of the District), or any other officer of the District duly authorized by the District for that purpose.

"Closing Date" means December 28, 2005, being the date on which the Bonds are delivered by the District to the Original Purchasers.

"Continuing Disclosure Certificate" means the Continuing Disclosure Certificate executed and delivered by the District on the Closing Date with respect to the Bonds.

"Convertible Auction Rate Securities" means all Bonds issued as Auction Rate Securities, which by their terms accrete interest on a compounded basis through the Full Accretion Date and, thereafter bear interest at a rate which will be established in accordance with the provisions of Appendix B, payable, together with their Accreted Value,
solely at maturity or upon the redemption thereof, prior to their Fixed Rate Conversion Date, if any.

"Corporate Trust Office" means the corporate trust office of the Trustee at the address set forth in Section 9.08, or at such other or additional offices as may be specified by the Trustee in writing to the District as the office at which it conducts its business as Trustee hereunder.

"Costs of Issuance" means all items of expense directly or indirectly payable by or reimbursable to the District relating to the authorization, issuance, sale and delivery of the Bonds, including but not limited to: printing expenses; rating agency fees; filing and recording fees; initial fees, expenses and charges of the Trustee and its counsel, including the Trustee's first annual administrative fee; initial fees of the Auction Agent and the Broker-Dealer; fees, charges and disbursements of attorneys, financial advisors, accounting firms, consultants and other professionals; Bond Insurance Policy premium; and any other cost, charge or fee in connection with the original issuance of the Bonds.

"Costs of Issuance Fund" means the fund by that name established and held by the Trustee under Section 3.03.

"CUSIP Number" means that unique number assigned to each Bond by the CUSIP Service Bureau upon initial sale of the Bonds.

"Debt Service" means the scheduled amount of interest and amortization of principal payable on the Bonds during the period of computation, excluding amounts scheduled during such period which relate to principal which has been retired before the beginning of such period.

"Debt Service Fund" means the fund by that name established and held by the Trustee under Section 4.03.

"Depository" means (a) initially, DTC, and (b) any other Securities Depository acting as Depository under Section 2.06.

"Depository System Participant" means any participant in the Depository's book-entry system.

"District" means the Peralta Community College District, a community college district duly organized and existing under the Constitution and laws of the State of California.

"DTC" means The Depository Trust Company, New York, New York, and its successors and assigns.

"Event of Default" means any of the events described in Section 8.01.

"Federal Securities" means: (a) any direct general obligations of the United States of America (including obligations issued or held in book entry form on the books of the Department of the Treasury of the United States of America), for which the full faith and credit of the United States of America are pledged; (b) obligations of any agency, department or instrumentality of the United States of America, the timely
payment of principal and interest on which are directly or indirectly secured or
guaranteed by the full faith and credit of the United States of America.

"Fiscal Year" means any twelve-month period beginning on July 1 in any year
and extending to the next succeeding June 30, both dates inclusive, or any other twelve-
month period selected and designated by the District as its official fiscal year period in a
Certificate of the District filed with the Trustee.

"Fixed Rate" means a rate of interest that does not change during a specific term,
without adjustment, resetting or variation due to the effects of marketing, remarketing or
indices.

"Fixed Rate Bonds" means those Bonds which, by their terms, have been issued
in denominations of $5,000 Principal Amount or any integral multiple thereof, bear
interest at Fixed Rates, payable semiannually (except that the first interest period with
respect thereto may be less than six months but not more than twelve months following
their Closing Date), and includes Standard Bonds.

"Full Accretion Date" means, with respect to any Series of Convertible Auction
Rate Securities, the date set forth in Appendix A on which such Series of Convertible
Auction Rate Security reaches its stated Maturity Amount, assuming in any semiannual
period that the value increases in equal daily amounts on the basis of a 360-day year of
twelve 30-day months.

"Indenture" means this Indenture of Trust between the District and the Trustee,
as amended or supplemented from time to time under any Supplemental Agreement
entered into under the provisions hereof.

"Independent Accountant" means any accountant or firm of such accountants
duly licensed or registered or entitled to practice and practicing as such under the laws
of the State of California, appointed by or acceptable to the District, and who, or each of
whom: (a) is in fact independent and not under domination of the District; (b) does not
have any substantial interest, direct or indirect, with the District; and (c) is not connected
with the District as an officer or employee of the District, but who may be regularly
retained to make reports to the District.

"Index Adjustment Date" means each Thursday (whether or not such day is a
Business Day) following the Closing Date.

"Index Bonds" means those Bonds which have been issued in denominations of
$5,000 Principal Amount or integral multiples thereof, bear interest at an Index Rate, and
are payable as to principal and interest quarterly.

"Index Rate Determination Date" means the first Business Day of the applicable
Index Rate Period.

"Index Rate Period" means, with respect to the Index Bonds, each period
commencing on an Index Adjustment Date and ending on the day before the next Index
Adjustment Date.
"Information Services" means Financial Information, Inc.'s "Daily Called Bond Service," 30 Montgomery Street, 10th Floor, Jersey City, New Jersey 07302, Attention: Editor; Kenny Information Services' "Called Bond Service," 65 Broadway, 16th Floor, New York, New York 10006; Moody's Investors Service "Municipal and Government," 5250 77 Center Drive, Suite 150, Charlotte, North Carolina 28217, Attn: Called Bond Dept.; Standard & Poor's Corporation "Called Bond Record," 25 Broadway, 3rd Floor, New York, New York 10004; and, in accordance with then current guidelines of the Securities and Exchange Commission, such other addresses or such other services providing information with respect to the redemption of bonds as the District may designate in a Request of the District delivered to the Trustee.

"Interest Accrual Date" means each date established for the accrual and compounding of interest on Capital Appreciation Bonds and Convertible Auction Rate Securities, initially as set forth in Appendix A.

"Interest Payment Date" means each date upon which interest is due on the Bonds (excepting Capital Appreciation Bonds and Convertible Auction Rate Securities, prior to the Full Accretion Date), as initially set forth in Appendix A.

"Interest Rate Period" means any designated period during which a Series of Bonds are Outstanding in the form of Auction Rate Securities or bear interest at the Index Rate.

"ISIN Number" means the unique number assigned to each Bond traded within the Euroclear System and Clearstream, Luxembourg, from and after the date upon which such trading commences.

"LIBOR" on any date of determination for any Auction Rate Period, means:

(i) subject to clause (ii) below, (A) for any Standard Auction Rate Period or any Special Auction Rate period of fewer than 49 days, the offered rate for deposits in U.S. dollars for a one-month period which appears on Telerate Page 3750 at approximately 11:00 a.m., London time, on such date, or if such date is not a London Business Day, then on the next preceding London Business day (the "calculation date") and (b) for any Special Auction Rate period of (i) 49 or more but fewer than 70 days, such rates for deposits in U.S. dollars for a two-month period; (ii) 70 or more but fewer than 85 days, the arithmetic average of such rates for deposits in U.S. dollars for two- and three-month periods; (iii) 85 or more but fewer than 120 days, such rate for deposits in U.S. dollars for a three-month period; (iv) 120 or more but fewer than 148 days, the arithmetic average of such rates for deposits in U.S. dollars for three- and six-month periods; (v) 148 or more but fewer than 180 days, such rate for deposits in U.S. dollars for a six-month period; (vi) 180 or more but fewer than 225 days, the arithmetic average of such rates for deposits in U.S. dollars for six- and nine-month periods; (vii) 225 or more but fewer than 290 days, such rate for deposits in U.S. dollars for a nine-month period; (viii) 290 or more but fewer than 325 days, the arithmetic average of such rates for deposits in U.S. dollars for nine-month and one-year periods; and
(ix) 325 days or more, such rate for deposits in U.S. dollars for a one-year period; or

(ii) if, on any calculation date, no rate appears on Telerate Page 3750 as specified in clause (i) above, the arithmetic average of the offered quotations of four major banks in the London interbank market, selected by the Auction Agent for deposits in U.S. dollars for the respective periods specified in clause (i) above to prime banks in the London interbank market at approximately 11:00 a.m., London time, on such calculation date and in a principal amount of not less than $1,000,000 that is representative of a single transaction in such market at such time, unless fewer than two such quotations are provided, in which case, the arithmetic average of the rates quoted at approximately 11:00 a.m., New York City time, on the date next preceding such calculation date by three major banks in the City of New York, selected by the Auction Agent, for loans in U.S. dollars to leading European banks in a principal amount of not less than $1,000,000 that is representative of a single transaction in such market at such time.

"LIBOR Spread" means the percentage of LIBOR established on the Closing Date for the affected Bonds, as provided in Appendix A.

"London Business Day" means a day that is a Business Day and a day on which dealings in deposits in U.S. dollars are transacted, or with respect to any future date, are expected to be transacted, in the London, U.K., interbank market.

"Maturity Amount" means (i) the Accreted Value of any Capital Appreciation Bond on its maturity date and (ii) the Accreted Value of any Convertible Auction Rate Security as of the Full Accretion Date thereof.

"Mode" means the Principal Amount, Authorized Denomination, interest rate and payment structure, including any methodology for the reset thereof, for any Series of Bonds. This Indenture authorizes the issuance of Bonds in the following Modes: Fixed Rate Bonds, Auction Rate Securities, Capital Appreciation Bonds, Index Bonds and any other Mode as set forth in a Supplemental Indenture.

"Moody's" means Moody's Investors Service, its successors and assigns.

"Nominee" means (a) initially, Cede & Co. as nominee of DTC, and (b) any other nominee of the Depositary designated under Section 2.06(a).

"Original Purchasers" means Lehman Brothers Inc. and Grigsby & Associates, Inc., as original purchasers of the Bonds upon the negotiated sale thereof.

"Outstanding", when used as of any particular time with reference to Bonds, means (subject to the provisions of Section 9.05) all Bonds except: (a) Bonds theretofore canceled by the Trustee or surrendered to the Trustee for cancellation; (b) Bonds paid or deemed to have been paid within the meaning of Section 9.03; and (c) Bonds in lieu of or in substitution for which other Bonds have been authorized, executed, issued and delivered by the District pursuant hereto.
"Owner" means, with respect to any Bond, the person in whose name the ownership of such Bond is registered on the Registration Books.

"Payment Date" means any date on which the principal, interest or Accreted Value is payable on any of the Bonds.

"Permitted Investments" means any of the following which at the time of investment are legal investments under the laws of the State of California for the moneys proposed to be invested therein:

(a) Federal Securities;

(b) Direct obligations of any of the following agencies of the United States of America, which are fully guaranteed by the full faith and credit of the United States of America: (i) direct obligations and fully guaranteed certificates of beneficial interest of the Export-Import bank of the United States; (ii) debentures of the Federal Housing Administration; (iii) participation certificates of the General Services Administration; (iv) guaranteed mortgage-backed bonds and guaranteed pass-through obligations of the Government National Mortgage Association; (v) guaranteed participation certificates and guaranteed pool certificates of the Small Business Administration; (vi) local authority bonds of the U.S. Department of Housing and Urban Development; and (vii) guaranteed Title XI financing of the U.S. Maritime Administration.

(c) Direct obligations of any of the following agencies of the United States of America, which are not fully guaranteed by the full faith and credit of the United States of America: (i) senior debt obligations of the Federal National Mortgage Association rated "Aaa" by Moody's and "AAA" by S&P; (ii) participation certificates and senior debt obligations rated "Aaa" by Moody's and "AAA" by S&P of the Federal Home Loan Mortgage Corporation; (iii) consolidated debt obligations of the Federal Home Loan Banks; (iv) debt obligations of the Student Loan Marketing Association; and (v) debt obligations of the Resolution Funding Corporation.

(d) Direct, general obligations of any state of the United States of America or any subdivision or agency thereof whose uninsured and unguaranteed general obligation debt is rated, at the time of purchase, “A2” or better by Moody's and “A” or better by S&P, or any obligation fully and unconditionally guaranteed by any state, subdivision or agency whose uninsured and unguaranteed general obligation debt is rated, at the time of purchase, “A2” or better by Moody's and “A” or better by S&P.

(e) Commercial paper (having original maturities of not more than 270 days) rated, at the time of purchase, “P-1” by Moody's and “A-1” or better by S&P.
(f) Certificates of deposit, savings accounts, deposit accounts or money market deposits (including those of the Trustee or its affiliates) in amounts that are continuously and fully insured by the Federal Deposit Insurance Corporation, including the Bank Insurance Fund and the Savings Association Insurance Fund.

(g) Certificates of deposit, deposit accounts, federal funds or bankers’ acceptances (in each case having maturities of not more than 365 days following the date of purchase) of any domestic commercial bank or United States branch office of a foreign bank (including the Trustee or its affiliates), provided that such bank’s short-term certificates of deposit are rated "P-1" by Moody’s and "A-1" or better by S&P (not considering holding company ratings).

(h) Money market funds (including funds for which the Trustee, its affiliates or subsidiaries, provide investment advisory or other management services) rated “AAAm” or “AAAm-G” by S&P.

(i) Any investment agreement the provider of which and the structure of which is permitted in writing by the Bond Insurer.

(j) The Local Agency Investment Fund which is administered by the California Treasurer for the investment of funds belonging to local agencies within the State of California, provided for investment of funds held by the Trustee, the Trustee is entitled to make investments and withdrawals in its own name as Trustee.

(k) Any other investments permitted in writing by the Bond Insurer.

"Principal Amount" means (a) as to any Fixed Rate Bond, Auction Rate Security or Index Bond, the principal amount thereof; or (b) as to any Capital Appreciation Bond or Convertible Auction Rate Security, the Maturity Amount thereof.

"Qualified Swap Agreement" or "Swap Agreement" means (i) any ISDA Master Swap Agreement, by and between the District and a Qualified Swap Provider, which includes Schedule A thereto and the applicable Commitment, (a) which is entered into by the District with an entity that is a Qualified Swap Provider at the time the arrangement is entered into; (b) which provides that the District shall pay to such entity an amount based on the interest accruing at a Fixed Rate on an amount equal to the Principal Amount of Outstanding Bonds covered by such Swap Agreement, if any, and that such entity shall pay to the District an amount based on the interest accruing on a principal amount equal to the then-Outstanding Principal Amount of the affected Bonds, at a variable rate of interest computed according to a formula set forth in the Swap Agreement (which need not be the same formula by which the Auction Rate, if applicable, is calculated) or that one shall pay to the other any net amount due under such arrangement; and (c) which has been designated in writing to the Trustee in a Certificate of the District as a Qualified Swap Agreement with respect to the affected Bonds; provided, that any Qualified Swap Agreement shall be subject to the prior written approval of the Bond Insurer; and provided further, that the District has notified each rating agency then rating the Bonds of the proposed Swap Agreement and has
determined that the execution of the Swap Agreement would not cause the reduction or withdrawal of the current rating from such rating agencies on the Bonds.

"Qualified Swap Provider" means with respect to the counterparty under any other Swap Agreement meeting the requirements of the definition thereof, a financial institution approved by the District and the Bond Insurer, (A) the long-term, unsecured and unsubordinated obligations of which are rated at the time of execution of the related Qualified Swap Agreement at least "A-" by S&P; or (B) the obligations of which under the particular Qualified Swap Agreement and any Swap Policy related thereto are unconditionally guaranteed by a bank or non-bank financial institution, the long-term, unsecured and unsubordinated obligations of which are rated at the time of execution of the Qualified Swap Agreement at least "A-" by S&P.

"Rate Stabilization Fund" means the fund (if any) by that name established and held by the Trustee under Section 4.04.

"Record Date" means the date set forth as such in Appendix A or as set forth in a Supplemental Indenture.

"Reported Rate" means the rate that appears on Telerate Page 3750 or a successor reporter of such rates, selected by the Calculation Agent and acceptable to the District.

"Registration Books" means the records maintained by the Trustee under Section 2.09 for the registration and transfer of ownership of the Bonds.

"Request of the District" means a request in writing signed by the Chancellor of the District, by the Vice Chancellor for Budget and Finance (or such other person performing the functions of chief financial officer of the District), or any other officer of the District duly authorized by the District for that purpose.

"Retiree Health Benefit Costs" means costs paid or incurred by the District to provide health care benefits to participants in the retiree health benefit plan of the District, including but not limited to premiums payable to provide health insurance for retired employees and reasonable expenses of administering the retiree health benefit plan.

"Retiree Health Benefit Program Fund" means the fund by that name established and held by the Trustee under Section 3.04.

"Retiree Health Benefit Program Fund Investments" means any of the investments set forth in Appendix E hereto which are deemed prudent by the Board of Trustees of the District under and in accordance with the provisions of Section 53622 of the Government Code of the State of California, or which are deemed prudent by any officer of the District to whom the authority to invest and reinvest amounts held in the Retiree Health Benefit Program Fund has been delegated under Section 53621 of the Government Code of the State of California.

"Series" means all of the Bonds designated in Appendix A as being within a certain series, regardless of variations in maturity date, interest rate (but within the same
Mode), redemption and other provisions, and any Bonds thereafter issued in transfer or exchange for such Bonds.


“Securities Depositories” means DTC; and, in accordance with then current guidelines of the Securities and Exchange Commission, such other addresses and/or such other securities depositories as the District may designate in a Request of the District delivered to the Trustee.

“Sinking Fund Payment” means the amount of money required hereby or by any Supplemental Indenture to be deposited by the Trustee in the Debt Service Fund for the redemption of the Term Bonds of any Series and maturity.

“Sinking Fund Payment Date” means any date on which any Sinking Fund Payments for the Term Bonds of any Series and maturity are required to be deposited in the Sinking Fund for the Bonds of such Series and maturity.

“Standard Bonds” means those Fixed Rate Bonds issued in Authorized Denominations of $5,000 and any integral multiple thereof, constituting the Bonds maturing on August 1 in each of the years 2006 through 2010 as set forth in Appendix A.

“Supplemental Agreement” means any indenture, agreement or other instrument which amends, supplements or modifies this Indenture and which has been duly entered into between the District and the Trustee; but only if and to the extent that such Supplemental Agreement is specifically authorized hereunder.

“Telerate Page 3750” means the display designated on page 3750 on Moneyline Telerate, Inc. (or such other page as may subsequently replace the 3750 page on that service or such other service as may be nominated by the British Banker’s Association for the purpose of displaying London interbank offered rates for U.S. dollar deposits).

“Term Bonds” means the Bonds for which Sinking Fund Payments are established in accordance with Appendix A.

“Tranche” means the designated portion of a Series of Bonds sharing a particular Mode. Each Tranche of Bonds within a Series of Bonds must be in the same Mode.

“Trustee” means Deutsche Bank National Trust Company, as Trustee hereunder, or any successor thereto appointed as Trustee hereunder in accordance with the provisions of Article VI.

SECTION 1.02. Authorization. Each of the parties hereby represents and warrants that it has full legal authority and is duly empowered to enter into this Indenture, and has taken all actions necessary to authorize the execution hereof by the officers and persons signing it.
SECTION 1.03. Interpretation.

(a) Unless the context otherwise indicates, words expressed in the singular include the plural and vice versa and the use of the neuter, masculine, or feminine gender is for convenience only and include the neuter, masculine or feminine gender, as appropriate.

(b) Headings of articles and sections herein and the table of contents hereof are solely for convenience of reference, do not constitute a part hereof and do not affect the meaning, construction or effect hereof.

(c) All references herein to "Articles," "Sections" and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Indenture; the words "herein," "hereof," "hereby," "hereunder" and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or subdivision hereof.

ARTICLE II

AUTHORIZATION AND TERMS OF BONDS

SECTION 2.01. Authorization and Purpose of Bonds. The District has reviewed all proceedings heretofore taken and has found, as a result of such review, and hereby finds and determines that all things, conditions and acts required by law to exist, happen or be performed precedent to and in connection with the issuance of the Bonds do exist, have happened and have been performed in due time, form and manner as required by law, and the District is now duly empowered, under each and every requirement of law, to issue the Bonds in the manner and form provided in this Indenture.

The District hereby authorizes the issuance of the Bonds in the aggregate principal amount of $153,749,832.25 under the Bond Law for the purposes of providing funds to refinance the Retiree Health Benefit Obligations of the District as provided herein. The Bonds are authorized and issued under, and are subject to the terms of, this Indenture and the Bond Law. The Bonds are designated the "Peralta Community College District Taxable 2005 Limited Obligation OPEB (Other Post-Employment Benefit) Bonds."

SECTION 2.02. Terms of the Bonds. The Bonds are issuable in fully registered form without coupons in Authorized Denominations. The Bonds will be dated as of the Closing Date. The Bonds will mature on the dates and in the Principal Amounts and bear or accrete interest at the rates (based on a 360-day calendar year of twelve 30-day months), payable on the Interest Payment Dates as set forth in Appendix A. Each Bond will bear interest from the Interest Payment Date next preceding the date of authentication thereof, unless:

(a) a Bond is authenticated on or before an Interest Payment Date and after the close of business on the preceding Record Date, in which event it will bear interest from such Interest Payment Date,
(b) a Bond is authenticated on or before the first Record Date, in which event interest thereon will be payable from the Closing Date, or

(c) interest on any Bond is in default as of the date of authentication thereof, in which event interest thereon will be payable from the date to which interest has been paid in full, payable on each Interest Payment Date.

Interest is payable on each Interest Payment Date to the persons in whose names the ownership of the Bonds is registered on the Registration Books at the close of business on the immediately preceding Record Date, except as provided below. Interest on any Bond which is not punctually paid or duly provided for on any Interest Payment Date is payable to the person in whose name the ownership of such Bond is registered on the Registration Books at the close of business on a special record date for the payment of such defaulted interest to be fixed by the Trustee, notice of which is given to such Owner by first-class mail not less than 10 days prior to such special record date.

The Trustee will pay interest on the Bonds by check of the Trustee mailed by first class mail, postage prepaid, on each Interest Payment Date to the Owners of the Bonds at their respective addresses shown on the Registration Books as of the close of business on the preceding Record Date. At the written request of the Owner of Bonds in an aggregate principal amount of at least $1,000,000, which written request is on file with the Trustee as of any Record Date, the Trustee will pay interest on such Bonds on each succeeding Interest Payment Date by wire transfer in immediately available funds to such account of a financial institution within the United States of America as specified in such written request, which written request will remain in effect until rescinded in writing by the Owner.

The Principal Amount of the Bonds is payable in lawful money of the United States of America at the Corporate Trust Office of the Trustee; provided, that payments of the Principal Amount of Auction Rate Securities, at maturity or upon earlier redemption, shall be made by wire transfer of immediately available funds to the Securities Depository so long as the Auction Rate Securities are in book-entry form, unless such method of payment of Principal Amount has been modified by written agreement among the Trustee, the Securities Depository and the Auction Agent.

SECTION 2.03. Methodology for Setting Interest Rates.

(a) Interest on Auction Rate Securities. The provisions set forth in Appendix B apply to determining the rate of interest on all Auction Rate Securities.

(b) Interest on Index Bonds. If the District designates a Series of Index Bonds, such Index Bonds shall bear interest at the Index Rate to be determined as follows:

(i) On or immediately prior to the Closing Date, the Purchaser of the Bonds shall determine and the District shall approve the LIBOR Spread to apply to Index Bonds issued hereunder, if any, reflected on Appendix A.
(ii) On each Index Rate Determination Date until the end of the applicable Index Rate Period (each, an "Index Adjustment Date"), the Calculation Agent will (i) calculate the interest rate for the Index Bonds, based on the LIBOR Spread, and (ii) notify the Trustee of such interest rate, which shall apply to all Index Bonds until the immediately following Index Adjustment Date.

(iii) Promptly upon the calculation of the Index Rate by the Calculation Agent, and notification thereof to the Trustee, the Trustee will notify the District of the Index Rate for the applicable period. The Index Rate calculated by the Calculation Agent, absent manifest error, shall be binding and conclusive upon the Beneficial Owners, the Owners, the District, the Calculation Agent and the Trustee.

(iv) If the following circumstances exist on any Index Rate Determination Date, the Index Rate shall be determined by the following alternative method: (A) if no Reported Rate appears on Telerate Page 3750 as of approximately 11:00 a.m., London, U.K., time, on an Index Rate Determination Date, the Index Rate for that week shall be based on the Reported Rate for the preceding week; and (B) if no Reported Rate appears in Telerate Page 3750 for two consecutive weeks, the Index Rate shall be determined by the Calculation Agent and shall be the minimum percentage of four-week U.S. Treasury Bills that would have been necessary (as determined in the best business judgment of the Calculation Agent, based on its examination of taxable municipal obligations comparable to the Index Bonds known by the Calculation Agent to have been priced or traded under then-prevailing marketing conditions) to permit the Calculation Agent to sell the Index Bonds on such date and at the time of such determination at their Principal Amount (without regard to accrued interest), if the Index Bonds were being sold on such date.

(v) If the appropriate interest rate or LIBOR Spread is not or cannot be determined for Index Bonds for whatever reason, the method of determining the interest rate for the Index Bonds shall automatically be established in accordance with the foregoing paragraph (iv), until such time as the LIBOR Spread can again be determined based on the available published LIBOR.

SECTION 2.04. Redemption of Bonds.

(a) Optional Redemption. The Standard Bonds are subject to optional redemption by the District prior to their respective stated maturities as set forth in Appendix A. Notice of optional redemption shall be given by the District to the Trustee not less than 45 days prior to any optional redemption date. The Convertible Auction Rate Securities are not subject to optional redemption by the District prior to their respective stated Full Accretion Dates. The Convertible Auction Rate Securities of each Series are subject to optional redemption on the Initial Auction Date for such Series and thereafter on any Business Day immediately following the end of an Auction Rate Period for such Series, from any available moneys, at the option of the District, in whole, or in part.
part, on a pro rata basis among the Beneficial Owners, at a redemption price equal to the sum of the Accreted Value thereof plus accrued interest thereon to the redemption date, without premium.

(b) Mandatory Sinking Fund Redemption of Term Bonds. The Convertible Auction Rate Securities of each Series constitute Term Bonds which are subject to mandatory redemption by the District prior to their stated maturity after the respective Full Accretion Date, on a pro rata basis among the Beneficial Owners, solely from Sinking Fund Account Payments in the amounts and on the dates set forth in Appendix A, upon mailed notice as hereinafter provided, at a redemption price equal to the sum of the Accreted Value thereof plus accrued interest thereon to the redemption date, without premium. However, if any Term Bonds have been optionally redeemed under subsection (a) of this Section 2.04, the amounts of such Sinking Fund Payments for such Term Bonds shall be reduced proportionately by the Principal Amount of all such Term Bonds so optionally redeemed as provided therein.

All such Sinking Fund Payments shall be deposited in a subaccount in the Redemption Account to be known as the “Sinking Fund,” which is hereby created and which the Trustee hereby agrees and covenants to cause to be maintained so long as any Term Bonds are Outstanding. All amounts held by the Trustee in the Sinking Fund shall be used and withdrawn by the Trustee for the mandatory redemption or payment of the Term Bonds. The Trustee hereby agrees and covenants with the Owners of the Term Bonds to call and redeem in accordance herewith or pay such Term Bonds from such Sinking Fund Payments deposited in the Sinking Fund under this section whenever on August 5 of each year indicated on Appendix A hereto there is money in the Sinking Fund available for such purpose.

(c) Notice of Redemption. The Trustee on behalf and at the expense of the District shall mail (by first class mail) notice of any redemption to the respective Owners of any Bonds designated for redemption at their respective addresses appearing on the Registration Books, and to the Bond Insurer, the Securities Depositories and to one or more Information Services, at least 30 but not more than 60 days prior to the date fixed for redemption; provided, however, that neither failure to receive any such notice so mailed nor any defect therein will affect the validity of the proceedings for the redemption of such Bonds or the cessation of the accrual of interest thereon.

