

BOND FINANCING AGREEMENT

Dated as of September [23], 2011

By and Among

CITY OF MILWAUKEE, WISCONSIN,

R & B WAGNER, INC.,

TCF NATIONAL BANK

and

TCF INVESTMENTS MANAGEMENT, INC.

Relating to:

\$2,615,000

City of Milwaukee, Wisconsin
Industrial Development Revenue Refunding Bond, Series 2011
(R & B Wagner, Inc. Project)

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BOND FINANCING AGREEMENT

BOND FINANCING AGREEMENT dated as of September [23], 2011 (as amended from time to time, the “**Agreement**”) made by and among R & B WAGNER, INC., a Wisconsin corporation (the “**Borrower**”), the CITY OF MILWAUKEE, WISCONSIN, a municipal corporation and political subdivision of the State of Wisconsin (the “**City**”), TCF NATIONAL BANK, a national banking association (the “**Bank**”), and TCF INVESTMENTS MANAGEMENT, INC., a Minnesota corporation (the “**Purchaser**”).

WITNESSETH

WHEREAS, Section 66.1103 of the Wisconsin Statutes (the “**Act**”) authorizes the City to issue revenue bonds to finance all or any part of the construction, equipping, reequipping, acquisition, purchase, installation, reconstruction, rebuilding, rehabilitation, improving, supplementing, replacing, maintaining, repairing, enlarging, extending, or remodeling of qualified projects and the improvement of sites therefor, and to refund bonds previously issued for such purpose; and

WHEREAS, the Act authorizes the City to enter into a revenue agreement with an eligible participant wherein the eligible participant agrees (i) to provide the City with revenues sufficient for the prompt payment of the principal of and interest on the revenue bonds; and (ii) to cause such qualified project to be completed; and

WHEREAS, on July 26, 2001, the City issued its Variable Rate Demand Industrial Development Revenue Bonds, Series 2001 (R & B Wagner, Inc. Project) in the principal amount of \$5,000,000 (the “**Prior Bonds**”), and lent the proceeds of the sale of the Bonds to the Borrower for the purpose of paying the costs of acquisition of land, renovation and expansion of an existing manufacturing facility and acquisition and installation of new machinery and equipment to be used in connection with the Borrower’s business of manufacturing and distribution of hand-rail products and systems and contract manufacturing in the specialty area of tube bending and fabricating (the “**Project**”); and

WHEREAS, the City has received substantial municipal benefits from the Project, including by way of illustration but not limitation: the continued and enhanced availability of the services provided by the Borrower, retention of and more steady employment of its citizens resulting in the alleviation of unemployment within the City; stimulation for expansion of existing and new business; stimulation of private investment funds from financial institutions; and betterment of the City’s environment and economy; and

WHEREAS, the City’s governing body has previously found and determined that the Project is a qualified project under the Act and that the Borrower is an eligible participant under the Act pursuant to an Initial Resolution adopted on December 12, 2000 and the Bond Resolution adopted on July 25, 2001 (collectively, the “**Prior Resolutions**”) and finds that this Agreement meets the requirements of a revenue agreement under the Act pursuant to an Initial Resolution adopted on July 26, 2011 and the Bond Resolution adopted on September [20], 2011 (collectively, the “**Resolutions**”); and

WHEREAS, the Borrower has determined that it would be beneficial to refinance the Project by issuing revenue refunding bonds (the “**Bond**”) to refund the Prior Bonds (the “**Refunding**”); and

WHEREAS, the City’s governing body has found and determined the refinancing of the Project through the Refunding will serve the intended accomplishments of public purpose and will in all respects conform to the provisions and requirements of the Act; and

WHEREAS, the execution and delivery of this Agreement have been in all respects duly and validly authorized by the Resolutions, and the City has authorized the issuance of the Bond to refinance the Project; and

WHEREAS, the City intends to sell the Bond to the Purchaser and to lend the proceeds from the sale of the Bond to the Borrower to effect the Refunding as described herein (such loan being herein referred to as the “**Loan**”) which loan will be repaid by the Borrower in accordance with the terms hereof and evidenced by the promissory note of the Borrower (the “**Promissory Note**”); and

WHEREAS, payment of the Bond will be secured, in part, by an assignment of the Promissory Note and the City’s rights hereunder (other than its rights to payment of certain fees and expenses and to indemnification) to the Purchaser and its successors and assigns; and

WHEREAS, the obligations of Borrower hereunder will be secured by a grant to the Purchaser of a mortgage lien on, assignment of rents in respect to, and security interest in the real and personal property and fixtures comprising the Project pursuant to a Mortgage of Real Property, Security Agreement and Assignment of Rents and Profits, dated as of the date hereof, on the real estate located at 10600 West Brown Deer Road, Milwaukee, Wisconsin (the “**Property**”) (as amended from time to time, the “**Mortgage**”) from Borrower to the Bank (for itself and as agent for the Purchaser), and a security interest in substantially all other personal property of Borrower pursuant to a General Business Security Agreement, dated as of the date hereof from the Borrower to the Bank (for itself and as agent for the Purchaser) (as amended from time to time, together with the Mortgage, the “**Collateral Documents**”), which the Borrower acknowledges secure its obligations to the Purchaser hereunder; and

WHEREAS, all acts and procedures have been done and performed which are necessary to make the Bond, when executed and delivered by the City as in this Agreement provided, the legal, valid, and binding limited obligation of the City in accordance with the terms thereof and to make this Agreement a valid and binding agreement;

NOW, THEREFORE, in consideration of the issuance and delivery of the Bond by the City, the purchase and acceptance of the Bond by the Purchaser, the making of the Loan by the City, the execution and delivery of the Promissory Note by the Borrower, and the mutual covenants and agreements herein contained, and intending to be legally bound, the parties hereby agree as follows:

**ARTICLE I
DEFINITIONS**

Section 1.01 Definitions.

In this Agreement, the following words and terms shall have the meanings specified in the foregoing recitals:

Act	Mortgage
Agreement	Project
Borrower	Promissory Note
City	Property
Collateral Documents	Purchaser
Loan	Resolutions

In addition, the following words and terms shall have the following meanings, unless a different meaning clearly appears from the context:

“**Annual Period**” means the period from the Original Issue Date to (but not including) September 1, 2012 and thereafter each period from (and including) a September 1 to (but not including) the next succeeding September 1.

“**Assigned Interests**” is defined in Section 6.01(a) hereof.

“**Bank**” means TCF National Bank, a national banking association.

“**Bond**” means the \$2,615,000 City of Milwaukee, Wisconsin Industrial Development Revenue Refunding Bond, Series 2011 (R & B Wagner, Inc. Project).

“**Bond Counsel**” means counsel whose legal and tax opinion on municipal bond issues is nationally recognized; initially, Foley & Lardner LLP.

“**Bond Year**” means the one-year period commencing on September [23] of each year.

“**Business Day**” means any day other than (i) a Saturday or Sunday or (ii) a day on which banking institutions located in the State are required or authorized by law to close.