The redemption notice must state the date of the notice, the redemption date, the redemption place and the redemption price and must designate the CUSIP and ISIN Numbers (if any), the Bond numbers and the maturity or maturities (in the event of redemption of all of the Bonds of such maturity or maturities in whole) of the Bonds to be redeemed, and must require that such Bonds be then surrendered at the Corporate Trust Office of the Trustee identified in such notice for redemption at the redemption price, giving notice also that further interest on such Bonds will not accrue from and after the redemption date.

If any Bonds in an Auction Rate Period are to be redeemed and those Bonds are held by DTC, the Trustee shall include in the notice of redemption delivered to DTC: (i) under an item entitled “Publication Date for DTC Purposes,” the Interest Payment Date prior to the redemption date, (ii) an instruction to DTC that the Bonds to be redeemed shall not be determined until the Publication Date (defined below) after the Auction held on the immediately preceding Auction Date has settled and (iii) a request to DTC to
notify the Auction Agent of the positions of the DTC Participants in such Bonds immediately prior to such Auction settlement, the positions of the DTC Participants in such Bonds immediately following such Auction settlement and the DTC Participants whose DTC positions will be redeemed and the principal amount of the Bonds to be redeemed from each such position on the redemption date. "Publication Date" means three Business Days after the Auction Date next preceding such redemption date.

(d) **Right to Rescind Notice of Redemption.** The District has the right to rescind any notice of the optional redemption of Bonds under subsection (a) of this Section by written notice to the Trustee on or prior to the dated fixed for redemption. Any notice of redemption shall be cancelled and annulled if for any reason funds will not be or are not available on the date fixed for redemption for the payment in full of the Bonds then called for redemption, and such cancellation shall not constitute an Event of Default. The District and the Trustee have no liability to the Owners or any other party related to or arising from such rescission of redemption. The Trustee shall mail notice of such rescission of redemption in the same manner as the original notice of redemption was sent under subsection (c) of this Section.

(e) **Manner of Redemption.** Whenever provision is made in this Section 2.04 for the redemption of less than all of the Bonds, the Trustee shall select the Bonds to be redeemed by lot in any manner which the Trustee in its sole discretion deems appropriate. For purposes of such selection, all Bonds will be deemed to be comprised of separate Bonds of minimum Authorized Denominations which may be separately redeemed.

(f) **Partial Redemption of Bonds.** If only a portion of any Bond is called for redemption, then upon surrender of such Bond the District shall execute and the Trustee shall authenticate and deliver to the Owner thereof, at the expense of the District, a new Bond or Bonds of the same series and maturity date, of Authorized Denominations equal in aggregate principal amount to the unredeemed portion of the Bond to be redeemed.

(g) **Effect of Redemption.** From and after the date fixed for redemption, if notice of redemption has been duly mailed and funds available for the payment of the principal and Accreted Value of and interest (and premium, if any) on the Bonds so called for redemption have been duly provided, such Bonds so called shall cease to be entitled to any benefit under this Indenture other than the right to receive payment of the redemption price, and no interest shall accrue thereon from and after the redemption date specified in such notice. Unless otherwise directed in writing by the District, the Trustee shall cancel and destroy all Bonds redeemed under this Section 2.04.

(h) **Purchase in Lieu of Redemption.** In lieu of redemption of Bonds as provided in this Section 2.04, amounts held by the Trustee for such redemption shall, at the Request of the District received by the Trustee prior to the selection of Bonds for redemption, be applied by the Trustee to the purchase of Bonds at public or private sale as and when and at such prices (including brokerage, accrued interest and other charges) as the District may in its discretion direct, but not to exceed the redemption price which would be payable if such Bonds were redeemed. The aggregate principal amount of Bonds of the same maturity purchased in lieu of redemption under this subsection (h) may not exceed the aggregate principal amount of Bonds of such maturity which would otherwise be subject to such redemption. The Trustee will treat any Bonds so purchased in lieu of redemption as if such Bonds were redeemed, for all purposes of
this Indenture. The District may not purchase the Bonds either outright or in lieu of redemption for purposes other than retiring the Bonds.

SECTION 2.05. Book Entry System.

(a) Original Delivery. The Bonds will be initially delivered in the form of a separate single fully registered bond (which may be typewritten) for each maturity of the Bonds. Upon initial delivery, the Trustee shall register the ownership of each Bond on the Registration Books in the name of the Nominee. Except as provided in subsection (c), the ownership of all of the Outstanding Bonds shall be registered in the name of the Nominee on the Registration Books.

With respect to Bonds the ownership of which is registered in the name of the Nominee, the District and the Trustee have no responsibility or obligation to any Depository System Participant or to any person on behalf of which the Nominee holds an interest in the Bonds. Without limiting the generality of the immediately preceding sentence, the District and the Trustee have no responsibility or obligation with respect to (i) the accuracy of the records of the Depository, the Nominee or any Depository System Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any Depository System Participant or any other person, other than a Bond Owner as shown in the Registration Books, of any notice with respect to the Bonds, including any notice of redemption, (iii) the selection by the Depository of the beneficial interests in the Bonds to be redeemed if the District elects to redeem the Bonds in part, (iv) the payment to any Depository System Participant or any other person, other than a Bond Owner as shown in the Registration Books, of any amount with respect to principal, Accreted Value, premium, if any, or interest on the Bonds or (v) any consent given or other action taken by the Depository as Owner of the Bonds. The District and the Trustee may treat and consider the person in whose name each Bond is registered as the absolute owner of such Bond for the purpose of payment of principal and Accreted Value of and premium, if any, and interest on such Bond, for the purpose of giving notices of redemption and other matters with respect to such Bond, for the purpose of registering transfers of ownership of such Bond, and for all other purposes whatsoever. The Trustee shall pay the principal and Accreted Value of and the interest and premium, if any, on the Bonds only to the respective Owners or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge all obligations with respect to payment of principal and Accreted Value of and interest and premium, if any, on the Bonds to the extent of the sum or sums so paid. No person other than a Bond Owner shall receive a Bond evidencing the obligation of the District to make payments of principal, Accreted Value, interest and premium, if any, under this Indenture. Upon delivery by the Depository to the District of written notice to the effect that the Depository has determined to substitute a new Nominee in its place, and subject to the provisions herein with respect to Record Dates, such new nominee shall become the Nominee hereunder for all purposes; and upon receipt of such a notice the District shall promptly deliver a copy of the same to the Trustee.

(b) Representation Letter. In order to qualify the Bonds for the Depository’s book-entry system, the District shall execute and deliver to such Depository a letter representing such matters as may be necessary to so qualify the Bonds. The execution and delivery of such letter shall not in any way limit the provisions of subsection (a) above or in any other way impose upon the District or the Trustee any obligation whatsoever with respect to persons having interests in the Bonds other than the Bond
Owners. Upon the written acceptance by the Trustee, the Trustee agrees to take all action reasonably necessary for all representations of the Trustee in such letter with respect to the Trustee to at all times be complied with. In addition to the execution and delivery of such letter, the District may take any other actions, not inconsistent with this Indenture, to qualify the Bonds for the Depository's book-entry program.

(c) Transfers Outside Book-Entry System. If either (i) the Depository determines not to continue to act as Depository for the Bonds, or (ii) the District determines to terminate the Depository as such, then the District shall thereupon discontinue the book-entry system with such Depository. In that event, the Depository shall cooperate with the District and the Trustee in the issuance of replacement Bonds by providing the Trustee with a list showing the interests of the Depository System Participants in the Bonds, and by surrendering the Bonds, registered in the name of the Nominee, to the Trustee on or before the date such replacement Bonds are to be issued. The Depository, by accepting delivery of the Bonds, agrees to be bound by the provisions of this subsection (c). If, prior to the termination of the Depository acting as such, the District fails to identify another Securities Depository to replace the Depository, then the Bonds are no longer required to be registered in the Registration Books in the name of the Nominee, but will be registered in whatever name or names the Owners transferring or exchanging Bonds may designate, in accordance with the provisions hereof.

If the District determines that it is in the best interests of the Beneficial Owners of the Bonds that they be able to obtain certificated bonds, the District may notify the Depository System Participants of the availability of such certificated bonds through the Depository. In such event, the Trustee will issue, transfer and exchange Bonds as required by the Depository and others in appropriate amounts; and whenever the Depository requests, the Trustee and the District shall cooperate with the Depository in taking appropriate action (i) to make available one or more separate certificates evidencing the Bonds to any Depository System Participant having Bonds credited to its account with the Depository, or (ii) to arrange for another Securities Depository to maintain custody of a single certificate evidencing such Bonds, all at the District's expense.

(d) Payments to the Nominee. Notwithstanding any other provision of this Indenture to the contrary, so long as any Bond is registered in the name of the Nominee, all payments of principal and Accreted Value of and interest and premium, if any, on that Bond and all notices with respect to that Bond shall be made and given, respectively, as provided in the letter described in subsection (b) of this Section or as otherwise instructed by the Depository.

SECTION 2.06. Form and Execution of Bonds. The Bonds, the form of Trustee’s certificate of authentication, and the form of assignment to appear thereon, are set forth in respective forms thereof set forth in Appendix B attached hereto and by this reference incorporated herein, with necessary or appropriate variations, omissions and insertions, as permitted or required by this Indenture.

The President of the Board of Trustees District shall execute, and the Clerk of the Board of Trustees of the District shall attest each Bond. Either or both of such signatures may be made manually or may be affixed by facsimile thereof. If any officer whose signature appears on any Bond ceases to be such officer before the Closing
Date, such signature will nevertheless be as effective as if the officer had remained in office until the Closing Date. Any Bond may be signed and attested on behalf of the District by such persons as at the actual date of the execution of such Bond are the proper officers of the District, duly authorized to execute debt instruments on behalf of the District, although on the date of such Bond any such person was not an officer of the District.

Only those Bonds bearing a certificate of authentication in the form set forth in Appendix B, manually executed and dated by the Trustee, are valid or obligatory for any purpose or entitled to the benefits of this Indenture, and such certificate of the Trustee is conclusive evidence that such Bonds have been duly authenticated and delivered hereunder and are entitled to the benefits of this Indenture.

SECTION 2.07. Transfer and Exchange of Bonds.

(a) Transfer. Any Bond may, in accordance with its terms, be transferred, upon the Registration Books, by the person in whose name it is registered, in person or by a duly authorized attorney of such person, upon surrender of such Bond to the Trustee at its Corporate Trust Office for cancellation, accompanied by delivery of a written instrument of transfer in a form acceptable to the Trustee, duly executed. The Trustee shall collect any tax or other governmental charge on the transfer of any Bonds under this Section 2.07. Whenever any Bond is surrendered for transfer, the District shall execute and the Trustee shall authenticate and deliver to the transferee a new Bond or Bonds of the same Series of Bonds and maturity of Authorized Denominations equal to the Principal Amount or, with respect to Convertible Auction Rate Securities prior to the Full Accretion Date and Capital Appreciation Bonds, the Accreted Value of the Bond surrendered. The District shall pay the cost of printing Bonds and any services rendered or expenses incurred by the Trustee in connection with any transfer of Bonds.

(b) Exchange. Any Bond may, in accordance with its terms, be exchanged at the Corporate Trust Office of the Trustee for a new Bond or Bonds of the same Series of Bonds and maturity of Authorized Denominations equal to the Principal Amount or, with respect to Convertible Auction Rate Securities prior to the Full Accretion Date and Capital Appreciation Bonds, the Accreted Value of the Bond surrendered. The Trustee shall require the payment by the Owner requesting such exchange of any tax or other governmental charge required to be paid with respect to such exchange as a condition precedent to the exercise of such privilege. The District shall pay the cost of printing Bonds and any services rendered or expenses incurred by the Trustee in connection with any exchange of Bonds.

(c) Limitations. The Trustee may refuse to transfer or exchange, under the provisions of this Section 2.07, any Bonds selected by the Trustee for redemption under Section 2.04, or any Bonds during the period established by the Trustee for the selection of Bonds for redemption.

SECTION 2.08. Registration Books. The Trustee will keep or cause to be kept, at its Corporate Trust Office, sufficient records for the registration and registration of transfer of the Bonds, which must at all times during normal business hours, and upon reasonable notice, be open to inspection by the Bond Insurer and the District; and, upon presentation for such purpose, the Trustee shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on the
Registration Books, Bonds as hereinbefore provided. Upon the occurrence of an Event of Default which requires the Bond Insurer to make payments under the Bond Insurance Policy, the Bond Insurer and any designated agent thereof shall have access to the Registration Books upon reasonable prior notice to the Trustee.

**SECTION 2.09. Bonds Mutilated, Lost, Destroyed or Stolen.** If any Bond is mutilated, the Trustee, at the expense of the Owner thereof, shall thereupon authenticate and deliver a new Bond or Bonds of the same Series of Bonds and maturity of Authorized Denominations equal in aggregate Principal Amount or, with respect to Convertible Auction Rate Securities prior to the Full Accretion Date and Capital Appreciation Bonds, Accreted Value to the Bond so mutilated in exchange and substitution for the Bond so mutilated, and every mutilated Bond so surrendered to the Trustee shall be cancelled.

If any Bond is lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Trustee and, if such evidence is satisfactory to the Trustee and indemnity satisfactory to the Trustee is given, the Trustee, at the expense of the Owner thereof, shall thereupon authenticate and deliver a new Bond of the same Series of Bonds and maturity of authorized denominations equal in aggregate Principal Amount or, with respect to Convertible Auction Rate Securities prior to the Full Accretion Date and Capital Appreciation Bonds, Accreted Value to the Bond so lost, destroyed or stolen in lieu of and in substitution for the Bond so lost, destroyed or stolen.

The Trustee may require payment of a reasonable sum for each new Bond delivered under this section and of the expenses which may be incurred by the District and the Trustee. Any Bond delivered under the provisions of this section in lieu of any Bond alleged to be lost, destroyed or stolen shall be equally and proportionately entitled to the benefits hereof with all other Bonds secured hereby, and neither the District nor the Trustee is required to treat both the original Bond and any replacement Bond as being Outstanding for the purpose of determining the principal amount of Bonds which may be issued hereunder or for the purpose of determining any percentage of Bonds Outstanding hereunder, but both the original and replacement Bond shall be treated as one and the same.
ARTICLE III

DEPOSIT AND APPLICATION OF PROCEEDS OF BONDS;
ESTABLISHMENT OF PROCEEDS FUNDS

SECTION 3.01. Issuance of Bonds. Upon the execution and delivery of this Indenture, the District shall execute and deliver Bonds in the aggregate principal amount of $153,749,832.25 to the Trustee. At the Request of the District, the Trustee shall authenticate and deliver the Bonds to the Original Purchasers on the Closing Date.

SECTION 3.02. Deposit and Application of Proceeds. Upon receipt of the proceeds of the Bonds on the Closing Date, the Trustee shall deposit the proceeds into a special fund to be held by the Trustee and known as the Bond Proceeds Account, to be applied as follows:

(a) The Trustee shall deposit the amount of $528,207.91 in the Costs of Issuance Fund.

(b) The Trustee shall deposit the amount of $150,000,000.00, constituting the remainder of the proceeds, in the Retiree Health Benefit Program Fund.

After making the foregoing transfers, the Trustee shall close the Bond Proceeds Account.

SECTION 3.03. Costs of Issuance Fund. There is hereby established a separate fund to be known as the “Costs of Issuance Fund,” to be held by the Trustee. The Trustee shall disburse moneys in the Costs of Issuance Fund from time to time to pay Costs of Issuance upon submission of a Request of the District stating (a) the person to whom payment is to be made, (b) the amounts to be paid, (c) the purpose for which the obligation was incurred, (d) that such payment is a proper charge against the Costs of Issuance Fund, and (e) that such amounts have not been the subject of a prior Request of the District; in each case together with a statement or invoice for each amount requested thereunder. On March 1, 2006, the Trustee shall transfer any amounts remaining in the Costs of Issuance Fund to the Retiree Health Benefit Program Fund.

SECTION 3.04. Retiree Health Benefit Program Fund. There is hereby established a separate fund to be known as the “Retiree Health Benefit Program Fund,” to be held by the Trustee in trust. Amounts shall be deposited in the Retiree Health Benefit Program Fund from the proceeds of the Bonds under Section 3.02(b), from amounts transferred under Sections 3.03 or 4.04, from earnings on the investment of amounts held therein, and from any other funds deposited by the District with the Trustee for that purpose. The Trustee shall disburse moneys in the Retiree Health Benefit Program Fund from time to time as follows:

(a) Transfers to Pay Retiree Health Benefit Costs. The Trustee shall disburse moneys in the Retiree Health Benefit Program Fund from time to time to pay or reimburse the District for payment of Retiree Health Benefit Costs upon submission of a Request of the District in substantially the form attached hereto as Appendix D, which

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Request shall be signed by at least two officers of the District one whom must be the Chancellor of the District, stating (i) the person to whom payment is to be made, (ii) the amounts to be paid, (iii) the purpose for which the obligation was incurred, (iv) that such payment is a proper charge against the Retiree Health Benefit Program Fund, and (v) that such amounts have not been the subject of a prior Request of the District; in each case accompanied by documentation evidencing the underlying obligation for which disbursement is requested. The Trustee will not be responsible for examining such documentation or determining whether or not such documentation constitutes sufficient evidence of the underlying obligation.

(b) Transfers to Redeem or Defease Bonds. If the District at any time determines that any or all of the amounts held in the Retiree Health Benefit Program Fund are or will not be required for payment of current or future Retiree Health Benefit Costs, the District may submit a Request of the District to the Trustee, requesting the Trustee to transfer such amounts from the Retiree Health Benefit Program Fund to the Debt Service Fund to be applied to redeem Outstanding Bonds in whole or in part under Section 2.04(a) or to defease Outstanding Bonds in whole or in part under Section 9.03.

Amounts on deposit in the Retiree Health Benefit Program Fund shall be applied solely for the foregoing purposes set forth in this Section 3.04 so long as any of the Bonds remain Outstanding. Following payment or discharge of the Bonds, amounts on deposit in the Retiree Health Benefit Program Fund shall be applied solely for the purposes set forth in the foregoing clause (a) of this Section.

SECTION 3.05. Validity of Bonds. The validity of the authorization and issuance of the Bonds is not dependent upon the expenditure of the proceeds thereof to pay Retiree Health Benefit Costs, or upon the performance by any person of its obligation with respect to the Retiree Health Benefit Obligations.
ARTICLE IV
SECURITY FOR THE BONDS; FLOW OF FUNDS; INVESTMENTS

SECTION 4.01. Security of Bonds; Equal Security.

(a) The obligations of the District under the Bonds, including the obligation to make all payments of principal and Accreted Value of and interest on the Bonds when due and the obligation of the District to make the deposits required hereunder for the security of the Bonds, are obligations of the District imposed by law and are absolute and unconditional, without any right of set-off or counterclaim. The Bonds do not constitute an obligation of the District for which the District is obligated to levy or pledge any form of taxation. Neither the Bonds nor the obligations of the District to make payments on the Bonds constitute an indebtedness of the District, the State of California, or any of its political subdivisions within the meaning of any constitutional or statutory debt limitation or restriction.

(b) The Bonds are secured by a pledge of and lien on amounts held by the Trustee in the Retiree Health Benefit Program Fund. Notwithstanding such pledge and lien, so long as no Event of Default has occurred and is continuing, amounts on deposit in the Retiree Health Benefit Program Fund shall be applied for the purposes set forth in Section 3.04.

(c) In consideration of the acceptance of the Bonds by those who hold the same from time to time, this Indenture constitutes a contract between the District and the Owners from time to time of the Bonds, and the covenants and agreements herein set forth to be performed on behalf of the District are for the equal and proportionate benefit, security and protection of all Owners of the Bonds without preference, priority or distinction as to security or otherwise of any of the Bonds over any of the others by reason of the number or date thereof or the time of sale, execution and delivery thereof, or otherwise for any cause whatsoever, except as expressly provided therein or herein.

SECTION 4.02. Deposits to Pay Debt Service and Expenses.

(a) Prepayment of Debt Service. Not later than March 1 in each year, the Trustee shall (a) determine the amount which the District is obligated to deposit with the Trustee for the payment of Debt Service on the Bonds during the 12-month period beginning on the succeeding May 1, and (b) notify the District in writing of the amount so determined. The District agrees and covenants that, not later than May 1 following receipt of such written notice from the Trustee, it will transfer the amount set forth in such written notice to the Trustee, for deposit in the Debt Service Fund.

In determining the amount of the District's payment under this Section 4.02, (i) (A) the debt service for Auction Rate Securities with an Auction Rate Period of less than 360 Rate Period Days and Index Bonds not subject to a Qualified Swap Agreement shall be calculated at the actual average interest rate for the immediately preceding 12 months plus 200 basis points (2.00%), and if such information is not available for the full immediately preceding 12 months, then the debt service for such Auction Rate Securities shall be calculated at the average one-month LIBOR plus 200 basis points...
(2.00%) for the immediately preceding 12 months, provided, that if the average one-month LIBOR for the prior 12 months is not available, then such debt service shall be calculated at a rate mutually agreed to by the District and the Bond Insurer; and (B) the debt service for Auction Rate Securities with an Auction Rate Period of 360 Rate Period Days or longer shall be calculated at the actual interest rate in effect for such Auction Rate Securities; and (ii) the debt service for all other Bonds then Outstanding shall be calculated at (A) the rate prescribed under the applicable Qualified Swap Agreement, if any, for Auction Rate Securities and Index Bonds subject to a Qualified Swap Agreement, and (B) the actual rate for Fixed Rate Bonds, in each case.

(b) Additional Payments. Not later than the fifth Business Day immediately preceding each Payment Date, the Trustee shall determine whether the amounts held by it in the Debt Service Fund will be sufficient to pay the aggregate amount of principal and Accreted Value of and interest on the Bonds coming due and payable on such Payment Date, including the Accreted Value of all Capital Appreciation Bonds and including the amount of any Sinking Fund Payment. If the Trustee determines that the amounts held by it in the Debt Service will be insufficient to make such payment, the Trustee shall immediately notify the District of such fact, and the District shall pay the amount of such insufficiency to the Trustee, from any source of legally available funds of the District, such payment to be made not later than three Business Days prior to the Payment Date.

(c) Prepayment of Fees. Not later than March 1 in each year, the Trustee shall determine the amount of fees of the Auction Agent and the Broker-Dealer which the District will be obligated to pay to the Auction Agent and the Broker-Dealer during the 12-month period beginning on the succeeding May 1, based on amounts invoiced to the Trustee for such period by the Auction Agent and the Broker-Dealer (or estimated by the Trustee to become due for such period), and the Trustee shall notify the District in writing of the amount so determined. The District agrees and covenants that, not later than May 1 following receipt of such written notice from the Trustee, it will transfer the amount set forth in such written notice to the Trustee, for deposit in the Administrative Expense Fund, from any source of legally available funds of the District.

SECTION 4.03. Debt Service Fund. There is hereby established a separate fund known as the "Debt Service Fund," to be held by the Trustee in trust. The Trustee shall hold the Debt Service Fund so long as any of the Bonds remain Outstanding. The Trustee shall disburse moneys in the Debt Service Fund from time to time to pay Debt Service on the Bonds, including the principal and premium (if any) required to be paid upon the redemption of the Bonds. All amounts remaining on deposit in the Debt Service Fund on April 30 of each year, following the payment in full of all Debt Service then required to be paid on the Bonds, shall be transferred by the Trustee to the Rate Stabilization Fund.

SECTION 4.04. Establishment of Rate Stabilization Fund. At the Request of the District filed with the Trustee at any time, the Trustee shall establish a separate fund to be known as the "Rate Stabilization Fund" to be held by it and administered in accordance with this Section 4.04. From time to time the District may deposit amounts in the Rate Stabilization Fund, from any source of legally available funds, as the District may determine.
At the Request of the District filed with the Trustee from time to time, the Trustee shall disburse amounts in the Rate Stabilization Fund for any one or more of the following purposes:

(a) for the purpose of paying any amount due under Section 4.02, by transferring such amount to the Debt Service Fund; or

(b) for the purpose of providing for the payment of Retiree Health Benefit Costs, by transferring such amounts to the Retiree Health Benefit Program Fund.

Amounts on deposit in the Rate Stabilization Fund are not pledged to and do not secure the Bonds. All interest or other earnings on deposits in the Rate Stabilization Fund will be retained therein or, at the option of the District, be applied for any other lawful purposes. The District has the right at any time to withdraw any or all amounts on deposit in the Rate Stabilization Fund and apply such amounts for any other lawful purposes of the District.

SECTION 4.05. Administrative Expense Fund. There is hereby established a separate fund known as the "Administrative Expense Fund," to be held by the Trustee. The Trustee shall deposit into the Administrative Expense Fund all amounts paid to it by the District for such purpose under Section 4.02(c). Amounts held in the Administrative Expense Fund shall be transferred by the Trustee to or upon the order of the District, as specified in a Request of the District, on each date provided therefor in the Auction Agent Agreement and the Broker-Dealer Agreement, for payment of the Auction Agent Fees and the Broker-Dealer Fees when due.

SECTION 4.06. Investment of Moneys in Funds. The Trustee shall invest moneys in the Retiree Health Benefit Program Fund solely in Retiree Health Benefit Program Fund Investments specified in the Request of the District (which Request shall be deemed to include a certification that the specified investment is a Retiree Health Benefit Program Fund Investment) delivered to the Trustee at least two Business Days in advance of the making of such investments. Notwithstanding the foregoing, at the Request of the District delivered to the Trustee, amounts held by the Trustee in the Retiree Health Benefit Program Fund shall be transferred to a third party custodian to be invested in Retiree Health Benefit Program Fund Investments in accordance with directions provided to such custodian by a duly authorized agent of the District; and following any such transfer the procedures for investing such amounts shall be governed by the terms of the custodial relationship and not by this Indenture. Amounts held in the Debt Service Fund, the Administrative Expense Fund and the Rate Stabilization Fund shall be invested solely in Permitted Investments. In the absence of any such direction from the District, the Trustee shall invest any such moneys solely in Permitted Investments described in clause (h) of the definition thereof.

Obligations purchased as an investment of moneys in any fund or account shall be deemed to be part of such fund or account. All interest or gain derived from the investment of amounts in any of the funds or accounts held by the Trustee hereunder shall be retained in the respective fund or account from which such investment was made. For purposes of acquiring any investments hereunder, the Trustee may commingle funds held by it hereunder. The Trustee may act as principal or agent in the acquisition or disposition of any investment and may impose its customary charges.
therefor. The Trustee has no liability for losses arising from any investments made under this Section.

The District acknowledges that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the District the right to receive brokerage confirmations of security transactions as they occur, the District specifically waives receipt of such confirmations to the extent permitted by law. The Trustee will furnish the District periodic transaction statements which include detail for all investment transactions made by the Trustee hereunder. The Trustee or any of its affiliates may act as sponsor, advisor or manager in connection with any investments made by the Trustee hereunder.

SECTION 4.07. Investment of Retiree Health Benefit Program Fund. So long as the Bonds are Outstanding, the District shall engage the services of an investment manager or investment management firm which:

(a) is registered under the Investment Company Act of 1940;

(b) is a member in good standing of the National Association of Securities Dealers;

(c) has substantial experience in investing portfolios for pension and/or health benefits for both public and private entities; and

(d) has at least $10 billion of assets under management.

Such investment manager or investment management firm shall have responsibility for the investment of at least 85% of the amounts on deposit in the Retiree Health Benefit Program Fund in Retiree Health Benefit Program Fund Investments. All investment of amounts on deposit in the Retiree Health Benefit Program Fund shall be made in accordance with policies set forth in Appendix E.

ARTICLE V

OTHER COVENANTS OF THE DISTRICT

SECTION 5.01. Punctual Payment. The District shall punctually pay or cause to be paid the principal, Accreted Value, premium (if any) and interest to become due in respect of all the Bonds in strict conformity with the terms of this Indenture. The District shall faithfully observe and perform all of the conditions, covenants and requirements of this Indenture and all Supplemental Agreements.

SECTION 5.02. Budget and Appropriation of Debt Service. The District covenants to take such action as may be necessary to include in each of its annual budgets the payments required to be made by the District under Section 4.02, and to make the necessary annual appropriations for all such payments. If any payment of principal of and interest on the Series 2005 OPEB Bonds requires the adoption by the District of a supplemental budget or appropriation, the District will promptly adopt the same. The covenants on the part of the District herein contained constitute duties imposed by law.
and it is the duty of each and every public official of the District to take such action and do such things as are required by law in the performance of the official duty of such officials to enable the District to carry out and perform the covenants and agreements in this Indenture agreed to be carried out and performed by the District.

SECTION 5.03. Extension of Payment of Bonds. The District may not directly or indirectly extend or assent to the extension of the maturity of any of the Bonds or the time of payment of any claims for interest by the purchase of such Bonds or by any other arrangement, and if the maturity of any of the Bonds or the time of payment of any such claims for interest is extended, such Bonds or claims for interest are not entitled, in case of any default hereunder, to the benefits of this Indenture, except subject to the prior payment in full of the principal and Accreted Value of all of the Outstanding Bonds and of all claims for interest thereon which have not been so extended. Nothing in this Section limits the right of the District to issue bonds for the purpose of refunding any Outstanding Bonds, and such issuance does not constitute an extension of maturity of the Bonds.

SECTION 5.04. Books and Accounts; Financial Statements; Additional Information. The District will keep, or cause to be kept, proper books of record and accounts, separate from all other records and accounts of the District. Such books of record and accounts shall at all times during business hours be subject, upon prior written request, to the reasonable inspection of the Trustee (who has no duty to inspect), the Bond Insurer and the Owners of not less than 10% in aggregate principal amount of the Bonds then Outstanding, or their representatives authorized in writing.

The District will cause to be prepared annually, within 180 days after the close of each Fiscal Year so long as any of the Bonds are Outstanding, complete audited financial statements with respect to such Fiscal Year, as of the end of such Fiscal Year. The District will furnish a copy of such statements to the Bond Insurer and, upon reasonable request, to the Trustee and any Bond Owner. The Trustee has no duty to review any such financial statement.

SECTION 5.05. Continuing Disclosure. The District will comply with and carry out all of the provisions of the Continuing Disclosure Certificate. Notwithstanding any other provision hereof, failure of the District to comply with the Continuing Disclosure Certificate does not constitute an Event of Default hereunder; provided, however, that any Participating Underwriter (as such term is defined in the Continuing Disclosure Certificate) or any Owner or Beneficial Owner of the Bonds may take such actions as may be necessary and appropriate, including seeking specific performance by court order, to cause the District to comply with its obligations under this Section 5.05.

SECTION 5.06. Additional Bonds. The District may issue additional bonds, notes or other obligations for the purpose of financing Retiree Health Benefit Costs or for the purpose of refunding any of the Bonds, which are payable from the same sources as the Bonds, in such principal amount as the District determines, subject to the following conditions precedent:

(a) No Event of Default (or no event with respect to which notice has been given and which, once all notice of grace periods have passed, would constitute an Event of Default) has occurred and is continuing, unless otherwise permitted by the Bond Insurer.
(b) Except in the case of bonds, notes or other obligations issued to refund the Bonds in whole or in part, either (i) such bonds, notes or other obligations constitute a portion of the bonds authorized by Resolution No. 05-06-08 adopted by the Board of Trustees of the District on July 28, 2005, or (ii) the District has obtained a final non-appealable judgment of a court of competent jurisdiction to the effect such bonds, notes or other obligations constitute the legal, valid and binding obligations of the District and do not contravene the provisions of Article XVI, Section 18, of the California Constitution.

SECTION 5.07. Protection of Security and Rights of Owners. The District will preserve and protect the security of the Bonds and the rights of the Owners. From and after the date of issuance of the Bonds, the District may not contest the validity or enforceability of the Bonds or this Indenture.

SECTION 5.08. Information to Bond Insurer. The District will furnish the Bond Insurer with the following information:

(a) Notice of the downgrading by any rating agency of the District’s underlying rating, or the underlying rating on the Bonds or any parity obligations, to “non-investment grade”.

(b) Notice of any material events as defined in the Continuing Disclosure Certificate.

(c) Notice of the redemption, other than mandatory sinking fund redemption, of any of the Bonds, or of any advance refunding of the Bonds, including the principal amount, maturities and CUSIP Numbers.

(d) Information concerning the investment policy of the District relating to the investment of amounts on deposit in the Retiree Health Benefit Program Fund, including the performance of Retiree Health Benefit Program Fund Investments and including notice of any material amendments to the investment policy or the description of Retiree Health Benefit Program Fund Investments set forth in Appendix E.

(e) Such additional information as the Bond Insurer may reasonably request from time to time.

SECTION 5.09. Further Assurances. The District will adopt, make, execute and deliver any and all such further resolutions, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Indenture, and for the better assuring and confirming unto the Bond Insurer and the Bond Owners the rights and benefits provided in this Indenture.
ARTICLE VI

THE TRUSTEE

SECTION 6.01. Duties, Immunities and Liabilities of Trustee.

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

(b) Removal. The District may remove the Trustee at any time, and shall remove the Trustee (i) if at any time requested to do so by the Bond Insurer or by an instrument or concurrent instruments in writing signed by the Owners of not less than a majority in aggregate principal amount of the Bonds then Outstanding (or their attorneys duly authorized in writing) or (ii) if at any time the Trustee ceases to be eligible in accordance with subsection (e) of this Section 6.01, or becomes incapable of acting, or is adjudged a bankrupt or insolvent, or a receiver of the Trustee or its property is appointed, or any public officer takes control or charge of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation. In each case such removal shall be accomplished by the giving of 30 days' written notice of such removal by the District to the Trustee, whereupon in the case of the Trustee, the District shall appoint a successor Trustee by an instrument in writing.

(c) Resignation. The Trustee may at any time resign by giving written notice of such resignation to the District, and by giving notice of such resignation by first class mail, postage prepaid, to the Bond Insurer and to the Bond Owners at their respective addresses shown on the Registration Books. Upon receiving such notice of resignation, the District shall promptly appoint a successor Trustee by an instrument in writing.

(d) Successors. Any removal or resignation of the Trustee and appointment of a successor Trustee shall become effective upon acceptance of appointment by the successor Trustee. If no successor Trustee is appointed and accepts appointment within 45 days following giving notice of removal or notice of resignation as aforesaid, the resigning Trustee, the Bond Insurer or any Owner (on behalf of such Owner and all other Owners) may petition any court of competent jurisdiction for the appointment of a successor Trustee, and such court may thereupon, after such notice (if any) as it may deem proper, appoint such successor Trustee. Any successor Trustee appointed under this Indenture shall signify its acceptance of such appointment by executing and delivering to the District and to its predecessor Trustee a written acceptance thereof, and to the predecessor Trustee an instrument indemnifying the predecessor Trustee for any costs or claims arising during the time the successor Trustee serves as Trustee hereunder, and such successor Trustee, without any further act, deed or conveyance, shall become vested with all the moneys, estates, properties, rights, powers, trusts, duties and obligations of such predecessor Trustee, with like effect as if originally named Trustee herein; but, nevertheless, upon the receipt by the predecessor Trustee of the
Request of the District or the request of the successor Trustee, such predecessor Trustee shall execute and deliver any and all instruments of conveyance or further assurance and do such other things as may reasonably be required for more fully and certainly vesting in and confirming to such successor Trustee all the right, title and interest of such predecessor Trustee in and to any property held by it under this Indenture and shall pay over, transfer, assign and deliver to the successor Trustee any money or other property subject to the trusts and conditions herein set forth. Upon request of the successor Trustee, the District shall execute and deliver any and all instruments as may be reasonably required for more fully and certainly vesting in and confirming to such successor Trustee all such moneys, estates, properties, rights, powers, trusts, duties and obligations. Upon acceptance of appointment by a successor Trustee as provided in this subsection, the District shall mail or cause the successor Trustee to mail, by first class mail postage prepaid, a notice of the succession of such Trustee to the trusts hereunder to the Bond Insurer, to each rating agency which then maintains a rating on the Bonds, and to the Owners at the addresses shown on the Registration Books. If the District fails to mail such notice within 15 days after acceptance of appointment by the successor Trustee, the successor Trustee shall cause such notice to be mailed at the expense of the District.

(e) Qualifications. Any Trustee appointed under the provisions of this Section in succession to the Trustee must: (i) be a company or bank having trust powers, (ii) have a corporate trust office in the State of California, (iii) have (or be part of a bank holding company system whose bank holding company has) a combined capital and surplus of at least $50,000,000, and (iv) be subject to supervision or examination by federal or state authority.

If such bank or company publishes a report of condition at least annually, under law or to the requirements of any supervising or examining authority above referred to, then for the purpose of this subsection the combined capital and surplus of such bank or company shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time the Trustee ceases to be eligible in accordance with the provisions of this subsection (e), the Trustee shall resign immediately in the manner and with the effect specified in subsection (c) of this Section.

(f) Removal by Bond Insurer. Notwithstanding any other provision of this Indenture, the Trustee may be removed at any time, at the request of the Bond Insurer, for any breach of the trust set forth herein.

SECTION 6.02. Merger or Consolidation. Any bank or company into which the Trustee may be merged or converted or with which either of them may be consolidated or any bank or company resulting from any merger, conversion or consolidation to which it shall be a party or any bank or company to which the Trustee may sell or transfer all or substantially all of its corporate trust business, provided such bank or company is eligible under subsection (e) of Section 6.01, shall be the successor to such Trustee without the execution or filing of any paper or any further act, anything herein to the contrary notwithstanding.

SECTION 6.03. Liability of Trustee.

(a) The recitals of facts contained herein and in the Bonds shall be taken as statements of the District, and the Trustee shall not assume responsibility for the
correctness of the same, nor make any representations as to the validity or sufficiency of
this Indenture or of the Bonds, nor shall incur any responsibility in respect thereof, other
than as expressly stated herein. The Trustee shall, however, be responsible for its
representations contained in its certificate of authentication on the Bonds. The Trustee
is not liable in connection with the performance of its duties hereunder, except for its
own negligence or willful misconduct. The Trustee is not liable for the acts of any agents
of the Trustee selected by it with due care. The Trustee may become the Owner of any
Bonds or the holder of any other form of indebtedness of the District with the same rights
it would have if it were not Trustee and, to the extent permitted by law, may act as
depository for and permit any of its officers or directors to act as a member of, or in any
other capacity with respect to, any committee formed to protect the rights of the Owners,
whether or not such committee shall represent the Owners of a majority in principal
amount of the Bonds then Outstanding. The Trustee, either as principal or agent, may
engage in or be entrusted in any financial or other transaction with the District.

(b) The Trustee is not liable for any error of judgment made in good faith by a
responsible officer.

(c) The Trustee is not liable with respect to any action taken or omitted to be
taken by it in accordance with the direction of the Bond Insurer or the Owners of a
majority in aggregate principal amount of the Bonds at the time Outstanding relating to
the time, method and place of conducting any proceeding for any remedy available to
the Trustee, or exercising any trust or power conferred upon the Trustee under this
Indenture.

(d) The Trustee is not liable for any action taken by it in good faith and believed
by it to be authorized or within the discretion or rights or powers conferred upon it by this
Indenture, except for actions arising from the negligence or willful misconduct of the
Trustee. The permissive right of the Trustee to do things enumerated hereunder is not
construed as a mandatory duty.

(e) The Trustee is not deemed to have knowledge of any Event of Default
hereunder unless and until a responsible officer of the Trustee has actual knowledge
thereof, or the Trustee receives written notice thereof at its Corporate Trust Office.
Except as otherwise expressly provided herein, the Trustee is not bound to ascertain or
inquire as to the performance or observance of any of the terms, conditions, covenants
or agreements herein or of any of the documents executed in connection with the Bonds,
or as to the existence of an Event of Default hereunder or thereunder. The Trustee is
not responsible for the District's payment of principal and interest on the Bonds, the
observance or performance by the District of any other covenants, conditions or terms
contained herein, or the validity or effectiveness of any collateral given to or held by it.
Without limiting the generality of the foregoing, the Trustee is not responsible for the
recording or filing of any document relating to this Indenture or of financing statements or
of any supplemental instruments or documents of further assurance as may be required
by law in order to perfect the security interests in any collateral given to or held by it or
reviewing the contents of any financial statements furnished to the Trustee under
Section 5.07 and may rely conclusively on any representations made to it by the District
concerning compliance with its financial covenants hereunder.

(f) No provision in this Indenture shall require the Trustee to risk or expend its
own funds or otherwise incur any financial liability hereunder. The Trustee shall be
entitled to receive interest on any moneys advanced by it hereunder, at the maximum rate permitted by law.

(g) The Trustee may establish additional accounts or subaccounts of the funds established hereunder as the Trustee deems necessary or prudent in furtherance of its duties under this Indenture.

(h) The Trustee has no responsibility with respect to any information, statement, or recital in any official statement, offering memorandum or any other disclosure material prepared or distributed with respect to the Bonds.

(i) Before taking any action under Article VIII the Trustee may require indemnity satisfactory to the Trustee be furnished to it to hold the Trustee harmless from any expenses whatsoever and to protect it against any liability it may incur hereunder.

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

(k) The permissive right of the Trustee to do things enumerated in this Indenture is not construed as a duty.

(l) The Trustee may execute any of the trusts or powers hereof and perform any of its duties through attorneys, agents and receivers and is not answerable for the conduct of the same if appointed by it with reasonable care.

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

(n) The Trustee agrees to accept and act upon facsimile transmission of written instructions and/or directions under this Indenture; provided, however, that: (i) subsequent to such facsimile transmission of written instructions and/or directions the Trustee shall forthwith receive the originally executed instructions and/or directions, (ii) such originally executed instructions and/or directions shall be signed by a person as may be designated and authorized to sign for the party signing such instructions and/or directions, and (c) the Trustee has received a current incumbency certificate containing the specimen signature of such designated person.

SECTION 6.04. Right to Rely on Documents. The Trustee is protected in acting upon any notice, resolution, requisition, request, consent, order, certificate, report, opinion, facsimile transmission, electronic mail, or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties.
The Trustee may consult with counsel, including, without limitation, Bond Counsel or other counsel of or to the District, with regard to legal questions, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by the Trustee hereunder in accordance therewith.

The Trustee is not bound to recognize any person as the Owner of any Bond unless and until such Bond is submitted for inspection, if required, and such person's title thereto is established to the satisfaction of the Trustee.

Whenever in the administration of the trusts imposed upon it by this Indenture the Trustee deems it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively proved and established by a Certificate of the District, which shall be full warrant to the Trustee for any action taken or suffered in good faith under the provisions of this Indenture in reliance upon such Certificate, but in its discretion the Trustee may (but has no duty to), in lieu thereof, accept other evidence of such matter or may require such additional evidence as to it may deem reasonable. The Trustee may conclusively rely on any certificate or report of any Independent Accountant appointed by the District.

SECTION 6.05. Preservation and Inspection of Documents. All documents received by the Trustee under the provisions of this Indenture shall be retained in its possession and shall be subject during normal business hours, and upon reasonable prior written notice, to the inspection of the District and any Owner, and their agents and representatives duly authorized in writing.

SECTION 6.06. Compensation and Indemnification. (a) The District shall pay to the Trustee from time to time compensation for all services rendered under this Indenture and also all expenses, charges, legal and consulting fees and other disbursements and those of its attorneys (including any allocated costs of internal counsel), agents and employees, incurred in and about the performance of its powers and duties under this Indenture. The Trustee has a first lien on amounts held in the funds and accounts held by it hereunder to secure the payment to the Trustee of all fees, costs and expenses, including compensation to its experts, attorneys and counsel incurred in declaring such Event of Default and in exercising the rights and remedies set forth in Article VIII.

(b) The District further shall indemnify the Trustee and its officers, directors, agents and employees, against any loss, expense and liabilities which it may incur arising out of or in the exercise and performance of its powers and duties hereunder, including the costs and expenses of defending against any claim of liability and of enforcing any remedies hereunder and under any related documents, but excluding any and all losses, expenses and liabilities which are due to the negligence or willful misconduct of the Trustee, its officers, directors, agents or employees.

(c) The obligations of the District under this Section 6.06 shall survive resignation or removal of the Trustee under this Indenture and payment of the Bonds and discharge of this Indenture.

SECTION 6.07. Accounting Records and Financial Statements. The Trustee shall at all times keep, or cause to be kept, proper books of record and account, prepared in
accordance with corporate trust standards, in which complete and accurate entries shall be made of all transactions made by it relating to the proceeds of the Bonds and all funds and accounts established and held by the Trustee under this Indenture. Such books of record and account shall be available for inspection by the District and the Bond Insurer at reasonable hours, during regular business hours, with reasonable prior notice and under reasonable circumstances. The Trustee shall furnish to the District, at least semiannually, an accounting (which may be in the form of its customary statements) of all transactions relating to the proceeds of the Bonds and all funds and accounts held by the Trustee under this Indenture.

SECTION 6.08. Payments Under Bond Insurance Policy. So long as the Bond Insurance Policy remains in force and effect, the Trustee shall comply with all of the provisions thereof which are required to be complied with to ensure timely payment of the principal of and interest on the Bonds when due. Without limiting the generality of the foregoing, the Trustee shall comply with all of the following conditions:

(i) If, on the 3rd day preceding any Payment Date there is not on deposit with the Trustee sufficient moneys available to pay all principal of and interest on the Bonds coming due on such date, the Trustee shall immediately notify the Bond Insurer and U.S. Bank National Trust Association, New York, New York or its successor as the Insurance Fiscal Agent (the "Insurance Fiscal Agent") of the amount of such deficiency. If, by such Payment Date, the District has not provided the amount of such deficiency, the Trustee shall simultaneously make the Registration Books available to the Bond Insurer and to the Insurance Fiscal Agent. In addition:

(A) The Trustee shall provide the Bond Insurer with a list of the Bond Owners entitled to receive principal or interest payments from the Bond Insurer under the terms of the Bond Insurance Policy and shall make arrangements for the Bond Insurer and the Insurance Fiscal Agent (1) to mail checks or drafts to Bond Owners entitled to receive full or partial interest payments from the Bond Insurer and (2) to pay principal of the Bonds surrendered to the Insurance Fiscal Agent by the Bond Owners entitled to receive full or partial principal payments from the Bond Insurer; and

(B) The Trustee shall, at the time it makes the Registration Books available to the Bond Insurer under (A) above, notify Bond Owners entitled to receive the payment of principal of or interest on the Bonds from the Bond Insurer (1) as to the fact of such entitlement, (2) that the Bond Insurer will remit to them all or part of the interest payments coming due subject to the terms of the Bond Insurance Policy, (3) that, except as provided in paragraph (ii) below, if any Bond Owner is entitled to receive full payment of principal from the Bond Insurer, such Bond Owner must tender his Bond with the instrument of transfer in the form provided on the Bond executed in the name of the Bond Insurer, and (4) that, except as provided in paragraph (ii) below, if such Bond Owner is entitled to receive
partial payment of principal from the Bond Insurer, such Bond Owner must tender his Bond for payment first to the Trustee, which shall note on such Bond the portion of principal paid by the Trustee, and then, with an acceptable form of assignment executed in the name of the Bond Insurer, to the Insurance Fiscal Agent, which will then pay the unpaid portion of principal to the Bond Owner subject to the terms of the Bond Insurance Policy.

(ii) If the Trustee has actual knowledge that any payment of principal of or interest on a Bond has been recovered from a Bond Owner under the United States Bankruptcy Code by a trustee in bankruptcy in accordance with the final, nonappealable order of a court having competent jurisdiction, the Trustee shall, at the time it provides notice to the Bond Insurer, notify all Bond Owners that if any Bond Owner's payment is so recovered, such Bond Owner will be entitled to payment from the Bond Insurer to the extent of such recovery, and the Trustee shall furnish to the Bond Insurer its records evidencing the payments of principal of and interest on the Bonds which have been made by the Trustee and subsequently recovered from Bond Owners, and the dates on which such payments were made.

(iii) The Bond Insurer shall, to the extent it makes payment of principal of or interest on the Bonds, become subrogated to the rights of the recipients of such payments in accordance with the terms of the Bond Insurance Policy, and, to evidence such subrogation, (1) in case of subrogation as to claims for past due interest, the Trustee shall note the Bond Insurer's rights as subrogee on the Registration Books upon receipt from the Bond Insurer of proof of the payment of interest thereon to the Bond Owners of such Bonds, and (2) in the case of subrogation as to claims for past due principal, the Trustee shall note the Bond Insurer's rights as subrogee on the Registration Books upon receipt of proof of the payment of principal thereof to the Bond Owners of such Bonds. Notwithstanding anything in this Indenture or the Bonds to the contrary, the Trustee shall make payment of such past due interest and past due principal directly to the Bond Insurer to the extent that the Bond Insurer is a subrogee with respect thereto.
ARTICLE VII

MODIFICATION OR AMENDMENT OF THIS INDENTURE

SECTION 7.01. Amendments Permitted.

(a) Amendment With Bond Owner Consent. This Indenture and the rights and obligations of the District and of the Owners of the Bonds may be modified or amended by the District and the Trustee upon Written Request of the District at any time by the execution of a Supplemental Agreement, but only with the written consent of the Bond Insurer and the Owners of a majority in aggregate principal amount of the Bonds then Outstanding with respect to all Bonds then Outstanding, exclusive of Bonds disqualified as provided in Section 9.05. Any such Supplemental Agreement becomes effective upon the execution and delivery thereof by the parties thereto and upon consent of the requisite Bond Owners. No such modification or amendment may:

(i) extend the maturity of any Bond or reduce the interest rate thereon, or otherwise alter or impair the obligation of the District to pay the principal or Accreted Value thereof, or interest thereon, or any premium payable on the redemption thereof, at the time and place and at the rate and in the currency provided therein, without the written consent of the Owner of such Bond, or

(ii) reduce the percentage of Bonds required for the affirmative vote or written consent to an amendment or modification, or

(iii) modify any of the rights or obligations of the Trustee without its written consent.

(b) Amendment Without Bond Owner Consent. This Indenture and the rights and obligations of the District and of the Owners of the Bonds may also be modified or amended at any time by a Supplemental Agreement, without the consent of any Owners of the Bonds, but only with the consent of the Bond Insurer and only for any one or more of the following purposes:

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

(ii) to cure any ambiguity, or to cure, correct or supplement any defective provision contained in this Indenture, or in any other respect whatsoever as the District deems necessary or desirable, provided under any circumstances that such modifications or amendments do not materially adversely affect the interests of the Owners in the opinion of Bond Counsel filed with the District and the Trustee;
(iii) to modify, amend or add to the provisions herein to provide for the establishment of different interest rate modes, tender or purchase provisions in connection with the Bonds;

(iv) to modify, alter, amend or supplement Appendix B to this Indenture, provided that any such modification, alteration, amendment or supplement becomes effective only on the first day of an Auction Period;

(v) to modify, amend or add to the provisions herein to provide for credit facilities, liquidity facilities or other financial products agreements in connection with the Bonds;

(vi) to restrict the purpose for which amounts in the Retiree Health Benefit Program Fund may be expended by rescinding the provisions of Section 3.04(b); or

(vii) to amend the provisions of Exhibit E including but not limited to the description of Retiree Health Benefit Program Fund Investments contained therein, provided that such amendments remain conditioned upon compliance with the provisions of Sections 53620 through 53622 of the Government Code of the State of California, or any successor statutes.

(c) Prohibited Amendments. Notwithstanding the foregoing provisions of this Section 7.01, no amendment shall be made of any of the provisions of Section 3.04 which would have the effect of permitting the amounts on deposit in the Retiree Health Benefit Program Fund to be applied for any purposes or uses not expressly set forth in Section 3.04, so long as any of the Bonds remain Outstanding. In addition, no amendment of this Indenture shall be made which would permit the District to purchase the Bonds either outright or in lieu of redemption for purposes other than retiring the Bonds.

(d) Notice of Amendments. The District shall deliver or cause to be delivered a draft of any Supplemental Agreement to each rating agency at least 10 days prior to the effective date of such Supplemental Agreement under this Section 7.01. In addition, the District shall deliver or cause to be delivered to the Bond Insurer a copy of each Supplemental Agreement executed and delivered under this Section 7.01, and any related transcript documents requested by the Bond Insurer.

SECTION 7.02. Effect of Supplemental Agreement. From and after the time any Supplemental Agreement becomes effective under this Article VII, this Indenture shall be deemed to be modified and amended in accordance therewith, the respective rights, duties and obligations of the parties hereto or thereto and all Owners, as the case may be, shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modification and amendment, and all the terms and conditions of any Supplemental Agreement shall be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

SECTION 7.03. Endorsement or Replacement of Bonds After Amendment. After the effective date of any amendment or modification hereof under this Article VII, the
District may determine that any or all of the Bonds shall bear a notation, by endorsement in form approved by the District, as to such amendment or modification and in that case upon demand of the District the Owners of such Bonds shall present such Bonds for that purpose at the Corporate Trust Office of the Trustee, and thereupon a suitable notation as to such action shall be made on such Bonds. In lieu of such notation, the District may determine that new Bonds shall be prepared and executed in exchange for any or all of the Bonds and in that case upon demand of the District the Owners of the Bonds shall present such Bonds for exchange at the Corporate Trust Office of the Trustee without cost to such Owners.

SECTION 7.04. Amendment by Mutual Consent. The provisions of this Article VII shall not prevent any Owner from accepting any amendment as to the particular Bond held by such Owner, provided that due notation thereof is made on such Bond.

SECTION 7.05. Trustee's Reliance. The Trustee may conclusively rely, and is protected in relying, upon a Certificate of the District and an opinion of counsel stating that all requirements of this Indenture relating to the amendment or modification hereof have been satisfied and that such amendments or modifications do not materially adversely affect the interests of the Owners.

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES

SECTION 8.01. Events of Default. Each of the following events constitutes an Event of Default hereunder:

(a) Default in the due and punctual payment of the principal or Accreted Value of or interest on any Bonds when due and payable, whether at maturity as therein expressed, by proceedings for redemption, or otherwise.

(b) Default by the District in the observance of any of the other covenants, agreements or conditions on its part contained in this Indenture or in the Bonds, if such default has continued for a period of 60 days after written notice thereof, specifying such default and requiring the same to be remedied, has been given to the District by the Trustee, by the Bond Insurer or by the Owners of not less than 25% in aggregate principal amount of the Bonds at the time Outstanding; provided, however, if in the reasonable judgment of the District the default stated in the notice can be corrected, but not within such 60 day period, such default shall not constitute an Event of Default if corrective action is instituted by the District within such 60 day period and diligently pursued until the default is corrected; and

(d) The filing of a petition in bankruptcy or the commencement of a proceeding under the United States Bankruptcy Code or any other applicable law concerning insolvency, reorganization or bankruptcy
by or against the District, or if under the provisions of any other law for the relief or aid of debtors any court of competent jurisdiction assumes custody or control of the District or of the whole or any substantial part of its property.

For purposes of determining whether any event of default has occurred under and as described in the preceding clauses (a), no effect will be given to payments made by the Bond Insurer under the Bond Insurance Policy.

SECTION 8.02. Remedies. If an Event of Default occurs under Section 8.01 and is continuing, the Trustee may with the prior written consent of the Bond Insurer, and at the written direction of the Bond Insurer or (with prior written consent of the Bond Insurer) at the written direction of the Owners of a majority in aggregate principal amount of the Bonds then Outstanding the Trustee must, (a) declare the principal and Accreted Value of the Bonds, together with the accrued interest thereon, to be due and payable immediately, and upon any such declaration the same will become immediately due and payable, anything in this Indenture or in the Bonds to the contrary notwithstanding, and (b) subject to the provisions of Section 8.07, exercise any other remedies available to the Trustee and the Bond Owners in law or at equity to enforce the rights of the Bond Owners under this Indenture.