“**Chief Municipal Official**” means the person at the time incumbent in the office of Mayor of the City or, in the event of the death, disability or absence of such person, the person duly authorized and legally empowered to perform the duties of such office in such event.

“**Clerk**” means the person at the time incumbent in the office of Clerk of the City or, in the event of the death, disability or absence of such person, the person duly authorized and legally empowered to perform the duties of such office in such event.

“**Code**” means the Internal Revenue Code of 1986, as amended, and all applicable regulations promulgated thereunder.

“**Collateral**” means the properties, rights, and other assets in which the Purchaser is granted a lien and security interest pursuant to the Collateral Documents and the other Financing Documents.

“**Credit Agreement**” means the Credit and Term Loan Agreement, dated as of the Original Issue Date, among the Borrower, the Bank, and the Purchaser, as amended from time to time in accordance with the terms thereof.

“**Credit Spread**” means (a) 2.50% per annum or (b) upon receipt by the Owner of an opinion of Bond Counsel that using such other credit spread will not adversely affect the status of the Bond as a “qualified tax-exempt obligation,” such other credit spread as determined by the Owner for a borrower similarly situated to the Borrower, based on the Owner’s then-current underwriting standards, and with credit committee oversight, including without limitation, factors such as the current credit profile and current and historical operating performance and duration of the Reset Period.

“**Counsel**” means an attorney or firm of attorneys duly admitted to the practice of law before the highest court of any state in the United States of America or the District of Columbia.

“**Default Rate**” means as of any date, the lesser of (1) 25% per annum or (2) the Initial Interest Rate, Floating Rate, Fixed Rate or Taxable Rate, as then applicable, plus 6% per annum.

“**Environmental Indemnity Agreement**” means the Environmental Indemnity Agreement dated as of the Original Issue Date given by the Borrower in favor of the Bank and the Purchaser relating to the Property.

“**Event of Default**” means any of the events enumerated in Section 10.01 hereof.

“**Final Maturity Date**” means September 1, 2031.

“**Financing Documents**” means this Agreement, the Collateral Documents, the Tax Agreement, the Environmental Indemnity Agreement, and the Credit Agreement.

“**Fiscal Agent**” means the Bank or any successor fiscal agent appointed pursuant to Section 3.10.

“**Fixed Rate**” means, for any Reset Period, a rate per annum equal to the lesser of (1) 25% per annum or (2) the product of the Multiplier multiplied by the greater of (a) the sum of (i) the Credit Spread plus (ii) the applicable Treasury Rate for such Reset Period or (b) 5.25% per annum.

“**Floating Rate**” means a rate per annum equal, for each Quarterly Interest Period, to the lesser of (1) 25% per annum or (2) the product of the Multiplier multiplied by the greater of (a) the sum of the LIBOR Rate for such Quarterly Interest Period plus 2.75% per annum or (b) 4.0% per annum.

“**Indemnified Parties**” means the City, the Purchaser, the Owner, the Fiscal Agent, any person who “controls” the City, the Purchaser, the Owner, or the Fiscal Agent within the meaning of Section 15 of the Securities Act of 1933, as amended, any member, officer, director, official, agent, or employee of the City, the Purchaser, the Owner, or the Fiscal Agent, and their respective executors, administrators, heirs, successors, and assigns.

“**Initial Interest Rate**” means the rate of [3.675]% per annum.

“**Interest Payment Date**” means the first Business Day of each month, commencing November 2011.

“**LIBOR Rate**” means, for any Quarterly Interest Period, the three-month LIBOR rate as shown on the display designated as [“British Bankers Association Interest Settlement Rates”] on Reuters Screen LIBOR01 Page or any successor page or reporting service; provided, however, that if such rate is not available then such rate shall be otherwise independently determined by the Owner from an alternate, substantially similar independent source or shall be calculated by a substantially similar methodology as that theretofore used to determine such offered rate. The LIBOR Rate shall be determined on the second Business Day preceding the first day of each Quarterly Interest Period.

“**Multiplier**” means, at the time of determination, the Owner’s multiplier for tax exempt obligations that are not “qualified tax-exempt obligations,” which shall be the same multiplier for tax exempt obligations which are not “qualified tax-exempt obligations” quoted to customers of the Owner for such obligations; initially, the Multiplier shall be .70.

“**Original Issue Date**” means September [23], 2011.

“**Owner**” means the Purchaser or, if the Purchaser has transferred the Bond as provided in Section 3.06 hereof, the Person in whose name the Bond is registered in accordance with this Agreement.

“**Outstanding**,” when used with reference to the amount of the Bond, shall mean, as of the time in question, the amount of Bond for which the Purchase Price has been advanced under Section 4.01 hereof, and which has not been paid at maturity, upon acceleration of maturity pursuant to Section 10.02 hereof, or upon redemption in accordance with Section 3.09 hereof.

“**Person**” means a natural person, firm, association, corporation, limited liability company, partnership, trust, public body, or other entity of whatever nature.

“**Pledged Revenues**” means all revenues and income derived by or for the account of the City from or for the account of the Borrower pursuant to the terms of this Agreement, the Promissory Note, and the Collateral Documents, but excluding any amounts derived by the City for its own account pursuant to the enforcement of Reserved Rights.

“**Prior Bonds**” means the \$5,000,000 City of Milwaukee, Wisconsin Industrial Development Revenue Bonds, Series 2001, dated July 26, 2001, currently outstanding in the aggregate principal amount of \$2,615,000.

“**Prior Trustee**” means The Bank of New York Mellon Trust Company, N.A. (formerly Bank One Trust Company, N.A.).

“**Project Enterprise**” means manufacturing railing systems and related products.

“**Purchase Price**” is defined in Section 4.01 hereof.

“**Quarterly Interest Period**” means, for any Reset Period during which the Floating Rate will be in effect pursuant to Section 301(d) hereof, the period from (and including) the Reset Date on which such Reset Period commences to (but not including) the Interest Payment Date in the succeeding December, and thereafter each period from (and including) the Interest Payment Date in March, June, September, or December of any year to (but not including) the next Interest Payment Date in March, June, September, or December.

“**Record Date**” means, with respect to any Interest Payment Date, the Business Day preceding such Interest Payment Date.

“**Refunding**” means the current refunding of the Prior Bonds.

“**Reserved Rights**” means the rights of the City (1) to execute and deliver supplements and amendments to this Agreement pursuant to Section 11.01 hereof, (2) to be held harmless and indemnified pursuant to Section 9.09 hereof, (3) to receive any funds for its own use, as reimbursement or indemnification pursuant to Section 5.04 hereof, (4) to receive notices and other documents, (5) to provide any consent, acceptance, or approval with respect to matters as provided herein, and (6) under Section 12.06 hereof.

“**Reset Date**” means each of September 1, 2016, September 1, 2021 and September 1, 2026 (or, if any such day is not a Business Day, the next succeeding Business Day).

“**Reset Period**” means each period from (and including) a Reset Date to (but excluding) the next Reset Date or the Final Maturity Date, as the case may be.