Immediately upon becoming aware of the occurrence of an Event of Default, but in no event later than 5 Business Days following becoming aware of such occurrence, the Trustee shall give notice of such Event of Default to the District and to the Bond Insurer by telephone confirmed in writing. Such notice shall also state whether the principal and Accreted Value of the Bonds has been declared to be or have immediately become due and payable. With respect to any Event of Default described in clauses (a) or (b) above the Trustee shall, and with respect to any Event of Default described in clause (c) above the Trustee in its sole discretion may, also give such notice to the Owners in the same manner as provided herein for notices of redemption of the Bonds, which shall include the statement that interest on the Bonds shall cease to accrue from and after the date, if any, on which the Trustee declares the Bonds to become due and payable under the preceding paragraph (but only to the extent that principal and any accrued, but unpaid, interest on the Bonds is actually paid on such date).

This provision, however, is subject to the condition that if, at any time after the principal and Accreted Value of the Bonds has been so declared due and payable, and before any judgment or decree for the payment of the moneys due has been obtained or entered, the District deposits with the Trustee a sum sufficient to pay all principal on the Bonds matured prior to such declaration and all matured installments of interest (if any) upon all the Bonds, with interest on such overdue installments of principal and interest at an interest rate of 10% per annum, and the reasonable fees and expenses of the Trustee, including fees and expenses of its attorneys, and any and all other defaults known to the Trustee (other than in the payment of principal and Accreted Value of and interest on the Bonds due and payable solely by reason of such declaration) has been made good or cured to the satisfaction of the Trustee or provision deemed by the Trustee to be adequate has been made therefor, then, and in every such case, the Owners of at least a majority in aggregate principal amount of the Bonds then Outstanding, by written notice to the District and to the Trustee, may, on behalf of the Owners of all of the Bonds, and with the consent of the Bond Insurer (if it has not failed to comply with its payment obligations under the Bond Insurance Policy), rescind and
annul such declaration and its consequences. However, no such rescission and
annulment shall extend to or shall affect any subsequent default, or shall impair or
exhaust any right or power consequent thereon.

SECTION 8.03. Application of Funds Upon Event of Default. All of the amounts
held in the funds and accounts established and held by the Trustee hereunder upon the
occurrence of an Event of Default, and all sums thereafter received by the Trustee
hereunder, shall be applied by the Trustee as follows and in the following order:

(a) First, to the payment of any fees, costs and expenses incurred by
the Trustee to protect the interests of the Owners of the Bonds;
payment of the fees, costs and expenses of the Trustee (including
fees and expenses of its counsel, including any allocated costs of
internal counsel) incurred in and about the performance of its
powers and duties under this Indenture and the payment of all fees,
costs and expenses owing to the Trustee under Section 6.06,
together with interest on all such amounts advanced by the Trustee
at the maximum rate permitted by law.

(b) Second, to the payment of the whole amount then owing and unpaid
upon the Bonds for interest, principal and Accreted Value, with
interest on such overdue amounts at the respective rates of interest
borne by those Bonds, and in case such moneys are insufficient to
pay in full the whole amount so owing and unpaid upon the Bonds,
then to the payment of such interest, principal and interest on
overdue amounts without preference or priority among such interest,
principal and interest on overdue amounts ratably to the aggregate
of such interest, principal and interest on overdue amounts.

(c) Third, to the Bond Insurer for any amounts due and owing to the
Bond Insurer under the Bond Insurance Policy.

SECTION 8.04. Power of Trustee to Control Proceedings. If the Trustee, upon
the happening of an Event of Default, takes any action, by judicial proceedings or
otherwise, in the performance of its duties hereunder, whether upon its own discretion,
with the consent or at the direction of the Bond Insurer, or upon the request of the
Owners of a majority in aggregate principal amount of the Bonds then Outstanding, it
has full power, in the exercise of its discretion for the best interests of the Owners of the
Bonds, with respect to the continuance, discontinuance, withdrawal, compromise,
settlement or other disposal of such action. The Trustee may not, unless there no longer
continues an Event of Default, discontinue, withdraw, compromise or settle, or otherwise
dispose of any litigation pending at law or in equity, if at the time there has been filed
with it a written request signed by the Owners of a majority in principal amount of the
Outstanding Bonds hereunder opposing such discontinuance, withdrawal, compromise,
settlement or other disposal of such litigation.

SECTION 8.05. Limitation on Owners' Right to Sue. No Owner of any Bond has
the right to institute any suit, action or proceeding at law or in equity, for any remedy
under or upon this Indenture, unless:
(a) said Owner has previously given to the Trustee written notice of the occurrence of an Event of Default;

(b) the Owners of a majority in aggregate principal amount of all the Bonds then Outstanding have requested the Trustee in writing to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name;

(c) said Owners have tendered to the Trustee indemnity reasonably acceptable to the Trustee against the costs, expenses and liabilities to be incurred in compliance with such request; and

(d) the Trustee has failed to comply with such request for a period of 60 days after such written request has been received by, and said tender of indemnity has been made to, the Trustee.

Such notification, request, tender of indemnity and refusal or omission are hereby declared, in every case, to be conditions precedent to the exercise by any Owner of any remedy hereunder; it being understood and intended that no one or more Owners has any right in any manner whatever by his or their action to enforce any right under this Indenture, except in the manner herein provided, and that all proceedings at law or in equity to enforce any provision of this Indenture shall be instituted, had and maintained in the manner herein provided and for the equal benefit of all Owners of the Outstanding Bonds.

The right of any Owner of any Bond to receive payment of the principal and Accreted Value of and premium, if any, and interest on such Bond as herein provided, is not impaired or affected without the written consent of such Owner, notwithstanding the foregoing provisions of this Section or any other provision of this Indenture.

SECTION 8.06. Non-waiver. Nothing in this Article VIII or in any other provision of this Indenture or in the Bonds, affects or impairs the obligation of the District, which is absolute and unconditional, to pay from the amounts pledged hereunder, the principal and Accreted Value of and interest and redemption premium (if any) on the Bonds to the Bond Owners when due and payable as herein provided, or affects or impairs the right of action, which is also absolute and unconditional, of the Bond Owners to institute suit to enforce such payment by virtue of the contract embodied in the Bonds.

A waiver of any default by the Bond Insurer or by any Owner does not affect any subsequent default or impair any rights or remedies on the subsequent default. No delay or omission of the Bond Insurer or of any Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein, and every power and remedy conferred upon the Bond Insurer and upon the Owners by the Bond Law or by this Article VIII may be enforced and exercised from time to time and as often as shall be deemed expedient by the Bond Insurer and the Owners.

If a suit, action or proceeding to enforce any right or exercise any remedy is abandoned or determined adversely to the Bond Insurer or the Owners, the District, the Bond Insurer and the Owners will be restored to their former positions, rights and remedies as if such suit, action or proceeding had not been brought or taken.
SECTION 8.07. Actions by Trustee as Attorney-in-Fact. Any suit, action or proceeding which any Owner has the right to bring to enforce any right or remedy hereunder may be brought by the Trustee for the equal benefit and protection of all Owners similarly situated and the Trustee is hereby appointed (and the successive respective Owners by taking and holding the Bonds shall be conclusively deemed so to have appointed it) the true and lawful attorney-in-fact of the respective Owners for the purpose of bringing any such suit, action or proceeding and to do and perform any and all acts and things for and on behalf of the respective Owners as a class or classes, as may be necessary or advisable in the opinion of the Trustee as such attorney-in-fact, subject to the provisions of Article VI. Notwithstanding the foregoing provisions of this Section 8.07, the Trustee has no duty to enforce any such right or remedy unless it has been indemnified to its satisfaction for any additional fees, charges, expenses and liabilities of the Trustee related thereto, including without limitation, fees and charges of its attorneys and advisors.

SECTION 8.08. Remedies Not Exclusive. No remedy herein conferred upon or reserved to the Owners is intended to be exclusive of any other remedy. Every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing, at law or in equity or by statute or otherwise, and may be exercised without exhausting and without regard to any other remedy conferred by the Bond Law or any other law.

SECTION 8.09. Rights of the Bond Insurer. Anything in this Indenture to the contrary notwithstanding, upon the occurrence and continuation of an Event of Default, the Bond Insurer is entitled to control and direct the enforcement of all rights and remedies granted hereunder to the Bond Owners, or to the Trustee for the benefit of the Bond Owners, including but not limited to rights and remedies granted under Section 8.01 and including but not limited to the right to approve all waivers of any Events of Default. The rights granted to the Bond Insurer hereunder shall be deemed terminated and may not be exercisable by the Bond Insurer during any period during which the Bond Insurer is in default under the Bond Insurance Policy.
ARTICLE IX

MISCELLANEOUS

SECTION 9.01. Benefits Limited to Parties; Rights of Bond Insurer. Nothing in this Indenture, expressed or implied, is intended to give to any person other than the District, the Trustee, the Bond Insurer and the Owners of the Bonds, any right, remedy, claim under or by reason of this Indenture. Any covenants, stipulations, promises or agreements in this Indenture contained by and on behalf of the District shall be for the sole and exclusive benefit of the Trustee, the Bond Insurer and the Owners of the Bonds. The Bond Insurer shall be a third party beneficiary to this Indenture. Whenever in this Indenture the Trustee is required to determine whether the rights of the Bond Owners have been adversely affected, the Trustee shall make such determination without regard to the existence of the Bond Insurance Policy. The Trustee shall, at the prior written request of the Bond Insurer and upon the receipt of indemnification in form and substance satisfactory to the Trustee, intervene in any judicial proceedings which, in the opinion of the Bond Insurer, affect the Bonds or the security therefor.

SECTION 9.02. Successor is Deemed Included in All References to Predecessor. Whenever in this Indenture or any Supplemental Agreement either the District, the Bond Insurer or the Trustee is named or referred to, such reference shall be deemed to include the successors or assigns thereof, and all the covenants and agreements contained in this Indenture by or on behalf of the District, the Bond Insurer or the Trustee bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

SECTION 9.03. Defeasance of Bonds. If the District pays and discharges the entire indebtedness on any Bonds in any one or more of the following ways:

(a) by paying or causing to be paid the principal and Accreted Value of and interest on such Bonds, as and when they become due and payable;

(b) by irrevocably depositing with the Trustee or an escrow bank, in trust, at or before maturity, an amount of cash which, together with the available amounts then on deposit in the funds and accounts established under this Indenture, in the opinion or report of an Independent Accountant is fully sufficient to pay such Bonds, including all principal and Accreted Value of such Bonds and the interest and redemption premium, if any thereon;

(c) by irrevocably depositing with the Trustee or an escrow bank, in trust, Federal Securities in such amount as an Independent Accountant determines will, together with the interest to accrue thereon and available moneys then on deposit in any of the funds and accounts established under this Indenture, be fully sufficient to pay and discharge the indebtedness on such Bonds (including all principal and Accreted Value of such Bonds and the interest and redemption premium, if any thereon) at or before maturity; or
(d) by purchasing such Bonds prior to maturity and tendering such Bonds to the Trustee for cancellation;

and, if such Bonds are to be redeemed prior to the maturity thereof, notice of such redemption has been duly given or provision satisfactory to the Trustee has been made for the giving of such notice, then, at the election of the District, and notwithstanding that any such Bonds have not been surrendered for payment, the obligations of the Trustee and the District under this Indenture with respect to such Bonds shall cease and terminate, except only:

(i) the obligation of the Trustee to transfer and exchange Bonds hereunder,

(ii) the obligation of the District to pay or cause to be paid to the Owners of such Bonds, from the amounts so deposited with the Trustee, all sums due thereon, and

(iii) the obligations of the District to compensate and indemnify the Trustee under Section 6.06.

The District must file notice of such election with the Trustee. The Trustee shall pay any funds thereafter held by it, which are not required for said purpose, to the District.

Notwithstanding the foregoing provisions of this Section 9.03, if the principal and Accreted Value of the Bonds and the interest and premium (if any) thereon are paid by the Bond Insurer under the Bond Insurance Policy, the obligations of the Trustee and the District shall continue in full force and effect and the Bond Insurer shall be fully subrogated to the rights of all Owners of the Bonds so paid. In addition, the obligations of the Trustee and the District hereunder shall continue in full force and effect, and will not be terminated, until such time as the District has paid all amounts (if any) as are due and owing to the Bond Insurer under the Bond Insurance Policy; and the Trustee may not distribute any funds to the District under the preceding paragraph unless the District has certified to the Trustee that there are no obligations then due and owing by the District to the Bond Insurer under the Bond Insurance Policy.

In the case of a defeasance or payment of all of the Bonds Outstanding in accordance with this Section 9.03, the Trustee shall pay all amounts held by it in any funds or accounts hereunder, which are not required for said purpose or for payment of amounts due the Trustee under Section 6.06, to the District.

SECTION 9.04. Execution of Documents and Proof of Ownership by Owners. Any request, declaration or other instrument which this Indenture may require or permit to be executed by any Owner may be in one or more instruments of similar tenor, and shall be executed by such Owner in person or by their attorneys appointed in writing.

The ownership of Bonds, and the amount, maturity, number and date of ownership thereof, are conclusively proved by the Registration Books.
Any request, declaration or other instrument or writing of the Owner of any Bond binds all future Owners of such Bond in respect of anything done or suffered to be done by the District or the Trustee in good faith and in accordance therewith.

SECTION 9.05. Disqualified Bonds. In determining whether the Owners of the requisite aggregate principal amount of Bonds have concurred in any demand, request, direction, consent or waiver under this Indenture, Bonds which are owned or held by or for the account of the District (but excluding Bonds held in any employees' retirement fund) must be disregarded and deemed not to be Outstanding for the purpose of any such determination. The Trustee will not be deemed to have knowledge that any Bond is owned by the District unless the District is the Owner of such Bond or the Trustee has received written notice to that effect.

SECTION 9.06. Waiver of Personal Liability. No member, officer, agent or employee of the District shall be individually or personally liable for the payment of the principal and Accreted Value of or interest or redemption premium on the Bonds; but nothing herein contained shall relieve any such member, officer, agent or employee from the performance of any official duty provided by law.

SECTION 9.07. Destruction of Canceled Bonds. Whenever in this Indenture provision is made for the surrender to the District of any Bonds which have been paid or canceled under the provisions of this Indenture, a certificate of destruction duly executed by the Trustee shall be deemed to be the equivalent of the surrender of such canceled Bonds and the District shall be entitled to rely upon any statement of fact contained in any certificate with respect to the destruction of any such Bonds therein referred to. The District shall pay all costs of any microfilming of Bonds to be destroyed.

SECTION 9.08. Notices. All written notices to be given under this Indenture shall be given by first class mail or personal delivery to the party entitled thereto at its address set forth below, or at such address as the party may provide to the other party in writing from time to time. Notice shall be effective either (a) upon transmission by facsimile transmission or other form of telecommunication, (b) upon actual receipt after deposit in the United States mail, postage prepaid, or (c) in any other case, upon actual receipt. The District or the Trustee may, by written notice to the other parties, from time to time modify the address or number to which communications are to be given hereunder.

If to the District: Peralta Community College District 333 East Eighth Street Oakland, California 94606 Attention: Chancellor Phone: (510) 466-7204 Fax: (510) 835-4078

If to the Trustee: Deutsche Bank National Trust Company 101 California Street, 46th Floor San Francisco California 94111 Attention: Trust & Securities Services Phone: (415) 617-2872 Fax: (415) 617-4270
If to the Bond Insurer: Financial Guaranty Insurance Company
125 Park Avenue
New York, New York 10017
Attention: Risk Management
Phone: (212) 312-3000
Fax: (212) 312-3093

with a copy to: U.S. Bank Trust National Association
100 Wall Street, 19th Floor
New York, New York 10005
Attention: Corporate Trust Department

SECTION 9.09. Partial Invalidity. If any Section, paragraph, sentence, clause or phrase of this Indenture is for any reason held illegal, invalid or unenforceable, such holding will not affect the validity of the remaining portions of this Indenture. The District and the Trustee hereby declare that they would have entered into this Indenture and each and every other Section, paragraph, sentence, clause or phrase hereof and authorized the issue of the Bonds pursuant thereto irrespective of the fact that any one or more Sections, paragraphs, sentences, clauses, or phrases of this Indenture may be held illegal, invalid or unenforceable.

SECTION 9.10. Unclaimed Moneys. Anything contained herein to the contrary notwithstanding, any money held by the Trustee in trust for the payment and discharge of the interest or premium (if any) on or principal and Accreted Value of the Bonds which remains unclaimed for two years after the date when the payments of such interest, premium and principal have become payable, if such money was held by the Trustee at such date, or for two years after the date of deposit of such money if deposited with the Trustee after the date when the interest and premium (if any) on and principal and Accreted Value of such Bonds have become payable, shall be repaid by the Trustee to the District as its absolute property free from trust, and the Trustee shall thereupon be released and discharged with respect thereto and the Owners shall look only to the District for the payment of the principal and Accreted Value of and interest and redemption premium (if any) on such Bonds.

SECTION 9.11. Third-Party Beneficiary. The Bond Insurer is a third-party beneficiary of this Indenture, with all rights of a third-party beneficiary.

SECTION 9.12. Execution in Counterparts. This Indenture may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 9.13. Governing Law. This Indenture shall be construed and governed in accordance with the laws of the State of California.
IN WITNESS WHEREOF, the PERALTA COMMUNITY COLLEGE DISTRICT has caused this Indenture to be signed in its name by its Chancellor and attested to by its Vice Chancellor for Budget and Finance, and DEUTSCHE BANK NATIONAL TRUST COMPANY, in token of its acceptance of the trusts created hereunder, has caused this Indenture to be signed in its corporate name by its officer thereunto duly authorized, all as of the day and year first above written.

PERALTA COMMUNITY COLLEGE DISTRICT

By

Chancellor

Attest:

Vice Chancellor for Budget and Finance

DEUTSCHE BANK NATIONAL TRUST COMPANY, as Trustee

By

Authorized Officer
APPENDIX A

INITIAL BOND PROVISIONS

The Bonds will initially be issued in seven series, consisting of the Series A (Standard Bonds) and Series B-1 through Series B-6 Bonds (Convertible Auction Rate Securities) (the “CARSSM”). The principal amounts, interest payment dates and periods, principal payment dates, redemption provisions and accreted value tables for the individual series of Bonds are shown below.

Series A Bonds (Standard Bonds)

Maturity Schedule. The Standard Bonds will be dated as of the Closing Date, and will mature on August 1 in the years and in the respective principal amounts and bear interest (calculated on the basis of a 360-day year comprised of twelve 30-day months) at the respective rates per annum, payable on February 1 and August 1 in each year commencing August 1, 2006, as set forth in the following table:

<table>
<thead>
<tr>
<th>Maturity Date (August 1)</th>
<th>Principal Amount</th>
<th>Interest Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>2006</td>
<td>$1,725,000</td>
<td>4.710%</td>
</tr>
<tr>
<td>2007</td>
<td>3,180,000</td>
<td>4.820</td>
</tr>
<tr>
<td>2008</td>
<td>4,110,000</td>
<td>4.870</td>
</tr>
<tr>
<td>2009</td>
<td>5,340,000</td>
<td>4.910</td>
</tr>
<tr>
<td>2010</td>
<td>5,660,000</td>
<td>4.940</td>
</tr>
</tbody>
</table>

Optional Redemption. The Standard Bonds will be subject to optional redemption prior to their maturity at the option of the District, in whole or in part (and if in part, on a pro rata basis among the Beneficial Owners) on any date, at a redemption price equal to the greater of: (a) 100% of the principal amount of the Standard Bonds to be redeemed; or (b) the sum of the present values of the remaining scheduled payments of principal and interest on the Bonds to be redeemed (exclusive of interest accrued to the date fixed for redemption) discounted to the date of redemption on a semiannual basis (assuming a 360-day year consisting of twelve 30-days months) at the Treasury Note Rate (defined below) plus 12.5 basis points; plus in each case, accrued and unpaid interest on the Standard Bonds being redeemed to the date fixed for redemption. For purposes of this optional redemption provision, the following terms have the following respective meanings:

"Comparable Treasury Issue" means the United States Treasury security or securities selected by Lehman Brothers Inc. (or any successor Broker-Dealer) which has an actual or interpolated maturity comparable to the remaining average life of the Standard Bonds to be redeemed, and that would be utilized in accordance with customary financial practice in pricing new issues of debt securities of comparable maturity to the remaining average life of such Standard Bonds.
"Comparable Treasury Price" means with respect to any redemption date, (i) the average of the Reference Treasury Dealer Quotations for such redemption date, after excluding the highest and lowest Reference Treasury Deal Quotations, or (ii) if the Trustee obtains fewer than four such Reference Treasury Dealer Quotations, the average of all such quotations.

"Reference Treasury Dealer" means Lehman Brothers Inc. (or any successor Broker-Dealer) and three other firms, specified by the District from time to time, that are primary U.S. Government securities dealers in the City of New York (each a "Primary Treasury Dealer"); provided, however, that if any of them ceases to be a Primary Treasury Dealer, the District will substitute another Primary Treasury Dealer.

"Reference Treasury Dealer Quotations" means, with respect to each Reference Treasury Dealer and any redemption date, the average as determined by the Trustee, of the bid and asked prices for the Comparable Treasury Issue (expressed in each case as a percentage of its principal amount) quoted in writing to the Trustee by such Reference Treasury Dealer at 3:30 p.m., New York City time, on the third business day preceding such redemption date.

"Treasury Note Rate" means, with respect to any redemption date, the rate per annum equal to the semiannual equivalent yield to maturity or interpolated maturity of the Comparable Treasury Issue, assuming that the Comparable Treasury Issue is purchased on the redemption date for a price equal to the Comparable Treasury Price.

### Series B-1 through B-6 Bonds (CARS$^{SM}$)

**Terms.** The CARS$^{SM}$ will be issued in six Series. Each Bond will be issued in amounts that have an Accreted Value as of the Full Accretion Date equal to $25,000 or any multiple thereof and will initially bear interest at the rates set forth below from the Closing Date to and including the respective Full Accretion Dates as set forth below (collectively, the "CARS$^{SM}$ Initial Auction Rate Periods"):

<table>
<thead>
<tr>
<th>Series of CARS$^{SM}$</th>
<th>Initial Principal Amount</th>
<th>Initial Interest Rate</th>
<th>Full Accretion Date (August 5)</th>
<th>Maturity Date (August 5)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005 B-1</td>
<td>$27,090,742.00</td>
<td>4.964%</td>
<td>2010</td>
<td>2015</td>
</tr>
<tr>
<td>2005 B-2</td>
<td>23,633,292.50</td>
<td>5.133</td>
<td>2015</td>
<td>2020</td>
</tr>
<tr>
<td>2005 B-3</td>
<td>19,866,112.75</td>
<td>5.387</td>
<td>2020</td>
<td>2025</td>
</tr>
<tr>
<td>2005 B-4</td>
<td>20,025,603.00</td>
<td>5.456</td>
<td>2025</td>
<td>2031</td>
</tr>
<tr>
<td>2005 B-5</td>
<td>21,514,328.50</td>
<td>5.516</td>
<td>2031</td>
<td>2039</td>
</tr>
<tr>
<td>2005 B-6</td>
<td>21,604,753.50</td>
<td>5.516</td>
<td>2039</td>
<td>2049</td>
</tr>
</tbody>
</table>

Interest on each Series of CARS$^{SM}$ during the period from the Closing Date to the respective Full Accretion Date will accrue and compound on February 5 and August 5 of each year commencing February 5, 2006, and will be payable, in accordance with the
provisions of Appendix B. At the end of the CARS\textsuperscript{SM} Initial Interest Rate Period an Auction will be held in accordance with the provisions of Appendix B.

**Accreted Values.** The Accreted Value of the CARS\textsuperscript{SM} as of any February 5 or August 5 prior to the respective Full Accretion Dates thereof shall be as set forth in Exhibit F attached to this Indenture.

**Optional Redemption.** The CARS\textsuperscript{SM} are not subject to optional redemption prior to their respective Full Accretion Dates. The CARS\textsuperscript{SM} of each Series are subject to optional redemption on the Initial Auction Date and thereafter on any Business Day immediately following the end of an Auction Rate Period for a Series of CARS\textsuperscript{SM}, from any available moneys, at the option of the District, in whole or in part on a pro rata basis among the Beneficial Owners, at a redemption price equal to the sum of the Accreted Value thereof plus accrued interest thereon to the redemption date, without premium.

**Sinking Fund Payment.** The CARS\textsuperscript{SM} of each Series are subject to mandatory redemption by the District prior to their stated maturity after the respective Full Accretion Date, on a pro rata basis among the Beneficial Owners, solely from Sinking Fund Account Payments in the amounts and on the dates set forth below, upon mailed notice as provided in the Indenture, at a redemption price equal to the sum of the Accreted Value thereof plus accrued interest thereon to the redemption date, without premium.

<table>
<thead>
<tr>
<th>Series B-1 CARS\textsuperscript{SM}</th>
<th>Series B-2 CARS\textsuperscript{SM}</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Redemption Date</strong> (August 5)</td>
<td><strong>Sinking Fund Account Payment</strong></td>
</tr>
<tr>
<td>2011</td>
<td>$ 6,075,000</td>
</tr>
<tr>
<td>2012</td>
<td>6,475,000</td>
</tr>
<tr>
<td>2013</td>
<td>7,175,000</td>
</tr>
<tr>
<td>2014</td>
<td>7,725,000</td>
</tr>
<tr>
<td>2015\textsuperscript{†}</td>
<td>6,500,000</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Series B-3 CARS\textsuperscript{SM}</th>
<th>Series B-4 CARS\textsuperscript{SM}</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Redemption Date</strong> (August 5)</td>
<td><strong>Sinking Fund Account Payment</strong></td>
</tr>
<tr>
<td>2021</td>
<td>$ 7,800,000</td>
</tr>
<tr>
<td>2022</td>
<td>8,325,000</td>
</tr>
<tr>
<td>2023</td>
<td>9,200,000</td>
</tr>
<tr>
<td>2024</td>
<td>9,925,000</td>
</tr>
<tr>
<td>2025\textsuperscript{†}</td>
<td>7,925,000</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Redemption Date (August 5)</td>
<td>Sinking Fund Account Payment</td>
</tr>
<tr>
<td>---------------------------</td>
<td>-------------------------------</td>
</tr>
<tr>
<td>2032</td>
<td>$ 8,550,000</td>
</tr>
<tr>
<td>2033</td>
<td>8,975,000</td>
</tr>
<tr>
<td>2034</td>
<td>10,225,000</td>
</tr>
<tr>
<td>2035</td>
<td>10,850,000</td>
</tr>
<tr>
<td>2036</td>
<td>12,100,000</td>
</tr>
<tr>
<td>2037</td>
<td>13,000,000</td>
</tr>
<tr>
<td>2038</td>
<td>14,275,000</td>
</tr>
<tr>
<td>2039†</td>
<td>8,675,000</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

† Maturity.
APPENDIX B
PROVISIONS RELATING TO AUCTION RATE SECURITIES

ARTICLE I
DEFINITIONS

SECTION 1.01. Definitions. The following definitions apply to this Appendix B in addition to the definitions found in Section 1.01 of this Indenture.

"AA' Financial Commercial Paper Rate," on any date of determination for any Auction Rate Period, means:

(i) (A) for any Standard Auction Rate Period of 35 days or any Special Auction Rate Period of fewer than 49 days, the interest equivalent of the 30-day rate, and (B) for any Special Auction Rate Period of: (1) 49 or more but fewer than 70 days, the interest equivalent of the 60-day rate; (2) 70 or more but fewer than 85 days, the arithmetic average of the interest equivalent of the 60-day and 90-day rates; (3) 85 or more but fewer than 99 days, the interest equivalent of the 90-day rate; (4) 99 or more but fewer than 120 days, the arithmetic average of the interest equivalent of the 90-day and the 120-day rates; (5) 120 or more but fewer than 141 days, the interest equivalent of the 120-day rate; (6) 141 or more but fewer than 162 days, the arithmetic average of the interest equivalent of the 120-day and 180-day rates; and (7) 162 or more but fewer than 183 days, the interest equivalent of the 180-day rate, in each case on commercial paper placed on behalf of entities whose corporate bonds are rated "Aa" by Moody's and "AA" by S&P, or the equivalent of such rating by Moody's, S&P or another rating agency, as made available on a discount basis or otherwise by the Federal Reserve Bank of New York for the Business Day immediately preceding such date of determination; or

(ii) if the Federal Reserve Bank of New York does not make available any such rate, then the arithmetic average of such rates, as quoted on a discount basis or otherwise, by the Commercial Paper Dealers to the Auction Agent for the close of business on the Business Day immediately preceding such date of determination;

provided, that if any Commercial Paper Dealer does not quote a commercial paper rate required in order to make the foregoing determinations, the "AA" Financial Commercial Paper Rate shall be determined on the basis of such quotations as may be furnished by a substitute Commercial Paper Dealer or Dealers selected by the District. For the purpose of this definition, the "interest equivalent" means the equivalent yield of an interest-bearing security on a 360-day basis or a rate stated on a discount basis (a "discount rate") for commercial paper of a given number of days maturity which shall be
equal to the product of (A) 100, times (B) the quotient (rounded upwards to the next higher one-thousandth (0.001) of 1% of (x) the discount rate (expressed in decimals) divided by (y) the difference between (1) 1.0 and (2) a fraction, the numerator of which shall be the product of the discount rate (expressed in decimals) times the number of days in which such commercial paper matures, and the denominator of which shall be 360).

"All-Hold Rate" means, on any date of determination, the interest rate per annum equal to 85% of LIBOR on such date, not to exceed the Maximum Auction Rate.

"Applicable Auction Rate" means the rate per annum at which interest accrues with respect to the Auction Rate Securities of each Tranche for any Auction Rate Period.

"Auction" means the implementation of the Auction Procedures on an Auction Date.

"Auction Agent Agreement" means the initial Auction Agent Agreement for Auction Rate Securities identified on Appendix A to this Indenture, unless and until a substitute auction agent agreement acceptable to the applicable Broker-Dealer and the Bond Insurer is entered into, after which "Auction Agent Agreement" means each such substitute auction agent agreement in each case as from time to time amended or supplemented.

"Auction Agent" means Deutsche Bank Trust Company Americas, unless and until a substitute Auction Agent Agreement, acceptable to the Broker-Dealers and the Bond Insurer, becomes effective, after which "Auction Agent" means the substitute Auction Agent.

"Auction Agent Fees" means the fees payable to the Auction Agent as set forth in the Auction Agent Agreement.

"Auction Date" means the Business Day immediately preceding the first day of each Auction Rate Period for each Tranche of Auction Rate Securities, other than:

(a) each Auction Rate Period for each Tranche commencing after the ownership of the Auction Rate Securities is no longer maintained in book-entry form by the Securities Depository; or

(b) each Auction Rate Period commencing after the occurrence and during the continuance of a Payment Default; or

(c) any Auction Rate Period commencing less than two Business Days after the cure or waiver of a Payment Default.

"Auction Documents" means, collectively, the Auction Agent Agreement and the Broker-Dealer Agreement, in each case, as supplemented or amended from time to time.

"Auction Period Adjustment" means an adjustment to the length of an Auction Rate Period implemented by the District under this Indenture as described below under Section 2.10 of this Appendix B.
"Auction Procedures" means the Auction and Settlement Procedures set forth in Section 2.06 of this Appendix B and in the Auction Agent Agreement.

"Auction Rate" means, as to the interest rate with respect to the applicable Tranche of Auction Rate Securities, the rate of interest per annum that results from implementation of the Auction Procedures with respect to such Tranche of Auction Rate Securities, and determined as described in Section 2.04 or 2.05 of this Appendix B. The Auction Rate may not exceed 17% per annum or the Maximum Auction Rate, if less than 17%.

"Auction Rate Period" means the Initial Auction Rate Period and any Subsequent Auction Rate Period and, more specifically, means, as to the applicable Auction Rate Securities of a Tranche, each period during which a specific Auction Rate is in effect, as a result of an Auction, for such Tranche of Auction Rate Securities, which Auction Rate Period may be a Standard Auction Rate Period or a Special Auction Rate Period as may be designated from time to time by the District pursuant to an Auction Period Adjustment for a Tranche of Auction Rate Securities, each Auction Rate Period running from, and including, the Rate Adjustment Date and ending on, and including, the day immediately preceding the next succeeding Rate Adjustment Date.

"Broker-Dealer" means any broker or dealer (each as defined in the Securities Exchange Act of 1934), commercial bank or other entity permitted by law to perform the functions required of a Broker-Dealer set forth in the Auction Procedures which is an "Authorized Broker-Dealer" under the Broker-Dealer Agreement, initially designated on the inside cover hereof, and which:

(a) is a Securities Depository System Participant (or an affiliate of a Securities Depository System Participant);

(b) has been appointed as such by the District and approved by the Bond Insurer under Section 2.17 of this Appendix B; and

(c) has entered into a Broker-Dealer Agreement that is in effect on the date of reference.

When used herein at a time when more than one Broker-Dealer is acting under this Indenture, the term "the Broker-Dealer" means, as the context dictates, either all such Broker-Dealers collectively, or only each Broker-Dealer acting with respect to the applicable Auction Rate Securities.

"Broker-Dealer Agreement" means the agreement between the Auction Agent and a Broker-Dealer relating to the Auction Rate Securities under which the Broker-Dealer agrees to participate in Auctions as set forth in the Auction Procedures, as from time to time amended or supplemented, with the consent of the Bond Insurer.

"Broker-Dealer Fees" means the fees payable to the Broker-Dealer as set forth in the Broker-Dealer Agreement.

"Catastrophic Event" means an unexpected event that interferes with the normal conduct of business, e.g. an event resulting in the suspension of trading on one or more
exchanges, or where one or more exchanges and/or banks are authorized to be closed, severe weather, regional power/communication interruption, physical attack and unexpected events of a limited nature that affect the Auction Agent’s and/or Broker Dealer’s ability to conduct an Auction including, without limitation, acts of God; earthquakes; fires; floods; wars; civil or military disturbances; sabotage; epidemics; riots; interruptions, loss or malfunctions of utilities, computer (hardware or software) or communications service; accidents; labor disputes; terrorist acts; or acts of civil or military authority or governmental actions.

“Commercial Paper Dealers” means Lehman Commercial Paper Inc. or in lieu thereof, its affiliates or successors, if such entity is a commercial paper dealer; provided that if any Commercial Paper Dealer fails to qualify as a commercial paper dealer, the District may appoint another organization to serve as a Commercial Paper Dealer hereunder.

“Date of Interest Accrual” means the first day of any Auction Rate Period for Auction Rate Securities.

“Existing Owners” means, with respect to Auction Rate Securities, those registered owners of such Auction Rate Securities as of the day prior to each Auction Date.

“Existing Owners Registry” means, with respect to each Tranche of Auction Rate Securities, the registry of Persons who are Existing Owners of the related Tranche of Auction Rate Securities, maintained by the Auction Agent as provided in the applicable Auction Agent Agreement.

“Fixed Rate Conversion” means the conversion of the interest rate mode for the Bonds issued as Auction Rate Securities to a Fixed Rate.

“Fixed Rate Conversion Date” means the date upon which a Fixed Rate Conversion occurs.

“Hold Order” has the meaning given to such term in Section 2.06 of this Appendix B.

“Initial Auction Rate Period” means with respect to Auction Rate Securities, the period from and including the Closing Date to but excluding the Initial Interest Payment Date for such Auction Rate Securities.

“Initial Interest Payment Date”, with respect to Auction Rate Securities, refers to the initial Interest Payment Date for such Auction Rate Securities set forth on Appendix A to this Indenture.

“Interest Payment Date” as used in this Appendix B with respect to Auction Rate Securities, other than Convertible Auction Rate Securities during the Initial Auction Rate Period, means (i) for each Auction Rate Period of 360 days or less, the next Business Day after an Auction Date; (ii) for any other Auction Rate Period, each February 5 and August 5; and (iii) each date on which principal is payable on the Auction Rate Securities, whether that date be the stated maturity thereof, redemption date or otherwise and whether or not an Interest Payment Date.
"Maximum Auction Rate," on any date of determination for any Auction Rate Period, means 17% per annum, or the maximum rate, if any, established under the laws of the State for obligations of public agencies such as the District, if less than 17%. Any change in the method of calculating the Maximum Auction Rate must be approved by the Bond Insurer.

"Minimum Auction Rate," on any date of determination, means the rate per annum equal to 80% of the greater of (a) LIBOR, or (b) the applicable Reference Rate in effect on the applicable Auction Date, but in no event shall the Minimum Auction Rate exceed the Maximum Auction Rate.

"Non-Payment Rate" means, for Auction Rate Securities of each Tranche, on any date of determination, the Maximum Auction Rate.

"Notice of Cure of Payment Default" means a written notice given by the Trustee to the Auction Agent stating to the effect that Payment Default, the notice of which has previously been given by the Trustee to the Auction Agent, has been cured.

"Notice of Payment Default" means a written notice given by the Trustee to the Auction Agent stating to the effect that Payment Default has occurred.

"Order" means a Hold Order, Bid or Sell Order as each of those terms are defined in Section 2.06(a)(i) of this Appendix B.

"Overdue Rate" means, as to any Auction Rate Securities, on any date of determination and for any Standard Auction Rate Period, the interest rate per annum equal to the Maximum Auction Rate, and for any Special Auction Rate Period, the interest rate per annum equal to 265% of LIBOR equal in length to the then-ending Special Auction Rate Period; provided that in no event shall the Overdue Rate exceed the Maximum Auction Rate. Any change in the method of calculating the Overdue Rate must be approved by the Bond Insurer.

"Payment Default" means the default of the District in the due and punctual payment of (a) any installment of interest on the Bonds or (b) any principal or Accreted Value of, premium, if any, or interest on, the Bonds at their maturity (whether on the stated maturity thereof, prior redemption or otherwise), which default shall continue for a period of two Business Days and which, in either case, is followed by the failure of the applicable Bond Insurer to make, in accordance with the related Insurance Policy, due and punctual payments to or on behalf of the Owners of the Bonds of such installments or payments described in clause (a) or (b), if so required under such Insurance Policy.

"Potential Beneficial Owner" means a customer of a Broker-Dealer that is not a Beneficial Owner of Auction Rate Securities but that wishes to purchase Auction Rate Securities, or that is a Beneficial Owner of Auction Rate Securities that wishes to purchase an additional Principal Amount of Auction Rate Securities.

"Potential Owner" means a Broker-Dealer (or any such other person as may be permitted by the District) that is not an Existing Owner or that is an Existing Owner that wishes to become the Existing Owner of an additional Principal Amount of Auction Rate Securities.

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"Rate Adjustment Date" means with respect to each Tranche of the Auction Rate Securities, the date on which a new interest rate becomes effective with respect to such Tranche of Auction Rate Securities, and means the first Business Day following each Rate Determination Date (which, until an Auction Period Adjustment, generally is each fourth Wednesday, or the next Business Day if such Wednesday is not a Business Day).

"Rate Determination Date" means: (a) initially with respect to each Tranche of convertible Auction Rate Securities as follows:

<table>
<thead>
<tr>
<th>Tranche of CARS&lt;sup&gt;SM&lt;/sup&gt;</th>
<th>Rate Determination Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Series B-1</td>
<td>August 5, 2010</td>
</tr>
<tr>
<td>Series B-2</td>
<td>August 5, 2015</td>
</tr>
<tr>
<td>Series B-3</td>
<td>August 5, 2020</td>
</tr>
<tr>
<td>Series B-4</td>
<td>August 5, 2025</td>
</tr>
<tr>
<td>Series B-5</td>
<td>August 5, 2031</td>
</tr>
<tr>
<td>Series B-6</td>
<td>August 5, 2039</td>
</tr>
</tbody>
</table>

and thereafter (b) the Business Day immediately preceding the first day of each related Auction Rate Period, other than: (i) each Auction Rate Period commencing after the ownership of Auction Rate Securities is no longer maintained in Book-Entry Form; (ii) each Auction Rate Period commencing after and during the continuance of a Payment Default; or (iii) an Auction Rate Period commencing less than two Business Days after the cure or waiver of a Payment Default. Notwithstanding the foregoing, the Rate Determination Date for one or more Auction Rate Periods may be changed as described below under Section 2.10 of this Appendix B.

"Rate Period" means that period commencing on a Date of Interest Accrual and ending on the earlier of the Fixed Rate Conversion Date or the stated maturity date of the affected Auction Rate Security.

"Rate Period Days" means for any Auction Rate Period the number of days that would constitute such Auction Rate Period but for the application of Section 2.10 of this Appendix B.

"Reference Rate" means (i) for a Standard Auction Rate Period or any Special Auction Rate Period of fewer than 180 Rate Period Days, the "AA" Financial Commercial Paper Rate or LIBOR for such Auction Rate Period, whichever is less; and (ii) for an Auction Rate Period of more than 180 Rate Period Days, the Treasury Note Rate for such Auction Rate Period.

"Regular Record Date" means, with respect to Auction Rate Securities, the second Business Day immediately preceding each Interest Payment Date.

"Sell Order" has the meaning given to such term in the Auction Procedures.

"Special Auction Rate Period" means a Subsequent Auction Rate Period, other than a Standard Auction Rate Period, designated under Section 2.11 of this Appendix B that consists of a specified number of Rate Period Days not fewer than 42 and not more
than 1,820 and evenly divisible by seven, subject to adjustment as provided in said Section.

"Standard Auction Rate Period" means any Auction Rate Period consisting of 7, 14, 21, 28 or 35 Rate Period Days, or such other period as may be designated from time to time by the District with the consent of the Bond Insurer.

"Submission Deadline" means 1:00 p.m., New York City time, on any Auction Date or such other time on any Auction Date by which Broker-Dealers are required to submit Orders) to the Auction Agent, as specified by the Auction Agent from time to time.

"Submission Processing Deadline" means the earlier of (i) 40 minutes after the Submission Deadline and (ii) the time when the Auction Agent begins to disseminate the results of the Auction to the Broker-Dealers.

"Submission Processing Representation" has the meaning specified in the Auction Agent Agreement.

"Subsequent Auction Rate Period" means the period from and including the Initial Interest Payment Date for Auction Rate Securities to but excluding the next Interest Payment Date for Auction Rate Securities and each period thereafter from and including one Interest Payment Date to but excluding the next succeeding Interest Payment Date; provided that if any Subsequent Auction Rate Period is a Special Auction Rate Period consisting of more than 91 days, such term means the period commencing on the first day of such Special Auction Rate Period and ending on the last day of the last Auction Rate Period thereof; provided, further, that the Subsequent Auction Rate Period shall normally begin on the respective Interest Payment Date after the end of such Special Auction Rate Period, and the Auction therefor shall normally be held on the preceding Business Day.

"Substitute Commercial Paper Dealer" means Lehman Brothers Inc., or their affiliates or successors, if such affiliate or successor is a commercial paper dealer, provided that neither such person nor any of its affiliates or successors shall be a Commercial Paper Dealer.

"Sufficient Clearing Bids" has the meaning set forth in Section 2.06(c)(i)(B) of this Appendix B.

"Tender Price" means the price at which Auction Rate Securities are tendered for purchase upon conversion to Fixed Rate Bonds, comprised of the Principal Amount thereof, plus interest, if any, accrued to the date of purchase, being payable solely from the proceeds of remarketing of said Auction Rate Securities in the form of Fixed Rate Bonds.

"Treasury Note Rate" means (a) the bond equivalent yield, calculated in accordance with prevailing industry conventions, of the rate on the most recently auctioned direct obligation of the United States Government having a remaining maturity closest to the length of the applicable Auction Rate Period, as quoted in The Wall Street Journal on such date for the Business Day next preceding such date; or (b) if such rate is not published in The Wall Street Journal, then the bond equivalent yield, calculated in accordance with prevailing industry conventions, as calculated by reference to the
arithmetic average of the bid price quotations of the most recently auctioned direct obligation of the United States Government having a remaining maturity closest to the length of the applicable Auction Rate Period, based on bid price quotations on such date obtained by the Auction Agent from the U.S. Government Securities Dealers.

"Undelivered Auction Rate Security" has the meaning set forth in Section 2.12(b)(ii) of this Appendix B.

ARTICLE II

AUCTION RATE PROVISIONS

SECTION 2.01. Notice of Initial Auction Rate Period. At least 60 days prior to the date on which the first Auction occurs following the Closing Date for a Series of Convertible Auction Rate Securities, the Trustee shall give written notice to the District, the Auction Agent and the Broker-Dealer identifying (a) the date on which such Auction occurs, and (b) the Series of Convertible Auction Rate Securities which are subject to Auction with respect to such Auction.

SECTION 2.02. Auction Rate Periods. After the Initial Auction Rate Period for any Bonds issued as Auction Rate Securities, each Auction Rate Period shall be that period established in accordance with the definition of Subsequent Auction Rate Period.

SECTION 2.03. Dated Date of Auction Rate Securities, Initial Accrual of Interest. Each Auction Rate Security shall be dated its date of delivery. Interest thereon shall be payable from the Interest Payment Date next preceding the date of execution thereof, unless:

(a) it is executed on an Interest Payment Date, in which event interest with respect thereto shall be payable from such Interest Payment Date; or

(b) it is executed after a Regular Record Date and on or before the following Interest Payment Date, in which event interest with respect thereto shall be payable from such Interest Payment Date; or

(c) it is executed on or before the first Regular Record Date, in which event interest with respect thereto shall be payable from its Dated Date;

Notwithstanding the foregoing, if, as of the date of execution of any Auction Rate Security, interest is in default with respect to any Outstanding Auction Rate Security, interest on such Auction Rate Security shall be payable from the Interest Payment Date to which interest has previously been paid or made available for payment with respect to the Outstanding Auction Rate Securities.
SECTION 2.04. **Interest on Auction Rate Securities – General.**

(a) Auction Rate Securities, other than Convertible Auction Rate Securities, shall bear interest at an Auction Rate (computed for the actual number of days elapsed on the basis of a 360-day year).

(b) Interest on Auction Rate Securities, other than Convertible Auction Rate Securities, shall accrue at the Auction Rate for each Auction Rate Period and shall be payable in arrears, commencing on the Initial Interest Payment Date specified in Appendix A to this Indenture and on each Interest Payment Date.

(c) Convertible Auction Rate Securities shall not bear current interest but shall accumulate earned interest in equal daily amounts on the basis of a 360-day year of twelve 30-day months, compounded on February 5 and August 5 of each year commencing August 5, 2006, until the Full Accretion Date. On the initial Auction Date, each Existing Owner of Convertible Auction Rate Securities will be automatically deemed by the Auction Agent to have submitted a Sell Order for all of the Convertible Auction Rate Securities then owned by such Existing Owner unless such Existing Owner, prior to the Submission Deadline, submits a Hold Order to a Broker-Dealer indicating the principal amount of Convertible Auction Rate Securities which such Existing Owner desires to continue to hold regardless of the Auction Rate for the next succeeding Auction Rate Period. For each Subsequent Auction Rate Period or portion thereof, interest on the Accreted Value of Convertible Auction Rate Securities will accrue at the Applicable Auction Rate and will be payable in arrears on each succeeding Interest Payment Date (computed for the actual number of days elapsed on the basis of a 360-day year).

(d) Notwithstanding the foregoing provisions of this Section 2.04, if an Auction is not held on the initial Auction Date, the Auction Rate Securities shall bear interest at the Maximum Auction Rate and the length of such Subsequent Auction Rate Period shall be 7 Rate Period Days; and provided further, that if such Maximum Auction Rate shall be in effect for the lesser of (a) three successive Auction Rate Periods or (b) 35 days, the District shall initiate proceedings to convert such Auction Rate Securities to a Fixed Rate.

SECTION 2.05. **Interest on Auction Rate Securities During Subsequent Auction Rate Periods.** The rate of interest on Auction Rate Securities during each Subsequent Auction Rate Period therefor shall be equal to the Auction Rate; provided that:

(a) if a notice of Fixed Rate Conversion of the Auction Rate Securities has been given by the District in accordance with Section 2.12 of this Appendix B and because of the failure to satisfy one or more of the conditions set forth in the applicable Section, such Conversion has not taken effect, the rate of interest for the next succeeding Subsequent Auction Rate Period shall equal the Maximum Auction Rate on the proposed effective Fixed Rate Conversion Date and the length of such Subsequent Auction Rate Period shall be 7 Rate Period Days;

(b) if on any Auction Date, an Auction is not held due to a Catastrophic Event, the rate of interest for the next succeeding Subsequent
Auction Rate Period shall equal the most recent Auction Rate plus or minus the change in LIBOR since the most recent Auction;

(c) if on any Auction Date, an Auction is not held for any other reason, the rate of interest for the next succeeding Subsequent Auction Rate Period shall equal the Maximum Auction Rate on such Auction Date, and the length of such Subsequent Auction Rate Period shall be 7 Rate Period Days, provided, that if such Maximum Auction Rate shall be in effect for the lesser of (a) three successive Auction Rate Periods or (b) 35 days, the District shall initiate proceedings to convert such Auction Rate Securities to a Fixed Rate; and

(d) if a notice of a change in the length of a Standard Auction Rate Period has been given by the District in accordance with Section 2.10 of this Appendix B and because of a failure to satisfy the condition set forth in clause (c) of Section 2.10 of this Appendix B, such change in length of the Standard Auction Rate Period has not taken effect, the rate of interest for the next succeeding Subsequent Auction Rate Period shall equal the Maximum Auction Rate on the proposed date of such change in length of the Standard Auction Rate Period, and the length of such Subsequent Auction Rate Period will be 7 Rate Period Days.

(e) Notwithstanding the foregoing, if:

(i) the ownership of Auction Rate Securities is no longer maintained in book-entry form by the Securities Depository, no further Auctions will be held and the Applicable Auction Rate for any Subsequent Auction Rate Period commencing after the delivery by the Trustee under Section 2.05(c) of the Indenture of certificated securities representing the Auction Rate Securities shall equal the Maximum Auction Rate;

(ii) a Payment Default has occurred during any Auction Rate Period (other than an Auction Rate Period consisting of more than 364 Rate Period Days) no further Auctions will be held and the rate of interest for the Subsequent Auction Rate Period commencing thereafter to and including the Subsequent Auction Rate Period, if any, during which, or commencing less than two Business Days after all such Payment Defaults are cured, shall equal the Overdue Rate; or

(iii) a Payment Default has occurred during a Special Auction Rate Period consisting of more than 364 Rate Period Days, (i) the rate of interest for the portion of such Special Auction Rate Period during which such Payment Default has not been cured shall equal the Overdue Rate for such Special Auction Rate Period on the day of the occurrence of such Payment Default and (ii) if such Payment Default has not been cured at least two Business Days prior to the next succeeding Subsequent Auction Rate Period, the rate of interest for such Subsequent
Auction Rate Period and for each Subsequent Auction Rate Period commencing thereafter, to and including the Subsequent Auction Rate Period, if any, during which, or commencing less than two Business Days after, such Payment Default is cured, shall equal the Overdue Rate for such Special Auction Rate Period on the first day of each such Subsequent Auction Rate Period.

Following the Trustee’s delivery of a Notice of Cure of Payment Default to the Auction Agent, the restrictions set forth in clauses (ii) and (iii) above shall be suspended and the interest rate shall be established under the Auction Procedures.

SECTION 2.06. Auction Procedures. Subject to the provisions of subsection (b) of this section, Auctions shall be conducted on each Auction Date in the following manner:

(a) Procedures Prior to Submission Deadline. (i) Prior to the Submission Deadline on each Auction Date:

(A) each Beneficial Owner of Auction Rate Securities may submit to a Broker-Dealer by telephone or facsimile transmission information as to:

(1) the Principal Amount of Outstanding Auction Rate Securities, if any, held by such Beneficial Owner which such Beneficial Owner desires to continue to hold, without regard to the Auction Rate for the next succeeding Auction Rate Period;

(2) the Principal Amount of Outstanding Auction Rate Securities, if any, which such Beneficial Owner offers to sell, if the Auction Rate for the next succeeding Auction Rate Period shall be less than the rate per annum specified by such Beneficial Owner; and/or

(3) the Principal Amount of Outstanding Auction Rate Securities, if any, held by such Beneficial Owner which such Beneficial Owner offers to sell, without regard to the Auction Rate that may be set for the next succeeding Auction Rate Period; and

(B) one or more Broker-Dealers may contact Potential Beneficial Owners to determine the Principal Amount of Auction Rate Securities which each such Potential Beneficial Owner offers to purchase if the Auction Rate for the next succeeding Auction Rate Period shall not be less than the rate per annum specified by such Potential Beneficial Owner.

(C) For the purposes of this subsection (a)(i), the communication to a Broker-Dealer of information referred to in the foregoing paragraphs (A) or (B) is hereinafter referred to as an “Order” and each Beneficial Owner and each Potential Beneficial Owner placing an
Order is hereinafter referred to as a "Bidder;" an Order containing the information referred to (x) in paragraph (A)(1) hereof is hereinafter referred to as a "Hold Order," (y) in paragraph (A)(2) or (B) hereof is hereinafter referred to as a "Bid," and (z) in paragraph (A)(3) hereof is hereinafter referred to as a "Sell Order." The submission by a Broker-Dealer of an Order to the Auction Agent shall likewise be referred to herein as an "Order," and an Existing Owner or Potential Owner who places an Order with the Auction Agent or on whose behalf an Order is Placed with the Auction Agent shall likewise be referred to herein as a "Bidder."

(ii) (A) Subject to the provisions of subsection (b) of this section, a Bid by a Beneficial Owner or an Existing Owner shall constitute an irrevocable offer to sell:

1. the Principal Amount of Outstanding Auction Rate Securities specified in such Bid if the Auction Rate determined as provided in this section shall be less than the rate specified therein; or

2. such Principal Amount or a lesser Principal Amount of Outstanding Auction Rate Securities to be determined as set forth in subsection (d)(ii)(D) of this section if the Auction Rate determined as provided in this section shall be equal to the rate specified therein; or

3. such Principal Amount of Outstanding Auction Rate Securities if the rate specified therein shall be higher than the Maximum Auction Rate, or such Principal Amount or a lesser Principal Amount of Outstanding Auction Rate Securities to be determined as set forth in subsection (d)(ii)(C) of this section if the rate specified therein shall be higher than the Maximum Auction Rate and Sufficient Clearing Bids do not exist.

(B) Subject to the provisions of subsection (b) of this section, a Sell Order by a Beneficial Owner shall constitute an irrevocable offer to sell:

1. the Principal Amount of Outstanding Auction Rate Securities specified in such Sell Order if Sufficient Clearing Bids exist; or

2. such Principal Amount or a lesser Principal Amount of Outstanding Auction Rate Securities as set forth in subsection (d)(ii)(C) of this section if Sufficient Clearing Bids do not exist.

(C) Subject to the provisions of subsection (b) of this section, a Bid by a Potential Beneficial Owner or a Potential Owner shall constitute an irrevocable offer to purchase:

1. the Principal Amount of Outstanding Auction Rate Securities specified in such Bid if the Auction Rate determined as
provided in this section shall be higher than the rate specified therein; or

(2) such Principal Amount or a lesser Principal Amount of Outstanding Auction Rate Securities as set forth in subsection (d)(i)(E) of this section if the Auction Rate determined as provided in this section shall be equal to the rate specified therein.