“**Scheduled Redemption Dates**” means the Interest Payment Dates on which the Bond is subject to mandatory scheduled redemptions of principal in accordance with Section 3.09(c) hereof and Exhibit C attached hereto, which are the first Business day of each month, commencing October 1, 2016.

“**State**” means the State of Wisconsin.

“**Tax Agreement**” means the Tax Compliance Agreement executed by the City and the Borrower concurrently with the delivery of the Bond, relating to the compliance by the City and the Borrower with the provisions of the Code as required to ensure the exclusion of the interest on the Bond from gross income for federal income tax purposes.

“**Taxable Event**” means the circumstance of interest paid or payable on the Bond becoming includable in the gross income of any Owner for federal income tax purposes as a consequence of any act, omission or event whatsoever including, without limitation, a failure by the

City or the Borrower to observe and comply with any covenant, agreement, or representation in this Agreement or the Tax Agreement.

“**Treasury Rate**” means, for any Reset Period, a rate per annum equal to the rate set forth for 5-year constant maturity U.S. Treasury obligations in Federal Reserve Statistical Release H.15 as most recently published as of the Reset Date (which rate is currently shown at www.federalreserve.gov/releases/h15/update); provided, however, that if such rate is not available, then such rate shall be otherwise independently determined by the Owner from an alternate, substantially similar independent source or shall be calculated by a substantially similar methodology as that theretofore used to determine such rate

“**Taxable Rate**” means, at any time, the interest rate that would otherwise be in effect if the Multiplier were equal to 1.0.

“**Title Insurer**” means Chicago Title Insurance Company.

“**Uniform Commercial Code**” means the Uniform Commercial Code as in effect in the State.

Section 1.02 Rules of Construction.

In this Agreement (except as otherwise expressly provided), the following rules shall apply unless a different meaning clearly appears from the context:

- (a) The section titles and other headings contained in this Agreement and the table of contents preceding this Agreement are for reference purposes only and shall not control or affect the construction of this Agreement or the interpretation thereof in any respect.
- (b) References to the plural include the singular, the singular the plural, and the part the whole.
- (c) Any pronoun shall be deemed to include both the singular and plural and to cover all genders.
- (d) The words “**hereof**,” “**herein**,” and “**hereunder**” and similar terms in this Agreement refer to this Agreement as a whole and not to a particular provision of this Agreement.
- (e) All references to the time of any day shall mean Central Standard or Daylight Saving Time, as prevailing on the applicable date in Milwaukee, Wisconsin.

**ARTICLE II
REPRESENTATIONS AND WARRANTIES**

Section 2.01 Representations and Warranties of the City.

The City represents and warrants to the Borrower, the Purchaser, and the Owner as follows:

(a) Valid Existence. The City is a city, duly created and validly existing pursuant to the Constitution and laws of the State.

(b) Due Authorization. The City is duly authorized under the Constitution and laws of the State (including, specifically, the Act) to issue the Bond, to execute this Agreement and the Tax Agreement, and to pledge and assign the Assigned Interests. All action on the City's part for the adoption and approval of the Resolutions, the issuance of the Bond, the making of the Loan, and the execution, delivery, and performance of this Agreement and the Tax Agreement has been duly and effectively taken, and the Bond, in the hands of the Owner thereof, is and will be the valid and enforceable obligation of the City according to the tenor and import thereof.

(c) No Conflict or Violation. The execution and delivery of this Agreement, the Tax Agreement, and the Bond, and compliance with the provisions hereof and thereof, will not conflict with or constitute on the part of the City a violation of the Constitution of the State or violation, breach of, or default under any statute, indenture, mortgage, deed of trust, or other agreement or instrument to which the City is a party or by which the City is bound, or, to the knowledge of the City, any order, rule, or regulation of any court or governmental agency or body having jurisdiction over the City or any of its activities or properties, and all consents, approvals, authorizations, and orders of governmental or regulatory authorities which are required to be obtained by the City for the consummation of the transactions contemplated thereby have been obtained.

(d) No Litigation. There is no action, suit, proceeding, or investigation at law or in equity or before or by any court or public board or body pending or threatened against or affecting the City, nor, to the best knowledge of the City, is there any basis therefor, wherein an unfavorable decision, ruling, or finding would adversely affect the transactions contemplated hereby, or which in any way would contest or adversely affect the validity of either Resolution, this Agreement, the Tax Agreement, or the Bond or the power of the City to issue the Bond and make the Loan to finance the Project, or to execute and deliver any agreement or instrument to which the City is a party and which is used or contemplated for use in consummation of the transactions contemplated hereby, or the exclusion of interest on the Bond from the gross income of the Owner for purposes of federal income taxation.

(e) Continuing Authority. No authority or proceedings for the issuance of the Bond or documents executed in connection therewith has been repealed, revoked, rescinded, or superseded.

The City makes no representation as to (i) the financial position or business condition of the Borrower, (ii) the value of the Project or the Collateral, or (iii) the correctness, completeness or accuracy of any of the statements, materials (financial or otherwise), representations, or certifications furnished or made by the Borrower in connection with the sale or transfer of the Bond, the execution and delivery of this Agreement, or the consummation of the transactions contemplated hereby.

Section 2.02 Borrower Representations.

The Borrower represents and warrants to the City, the Purchaser, and the Owner as follows:

(a) Organization and Existence. The Borrower is a Wisconsin corporation duly organized and existing in good standing under the laws of the State,

(b) Authority. The Borrower has full power and legal right to issue the Promissory Note, to enter into this Agreement and the other Financing Documents, and to perform its obligations hereunder and thereunder. The execution and delivery by the Borrower of the Promissory Note, this Agreement, and the other Financing Documents and the performance by the Borrower of its obligations hereunder and thereunder have been duly authorized by proper corporate action.

(c) No Conflict or Violation; No Collective Bargaining Agreements. The execution and delivery of the Promissory Note, this Agreement, and the other Financing Documents and the consummation of the transactions contemplated hereby and thereby does not conflict with or cause or constitute a breach of or default under the articles of incorporation or bylaws of the Borrower or any bond, contract, indenture, agreement or other instrument to which it is a party or by it or its property is bound.

(d) Litigation or Proceedings. There is no action, suit, proceeding, or investigation at law or in equity before or by any court, arbitration board or tribunal, or public board or body pending or, to the actual knowledge of the Borrower, threatened against or affecting the Borrower nor, to the knowledge of the Borrower, is there any basis therefor, wherein an unfavorable decision, ruling, or finding would (i) adversely affect the transactions contemplated hereby, (ii) adversely affect in a material way the financial condition of the Borrower or its ability to perform its obligations under the Promissory Note, this Agreement, and the other Financing Documents, or (iii) adversely affect the exclusion of interest on the Bond from gross income for purposes of federal income taxation.

(e) Legal and Binding Obligation. The Promissory Note and each of the Financing Documents is a legal, valid, and binding obligation of the Borrower, enforceable against the Borrower in accordance with its terms except as the same may be limited by bankruptcy, insolvency, reorganization, moratorium, or other laws relating to or affecting the enforcement of creditors' rights generally and except to the extent that the enforceability thereof may be limited by the application of general principles of equity.