(b) Submission of Orders. (i) Each Broker-Dealer shall submit in writing to the Auction Agent prior to the Submission Processing Deadline on each Auction Date all Orders obtained by such Broker-Dealer, designating itself (unless otherwise permitted by the District) as an Existing Owner in respect of the Principal Amount of Auction Rate Securities subject to Orders submitted or deemed submitted to it by Beneficial Owners or by Potential Beneficial Owners, and shall specify with respect to each such Order:

(A) the name of the Bidder placing such Order (which shall be the Broker-Dealer, unless otherwise permitted by the District);

(B) the aggregate Principal Amount of Auction Rate Securities that are the subject of such Order;

(C) to the extent that such Bidder is an Existing Owner:

(1) the Principal Amount of Auction Rate Securities, if any, subject to any Hold Order placed by such Existing Owner;

(2) the Principal Amount of Auction Rate Securities, if any, subject to any Bid placed by such Existing Owner and the rate specified in such Bid; and

(3) the Principal Amount of Auction Rate Securities, if any, subject to any Sell Order placed by such Existing Owner; and

(D) to the extent such Bidder is a Potential Owner, the rate specified in such Potential Owner Bid.

(ii) If any rate specified in any Bid contains more than three figures to the right of the decimal point, the Auction Agent shall round such rate up to the next highest one thousandth (.001) of 1%.

(iii) If an Order or Orders covering all Outstanding Auction Rate Securities held by any Existing Owner is not submitted to the Auction Agent prior to the Submission Processing Deadline, the Auction Agent shall deem a Hold Order to have been submitted on behalf of such Existing Owner covering the Principal Amount of Outstanding Auction Rate Securities held by such Existing Owner and not subject to an Order submitted to the Auction Agent.

(iv) None of the District, the Trustee or the Auction Agent shall be responsible for any failure of a Broker-Dealer to submit an Order to the Auction Agent on behalf of any Existing Owner, Beneficial Owner, Potential Owner or Potential Beneficial Owner,
nor shall any such party be responsible for failure by a Securities Depository to effect any transfer or to provide the Auction Agent with current information regarding registration of transfers.

(v) If any Existing Owner submits to the Auction Agent, through a Broker-Dealer, one or more Orders covering in the aggregate more than the Principal Amount of Outstanding Auction Rate Securities held by such Existing Owner, such Orders shall be considered valid as follows and in the following order of priority:

(A) all Hold Orders shall be considered valid, but only up to and including in the aggregate the Principal Amount of Auction Rate Securities held by such Existing Owner, and if the aggregate Principal Amount of Auction Rate Securities subject to such Hold Orders exceeds the aggregate Principal Amount of Outstanding Auction Rate Securities held by such Existing Owner, the aggregate Principal Amount of Auction Rate Securities subject to each such Hold Order shall be reduced pro rata to cover the aggregate Principal Amount of Outstanding Auction Rate Securities held by such Existing Owner;

(B) (1) any Bid shall be considered valid up to and including the excess of the Principal Amount of Outstanding Auction Rate Securities held by such Existing Owner over the aggregate Principal Amount of Auction Rate Securities subject to any Hold Orders referred to in clause (A) of this paragraph (v);

(2) subject to subclause (1) of this clause (B), if more than one Bid with the same rate is submitted on behalf of such Existing Owner and the aggregate Principal Amount of Outstanding Auction Rate Securities subject to such Bids is greater than such excess, such Bids shall be considered valid up to and including the amount of such excess, and the Principal Amount of Auction Rate Securities subject to each Bid with the same rate shall be reduced pro rata to cover the Principal Amount of Auction Rate Securities equal to such excess;

(3) subject to subclause (1) and (2) of this clause (B), if more than one Bid with different rates is submitted on behalf of such Existing Owner, such Bids shall be considered valid first in the ascending order of their respective rates until the highest rate is reached at which such excess exists and then at such rate up to and including the amount of such excess; and

(4) in any such event, the aggregate Principal Amount of Outstanding Auction Rate Securities, if any, subject to Bids not valid under this clause (B) shall be treated as the subject of a Bid by a Potential Owner at the rate therein specified; and

(C) all Sell Orders shall be considered valid up to and including the excess of the Principal Amount of Outstanding Auction Rate Securities held by such Existing Owner over the aggregate Principal
Amount of Auction Rate Securities subject to Hold Orders referred to in clause (A) of this paragraph and valid Bids referred to in clause (B) of this paragraph.

(vi) If more than one Bid for Auction Rate Securities is submitted by or on behalf of any Potential Owner, each Bid submitted shall be a separate Bid with the rate and Principal Amount therein specified.

(vii) Any Bid or Sell Order submitted by an Existing Owner covering an aggregate Principal Amount of Auction Rate Securities not equal to $25,000 or an integral multiple thereof shall be rejected and shall be deemed a Hold Order. Any Bid submitted by a Potential Owner covering an aggregate Principal Amount of Auction Rate Securities not equal to $25,000 or an integral multiple thereof shall be rejected.

(viii) Any Bid specifying a rate higher than the Maximum Auction Rate will be treated as a Sell Order if submitted by an Existing Owner and will not be accepted if submitted by a Potential Owner. Any Bid submitted by an Existing Owner or a Potential Owner specifying a rate lower than the Minimum Auction Rate shall be treated as a Bid specifying the Minimum Auction Rate.

(c) Determinations by Auction Agent. (i) Not earlier than the Submission Processing Deadline on each Auction Date, the Auction Agent shall assemble all valid Orders submitted or deemed submitted to it by the Broker-Dealers subject to a Submission Processing Representation (each such Order as submitted or deemed submitted by a Broker-Dealer being hereinafter referred to individually as a “Submitted Hold Order,” a “Submitted Bid” or a “Submitted Sell Order,” as the case may be, or as a “Submitted Order”) and shall determine:

(A) the excess of the total Principal Amount of Outstanding Auction Rate Securities over the sum of the aggregate Principal Amount of Outstanding Auction Rate Securities subject to Submitted Hold Orders (such excess being hereinafter referred to as the “Available Auction Rate Securities”); and

(B) from the Submitted Orders whether:

(1) the aggregate Principal Amount of Outstanding Auction Rate Securities subject to Submitted Bids by Potential Owners specifying one or more rates equal to or lower than the Auction Rate Securities Maximum Auction Rate;

exceeds or is equal to the sum of:

(2) the aggregate Principal Amount of Outstanding Auction Rate Securities subject to Submitted Bids by Existing Owners specifying one or more rates higher than the Maximum Auction Rate; and

(3) the aggregate Principal Amount of Outstanding Auction Rate Securities subject to Submitted Sell Orders

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(if such excess or such equality exists (other than because the sum of the Principal Amounts of Auction Rate Securities in subclauses (2) and (3) above is zero because all of the Outstanding Auction Rate Securities are subject to Submitted Hold Orders), such Submitted Bids in subclause (1) above being hereinafter referred to collectively as "Sufficient Clearing Bids"); and

(C) if Sufficient Clearing Bids exist, the lowest rate specified in such Submitted Bids (the "Winning Bid Rate") which if:

1. (aa) each such Submitted Bid from Existing Owners specifying such lowest rate and (bb) all other Submitted Bids from Existing Owners specifying lower rates were rejected, thus entitling such Existing Owners to continue to hold the Principal Amount of Auction Rate Securities subject to such Submitted Bids; and

2. (aa) each such Submitted Bid from Potential Owners specifying such lowest rate and (bb) all other Submitted Bids from Potential Owners specifying lower rates were accepted,

would result in such Existing Owners described in clause (C)(1) above continuing to hold an aggregate Principal Amount of Outstanding Auction Rate Securities which, when added to the aggregate Principal Amount of Outstanding Auction Rate Securities to be purchased by such Potential Owners described in clause (C)(2) above, would equal not less than the Available Auction Rate Securities.

(ii) Promptly after the Auction Agent has made the determinations under subsection (c)(i) hereof, the Auction Agent, by telecopy confirmed in writing, shall advise the District and the Trustee of the Maximum Auction Rate, the Minimum Auction Rate and the All-Hold Rate and the components thereof on the Auction Date and, based on such determinations, the Auction Rate for the next succeeding Auction Rate Period as follows:

(A) if Sufficient Clearing Bids exist, that the Auction Rate for the next succeeding Auction Rate Period shall be equal to the Winning Bid Rate so determined;

(B) if Sufficient Clearing Bids do not exist (other than because all of the Outstanding Auction Rate Securities are subject to Submitted Hold Orders), that the Auction Rate for the next succeeding Auction Rate Period shall be equal to the Maximum Auction Rate, which succeeding Auction Rate Period shall be 7 Rate Period Days; or

(C) if all Outstanding Auction Rate Securities are subject to Submitted Hold Orders, that the Auction Rate for the next succeeding Auction Rate Period shall be equal to the All-Hold Rate on such Auction Date.
(d) **Disposition of Bids.** Existing Owners shall continue to hold the Principal Amount of Auction Rate Securities that are subject to Submitted Hold Orders, and, based on the determinations made under subsection (c)(i) of this section, Submitted Bids and Submitted Sell Orders shall be accepted or rejected and the Auction Agent shall take such other action as set forth below:

(i) If Sufficient Clearing Bids have been made, all Submitted Sell Orders shall be accepted and, subject to the provisions of subsection (d)(iv) and (v) hereof, Submitted Bids shall be accepted or rejected as follows in the following order of priority and all other Submitted Bids shall be rejected:

(A) Any Existing Owner’s Submitted Bids specifying any rate that is higher than the Winning Bid Rate shall be accepted, thus requiring each such Existing Owner to sell the aggregate Principal Amount of Auction Rate Securities subject to such Submitted Bids;

(B) Any Existing Owner’s Submitted Bids specifying any rate that is lower than the Winning Bid Rate shall be rejected, thus entitling each such Existing Owner to continue to hold the aggregate Principal Amount of Auction Rate Securities subject to such Submitted Bids;

(C) Any Potential Owner’s Submitted Bids specifying any rate that is lower than the Winning Bid Rate shall be accepted, thus requiring each such Potential Owner to purchase the aggregate Principal Amount of Auction Rate Securities subject to such Submitted Bids;

(D) Any Existing Owner’s Submitted Bid specifying a rate that is equal to the Winning Bid Rate shall be rejected, thus entitling such Existing Owner to continue to hold the aggregate Principal Amount of Auction Rate Securities subject to such Submitted Bid, unless the aggregate Principal Amount of Outstanding Auction Rate Securities subject to all such Submitted Bids shall be greater than the Principal Amount of Auction Rate Securities (the “remaining Principal Amount”) equal to the excess of the Available Auction Rate Securities over the aggregate Principal Amount of Auction Rate Securities subject to Submitted Bids described in clauses (B) and (C) of this paragraph (i), in which event such Submitted Bid of such Existing Owner shall be rejected in part, and such Existing Owner shall be entitled to continue to hold the Principal Amount of Auction Rate Securities subject to such Submitted Bid, but only in an amount equal to the aggregate Principal Amount of Auction Rate Securities obtained by multiplying the remaining Principal Amount by a fraction, the numerator of which shall be the Principal Amount of Outstanding Auction Rate Securities held by such Existing Owners subject to such Submitted Bid and the denominator of which shall be the sum of the Principal Amount of Outstanding Auction Rate Securities subject to such Submitted Bids made by all such Existing Owners that specified a rate equal to the Winning Bid Rate; and
(E) Each Potential Owner's Submitted Bid specifying a rate that is equal
to the Winning Bid Rate shall be accepted but only in an amount
equal to the Principal Amount of Auction Rate Securities obtained
by multiplying the excess of the aggregate Principal Amount of
Available Auction Rate Securities over the aggregate Principal
Amount of Auction Rate Securities subject to Submitted Bids
described in clauses (B), (C) and (D) of this paragraph by a fraction,
the numerator of which shall be the aggregate Principal Amount of
Outstanding Auction Rate Securities subject to such Submitted Bids
and the denominator of which shall be the sum of the Principal
Amount of Outstanding Auction Rate Securities subject to Submitted
Bids made by all such Potential Owners that specified a rate equal
to the Winning Bid Rate.

(ii) If Sufficient Clearing Bids have not been made (other than because all of
the Outstanding Auction Rate Securities are subject to Submitted Hold Orders), subject
to the provisions of paragraph (iv) of this subsection, Submitted Orders shall be
accepted or rejected as follows in the following order of priority and all other Submitted
Bids shall be rejected:

(A) Any Existing Owner's Submitted Bids specifying any rate that is
equal to or lower than the Maximum Auction Rate shall be rejected,
thus entitling such Existing Owners to continue to hold the
aggregate Principal Amount of Auction Rate Securities subject to
such Submitted Bids;

(B) Any Potential Owner's Submitted Bids specifying any rate that is
equal to or lower than the Maximum Auction Rate shall be accepted
and any rate that is higher than the Maximum Auction Rate shall be
rejected, thus requiring such Potential Owners to purchase the
aggregate Principal Amount of Auction Rate Securities subject to
such Submitted Bids; and

(C) Each Existing Owner's Submitted Bid specifying any rate that is
higher than the Maximum Auction Rate and the Submitted Sell
Order of each Existing Owner shall be accepted, thus entitling each
Existing Owner that submitted any such Submitted Bid or Submitted
Sell Order to sell the Auction Rate Securities subject to such
Submitted Bid or Submitted Sell Order, but in both cases only in an
amount equal to the aggregate Principal Amount of Auction Rate
Securities obtained by multiplying the aggregate Principal Amount of
Auction Rate Securities subject to Submitted Bids described in
clause (B) of this paragraph by a fraction, the numerator of which
shall be the aggregate Principal Amount of Outstanding Auction
Rate Securities held by such Existing Owner subject to such
Submitted Bid or Submitted Sell Order and the denominator of
which shall be the aggregate Principal Amount of Outstanding
Auction Rate Securities subject to all such Submitted Bids and
Submitted Sell Orders.
(iii) If all Outstanding Auction Rate Securities are subject to Submitted Hold Orders, all Submitted Bids shall be rejected.

(iv) If, as a result of the procedures described in paragraphs (i) or (ii) of this subsection, any Existing Owner would be entitled or required to sell, or any Potential Owner would be entitled or required to purchase, a Principal Amount of Auction Rate Securities that is not equal to $25,000 or an integral multiple thereof the Auction Agent shall, in such manner as, in its sole discretion, it shall determine, round up or down the Principal Amount of Auction Rate Securities to be purchased or sold by any Existing Owner or Potential Owner so that the Principal Amount of Auction Rate Securities purchased or sold by each Existing Owner or Potential Owner shall be equal to $25,000 or an integral multiple thereof.

(v) If, as a result of the procedures described in paragraph (ii) of this subsection, any Potential Owner would be entitled or required to purchase less than $25,000 Principal Amount or an integral multiple thereof of Auction Rate Securities, the Auction Agent shall, in such manner as, in its sole discretion, it shall determine, allocate Auction Rate Securities for purchase among Potential Owners so that only Auction Rate Securities in Principal Amounts of $25,000 or an integral multiple thereof are purchased by any Potential Owner, even if such allocation results in one or more of such Potential Owners not purchasing any Auction Rate Securities.

(e) Delivery of Auction Rate Securities. Based on the results of each Auction, and in accordance with the Settlement Procedures set forth in the applicable Auction Agent Agreement, the Auction Agent shall determine the aggregate Principal Amount of Auction Rate Securities to be purchased and the aggregate Principal Amount of Auction Rate Securities to be sold by Potential Owners and Existing Owners and, with respect to each Potential Owner and Existing Owner, to the extent that such aggregate Principal Amount of Auction Rate Securities to be sold differs from such aggregate Principal Amount of Auction Rate Securities to be purchased, determine to which other Potential Owner(s) or Existing Owner(s) they shall deliver, or from which other Potential Owner(s) or Existing Owner(s) they shall receive, as the case may be, Auction Rate Securities.

SECTION 2.07. Deposit and Application of Interest Payments. The following times and dates are modified as required by the terms of any Insurance Policy applicable to the Bonds at the time payments of interest are required to be made to the respective Owners thereof. The Trustee is instructed to comply with the particular terms of the Insurance Policy in order to insure timely and full payment of interest on the Bonds covered thereby.

(a) The Trustee shall calculate the amount of interest due and payable on each Interest Payment Date by 10:00 A.M., New York City time, on the third Business Day next preceding such Interest Payment Date or date set for purchase, as the case may be and shall immediately notify the District of such amount. In preparing such calculation, the Trustee may rely on calculations or other services provided by the Auction Agent, the District or any person or persons selected by the Trustee in its discretion, including, without limitation, the information set forth in Appendix A to this Indenture.
(b) During any period while Auction Rate Securities are Outstanding, the District shall pay to the Trustee not later than 5:00 P.M., New York City time, on the Business Day next preceding each Interest Payment Date an aggregate amount of funds available on such Interest Payment Date in New York equal to the aggregate amount of interest payable on the Auction Rate Securities on such Interest Payment Date.

(c) Not later than 12:15 P.M., New York City time, on each Interest Payment Date that is immediately preceded by an Auction Date, the Trustee shall determine the payment (or nonpayment, as the case may be) of the aggregate amount of interest payable on the Auction Rate Securities on such Interest Payment Date. So long as no Payment Default with respect to the Auction Rate Securities has previously occurred and is continuing and the ownership of the Auction Rate Securities is maintained in book-entry form by the Securities Depository, (i) if the Trustee determines that a Payment Default has occurred, the Trustee shall immediately send a Notice of Payment Default to the Auction Agent and to the Owners of the Auction Rate Securities by telecopy or similar means, and (ii) if all such nonpayments are cured prior to 1:00 P.M., New York City time, on such Interest Payment Date, the Trustee shall immediately send a Notice of Cure of Payment Default to the Auction Agent and to the Owners of the Auction Rate Securities by telecopy or similar means.

SECTION 2.08. Calculation of Maximum Auction Rate, Minimum Auction Rate, All-Hold Rate and Overdue Rate During Auction Rate Period. The Auction Agent shall calculate the Maximum Auction Rate, the All-Hold Rate and the Minimum Auction Rate on each Auction Date. If a Payment Default has occurred, the Auction Agent shall calculate the Overdue Rate (i) as of the first day of the Subsequent Auction Rate Period commencing after the occurrence of and during the continuance of such Payment Default, (ii) on the date of the occurrence of a Payment Default during a Special Auction Rate Period consisting of more than 364 Rate Period Days and (iii) as of the first day of any Subsequent Auction Rate Period commencing after the occurrence of a Payment Default to and including the Subsequent Auction Rate Period, if any, commencing less than two Business Days after all such Payment Defaults are cured.

SECTION 2.09. Notification of Payment Dates. Promptly after the Date of Interest Accrual and each Interest Payment Date and in any event at least 10 Business Days prior (unless the then current Auction Rate Period is a Standard Auction Rate Period of 7 Rate Period Days, in which case, at least 6 days prior) to the next Interest Payment Date following the Date of Interest Accrual or such Interest Payment Date, as the case may be, the Auction Agent shall advise the Trustee and any Paying Agent, so long as no Payment Default has occurred and is continuing and the ownership of the Auction Rate Securities is maintained in book-entry form by DTC, of such next succeeding Interest Payment Date. If any day that is scheduled to be an Interest Payment Date shall be changed after the Auction Agent has given the notice referred to in the preceding sentence, not later than 9:15 A.M., New York City time, on the Business Day next preceding the earlier of the new Interest Payment Date or the previous Interest Payment Date, the Auction Agent will, by such means as the Auction Agent deems practicable, give notice of such change to the Trustee and to any Paying Agent, so long as no
Payment Default has occurred and is continuing and the ownership of the Auction Rate Securities is maintained in book-entry form by DTC.

SECTION 2.10. Change in Standard Auction Rate Period.

(a) While any Auction Rate Securities are Outstanding, the District, at its option, with the consent of the Bond Insurer, may from time to time on the Business Day immediately following the end of the Auction Rate Period for such Bonds, change the length of the Standard Auction Rate Period on all or a portion of any Auction Rate Securities from one period to another in order to accommodate economic and financial factors that may affect or be relevant to the length of the Standard Auction Rate Period and the interest rate borne by such Auction Rate Securities. The District shall initiate the change in the length of a Standard Auction Rate Period by giving written notice to the Trustee, the Auction Agent, the Broker-Dealers, the Bond Insurer and the Securities Depository, at least ten Business Days prior to the Auction Date for such Standard Auction Rate Period, that the Standard Auction Rate Period will change if the conditions described below are satisfied, the proposed effective date of the change, and that such Auction Rate Securities are subject to mandatory tender for purchase on the Business Day immediately following the Auction Date on which there has been a successful Auction of such Auction Rate Securities.

(b) The change in the length of a Standard Auction Rate Period shall not be allowed unless Sufficient Clearing Bids existed at both the Auction before the date which the notice of the proposed change was given as provided in (a) above and the Auction immediately preceding the proposed change.

(c) The change in length of a Standard Auction Rate Period shall take effect only if (A) the Trustee and the Auction Agent receive by 11:00 a.m., New York City time, on the Business Day before the Auction Date for the first such Standard Auction Rate Period, a certificate from the District Representative, authorizing the change in the length of the Standard Auction Rate Period specified in such certificate, and (B) Sufficient Clearing Bids exist at the Auction on the Auction Date for such first Standard Auction Rate Period. If the condition referred to in (A) above is not met, the Auction Rate for the next Auction Rate Period shall be determined under the Auction Procedures and the Auction Rate Period shall be the Auction Rate Period determined without reference to the proposed change. If the condition referred to in (B) above is not met, the Auction Rate for the next Auction Rate Period shall equal the Maximum Auction Rate on the proposed date of such change in length of the Standard Auction Rate Period, and the Standard Auction Rate Period shall be 7 Rate Period Days.

(d) Any Auction Rate Securities for which the Standard Auction Rate Period is changed shall be subject to mandatory tender for purchase on the Business Day immediately following the Auction Date on which there has been a successful Auction of such Auction Rate Securities (subject to the availability of funds sufficient to pay the Tender Price of such Auction Rate Securities having been provided to the Trustee through the remarketing of such Auction Rate Securities) at a price equal to the Principal Amount being tendered and accrued interest thereon.
SECTION 2.11. Designation of Special Auction Rate Periods.

(a) The District, at its option, with the consent of the Bond Insurer, may designate any succeeding Subsequent Auction Rate Period as a Special Auction Rate Period. A designation of a Special Auction Rate Period shall be effective only if (i) notice thereof has been given in accordance with subsection (c) and subsection (d)(i) of this section, (ii) an Auction has been held on the Auction Date for such Special Auction Rate Period and Sufficient Clearing Bids have existed in such Auction, and (iii) if any notice of redemption has been mailed by the Trustee, the related redemption price shall be on deposit with the Trustee.

(b) If the District wishes to designate a Subsequent Auction Rate Period as a Special Auction Rate Period, the last day of any such Special Auction Rate Period must be followed by a Thursday that is a Business Day.

(c) If the District proposes to designate any succeeding Subsequent Auction Rate Period as a Special Auction Rate Period under subsection (a) of this section, not less than 20 (or such lesser number of days as may be agreed to from time to time by the Auction Agent and the Bond Insurer) nor more than 30 days prior to the date the District proposes to designate as the first day of such Special Auction Rate Period (which shall be the day that would otherwise be the first day of the next succeeding Auction Rate Period), the District shall give written notice thereof to the Trustee, the Bond Insurer, the Auction Agent and the Securities Depository. Each such notice shall state (i) that the District may exercise its option to designate a succeeding Subsequent Auction Rate Period as a Special Auction Rate Period, specifying the first and last days thereof, and the conditions thereto and (ii) that the District will, by 11:00 A.M., New York City time, on the second Business Day next preceding the first day of such proposed Special Auction Rate Period (or by such later time or date, or both, as may be agreed to by the Auction Agent) notify the Auction Agent of either (x) its determination, to exercise such option, in which case, the District Representative shall specify the Special Auction Rate Period designated, or (y) its determination not to exercise such option.

(d) No later than 11:00 A.M., New York City time, on the second Business Day next preceding the first day of any proposed Special Auction Rate Period as to which notice has been given as set forth in subsection (c) of this section (or such later time or date, or both, as may be agreed to by the Auction Agent), the District Representative shall deliver to the Auction Agent either:

(i) (A) a notice stating (1) that the District has determined to designate the next succeeding Auction Rate Period as a Special Auction Rate Period, specifying the same and the first day thereof, (2) the Auction Date immediately prior to the first day of such Special Auction Rate Period, (3) that such Special Auction Rate Period shall not commence if (x) an Auction shall not be held on such Auction Date for any reason or (y) an Auction shall be held on such Auction Date but Sufficient Clearing Bids shall not exist in such Auction, and (4) the Interest Payment Dates during such Special Auction Rate Period and (B) an opinion of Bond Counsel to the effect that such designation of a Special Auction Rate Period is authorized by this Indenture; or
(ii) a notice stating that the District has determined not to exercise its option to designate a Special Auction Rate Period and that the next succeeding Auction Rate Period shall be a Standard Auction Rate Period.

(e) If the District fails to deliver either of the notices or the opinion described in subsection (d)(i) or (ii) of this section with respect to any designation of any proposed Special Auction Rate Period to the Auction Agent by 11:00 A.M., New York City time, on the second Business Day next preceding the first day of such proposed Special Auction Rate Period (or by such later time or date, or both, as may be agreed to by the Auction Agent), the District shall be deemed to have delivered a notice to the Auction Agent with respect to such Special Auction Rate Period to the effect set forth in paragraph (ii) of subsection (d) of this section.

SECTION 2.12. Conversion of Auction Rate Securities to Fixed Interest Rate Bonds.

(a) Conversion Procedures. At the option of the District, with the prior written consent of the Bond Insurer and the Qualified Swap Provider (if the affected Auction Rate Securities are covered by a Qualified Swap Agreement), all but not less than all of any Series of Bonds may be converted from Auction Rate Securities to Fixed Rate Bonds as follows:

(i) The Fixed Rate Conversion Date for a Series of Auction Rate Securities shall be the Business Day immediately following the end of the Auction Rate Period for such Bonds.

(ii) The District shall give written notice of any such conversion to the Trustee, the Auction Agent, the Bond Insurer, the Qualified Swap Provider (if applicable) and the Broker-Dealer not less than 15 days nor more than 30 days prior to the date on which the Trustee is required to notify the affected Owners of the conversion of the applicable Tranche or Series under subparagraph (iii) immediately below. Such notice shall specify the proposed Fixed Rate Conversion Date of the applicable Tranche and the Principal Amount of Auction Rate Securities to be converted to Fixed Rate Bonds. Together with such notice, the District shall file with the applicable Broker-Dealer and the Trustee a form of Opinion of Counsel addressed to the Broker-Dealer, the Trustee, the District and the Bond Insurer to the effect that the conversion of the Auction Rate Securities of the applicable Tranche to fixed interest rates will not adversely affect the validity of the Fixed Rate Bonds under State law. No conversion shall become effective unless on or before the proposed Fixed Rate Conversion Date, the District shall also file with the Trustee an Opinion of Counsel addressed to the Trustee, the District and the Bond Insurer substantially in the form described in the immediately preceding sentence, dated the Fixed Rate Conversion Date, and subject to the availability of funds sufficient to pay the Tender Price of such Auction Rate Securities having been provided to the Trustee through the remarketing of such Auction Rate Securities.
(iii) Not fewer than 40 days prior to the Fixed Rate Conversion Date established for the applicable Series or Tranche, the Trustee shall mail a written notice of the conversion to the Owners of all Auction Rate Securities (with a copy to the Bond Insurer and the Auction Agent) of the applicable Series or Tranche to be converted, which notice shall:

(A) specify the Fixed Rate Conversion Date established for the applicable Bonds;

(B) notify such Owners that the Auction Rate Securities of the applicable Series or Tranche to be converted will be subject to mandatory tender for purchase on such Fixed Rate Conversion Date at a price equal to 100% of the Principal Amount of such Auction Rate Securities, plus interest accrued and unpaid with respect thereto, if any, to but not including the Fixed Rate Conversion Date;

(C) notify such Owners that in the event of a failed conversion, or if the District exercises its right of election to revoke the conversion under subparagraph (v) below, such Auction Rate Securities will not be subject to mandatory tender, will be returned to their Owners, will automatically convert to the Auction Rate Period in effect immediately prior to the Fixed Rate Conversion Date and will bear interest at the Maximum Auction Rate;

(D) set forth the time, the place and the manner for tendering such Auction Rate Securities for purchase; and

(E) set forth any other matters required to be stated under this paragraph.

(iv) Not later than 12:00 noon, New York City time, on the Business Day immediately preceding the Fixed Rate Conversion Date established for the applicable Series or Tranche, at the direction of the District, the applicable Broker-Dealer shall determine, by offering for sale and using at least its best efforts to find purchasers for the Tranches of Auction Rate Securities which are to be converted to Fixed Rate Bonds:

(A) the Fixed Rate(s) applicable to such Bonds after such Fixed Rate Conversion Date;

(B) the allocation of such Bonds between Serial Bonds and Term Bonds, which allocation shall be made in such manner as shall:
(1) produce the lowest aggregate interest payable with respect to the Auction Rate Securities to be converted to Fixed Rate Bonds;

(2) establish mandatory redemption dates and related Principal Amounts for Serial Bonds, if any, and establish mandatory redemption dates and related Principal Amounts for Term Bonds other than Serial Bonds, if any, which are consistent, on a pro rata basis, with the principal of such Bonds prior to such Fixed Rate Conversion Date

(3) permit Bond Counsel to render the opinion described in subparagraph (ii) above;

provided, that if Bond Counsel is unable to render such opinion because of the allocation procedures set forth in this subparagraph (iv), all such converted Bonds shall be redesignated as Serial Bonds with mandatory redemption dates and related Principal Amounts which are consistent, on a pro rata basis, with the applicable principal of such Bonds prior to the Fixed Rate Conversion Date, subject to the Bond Insurer's approval of the new redemption dates and Principal Amounts.

Such determination shall be conclusive and binding upon the District, the Trustee and the Owners of the Auction Rate Securities of the applicable Series or Tranche to be converted to which such rate or rates will be applicable. Not later than 5:00 p.m., New York City time, on the date of determination of the fixed interest rate(s), as provided in the first sentence of this subparagraph, the applicable Broker-Dealer shall notify the District and the Trustee of the following by facsimile notice:

(C) the aggregate Principal Amount of the Bonds bearing interest at Fixed Rates as a result of such Fixed Rate Conversion;

(D) a schedule of the mandatory redemption dates and related Principal Amounts of converted Bonds which the District has redesignated as Serial Bonds and which the Bond Insurer has approved; and

(E) a schedule of the mandatory redemption dates and related Principal Amounts of converted Bonds which are to be Term Bonds, if any, and which the Bond Insurer has approved.

(v) The District may revoke its election to effect a conversion of the applicable Series or Tranche of the Auction Rate Securities to Fixed Rate Bonds by giving written notice of such revocation to the Trustee, the Bond Insurer, the Auction Agent, the Qualified Swap
Provider (if applicable), the Swap Policy Provider (if applicable), and the applicable Broker-Dealer and at any time prior to the Business Day immediately preceding the Fixed Rate Conversion Date.

(vi) Auction Rate Securities of the applicable Series or Tranche which are to be converted to Fixed Rate Bonds shall be subject to mandatory tender for purchase on a proposed Fixed Rate Conversion Date (subject to the availability of funds sufficient to pay the Tender Price of such Auction Rate Securities having been provided to the Trustee through the remarketing of such Bonds) at a price equal to 100% of the Principal Amount of such Auction Rate Securities plus interest accrued and unpaid with respect thereto, if any, to, but not including, the Fixed Rate Conversion Date.

(vii) If on a proposed Fixed Rate Conversion Date, any condition precedent to such conversion required under this paragraph shall not be satisfied, the Trustee shall give written notice by first-class mail, postage prepaid, or by facsimile or overnight delivery, as soon as practicable and in any event not later than the next succeeding Business Day to the Owners of the applicable Series or Tranche to be converted that such conversion has not occurred, that the particular Auction Rate Securities to be converted shall not be purchased on the failed Fixed Rate Conversion Date, that the Auction Agent shall continue to implement the Auction Procedures on the Auction Dates with respect to the Auction Rate Securities which otherwise would have been converted, excluding, however, the Auction Date falling on the Business Day next preceding the failed Fixed Rate Conversion Date, and that the interest rate with respect to the affected Bonds shall continue to be the Applicable Auction Rate; provided, that the interest rate on the Auction Rate Securities during the Auction Rate Period commencing on such failed Fixed Rate Conversion Date shall be the Maximum Auction Rate for a Rate Period of 7 Rate Period Days.

(b) Purchase of Auction Rate Securities.

(i) Mandatory Tender for Purchase Upon Conversion to Fixed Interest Rates. The Auction Rate Securities shall be subject to mandatory tender for purchase if at any time the Trustee gives written notice mailed to the Owners of the affected Auction Rate Securities, in accordance with the procedures set forth in subsection (ii) immediately below, that, at the option of the District, particular Auction Rate Securities are to be converted to a Fixed Rate under the provisions of Section 2.12(a) above; subject to the availability of funds sufficient to pay the Tender Price of such Auction Rate Securities having been provided to the Trustee through the remarketing of such Auction Rate Securities. The Auction Rate Securities of such Series or Tranche subject to mandatory tender shall be purchased or deemed purchased at the Tender Price.
(ii) Notice of Mandatory Tender for Purchase. In connection with any mandatory tender for purchase of any Auction Rate Securities of any Series or Tranche in accordance with the immediately preceding paragraphs, the Trustee shall give written notice to the affected Owners and to the Auction Agent by facsimile transmission, to be received no later than 2:00 p.m. New York City time, on the day the notice is sent:

(A) that the Tender Price of any Auction Rate Security subject to mandatory tender for purchase shall be payable only upon surrender of that Auction Rate Security to the Trustee, accompanied by an instrument of transfer, in form satisfactory to the Trustee, executed in blank by the duly authorized attorney for such Owner or Owners, with such signature guaranteed in the manner set forth in the form attached to the Auction Rate Securities;

(B) that, provided that moneys sufficient to effect such purchase have been provided to the Trustee through the remarketing of such Auction Rate Securities by the applicable Broker-Dealer, and provided that the District has not exercised its right of election to revoke the conversion under paragraph (a)(v) of this section, Auction Rate Securities subject to mandatory tender for purchase shall be purchased on the proposed Fixed Rate Conversion Date

(C) that if any Owner of an Auction Rate Security subject to mandatory tender for purchase does not in fact surrender such Auction Rate Security to the Trustee for purchase on the proposed Fixed Rate Conversion Date, then such Auction Rate Security, on and after such date, shall be deemed to be an Undelivered Auction Rate Security, that no interest shall accrue with respect to such Auction Rate Security on and after such date and that the Auction Rate Security has no rights under this Indenture other than to receive payment of the Tender Price; and

(D) that, if moneys sufficient to pay the Tender Price of such Auction Rate Securities have not been provided to the Trustee through the remarketing of such Auction Rate Securities, such Auction Rate Securities shall not be purchased or deemed purchased and shall continue to have interest accrue with respect thereto as if such failed purchase had not occurred.

If the circumstances described in subparagraph (D) above should occur, then the affected Auction Rate Securities shall not be purchased or deemed purchased and shall continue to have interest accrue thereon as described in subparagraph (D) above. The Insurance Policy may not be drawn upon to purchase any Auction Rate Securities hereunder.
(iii) **Undelivered Auction Rate Securities.** The following provisions shall apply to an Auction Rate Security not delivered by a date established for its surrender, properly endorsed by its Owner (each, an “Undelivered Auction Rate Security”):

(A) The Trustee may refuse to accept delivery of any Undelivered Auction Rate Security for which a proper instrument of transfer has not been provided; **provided,** that such refusal shall not affect the validity of the purchase of such Undelivered Auction Rate Security.

(B) If funds in the amount of the purchase price of the Undelivered Auction Rate Security are available for payment to the Owners thereof on the Proposed Fixed Rate Conversion Date and at the time specified, then, from and after such date and time of such required delivery

1. such Undelivered Auction Rate Security shall be deemed to be purchased and shall no longer be deemed to be Outstanding under this Indenture;
2. interest shall no longer accrue with respect to such Undelivered Auction Rate Security; and
3. funds in the amount of the purchase price of the Undelivered Auction Rate Security shall be held uninvested by the Trustee for the benefit of the Owner thereof (provided that such Auction Rate Security has no right to any investment proceeds derived from such funds), to be paid on delivery (and proper endorsement) of such Undelivered Auction Rate Security to the Trustee. Any money which the Trustee segregates and holds in trust for the payment of the Tender Price of any Auction Rate Security which remains unclaimed for two years after the date of purchase shall be paid to the District. After the payment of such unclaimed money to the District, the former Owner of such Auction Rate Security shall look only to the District for the payment of the Tender Price. The District shall not be liable for any interest on unclaimed money and shall not be regarded as a trustee of such money.

(c) **Determination by Trustee; Notice of Tender.** For purposes of this section, the Trustee shall determine timely and proper delivery of Auction Rate Securities and the proper endorsement of Auction Rate Securities delivered. Such determination shall be binding on the Owners of such Auction Rate Securities, the District, and the Broker-Dealer, absent manifest error.
SECTION 2.13. Transfer and Exchange of Auction Rate Securities.

(a) The registration of any Auction Rate Security may, in accordance with its terms, be transferred upon the Registration Books by the Person in whose name it is registered, in Person or by his attorney duly authorized in writing upon surrender of such Auction Rate Security for cancellation at the Corporate Trust Office of the Trustee, accompanied by delivery of a written instrument of transfer in a form acceptable to the Trustee, duly executed. Whenever any Auction Rate Security shall be surrendered for registration of transfer, the Trustee shall execute and deliver a new Auction Rate Security or Auction Rate Securities for a like aggregate Principal Amount in authorized denominations. The Trustee shall require the payment by the Auction Rate Security Owners requesting such transfer of any tax or other governmental charge required to be paid with respect to such transfer. The cost of printing any Auction Rate Securities and any services rendered or any expenses incurred by the Trustee in connection with any transfer shall be paid by the District. The Trustee shall not be required to transfer:

(i) any Auction Rate Securities during the period between the date 15 days prior to the date of selection of Auction Rate Securities for redemption and such date of selection, or

(ii) any Auction Rate Securities selected for redemption.

(b) Auction Rate Securities may be exchanged, upon surrender thereof, at the Corporate Trust Office of the Trustee for a like aggregate Principal Amount of Auction Rate Securities of other Authorized Denominations of the same maturity. Whenever any Auction Rate Security or Auction Rate Securities shall be surrendered for exchange, the Trustee shall execute and deliver a new Auction Rate Security or Auction Rate Securities for like aggregate Principal Amount in Authorized Denominations. The Trustee shall require the payment by the Auction Rate Security Owners requesting such exchange of any tax or other governmental charge required to be paid with respect to such exchange. The cost of printing any Auction Rate Securities and any services rendered or any expenses incurred by the Trustee in connection with any exchange shall be paid by the District. The Trustee shall not be required to exchange:

(i) any Auction Rate Securities during the period between the date 15 days prior to the date of selection of Auction Rate Securities for redemption and such date of selection, or

(ii) any Auction Rate Securities selected for redemption.


(a) The District authorizes and expressly directs the Trustee, as agent for the Beneficial Owners of the Auction Rate Securities, to enter into an Auction Agent Agreement relating to Auction Rate Securities with a designated Auction Agent, including any Auction Agent for Auction Rate Securities as may be appointed on Appendix A to this Indenture. Any Auction Agent shall be subject to the written approval of the applicable Broker-Dealer and the Bond Insurer; and either:

(i) a bank or trust company duly organized under the laws of the United States of America or any state or territory thereof having its principal
place of business in New York, New York, or such other location as approved by the Trustee in writing and having a combined capital stock or surplus of at least $15,000,000; or

(ii) has a capitalization of at least $15,000,000, and, in either case, is authorized by law to perform all the duties imposed upon it under the applicable Auction Agent Agreement and Section 2.06 of this Appendix B.

(b) The Auction Agent may at any time resign and be discharged of its duties as Auction Agent and obligations under the Auction Agent Agreement by giving at least 90 days' prior notice to the Trustee, the District, the Bond Insurer and any Qualified Swap Provider. The Auction Agent may be removed at any time by a request of the Trustee or the Bond Insurer (with a copy to the Trustee and the District) and upon 30 days' notice to the Auction Agent or upon the written direction of the District or, with the prior written consent of the Bond Insurer, any Qualified Swap Provider (if applicable), the Beneficial Owners of at least two-thirds of the aggregate Principal Amount of the Auction Rate Securities then Outstanding, by an instrument signed by such Beneficial Owners or their attorneys and filed with the Auction Agent, the applicable Broker-Dealer, the Trustee, the Bond Insurer, and any Qualified Swap Provider (if applicable) upon at least 30 days' prior notice. Neither resignation nor removal of the Auction Agent under the provisions of the preceding two sentences shall be effective until and unless a Substitute Auction Agent has been appointed and has accepted such appointment. A substitute Auction Agent Agreement shall be entered into with any substitute Auction Agent. Notwithstanding the foregoing, the Auction Agent may terminate the Auction Agent Agreement if, within 45 days after notifying the Trustee, the applicable Broker-Dealer, the District and the Bond Insurer in writing that it has not received payment of any Auction Agent Fees due it in accordance with the terms of the Auction Agent Agreement, the Auction Agent does not receive such payment. The Trustee shall not be liable for any action taken, suffered or omitted by the Auction Agent.

(c) The District shall pay the periodic Auction Agent Fees when due.

(d) If the Auction Agent resigns or is removed or dissolved, or if the property or affairs of the Auction Agent are taken under the control of any state or federal court or administrative body because of bankruptcy or insolvency, or for any other reason, the Trustee, at the direction of the District, with the consent of the Bond Insurer and the Qualified Swap Provider (if applicable), shall use its best efforts to appoint a substitute Auction Agent for such Series of Bonds.

(e) The Auction Agent is acting solely as a non-fiduciary agent of the Trustee, at the direction of the District for the benefit of the Owners in connection with Auctions. In the absence of bad faith, negligent failure to act or negligence on its part, the applicable Auction Agent shall not be liable for any action taken, suffered or omitted or any error of judgment made by it in the performance of its duties under the Auction Agent Agreement and shall not be liable for any error of judgment made in good faith unless the Auction Agent has been guilty of negligence in ascertaining (or failing to ascertain) the pertinent facts.

(f) Notwithstanding the provisions of paragraph (a) of this section, the Auction Agent may be removed at any time, at the request of the District, with the consent of the
Bond Insurer and the Qualified Swap Provider (if applicable), for any breach of its obligations under this Indenture or under the related Auction Agent Agreement.

SECTION 2.17. Broker-Dealers.

(a) The Auction Agent will enter into a Broker-Dealer Agreement with a Broker-Dealer for the Auction Rate Securities, including any Broker-Dealer Agreement with a Broker-Dealer appointed on Appendix A to this Indenture. The District may, from time to time, with the consent of the Bond Insurer approve one or more additional Persons to serve as Broker-Dealers under Broker-Dealer Agreements and shall be responsible for providing such Broker-Dealer Agreements to the Trustee and the applicable Auction Agent, promptly following the execution thereof.

(b) The District shall pay the periodic Broker-Dealer Fees when due.

(c) Any Broker-Dealer may be removed at any time, at the request of the District, for any breach of its obligations hereunder or under the Broker-Dealer Agreement and any Broker-Dealer may at any time resign and be discharged of the duties and obligations hereunder and under the Broker-Dealer Agreement by giving at least 90 days written notice to the District and the Trustee provided that, in each case, at least one Broker-Dealer Agreement must be in effect immediately following such removal.

SECTION 2.18. No District or Trustee Liability for Auction Failures. Neither the District, the Trustee or the Auction Agent shall be responsible for any failure of a Broker-Dealer to submit an Order to the Auction Agent on behalf of any Owners or prospective Owners, nor shall the District nor the Trustee be responsible for failure by any Securities Depository to effect any transfer or to provide the Auction Agent with current information regarding registration of transfers. The District has no liability if there are not Sufficient Clearing Bids (as such term is defined in the applicable Auction Agent Agreement) from time to time under the Auction Procedures.
APPENDIX C

FORMS OF BONDS

[attach forms of each Series of Bonds]
APPENDIX D

FORM OF REQUEST FOR PAYMENT FROM RETIREE HEALTH BENEFIT PROGRAM FUND

The undersigned hereby states and certifies:

(i) that we are the duly appointed, qualified and acting _____________ and _____________ of the Peralta Community College District (the "District"), and as such, we are familiar with the facts herein certified and are authorized and qualified to certify the same on behalf of the District;

(ii) that we are authorized to execute and deliver this Request on behalf of the District under that certain Indenture of Trust dated as of December 1, 2005 (the "Indenture"), between the District and Deutsche Bank Trust Company Americas, as trustee (the "Trustee");

(iii) that, under Section 3.04 of the Indenture, the Trustee is hereby authorized to disburse this date from the Retiree Health Benefit Program Fund established under such Section 3.04, to the payees set forth on Exhibit A attached hereto and by this reference incorporated, the amount set forth opposite each such payee for the purpose set forth opposite each such payee, to pay Retiree Health Benefit Obligations of the District; and

(iv) that each such payment is a proper charge against the Retiree Health Benefit Program Fund, and has not been the subject of a prior Request of the District; and

(v) accompanying this Request is documentation evidencing the underlying obligation for which disbursement is requested.

Capitalized terms used herein and not otherwise defined have the meanings given such terms in the Indenture.

Dated: PERALTA COMMUNITY COLLEGE DISTRICT

By ________________________________

Name

Title

By ________________________________

Name

Title

D-1
APPENDIX E

RETIREE HEALTH BENEFIT PROGRAM FUND INVESTMENT POLICY

Investment Policy

The investment of funds in the Retiree Health Benefit Program Fund will be made in accordance with the investment policy of the District, which is comparable to that adopted by the California Public Employees Retirement System, developed by the Investment Committee of the Peralta Community College District, and approved by a resolution of the Board of Trustees on December 13, 2005 (the "Investment Policy"). The Investment Policy was adopted to provide guidance and parameters for the investment managers engaged by the District to invest the Retiree Health Benefit Fund. The Investment Policy is subject to revision at any time, and is expected to be reviewed periodically to ensure compliance with the stated objectives of safety, liquidity and diversification.

The Investment Committee will delegate authority only to those investment advisors that meet the following criteria: demonstrable historical track record of outperformance relative to the appropriate benchmark, significant institutional asset management experience, a financially sound firm, and in good standing with the SEC and the NASD. Additionally, the Investment Committee will employ an Investment Manager with the following qualification for at least 85% of the Program Fund Investments: (i) shall be an investment firm registered under "40 Act" in good standing (ii) a firm with substantial experience in investing portfolios for pension and/or health benefits for both public and private entities, (iii) shall have at least $10 billion of assets under management.

A third party custodian shall custody the assets for all allocations and be responsible for the ultimate reporting of asset values to the Investment Committee.

Financial Guaranty, as Bond Insurer for the District’s 2005 OPEB Bonds, will be notified of any material changes in the Board’s investment policy. Financial Guaranty may upon reasonable notice, ask questions and receive any materials regarding the investment policy and performance with respect to the Program Fund Investments.

Investment Objectives

The Investment Policy sets forth the following objectives, in order of priority:

• To provide for specified annual or monthly cash flows while achieving longer-term appreciation of both principal and future income for longer-term payment of Health Care Obligations; and

• To attain exposure to a wide range of investment opportunities in various markets while managing risk exposure through prudent diversification.
The investment objective is that the assets, exclusive of contributions and/or withdrawals, grow over the short term and earn, through a combination of investment income and capital appreciation, a rate of return (time-weighted total return) equal to or in excess of a benchmark comprising 30% S&P 500, 35% Lehman Aggregate Bond Index, 20% MSCI EAFE, 10% Russell 2000 and 5% NAREIT Equity REIT Index. Performance for the fund will be measured over a full market cycle.

**Program Fund Investments**

Amounts on deposit in the Retiree Health Benefit Program Fund may be invested in the following investments (collectively, “Program Fund Investments”), subject to certain limitations more fully described in the Investment Policy: Equities (Domestic and International), Fixed Income, and Cash.

Alternative investments and Tactical Asset Allocation overlay strategies will be reviewed and possibly utilized as deemed prudent by the Investment Committee. Alternative investments will not exceed 15% of the total assets (this excludes the notional value of any overlay strategies).

The Investment Committee will make efforts to allocate a portion of the assets to emerging managers in the future. The emerging manager allocations will be bound by the Investment Policy statement set forth herein.

**Equities**

The equity portfolio will be diversified by style, size and geography. The exposure of the District to each style shall be managed separately through the use of either mutual funds or individual security selection by a specialist in that style. The holdings in each style’s subportfolio is required to be well diversified by sector, however sector concentration may vary from style to style, reflecting the different universe and benchmarks of each.

Mutual funds may be used to gain exposure to market segments for which individual securities selection is not practical; however, whenever possible, the portfolio is to pursue its investment goals through direct securities selection.

With the exception of mutual funds, which are diversified, no issue may, at time of purchase, represent more than 5% of the maximum allowable equity exposure.

The portfolio will not engage in investment transactions involving short sales, commodities, security loans, or unregistered or restricted stock. From time to time, the portfolio may use futures to adjust asset allocation; use of futures is restricted to 15% of market value.

**Fixed Income**

The fixed income portion of the portfolio is required to use the Lehman Aggregate Bond Index as its benchmark. The average weighted duration of the fixed income securities may range from 80% to 120% of the duration of the benchmark index.
Acceptable Fixed Income Securities

i. United States Treasury Securities
ii. Federal Agency Securities
iii. Mortgage-Backed Securities
iv. Commercial Mortgage Obligations
v. Collateralized Mortgage Obligations
vi. Corporate Obligations, including
   a. U.S. and Yankee Issues
   b. Supranational (e.g. The World Bank)
   c. 144a Securities
vii. Asset Backed Securities
viii. Money Market Securities, including:
   a. Master Notes
   b. Funding agreement
   c. Commercial Paper
   d. Banker Acceptances
   e. Certificates of Deposit
ix. Repurchase Agreements
x. Money Market Funds/Sweeps

Cash

Cash investments will be made in Lehman Brothers Institutional Liquidity Funds which seek the highest available current income consistent with safety and liquidity. The Funds seek to provide preservation of capital, daily liquidity and a constant $1.00 net asset value (NAV) while offering the highest possible yield potential.

Credit Quality and Diversification Parameters

With the exception of securities issued by of the U.S. Government and its agencies, for which there are no restrictions on concentration, no single security or issuer may represent more than 5% of the fixed income portfolio at the time of purchase.

All fixed income securities are required to be rated investment grade (Baa/BBB or higher), with the exception that up to 5% of the fixed income portfolio may be invested in securities in the Ba/BB category. For split-rated issues, the higher rating of National Recognized Statistical Rating Organization (NRSRO) will be considered the security's rating.

Asset Allocations and Targets

The asset allocation is set forth below and the portfolio shall be rebalanced semi-annually to the target weights per the ranges below. The asset allocations targets and ranges will be reviewed periodically and may be changed as deemed prudent by the Investment Committee.
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**Reporting**

Investment managers are required to provide the District with quarterly reports that include all information necessary to effectively monitor the performance of the investment portfolio.
### APPENDIX F

**TABLE OF ACCRETED VALUES**

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Memorandum

June 14, 2010

TO: Chief Business Officers

FROM: Frederick E. Harris, Assistant Vice Chancellor
College Finance and Facilities Planning

SUBJECT: ACCOUNTING ADVISORY: GASB 45 – Accounting for Other Post-Employment benefits

This accounting advisory provides guidance and clarification regarding the accounting treatment of Other Post-Employment Benefits (OPEB) costs and related liabilities for California Community Colleges pursuant to Governmental Accounting Standards Board Pronouncement 45 (GASB 45). The guidance provided in this memo supersedes that provided in the June 13, 2008 Accounting Advisory on GASB 45.

GASB 45 requires accounting for all costs of retiree health benefits on an accrual basis, i.e., over the working lifetime of eligible employees. Therefore, an entity is required to recognize the total compensation for employee services, including OPEB costs.

GASB 45 requires recognizing the actual annual OPEB cost, referred to below as the Annual Required Contribution (ARC), on entity-wide financial statements. It does not require funding the ARC; districts can continue using the Pay-As-You-Go approach described below. However, continuing to not adequately fund the ARC increases the future liability that would impact district financial audit reports, accreditation, bond ratings, and future cash-flow.

Key OPEB terms

1. **Normal Cost** is the value of future OPEB earned in the current year by active employees who will be eligible for these benefits.

2. **Annual Required Contribution (ARC)** represents all OPEB costs (both normal cost AND amortized unfunded cost for past service) for active eligible employees PLUS the amortization of any existing liability for retirees. The ARC is determined by an actuarial study, and must be recognized on entity-wide
financial statements as the actual annual OPEB cost, i.e., as part of the current cost of doing business.

All OPEB costs of active eligible employees
+ Amortized unfunded liability of retirees
= Annual Required Contribution (ARC)

3. **Pay-As-You-Go** is the amount expended in the current year to provide benefits to retirees.

**OPEB Costs for Active Eligible Employees**
The cost of OPEB for active eligible employees includes not only the normal cost, but also the amortization of the unfunded past-service liability for these eligible employees. The actuarial study will provide districts with both the normal cost and the amortized unfunded past-service liability cost of active eligible employees. OPEB costs for active eligible employees are a direct cost to programs and grants where employees are currently charged. However, depending on the availability of unrestricted general funds, districts may choose on an annual basis to cover all or a portion of the OPEB charges for some restricted programs and grants.

**Amortization of Unfunded Past Service Liability for Retirees**
The actuarial study will also provide the amortization cost of the unfunded liability for retirees. Since these retirees are no longer employees of the district, the costs associated with their OPEB cannot be charged to a categorical program. Also, amortization costs for retirees are not a “current cost of education” and therefore are excluded from the 50% law calculation. If the ARC is not fully funded, the retiree portion is determined by multiplying the funded level by the retirees’ proportionate share of the full ARC.

**OPEB Charges to Categorical Programs**
OPEB costs are considered direct costs that can be charged to categorical programs for categorically funded active employees during the period they are employed by the program, but not retirees. Any charge must be fully expensed and/or irrevocably funded. The following two excerpts describe the context regarding treatment of OPEB costs as a “direct cost” and the authority for charging categorical programs:

> The federal government defines costs that can be identified specifically with a particular activity or can be directly assigned to such activity relatively easily with a high degree of accuracy, as a **direct cost of the activity**. (Office of Management and Budget (OMB) Circular A-21, Federal Grants, Contracts and Agreements for Colleges and Universities, Direct Costs, page 19)

> As long as the costs and liabilities of the entire program are recorded on the district’s books in accordance with the adopted actuarial methodology, the related annual post-employment benefits costs for categorical funded employees, including prior service costs of these current employees, may be charged to **categorical funds**. (Accounting Advisory No. 96-02, Fiscal and Business Services, Post-Employment Health Coverage/Benefit Costs, June 27, 1996, page 2)
In order to ensure that all programs and grants will be charged in a consistent and fair manner, the charges that would or can be applied to all campus-wide programs would not be more than the normal cost AND the amortization of the unfunded past service for each eligible employee each year. All programs and grants can be charged these costs as long as the individual is employed in the program. If an employee changes positions, the new funding source would begin to pay for the normal cost and the amortization of the unfunded past service cost. No residual cost will remain behind once an individual moves to a different program.