(f) Accuracy of Project Description and Expenditure of Prior Bond Proceeds. The description of the Project as set forth in Exhibit D hereto is accurate in all material respects, and the application of the proceeds of the Prior Bonds as set forth in said Exhibit D is an accurate summary of the Borrower's application of the proceeds of the Prior Bonds.

(g) Payment of Taxes. Except for such amounts as the Borrower is contesting in good faith through proper proceedings, the Borrower has filed all federal, state, and local tax returns which are required to be filed, and has paid all taxes as shown on said returns or on any assessment received by it, to the extent that such taxes have become due. The Project and the Project site are, and the Borrower will take all necessary actions so that they will continue to be at all times while any amount of the Bond is Outstanding, exempt from any and all personal property taxes and real property taxes imposed by the City and all other governmental entities having jurisdiction over the Project and the Project site.

(h) No Default. The Borrower is not in default in the performance, observance or fulfillment of any of the obligations, covenants, or conditions contained in any agreement or instrument to which it is a party or by which it is bound, to the extent such default would result in a materially adverse impact on the financial position or condition of the Borrower.

(i) Representations in Other Documents. All representations made to the Purchaser in the other Financing Documents are true, correct, and complete as of the date hereof. Neither any Financing Document, nor any other document, certificate, or statement furnished to the City or the Purchaser by or on behalf of the Borrower, contains any untrue statement of a material fact with respect to the Borrower or the Project or omits to state a material fact with respect to the Borrower or the Project necessary in order to make the statements contained herein and therein not materially misleading.

It is specifically understood by the Borrower that all of the foregoing statements, representations, and warranties have been relied upon by the City as an inducement to make the Loan and issue the Bond and by the Purchaser as an inducement to purchase the Bond and enter into the Financing Documents to which it is a party.

Section 2.03 Purchaser Representations.

The Purchaser represents and warrants to the City and the Borrower as follows:

(a) Independent Investigation. The Purchaser has made an independent investigation and evaluation of the financial position and business condition of the Borrower and the value of the Collateral. All information relating to the business and affairs of the Borrower that the Purchaser has requested in connection with the transactions referred to herein have been provided to the Purchaser. The Purchaser hereby expressly acknowledges that the City has no responsibility to provide such information and no liability for failure to provide such information.

(b) Purchase for Own Account. The Purchaser is purchasing the Bond for its own account, for the purpose of investment and not with the intention of distribution or resale thereof; it being understood that the Purchaser shall have the right at any time or times to sell, assign, pledge, or otherwise transfer all or any part of its interest in the Bond (including, without limitation, to transfer the Bond in accordance with Section 3.06 hereof or to sell participations in the Bond to other financial institutions) and, in connection therewith, to assign or otherwise transfer its rights hereunder.

ARTICLE III THE BOND

Section 3.01 Authorization and Terms.

(a) In order to provide funds to effect the Refunding, the Bond is hereby authorized to be issued in the aggregate principal amount of \$2,615,000. The Bond shall be issued as a fully-registered Bond, without coupons, substantially in the form set forth as Exhibit A hereto, with appropriate insertions and deletions. The Bond shall be issued in the form of a single bond in the denomination equal to the entire authorized principal amount thereof. The Bond shall represent a limited obligation of the City, as provided in Section 3.02 hereof. The Owner thereof shall note on the schedule attached to the Bond all payments of principal thereon pursuant to Section 3.09 hereof, and the other matters described therein.

(b) The Bond shall mature on the Final Maturity Date, subject to redemption prior to maturity as provided in Section 3.09 hereof.

(c) The outstanding amount of the Bond shall bear interest from and including the Original Issue Date, or from the most recent Interest Payment Date to which interest has been fully paid, until payment of the entire principal amount thereof shall have been made as provided herein, payable on each Interest Payment Date, at a rate per annum (subject to adjustment as provided in Section 3.01(e) or (f) below) equal to (i) during the period from (and including) the Original Issue Date to (but not including) the initial Reset Date, the Initial Interest Rate, and (ii) during any Reset Period, at the Fixed Rate for such Reset Period or the Floating Rate in effect from time to time during such Reset Period, as selected by the Borrower or otherwise established pursuant to Section 3.01(d). Interest shall be computed on the basis of a 360-day year for the actual number of days elapsed.

(d) Not less than 45 days (or such shorter period as the Owner shall approve, in its sole discretion) nor more than 60 days before each Reset Date, the Borrower shall notify the Owner of its selection of either the Fixed Rate or the Floating Rate to be in effect during the Reset Period commencing on such Reset Date. To be effective to select a Fixed Rate, the notice shall be accompanied by a written opinion of Bond Counsel, addressed to the Purchaser, to the effect that the establishment of the conversion of the interest rate on the Bond to the new Fixed Rate will not result in a Taxable Event. As a condition to the effectiveness of such Fixed Rate, such Bond Counsel opinion shall be confirmed as of the Reset Date, taking into account the Fixed Rate determined pursuant to Section 3.01(h). If the Borrower selects the Floating Rate,

fails to select a rate option, or fails to cause any of the conditions in this Section 3.01(d) to establishing the Fixed Rate to be satisfied, the Bond shall, commencing on the Reset Date (but subject to adjustment as provided in Section 3.01(e) or (f) below), bear interest at the Floating Rate during the related Reset Period.

(e) Upon the occurrence of a Taxable Event, the interest rate on the Bond shall (subject to adjustment as provided in Section 3.01(f) below), effective on the date as of which interest on the Bond first becomes includable in the gross income of the Owner, be converted to a rate equal to the Taxable Rate then in effect. If the City, the Owner, or the Borrower becomes aware of the occurrence of a Taxable Event, such party shall immediately give written notice to the other parties of such occurrence. Any amounts of additional interest due in respect of prior interest periods by reason of the retroactive application of the change in interest rate shall be payable on the first Interest Payment Date occurring more than thirty days after such Taxable Event or, at the option of the Borrower, in a lump sum on any earlier date.

(f) Upon the occurrence and during the continuance of an Event of Default, the interest rate on the Bond shall, effective on the date of such Event of Default, be converted to a rate equal to the Default Rate.

(g) Overdue installments of principal and, to the extent permitted by law, overdue interest payments, shall bear interest at the Default Rate.

(h) The Owner shall determine the interest rate in effect on the Bond from time to time. The Owner shall determine, and notify the Borrower of, the Fixed Rate or Floating Rate, as applicable, on the commencement date of each Reset Period. The Owner shall, upon request, notify Borrower of the Floating Rate, Taxable Rate, or Default Rate, if applicable, in effect from time to time. Determinations of the Fixed Rate, the Floating Rate, the Taxable Rate, and the Default Rate by the Owner shall be conclusive and binding upon the City and the Borrower, absent manifest error.

Section 3.02 Bond to be a Limited Obligation of City.