**Government Fund Accounting**
It is important to note that GASB 45 does not require changes to governmental fund accounting and financial reporting on the CCFS-311 (modified accrual basis). Only amounts actually funded and/or expected to be liquidated with expendable available resources can be recognized as OPEB expenditures for governmental fund accounting.

When a district chooses to charge OPEB costs for eligible active employees, an amount equal to or greater than the amount charged must be expended or funded. In allocating OPEB costs among all district funds, the allocation method must be consistent.

**Entity-Wide Financial Statement Reporting**
GASB 45 only addresses the reporting (accrual basis) of OPEB on entity-wide financial statements. It does not mandate the funding of this obligation. A net OPEB obligation will result from the cumulative effect of the district contributing an amount less than the ARC.

**Summary**
GASB 45 addresses the reporting aspect of a district’s OPEB obligation. Although its guidelines do not require OPEB funding, districts are encouraged to fund an appropriate level given their financial condition and size of their OPEB obligation. Categorical programs and grants cannot be charged OPEB costs for retirees and can only be charged OPEB costs for current eligible employees for both past and future service during the period they are actively employed in the categorical program. If a district chooses to charge OPEB costs to categorical programs and grants, then the full charge must be expended and/or fully and irrevocably funded. While GASB 45 prescribes how the OPEB liability must be reflected in the entity wide financial statements, it is up to each district to ascertain the appropriate level to charge programs and grants and determine what methods will be used to fund the OPEB obligation within the parameters designated in this accounting advisory.
Dear County and District Chief Business Officials and Charter School Administrators:

NEW FINANCIAL REPORTING REQUIREMENTS FOR POSTEMPLOYMENT BENEFITS OTHER THAN PENSIONS

The Governmental Accounting Standards Board (GASB) has issued two new accounting standards that will affect the way all governmental employers, including local educational agencies (LEAs), account for and report their costs and obligations relating to postemployment benefits other than pensions (OPEB). The standards are GASB Statement 45 (GASB 45), Accounting and Financial Reporting by Employers for Postemployment Benefits Other Than Pensions, and the related GASB Statement 43 (GASB 43), Financial Reporting for Postemployment Benefit Plans Other Than Pension Plans. The two new standards will take effect over a three-year period, with the largest LEAs implementing first.

This letter discusses key provisions of the new standards and certain implementation issues for LEAs, with emphasis on implications for administration of federal and state categorical programs and changes to accounting for OPEB in the standardized account code structure (SACS). Note that some of the guidance in this letter may apply before the date that an LEA is required to implement the new accounting standards.

The California Department of Education (CDE) has conducted significant research on GASB 45 and GASB 43 and has also consulted extensively with the United States Department of Education (ED) to achieve an understanding of the new standards' implications for LEAs. Since it is not possible to address all of the nuances of the two statements in this letter, we intend to provide additional guidance on our Web site at http://www.cde.ca.gov/fg/ac.

To facilitate understanding of the concepts discussed in this letter, a glossary of key terms is provided in Attachment A. However, the CDE recommends that for an in-depth understanding of the new standards, LEAs should review both statements in their entirety. The statements, plus a plain-language summary and an implementation guide, are available from the GASB Web site at http://www.gasb.org.
OVERVIEW AND APPLICABILITY OF GASB 45 AND GASB 43

GASB 45 establishes standards for governmental employers to measure and report their costs and obligations relating to postemployment benefits other than pensions. The term “postemployment benefits” refers to benefits earned during employment but taken after employment has ended. The most common example of postemployment benefits, other than pensions, is retiree health benefits.

GASB 43 establishes similar standards for OPEB plan entities. The distinction between an employer that offers OPEB and an OPEB plan entity is similar to the distinction between an employer that offers pension benefits and the entity that administers the pension plan.

Neither of the new standards requires any change in how OPEB plans are funded. Rather, GASB 45 requires that employers begin to recognize, in their accrual basis financial statements only, their annual calculated OPEB cost and a liability for any difference between the annual OPEB cost and amounts actually funded. Both standards also require note disclosures and required supplementary information regarding the funded status of the OPEB plan and the employer’s progress in funding it.

GASB 45 applies to any governmental employer that offers OPEB, regardless of how the OPEB are financed (even if only pay as you go) and even if OPEB are offered for only a limited period, such as to age 65. GASB 45 applies even if the only OPEB offered are healthcare benefits administered through a defined benefit pension plan; for example, CalPERS Health has an OPEB component to which GASB 45 applies. GASB 45 also applies even if the only OPEB offered are to retirees who pay their own benefits but pay a blended plan rate rather than an age-adjusted premium; the resulting implicit rate subsidy must be measured and reported as OPEB.

Every LEA that offers OPEB will therefore apply GASB 45, but only established OPEB plan entities will apply GASB 43. If an LEA’s OPEB plan is not administered by a separate entity, there are no separate plan financial statements to which GASB 43 would apply.

Why Was GASB 45 Issued?

Postemployment benefits such as pensions and OPEB are part of the total compensation offered by employers to attract and retain the services of qualified employees. From an accrual perspective, the costs of OPEB should be recognized during the periods in which the benefits are earned, during employment, rather than during the periods when the benefits are provided, after employment has ended. However, governmental accounting standards did not require this previously.
Historically, most governmental employers that offer OPEB have financed the benefits on a pay-as-you-go basis rather than prefunding them. The liability for promised but unfunded benefits can be enormous; for some California LEAs, the unfunded OPEB liability is in the millions and for a few, the unfunded liability is expected to be in the billions. To the extent that OPEB costs and obligations have not previously been recognized during the periods in which the benefits were earned, governmental financial statement users have been denied a clear picture of the government’s position with regard to its OPEB obligations. This change to governmental financial reporting emulates a similar change in private-sector financial reporting.

Effective Dates

Implementation of GASB 45 is required in three phases, based on an LEA’s annual revenues for the fiscal year ending June 30, 1999. This is similar to GASB Statement 34 (GASB 34), Basic Financial Statements—and Management’s Discussion and Analysis—for State and Local Governments, which established new financial reporting requirements for LEAs and which was also implemented in three phases. The definition of annual revenue is as defined in GASB 34, Paragraph 143; “revenues” includes all revenues, but not other financing sources, in governmental and enterprise funds, except for extraordinary items. An LEA’s implementation phase for GASB 45 is therefore the same as it was for GASB 34. For each LEA, GASB 43 takes effect one year before the effective date for GASB 45.

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<td>Phase 3 Revenues less than $10 million</td>
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Definition of OPEB

OPEB includes any postemployment medical, dental, vision, and prescription benefits, whether administered through a defined benefit pension plan or separately. OPEB also includes other non-pension and non-healthcare postemployment benefits that are administered outside of a pension plan, such as life insurance, disability, long-term care, and legal services. OPEB refers to benefits for any former employees, not only retirees, including former employees on permanent disability.

OPEB does not include pensions or other non-healthcare postemployment benefits that are administered through a pension plan. It does not include termination benefits such as retirement incentives, which are incentives to terminate employment rather than
compensation for employment, unless the incentives involve changes to existing OPEB obligations (accounting for termination benefits is addressed in GASB Statement 47). Cash payments to retirees that may be used at the retiree’s option to pay employee healthcare premiums are not OPEB.

ANNUAL OPEB COST

The intent of GASB 45 is for governmental employers to recognize their costs and obligations relating to OPEB systematically over the employees’ years of service, in the same manner as they currently do for pensions. The basic approach for measuring OPEB costs is to project future cash outflows for benefits based on the substantive plan (the plan terms as understood by the employer and members), discount those future cash flows to their present value, and allocate that present value to specific years of employee service.

There are three situations in which no special calculation of OPEB cost is required (although the other provisions of Statements 43 and 45 still apply). These are defined contribution OPEB plans, insured defined benefit OPEB plans, and cost-sharing OPEB plans established as a trust or similar arrangement. In these three situations, the required contribution or premium is used as the measure of OPEB cost. The CDE believes that most LEAs do not have these types of plans so this letter does not address them.

Annual Required Contribution

The basis for measurement of annual OPEB cost is the actuarially determined annual required contribution (ARC). The ARC has two components: the normal cost relating to the current period, and the systematic amortization of any past unfunded liability. Although GASB 45 does not require that OPEB obligations be funded, the ARC is the level of employer contribution that would be required on a sustained, ongoing basis to systematically fund the normal cost and to amortize, or pay off, the unfunded liability attributed to past service over a period not to exceed thirty years.

Where an employer fully contributes its ARC each year, annual OPEB cost is equal to the ARC. Where an employer does not fully contribute its ARC, or where an employer recognizes a liability at the time that it implements the new standard, the calculation of annual OPEB cost becomes more complicated. In this situation, annual OPEB cost is equal to the ARC, plus an adjustment for lost interest earnings and an adjustment for the subsequent recapture of past contribution deficiencies included in a future ARC.

Annual OPEB cost thus derives from, but is not necessarily equal to, the ARC. The calculation of annual OPEB cost is illustrated in Attachment C.
Amortization Period

GASB 45 allows the use of either a closed or an open amortization period. With a closed amortization period, the amortization period (for example, 30 years) is counted from one date and declines to zero (in 30 years, in this example). With an open amortization period, the amortization period is recalculated each time a new valuation is performed. The CDE believes that an open amortization period is appropriate for amortization of unfunded liabilities arising from actuarial gains or losses, but that a closed amortization period is appropriate for amortization of liabilities relating to past underfunding of OPEB obligations because it would take an LEA substantially longer to amortize its liabilities using an open amortization period rather than closed.

Employer Contributions Defined

For purposes of calculating OPEB cost, GASB 45 defines employer contributions for OPEB as any of the following irrevocable payments to outside parties:

- Payments of benefits to or on behalf of retirees or beneficiaries
- Premium payments to an insurer (including any implicit rate subsidy)
- Irrevocable transfers of resources to a trust or equivalent arrangement in which plan assets are dedicated to providing benefits to retirees and their beneficiaries in accordance with the terms of the plan and are legally protected from creditors of the employer(s) or plan administrator

GASB 45 specifically precludes counting the following revocable actions as contributions:

- Designations of net assets of a governmental or proprietary fund to be used for OPEB
- Internal transfers of assets to a separate governmental or proprietary fund for the same purpose

The above actions are regarded as earmarking of employer assets to reflect the employer’s current intent to apply these assets to finance the cost of benefits at some time in the future, and do not qualify as contributions. Consequently, even if an LEA earmarks an amount equal to its ARC each year, the LEA will report a net OPEB obligation in its financial statements. The liability will be offset by the earmarked assets, but both the liability and the asset will be reported; the two are not netted.
Transition

GASB 45 provides for prospective implementation. For most LEAs, the initial OPEB obligation will therefore be set at zero no matter how large the unfunded liability. However, LEAs that have actuarial information for prior years may choose to retroactively calculate and report an OPEB obligation at transition. GASB 45 specifies that this must be done in accordance with GASB Statement 27, paragraphs 30–35.

LEAs that estimated and recognized an unfunded liability for OPEB at the time that they implemented GASB 34 may either restate that liability to zero or calculate and report an OPEB obligation at transition in accordance with GASB Statement 27.

VALUATIONS

Although GASB 45 and GASB 43 are accounting standards, they require a significant number of actuarial calculations on which accounting entries and disclosures are based. LEAs will need to obtain a valuation of their OPEB obligations either every two or every three years, depending on the size of their plans.

LEAs with fewer than 100 plan members may use an alternative measurement method that does not require the services of an actuary. This nonactuarial method takes the same basic approach used in an actuarial valuation, but allows for a number of simplified assumptions. The CDE notes that although this method relies on simplified assumptions, it is still complex.

Frequency of Valuations

The required frequency of valuations depends on the number of members in the plan. Membership means eligible employees in active service, terminated employees who have accumulated benefits but are not yet receiving them, and retirees and beneficiaries currently receiving benefits. A retired employee (or beneficiary) and a covered spouse or other dependent are counted as a single plan member for this purpose.

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<th>Total Plan Membership</th>
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<td>200 or more</td>
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<tr>
<td>Fewer than 200 (including plans of fewer than 100 using the alternative measurement method)</td>
<td>Every three years</td>
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A new valuation is required sooner if significant changes affect the results of the valuation. Significant changes include changes in benefit provisions, such as where the employer enhances or curtails benefits; changes in the covered population, such as where the employer limits or expands eligibility; and other factors that impact long-term assumptions. Short-term investment fluctuations or differences between assumed and actual experience in a given year are not considered significant changes for this purpose.

A valuation is required for each plan. A plan might have different classes of members with different eligibility requirements and different benefit structures, but as long as plan assets can legally be used to pay benefits for any of the members, it is one plan for purposes of financial reporting. Where plan assets can be used only to pay benefits for certain members, there is more than one plan for purposes of financial reporting.

**Timing of Valuations**

The valuation date must be no earlier than 24 months before the start of the first year covered by the valuation. For example, the earliest date for a valuation that could be used for the period beginning July 1, 2007, would be July 1, 2005.

The valuation date need not be the same as the financial reporting date, but it should be approximately the same each valuation year. When scheduling a valuation, LEAs should allow sufficient lead time to include the resulting ARC in the coming year’s budget, if the LEA plans to fund the ARC, and sufficient turnaround time for the actuary to perform the valuation.

The CDE recommends that regardless of an LEA’s implementation phase, any LEA that offers OPEB and has never had an actuarial valuation should obtain one now. LEAs with small plans of 100 members or fewer can consider using the alternative measurement method.

**REPORTING REQUIREMENTS FOR EMPLOYERS**

GASB 45 involves no changes to governmental fund accounting and financial reporting. In governmental funds, LEAs recognize OPEB expenditures equal to amounts actually funded, including any current liabilities (amounts expected to be liquidated with expendable available resources). LEAs do not recognize long-term OPEB obligations or accrual-basis OPEB costs in governmental funds.

In accrual-basis financial statements (government-wide statements, proprietary fund statements, and fiduciary fund statements), LEAs will recognize an OPEB expense
equal to their annual OPEB cost and will recognize an OPEB liability (or asset), known as the net OPEB obligation, for the cumulative difference between their OPEB cost and amounts actually contributed. Where an LEA’s OPEB expenditures in governmental funds are less than (or greater than) its accrual-basis OPEB cost, a conversion entry will be necessary when preparing the government-wide statements.

In the notes to the financial statements, LEAs must provide disclosures and required supplementary information (RSI) for each plan in which they participate. Disclosures for more than one plan should be combined in a manner that avoids unnecessary duplication.

RSI includes a schedule of funding progress and a schedule of employer contributions. Where there are factors having a significant effect on the trends reflected in these two schedules, notes to these schedules are also required. LEAs need not present RSI if the OPEB plan issues its own separate financial statements or if the OPEB plan is included in the financial statements of another entity.

Note that the actuarial accrued liability (AAL) and the unfunded actuarial accrued liability (UAAL) are actuarial liabilities, not accounting liabilities. Although both are disclosed in the notes to the financial statements, neither is recognized in the financial statements themselves. LEAs that fully fund the ARC each year will thus report no OPEB liability in their financial statements, no matter how large their unfunded liability for past service.

**CHARGING OPEB TO PROGRAMS**

As mentioned, the CDE has spent significant time in discussions with the ED regarding the allowability of OPEB costs to federal programs.

The ED emphasizes that OPEB costs, to be allowable, must be funded; accrual-basis costs that are not actually funded are not allowable. However, the ED does not presently require that funded amounts be contributed to an irrevocable trust in order to be allowable, as long as the funded amounts can be used only for providing postemployment benefits to retirees and other beneficiaries. For example, where an LEA self-insures for OPEB benefits, the LEA’s payments to its self-insurance fund for self-insured OPEB premiums are allowable charges to federal programs (see the *California School Accounting Manual (CSAM)* Procedure 775 for guidance relating to self-insurance activities).

The CDE notes that interfund transfers and designations of fund balances are not expenditures for purposes of generally accepted accounting principles (GAAP) and are not allowable charges to programs.
Rationale for Allowability of Costs to Programs

Federal guidelines provide that only those costs that can be identified specifically with a particular program cost objective are allowable as direct costs of federal awards. Direct costs include compensation of employees, including salaries and fringe benefits, for time devoted specifically to a federal award. OPEB expenditures relating to prefunding of OPEB for eligible active employees are fringe benefits and should therefore be direct-charged along with the employees’ other fringe benefits.

By contrast, OPEB expenditures relating to already-retired employees represent costs that were not funded during the employees’ years of service and that cannot be identified with any particular program cost objective now. These costs are simply overhead, that is, they are an obligation for which the LEA is liable but from which current programs derive no direct benefit.

The ED agrees that federal programs may absorb a share of OPEB costs relating to retirees, but only if the costs are allocated to all activities, somewhat like indirect costs, and only if the allocation base is as broad as possible. The ED therefore allows that either total salaries or total full-time equivalent positions (FTEs) in all activities may be used as the allocation base, but has specifically denied other narrower allocation bases.

Federal cost principles provide that when an LEA funds OPEB in accordance with an acceptable actuarial cost method, the initial unfunded liability attributable to prior years is allowable if amortized over a period of years in accordance with GAAP. However, the cost principles also provide that any cost must be reasonable and necessary for efficient performance of the program cost objective. Where costs relating to amortization of the unfunded liability for OPEB-eligible active employees would be unduly burdensome or distorting if direct-charged to the employees’ programs, the costs may not be direct-charged but rather must be allocated to all programs, as OPEB costs relating to retirees are.

An example of amortization costs for active employees that would be distorting or unfairly burdensome is be an LEA with an unfunded plan and whose OPEB-eligible employees have a high number of years of service. The amortization of the UAAL for OPEB-eligible active employees will likely be high in comparison to the Normal costs for those employees. By contrast, in an LEA with a nearly funded plan or whose OPEB-eligible active employees have a low number of years of service, the amortization of the UAAL for OPEB-eligible active employees will likely be lower in comparison to the Normal costs for those employees. In the first LEA, the costs of amortization of the UAAL for OPEB-eligible active employees will likely be unfairly burdensome if direct-charged to the programs in which those employees work. In the second LEA, they are less likely to be.
“Unfairly burdensome” and “distorting” are subjective determinations that each LEA must make for itself. The CDE suggests that as a general rule, where the amortization cost for OPEB-eligible active employees is no greater than the Normal cost, it is reasonable to direct-charge the amortization cost to programs along with the Normal cost. The CDE emphasizes that in the interest of consistent cost treatment, amortization costs for active employees should be either direct-charged uniformly or allocated uniformly, that is, LEAs should not direct-charge some and allocate others.

Summary of Allowable OPEB Charges to Programs

The following tables summarize the results of the CDE's discussions with the ED. In keeping with the principle of consistent cost treatment, this guidance applies to both state and federal programs.

<table>
<thead>
<tr>
<th>Table 1: If LEA funds OPEB purely on pay-as-you-go basis, not based on an actuarial valuation:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Group</strong></td>
</tr>
<tr>
<td>Retirees</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Table 2: If LEA funds OPEB on an actuarial basis:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Group</strong></td>
</tr>
<tr>
<td>Retirees</td>
</tr>
<tr>
<td>OPEB-eligible active employees</td>
</tr>
<tr>
<td>OPEB-eligible active employees</td>
</tr>
</tbody>
</table>
the amount charged is not unduly burdensome to the program(s);

or,

- Allocate to all activities in proportion to total salaries or total FTEs in all activities

For this purpose, “all activities” means any combination of fund, goal, and function (but not necessarily resource) to which any salaries or any FTEs are charged (see “Accounting for OPEB in the Standardized Account Code Structure,” page 12).

The methodology for attributing expenditures for amortization of the past unfunded liability between retirees and active employees is discussed in Attachment D.

For consistency in application of this guidance, the ED agrees that once an LEA obtains an OPEB valuation based on an actuarial method recognized by GAAP, all of the LEA’s OPEB contributions may be considered to be in relation to that valuation, that is, on an actuarial basis rather than on a pay-as-you-go basis. Regardless of whether the LEA’s contributions are greater than, less than, or equal to current year benefits, any LEA that has obtained an actuarial valuation but not yet implemented GASB 45 may therefore apply the guidance in Table 2 rather than Table 1. Once an LEA has implemented GASB 45, the LEA will apply the guidance in Table 2.

**Important Changes to Current Practices for Some LEAs**

The CDE believes that this guidance will necessitate accounting changes for some LEAs. In particular, the following requirements may be different from current practice:

- OPEB expenditures relating to retirees, whether for current year benefits or for amortization of the unfunded liability, may only be allocated to programs using total salaries in all activities or total FTEs in all activities as the allocation base. For example, LEAs may not charge these expenditures to programs using OPEB-eligible salaries or FTEs, or health and welfare-eligible salaries or FTEs, as an allocation base.

- OPEB expenditures relating to retirees may not be direct-charged to the program(s) in which the employee worked before retiring. For example, LEAs
may not direct-charge OPEB expenditures for a retired Title I employee directly to Title I.

- OPEB expenditures may not be charged to general administration except for direct-charged costs for OPEB-eligible active employees who work in general administration and except for general administration’s share of OPEB costs that are allocated to all activities.

These changes may mean that some programs that were not previously allocated any OPEB costs will now be allocated some. LEAs may need to inform program managers about the indirect overhead nature of these costs and the requirement that they be allocated to all activities.

Note that LEAs may choose to not charge allocable OPEB costs to a particular resource, but they may not recover the costs allocable to that resource from another restricted resource unless allowed by that resource. For example, an LEA could choose not to charge Title IV its share of OPEB costs, but the LEA could not recover those same costs from Title I instead. However, the LEA could recover the costs from an unrestricted resource where allowable. In this case the LEA would use the same function that would have been used in Title I.

**Implications for Indirect Cost Rates and Administrative Cost Caps**

The CDE and the ED agree that OPEB costs relating to existing retirees are akin to indirect costs in the sense that it is appropriate to prorate them across all programs rather than try to identify their benefit to any particular program. However, the CDE and the ED also agree that these costs are not administrative in character in the same sense that costs in the traditional pool of indirect administrative costs are. The CDE and the ED agree that these costs should not be included in the traditional indirect cost pool and that they should not count toward administrative cost caps in programs where such caps exist.

**ACCOUNTING FOR OPEB IN THE STANDARDIZED ACCOUNT CODE STRUCTURE**

OPEB expenditures will be reported in the 3700 range of object codes in the standardized account code structure (SACS), as is currently the practice. Effective in 2007-08, existing Objects 3701–3702 will be renamed and new Objects 3751–3752 will be added as follows:

- 3701 OPEB, Allocated, certificated positions
- 3702 OPEB, Allocated, classified positions
3751  OPEB, Active employees, certificated positions
3752  OPEB, Active employees, classified positions

Objects 3701–3702 will be used for OPEB expenditures relating to retirees and other
former employees, which must be allocated to all activities. Objects 3701–3702 will also
be used for OPEB expenditures relating to amortization of the unfunded liability for
OPEB-eligible active employees, where expenditures are allocated to all activities
instead of direct-charged using Objects 3751–3752.

Objects 3751–3752 will be used for OPEB expenditures for normal costs for
OPEB-eligible active employees. Objects 3751–3752 will also be used for OPEB
expenditures for amortization of the unfunded liability relating to OPEB-eligible active
employees, to the extent that these costs are not unduly burdensome or distorting to
programs. Where direct-charging these costs would be unduly burdensome or distorting
to programs, the costs will be allocated to all programs using Objects 3701–3702.

As discussed previously, LEAs should recognize OPEB expenditures in governmental
funds only to the extent of amounts actually funded, including any current liabilities. In
government-wide statements and proprietary or fiduciary fund statements, LEAs should
recognize OPEB expense equal to the accrual-basis OPEB cost.

The CDE notes that for purposes of performing an actuarial valuation, the “covered
payroll” measure used to determine the ARC may be the projected payroll, the
budgeted payroll, or the actual payroll. However, for purposes of allocating OPEB
expenditures to programs, LEAs must use actual total salaries or actual total FTEs as
the allocation base, not budgeted or projected.

Attachment B illustrates OPEB accounting in seven different scenarios.

**Reporting OPEB Liabilities in the CDE’s SACS Software**

In addition to reporting any net OPEB obligation in the accrual-basis financial
statements, LEAs must report OPEB liabilities in two other places within the CDE’s
financial reporting software. The two amounts to be reported represent two different
measures for two different purposes and should not be expected to match one another.

- In the Criteria and Standards Review, LEAs report the AAL and the UAAL (or the
  LEA’s estimates of these). Amounts reported in the Criteria and Standards will tie
to the Schedule of Funding Progress.
In the Schedule of Long-Term Liabilities (Form DEBT), LEAs report any net OPEB obligation (or asset) resulting from differences between annual OPEB cost and amounts actually contributed in relation to the ARC. The amount reported in Form DEBT will tie to the Government-wide Statement of Net Assets.

**OPEB AND FISCAL SOLVENCY**

Pensions and OPEB are accepted ways of compensating employees, and an LEA that can afford to fund its OPEB plan may have no fiscal solvency problem at all. However, unfunded OPEB obligations pose a potential threat to future fiscal solvency. Any review of fiscal solvency should consider an LEA’s OPEB commitments and the LEA’s strategy for financing them.

Unfunded liabilities for OPEB are not a new fiscal solvency problem arising from GASB 45. GASB 45 merely requires that LEAs begin reporting their OPEB liabilities, making the magnitude of those liabilities much more visible than in the past.

The size of an LEA’s OPEB liability will depend on factors including the type of benefits promised, the ages of OPEB-eligible active employees and retirees, and how long the unfunded obligation has been accumulating. However, the timing of an LEA’s future cash outflows for OPEB can have fiscal solvency implications as important as the size of the liability. For example, an LEA that has no OPEB-eligible active employees might still have a significant near-term obligation for benefits for eligible retirees. In addition, as discussed on page 5, GASB 45 allows amortization of the UAAL using either an open or closed amortization period. It would take an LEA substantially longer to amortize its unfunded liability using open amortization. Any review of an LEA’s financing strategy must take these factors into account.

As discussed on page 7, the CDE encourages all LEAs that have OPEB obligations to obtain an actuarial valuation now regardless of when they must implement GASB 45. Once a valuation has been performed, the LEA will be in a position to assess what OPEB financing strategy might be best.

A separate CDE letter dated February 23, 2007, discusses the new state Fiscal Solvency Grants that are available to LEAs to reimburse certain costs of developing an OPEB financing plan. This letter will be available on the CDE Web site at [http://www.cde.ca.gov/fg/fo](http://www.cde.ca.gov/fg/fo).
Earmarking vs. Irrevocable Contribution

As noted, GASB 45 does not require that employers contribute earmarked assets irrevocably to a trust or equivalent arrangement, but employers that do not contribute earmarked assets irrevocably will report an OPEB obligation on the government-wide statement of net assets.

The CDE advises that LEAs should consider several factors when deciding whether to contribute earmarked assets irrevocably to an OPEB plan.

- There may be credit implications when rating agencies consider that an LEA has earmarked assets but has not contributed them irrevocably.
- By not contributing earmarked assets irrevocably, the LEA leaves open the possibility that the assets, while committed now, could be redirected to some other purpose in the future.
- The greater the long-term earnings on the assets expected to be available to pay benefits, the smaller the LEA’s future required contributions.
- An OPEB trust can be structured with a reversionary interest in which any plan assets remaining after all benefits have been paid would revert to the LEA. Such a trust meets the “irrevocability” requirements of GASB 45.

FUTURE CDE EFFORTS REGARDING GASB 45

The CDE will continue to identify issues relating to OPEB and GASB 45 and will communicate those issues and any new guidance through future correspondence, information on the CDE Web site, and future releases of CSAM.

If you have questions or need assistance with the guidance in this letter, please contact the Office of Financial Accountability and Information Services at 916-322-1770 or by e-mail at sacsinfo@cde.ca.gov.

Sincerely,

Scott Hannan, Director
School Fiscal Services Division