In accordance with the Act, the Bond shall be a limited obligation of the City, payable by it solely from the Pledged Revenues. The Bond shall not constitute a debt or obligation of the City, the county in which it is located, the State, or any political subdivision thereof within the meaning of any State Constitutional provision or statutory limitation and shall not be a charge against their general credit or taxing powers.

Section 3.03 Payment and Dating of the Bond.

The Bond shall be dated the Original Issue Date. Principal of the Bond shall be payable to the Owner thereof, without the need for presentation or surrender of the Bond, on Scheduled Redemption Dates, on the Final Maturity Date or on any other redemption date established pursuant to Section 3.09 hereof. Interest on the Bond shall be payable on each Interest Payment Date, to the Person who was the Registered Owner as of the Record Date for such Interest Payment Date, without the need for presentation or surrender of the Bond. Payments of principal of, and premium, if any, and interest on, the Bond shall be payable by the Fiscal Agent, as paying agent, by bank wire transfer of immediately available funds to the bank

account designated by the Owner (any such designation provided by the Owner shall be effective for each payment date thereafter until written notice to the contrary is provided to the Borrower), or in such other manner as the Fiscal Agent and the Owner shall agree. If any such payment date is not a Business Day, then the payment otherwise due on such date shall be due on the next succeeding Business Day, and interest shall continue to accrue on any such principal amount until payment thereof is actually received, and shall be payable on the date payment of principal is received. Payment as aforesaid shall be made in such coin or currency of the United States of America as, at the respective times of payment, shall be legal tender for the payment of public and private debts.

Section 3.04 Execution.

The Bond shall be executed on behalf of the City by its Chief Municipal Official, by his or her manual or facsimile signature and the corporate seal of the City or a facsimile thereof shall be impressed thereon or affixed thereto, attested by its Clerk by his or her manual or facsimile signature, and countersigned by its Comptroller by his or her manual or facsimile signature; provided, that at least one of such signatures shall be manual. In case any officer whose signature (or facsimile thereof) shall appear on the Bond shall cease to be such officer before the delivery of the Bond, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery.

Section 3.05 Mutilated, Lost, Stolen or Destroyed Bond.

If mutilated, the Bond may be surrendered to the City, and thereupon the City shall execute and deliver to the Owner in exchange therefor a new Bond of like date, interest rate, maturity, and denomination as that mutilated, upon surrender or cancellation of such mutilated Bond.

If there shall be delivered to the City (a) evidence to its satisfaction of the destruction, loss, or theft of the Bond, and (b) such security or indemnity as may be required by it to save it harmless, then in the absence of notice to the City that the Bond has been acquired by a bona fide purchaser, the City shall execute and deliver to the Owner in lieu of the destroyed, lost, or stolen Bond, a replacement Bond of like date, interest rate, maturity, and denomination as that destroyed, lost, or stolen. In the event any such mutilated, destroyed, lost, or stolen Bond shall have matured, instead of the City issuing a replacement Bond the Fiscal Agent, as the City's paying agent, may pay the same.

Upon the issuance of a new Bond under this Section, the City may require of the Owner thereof the payment of a sum sufficient to cover any tax, fee, or other governmental charge that may be imposed in relation thereto and any other expenses connected therewith.

A new Bond issued pursuant to this Section in lieu of a mutilated, destroyed, lost, or stolen Bond shall constitute an original additional contractual obligation of the City whether or not the destroyed, lost, or stolen Bond shall be at any time enforceable by anyone, and shall be entitled to all benefits of this Agreement.

The provisions of this Section are exclusive and shall preclude (to the extent permitted by law) all other rights and remedies with respect to the replacement or payment of a mutilated, destroyed, lost, or stolen Bond.

Section 3.06 Transfer, Registration and Exchange.

The Fiscal Agent, as registrar, shall keep books for the registration and for the transfer of the Bond in accordance with the requirements of Section 149(a) of the Code at all times while any amount of the Bond remains Outstanding. During regular business hours, such registration books may be inspected and copied by the City or the Borrower.

The Bond shall be transferable only upon such books by the Owner thereof, in person or by its attorney duly authorized in writing, upon surrender thereof together with a written instrument of transfer in the form set forth in the Bond or in such other form as may be satisfactory to the Fiscal Agent, duly executed by the Owner or by its duly authorized attorney. Upon surrender for transfer of the Bond at the principal office of the Fiscal Agent, the City shall execute and deliver in the name of the transferee a new fully-registered Bond, with appropriate insertions and deletions.

Upon the transfer of the Bond under this Section, the City may require of any transferee the payment of a sum sufficient to cover any tax, fee, or other governmental charge that may be imposed in relation thereto and any other expenses connected therewith.

Section 3.07 Person Treated as Owner.

The City, the Fiscal Agent, and the Borrower may deem and treat the person in whose name the Bond is registered as the absolute owner thereof, whether the Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal of the Bond and for all other purposes, and all such payments so made to the Owner or upon its order shall be valid and effectual to satisfy and discharge the liability upon the Bond to the extent of the sum or sums so paid, and neither the City nor the Borrower shall be affected by any notice to the contrary.

Section 3.08 Destruction of the Bond.

Whenever the Bond shall be surrendered to the City or the Purchaser for replacement or transfer pursuant to Sections 3.05 or 3.06 hereof, the Bond shall be promptly cancelled and destroyed.

Section 3.09 Redemption of the Bond Before Maturity.

The Bond is not subject to redemption prior to maturity except as provided in this Section 3.09.

(a) Redemption at Borrower's Option. The Bond shall be subject to optional redemption, at the written direction of the Borrower, in whole or in part on any Business Day, at a price equal to 100% of the principal amount thereof to be redeemed, plus accrued interest to the date of redemption, plus any applicable premium pursuant to this Section 3.09(a). The

redemption price for (i) any such redemption of the Bond made with proceeds of a refinancing (whether through a subsequent bond issue or any other borrowing), or (ii) any redemption of in excess of 20% of the outstanding balance during any Annual Period (computed based upon the outstanding amount as of the beginning of such Annual Period), shall include a redemption premium of 4% during the first Annual Period commencing on the Original Issue Date or a Reset Date, as the case may be, 3% in the second Annual Period after the Original Issue Date or the most recent Reset Date, as the case may be, 2% in the third Annual Period after the Original Issue Date or the most recent Reset Date, as the case may be, and 1% in the fourth and fifth Annual Periods after the Original Issue Date or the most recent Reset Date, as the case may be. In the case of an optional redemption of the Bond in part, the principal amount so redeemed shall be applied to reduce the mandatory scheduled principal redemptions required to be made on the Scheduled Redemption Dates in the inverse order of the redemption dates.

(b) Mandatory Redemption on Reset Date. The Bond shall be subject to redemption in whole on any Reset Date, unless Owner shall have notified the Borrower, at least 90 days prior to such Reset Date, that it is waiving such mandatory redemption. The redemption price for any such redemption shall be equal to 100% of the principal amount of the Bond, together with accrued interest to the date of redemption.

(c) Mandatory Scheduled Redemption. The Bond shall be subject to mandatory redemption in part from time to time, at a redemption price equal to 100% of the principal amount so redeemed, and without premium, in the respective principal amounts and on the respective Scheduled Redemption Dates as described in Exhibit C attached hereto.

(d) Notice of Redemption Given by Borrower. Borrower shall provide the Owner with notice of the date of any redemption pursuant to paragraph (a) above by first class mail, sent at least 30 days (or such shorter period as the Owner shall approve, in its sole discretion) before such redemption date to the Owner at the registered address of the Owner appearing on the registration books maintained pursuant to this Agreement as of the close of business on the Business Day prior to such mailing. Such notice shall identify the Bond and this Agreement, refer to Section 3.09(a) hereof, and set forth the redemption date and the principal amount of the Bond to be redeemed.

(e) Effect of Notice and Redemption. Notice of redemption having been given as provided in paragraphs (d) above, the Bond or the portion thereof so called for redemption shall become due and payable on the redemption date and, if the redemption price is duly paid, interest shall cease to accrue thereon from and after the redemption date.

(f) Payment of Redemption Price. In connection with any redemption of the Bond in whole or in part, the redemption price shall be paid to the Owner on the applicable redemption date as provided in Section 3.03 hereof.

Section 3.10 Fiscal Agent.

The City hereby appoints the Bank, and the Bank hereby accepts the appointment, as fiscal agent for purposes of acting as paying agent and registrar with respect to the Bonds. The Bank may resign as Fiscal Agent at any time, and upon such resignation the City may

appoint a successor Fiscal Agent; provided, however, that if the Bank resigns as Fiscal Agent and a successor is not appointed hereunder, the Borrower shall act as Fiscal Agent.

ARTICLE IV SALE AND PURCHASE OF BOND

Section 4.01 Sale and Purchase of the Bond; Application of Proceeds.

In order to provide funds to effect the Refunding, the City agrees to issue the Bond, concurrently with the execution and delivery hereof, and to sell the Bond to the Purchaser. The Purchaser shall, subject to the terms and conditions hereof and of the Credit Agreement, purchase the Bond at a purchase price of 100% of the principal amount thereof (the “**Purchase Price**”).

The Purchase Price shall be advanced by the Purchaser as proceeds of the Bond, which proceeds shall be lent to the Borrower pursuant to Section 5.01 hereof. The City hereby directs that the Purchase Price be paid, on behalf of the City, [directly to the Prior Trustee.]

Section 4.02 Delivery of the Bond.

The City will issue and deliver the Bond to the Purchaser upon the payment of the Purchase Price therefor as provided in Section 4.01 hereof.

The delivery to the Purchaser of the following documents and/or items (in each case, satisfactory to Purchaser) shall be conditions to the issuance of the Bond:

- (a) Copies of the Resolutions, duly certified by the Clerk of the City;
- (b) Copies of the Borrower’s articles of incorporation and bylaws and resolutions of the board of directors of the Borrower authorizing and approving the execution and delivery of this Agreement and the other Financing Documents, all certified by the Secretary or Assistant Secretary of the Borrower;
- (c) Original executed counterparts of each Financing Document and such other appropriate documents as may reasonably be required by the Purchaser;
- (d) The Promissory Note, executed by the Borrower and endorsed by the City.
- (e) Opinions in form and substance satisfactory to the Purchaser dated as of the date of the closing of (i) counsel for the City, (ii) Bond Counsel, and (iii) counsel for the Borrower;
- (f) Evidence satisfactory to the Purchaser of the filing (or delivery to the Purchaser for filing) of all Uniform Commercial Code financing statements required to perfect the liens and security interests in personal property created under the Collateral Documents and the assignment by the City to the Purchaser of the Pledged Revenues and the other Assigned Rights hereunder;

(g) A loan policy of title insurance (or binding commitment therefor or endorsement to an existing policy) issued by the Title Insurer in the amount required by the Credit Agreement, insuring that the lien of the Mortgage on the Property will be a valid, first-priority lien in favor of the Purchaser, subject only to Permitted Exceptions (as defined in the Mortgage);

(h) Evidence satisfactory to the Purchaser of hazard and general liability insurance coverage, including a standard loss payee clause in favor of the Purchaser with respect to certain of the Collateral, as required by the Mortgage and the Credit Agreement;

(i) A current ALTA survey of the Property, prepared by a registered surveyor satisfactory to the Purchaser, which survey shall (i) be certified to the Purchaser and the Title Insurer, (ii) show, without limitation, the boundaries, dimensions and locations of any improvements, easements, rights of way, setback lines, adjoining sites, encroachments and extent thereof, established building lines and street lines, the distances to and the names of the nearest intersecting streets, all easements and encumbrances set forth in the title insurance commitment, (iii) contain a metes and bounds description of the Property, (iv) certify that the Property is not in a HUD-designated flood hazard area and (v) meet the requirements of the Title Insurer.

(j) A Phase I environmental assessment with respect to the Property, in form and substance satisfactory to the Purchaser; and

(k) Such other customary closing certificates, corporate documents and records, and documents as may be required under the terms of the Credit Agreement or the Disbursing Agreement, or as may reasonably be required by the Purchaser or by Bond Counsel.

ARTICLE V THE LOAN

Section 5.01 Making of the Loan.

The City hereby agrees to lend to the Borrower, and the Borrower hereby agrees to borrow from the City, on the terms hereof, the proceeds of the Bond in the principal amount of \$2,615,000 received from the Purchaser under the Loan, which proceeds shall be used to refund the Prior Bonds.

Section 5.02 Evidence of and Security for the Loan.

As evidence of the Loan, the Borrower hereby delivers the Promissory Note to the City. The City hereby acknowledges receipt of the Promissory Note. The obligations of the Borrower under the Promissory Note and this Agreement are secured by the Collateral Documents as provided therein.

Section 5.03 Loan Payments.

(a) The Borrower shall pay to the Fiscal Agent, as paying agent on behalf of the City, the following sums as Loan repayments hereunder at the following times, in immediately available funds:

(i) on each Interest Payment Date, an amount which is sufficient to pay the interest then due on the Bond.

(ii) on the Final Maturity Date (or on the date that maturity of the Bond is accelerated pursuant to Section 10.02 hereof), the Outstanding principal amount thereof; and

(iii) on the Scheduled Redemption Dates and any other redemption dates established for the Bond to be redeemed pursuant to Section 3.09 hereof, an amount equal to the redemption price due on such date.

(b) The Borrower's principal and interest payment obligations on the Promissory Note (and the City's principal and interest payment obligations on the Bond) shall be discharged to the extent that Owner actually receives proceeds of Collateral pursuant to the Collateral Documents, and such proceeds are applied to such obligations in accordance with the terms of the respective Collateral Documents and the Credit Agreement.

(c) Notwithstanding the foregoing, at such time, if any, as the Borrower is the Fiscal Agent, the City hereby directs that the Loan repayments be made, and the Borrower agrees to make such Loan repayments, directly to the Owner, for the account of the City, in satisfaction of the City's payment obligations with respect to the Bond.

(d) In any event, the sum of the Loan repayments payable under this Section 5.03 shall be sufficient to pay the total amount due with respect to such principal and redemption price of and interest (including but not limited to interest and late charges payable pursuant to the Bond on any overdue amount) on the Bond, as and when due, and the Borrower shall forthwith pay any deficiency to the Owner. If at any time the Bond has been fully paid and discharged within the meaning of the terms hereof, the Borrower shall not be obligated to make any further payments under this Section.

Section 5.04 Payment of Fees and Expenses.

(a) The Borrower shall pay to, or upon the order of, the City, upon request of the City, such amounts as may be required to pay or reimburse the City for its reasonable administrative expenses incurred from time to time in connection with the issuance of the Bond, the making of the Loan, and all other services or actions of the City in connection with this Agreement.

(b) Without limiting any provisions of the Credit Agreement or any other Financing Document with respect to costs and expenses of the Purchaser, the Borrower will (1) reimburse the Purchaser on demand for all out-of-pocket costs and expenses of the Purchaser in connection with the preparation, execution, issuance, delivery, recording, and

amendment of this Agreement, the Bond, the Mortgage, and the other Financing Documents (including the fees and expenses of counsel with respect thereto) and (2) reimburse the Owner on demand for the costs and expenses, if any, of the Owner in connection with the enforcement of the Bond, the Promissory Note, and the Financing Documents (including the reasonable fees and out-of-pocket expenses of legal counsel with respect thereto).

Section 5.05 No Abatement or Setoff.

The Borrower shall pay all Loan repayments and all additional sums required hereunder and under the other Financing Documents without suspension or abatement of any nature. So long as any amount of the Bond remains Outstanding, the obligation of the Borrower to pay all sums due from the Borrower hereunder shall be absolute and unconditional, for which the Borrower pledges its full faith and credit, and shall not be suspended, abated, reduced, abrogated, waived, diminished, or otherwise modified in any manner or to any extent whatsoever, regardless of any rights of setoff, recoupment, or counterclaim that the Borrower might otherwise have against the City, the Purchaser, the Owner, or any other party or parties and regardless of any contingency, act of God, event, or cause whatsoever and notwithstanding any circumstances or occurrence that may arise or take place after the date hereof, including but without limiting the generality of the foregoing:

- (a) any damage to or destruction of any part or all of the Project or the Borrower's other facilities;
- (b) the taking of any part or all of the Project or the Borrower's other facilities by the City or any other public authority or agency in the exercise of the power of or in the nature of eminent domain or by way of a conveyance in lieu of such exercise or otherwise;
- (c) any assignment, novation, merger, consolidation, or transfer of assets, whether with or without the approval of the City;
- (d) any failure of the City to perform or observe any agreement or covenant, whether express or implied, or any duty, liability, or obligation arising out of or in connection with this Agreement and the Bond;
- (e) any act or circumstances that may constitute an eviction or constructive eviction;
- (f) any failure of consideration, failure of title, or commercial frustration; or
- (g) any change in the tax laws or other laws of the United States or of any state or other governmental body.

ARTICLE VI
ASSIGNMENT BY CITY

Section 6.01 Assignment to Owner.

(a) As security for the payment when due of the principal of and the premium, if any, and interest on the Bond, and for the performance of the City's obligations hereunder and with respect to the Bond, the City hereby pledges, assigns, and conveys to the Owner, and grants to the Owner a security interest in, all right, title, and interest of the City in and to the Pledged Revenues, the Promissory Note, this Agreement, and the Collateral, and all sums payable by the Borrower with respect thereto and hereto (including the Pledged Revenues), other than the Reserved Rights of the City (collectively "**Assigned Interests**"). The City irrevocably directs that all payments by the Borrower hereunder (except for payments to the City pursuant to Sections 5.04(a) or 9.09 hereof) be paid directly to the Owner. If, notwithstanding these arrangements, the City shall receive any such payments, the City shall immediately pay over the same to the Owner.

(b) In furtherance of the foregoing, the City shall assign and deliver to the Purchaser the Promissory Note, endorsed without recourse as provided in the form thereof attached as Exhibit B hereto.

(c) The Borrower consents to such assignment and agrees to pay all amounts payable hereunder, except for payments with respect to Reserved Rights, directly to the Owner.

(d) The City agrees and covenants to take all actions reasonably requested by the Purchaser for the Purchaser to enjoy, receive, and/or be able to enforce the Assigned Interests at no additional costs to Purchaser, and to take no action which shall cause Purchaser not to enjoy, receive, and enforce the Assigned Interests.

(e) For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City hereby appoints Purchaser as its attorney-in-fact (coupled with an interest) to undertake and exercise all of the City's rights, title, interests, power, and remedies with respect to the Assigned Interests without further notice or consent.

Section 6.02 Priority of Pledge.

The pledge and assignment herein made of the Pledged Revenues and the other Assigned Interests shall at no time be impaired by the City and the Pledged Revenues and the other Assigned Interests shall not otherwise be pledged, and no Person shall have any rights with respect thereto except as provided herein. The City agrees and covenants not to further encumber, assign, transfer, mortgage, grant a security interest in, pledge, or otherwise transfer or dispose to any third party except Purchaser any of the Assigned Interests, and the Assigned Interests are unconditionally and irrevocably assigned by the City to the Purchaser free and clear of all claims and interests of third parties.

Section 6.03 Enforcement of Assigned Rights by Owner.

The City and the Borrower agree that the Owner may, in its own name or (to the extent permitted by law) in the name of the City, enforce all rights of the City and all obligations of the Borrower under and pursuant to this Agreement (except the Reserved Rights of the City, and the obligations of the Borrower related thereto) for and on behalf of the Owner, whether or not the City is in default hereunder. The Borrower waives any and all claims, objections or defenses based on the Owner asserting or enforcing any rights hereunder in the name of the City or in the Owner's own name or otherwise, or based on any need to join the City in any proceedings involving Borrower, the Collateral or the Assigned Interests.

Section 6.01 Instruments of Further Assurance.

The City covenants that it will do, execute, acknowledge, and deliver or cause to be done, executed, acknowledged, and delivered (at the expense of the Borrower), such further acts, instruments, and transfers as the Purchaser may reasonably require for the better assuring, transferring, conveying, pledging, assigning, and confirming unto the Owner all and singular the rights and revenues assigned hereby to the payment of the principal of, and premium, if any, and interest on, the Bond.

Section 6.02 Filing and Recording.

The City, as directed by and at the expense of the Owner, shall cause all documents, statements, memoranda, or other instruments to be registered, filed, or recorded in such manner and at such places as may be required by law to fully protect the security of the Owner and the right, title, and interest of the Owner in and to any moneys or securities held hereunder or any part thereof or in any other Collateral (including any re-filings, continuation statements, or such other documents as may be required). The City authorizes the filing by Purchaser of such Uniform Commercial Code financing statements as may be necessary or desirable to perfect the security interests created by Section 6.01 hereof. The City will execute such instruments as may be necessary in connection with such filing or recording.

Section 6.03 Reserved Rights; Enforcement by City.

The City may exercise all of its Reserved Rights under this Agreement, but the City shall not, without the consent of the Owner, amend any of the same so as to diminish the amounts payable thereunder or otherwise so as to adversely affect the City's or the Borrower's ability to perform their respective covenants under this Agreement.

In addition, the City may, with written consent of the Owner, take any legally available action to cause the Borrower to fully perform all duties and acts and fully comply with the covenants of the Borrower imposed by this Agreement and the Financing Documents in the manner and at the times provided therein.

**ARTICLE VII
THE PROJECT**

Section 7.01 Sale or Transfer of Project.

The Borrower shall not sell, lease, assign, or otherwise transfer all or any part of its interest in the Project, unless:

(a) the purchaser, lessee, transferee, or assignee, as the case may be, shall have expressly assumed in writing (delivered to the City and the Owner) all obligations of the Borrower contained in this Section 7.01(a) and Sections 7.02 and 9.01(d) hereof;

(b) if such sale, lease, transfer, or assignment involves (in a single transaction or any series of transactions) all or substantially all of the Borrower's assets, the purchaser, lessee, transferee, or assignee, as the case may be, shall have expressly assumed in writing (delivered to the City and the Owner) all of the obligations of the Borrower contained in this Agreement, the Promissory Note, and the Tax Agreement (after which it shall be the "Borrower" for purposes hereof and thereof);

(c) the Borrower shall have delivered to the City and the Owner an opinion of Bond Counsel to the effect that such transaction will not violate the Act, adversely affect the validity of the Bond, or result in a Taxable Event; and

(d) the Owner shall have consented thereto (which shall be at the Owner's sole discretion).

No such sale, lease, transfer, or assignment shall relieve the Borrower from primary liability for the performance of its obligations hereunder and under the Promissory Note unless the requirements set forth in paragraph (b) above are met, in which event the Borrower shall be released of all further obligation hereunder simultaneously with such purchaser, lessee, transferee, or assignee assuming such obligations.

Section 7.02 Agreements for the Benefit of the City.

The Borrower represents that it is currently using the Project, and intends to use the Project for so long as any amount of the Bond remains Outstanding, for the Project Enterprise. Notwithstanding such use, the Borrower shall have the right to use the Project for any lawful purpose which in the opinion of Bond Counsel will not affect adversely the validity of the Bond or result in a Taxable Event. As an inducement to the City to issue the Bond, the Borrower covenants to use its best efforts to continue to cause the Project Enterprise to be conducted in the City for so long as any amount of the Bond remains Outstanding.

The Borrower agrees, with respect to the continued operation of the Project, that persons otherwise entitled to any right, benefit, facility, or privilege shall not be denied such right, benefit, facility, or privilege in any manner for any purpose nor be discriminated against because of sex, race, color, creed, age, handicap, sexual orientation or national origin.

A breach of the covenants contained in this Section 7.02 shall not be or be deemed an “Event of Default” under this Agreement.

Section 7.03 No Warranty by City.

The Borrower recognizes that the City has not made a detailed inspection of the Project or the project plans and specifications, and the City makes no warranty or representation with respect to the same or the location, use, description, design, merchantability, fitness for use for any particular purpose, condition, or durability thereof, or as to the Borrower’s title thereto or ownership thereof, or otherwise with respect to the Project, it being agreed that all risks incident thereto are to be borne by the Borrower in the event of any defect or deficiency of any nature in the Project or any portion thereof, whether patent or latent, the City shall have no responsibility or liability with respect thereto.

**ARTICLE VIII
COVENANTS AND AGREEMENTS OF CITY**

Section 8.01 Payment of Principal and Interest.

The City covenants that it will promptly pay, or cause to be paid, the principal of, and premium, if any, and interest on, the Bond issued under this Agreement at the place, on the dates and in the manner provided herein and in the Bond according to the true intent and meaning thereof, but only from the amounts payable by the Borrower under this Agreement. *The principal of, and premium, if any, and interest on, the Bond are payable solely from the Pledged Revenues and the Financing Documents, and nothing in the Bond or this Agreement shall be considered as pledging any other funds or assets of the City.*

Section 8.02 Performance of Covenants by City.

The City covenants that it will faithfully perform at all times all covenants, undertakings, stipulations, and provisions contained in this Agreement, in the Bond, and in all proceedings of the City pertaining thereto.

Section 8.03 Tax-Exempt Status of Bond.

The City hereby covenants to abide by the agreements made by the City in the Tax Agreement, the terms and provisions of which are herein incorporated by reference. Without limiting the foregoing, the City covenants that it will take no action to cause any investment or other use of the proceeds of the Bond which would cause the Bond to be classified as an “arbitrage bond” within the meaning of Section 148 of the Code or any proposed, temporary, or final regulations issued thereunder.

Section 8.04 Continued Existence, etc.

The City agrees that it will do or cause to be done in a timely manner all things necessary to preserve and keep in full force and effect its existence so long as any amount of the Bond remains Outstanding and to carry out the terms of this Agreement.

Section 8.05 Inspection of Books.

The City covenants and agrees that all books and documents in its possession relating to the Project and the Bond shall at all reasonable times be open to inspection by such accountants or other agents as the Owner or the Borrower may from time to time designate.

**ARTICLE IX
ADDITIONAL COVENANTS OF THE BORROWER**

Section 9.01 Bond Not to Become Taxable; Rebate Determinations.

The Borrower hereby covenants to the City and to the Owner that it will comply with the Tax Agreement for so long as any amount of the Bond remains Outstanding and that it will not take or omit to take any action over which it has control, which action or omission, as the case may be, would impair the exclusion from gross income for federal income tax purposes of the interest on the Bond. The terms and provisions of the Tax Agreement are hereby incorporated by reference. Without limiting the generality of the foregoing:

(a) The Borrower will not make or direct any investment or other use of the proceeds of the Bond (or the Loan) which would cause the Bond to be an “arbitrage bond” under Section 148 of the Code or any proposed, temporary, or final regulations issued thereunder; that it will comply with the requirements of such Section 148 and regulations throughout the term of the Bond, and the Borrower shall take or cause to be taken the following actions on behalf of the City to provide for payment to the U.S. Treasury pursuant to Section 148(f) of the Code and any proposed, temporary or final regulations promulgated thereunder:

(i) An agent employed by the Borrower (and acceptable to the Owner) shall make a determination, on the fifth, tenth, and fifteenth anniversaries of the Original Issue Date and upon the final payment of the Bond, of the amount, if any, required to be paid to the United States Treasury, and the Borrower shall provide any such agent with information regarding the Bond and the application, disbursement, and investment of Bond proceeds reasonably requested by such agent for purposes of making such determinations; provided that, no such determination shall be required on any anniversary after the fifth anniversary if the Owner shall have received an opinion of Bond Counsel to the effect that no additional amount will be required to be paid to the United States Treasury on such dates pursuant to Section 148(f) of the Code.

(ii) An amount equal to the amount to be paid shall be paid by the Borrower to the U.S. Treasury on each date, and in the manner, required by Section 148(f) of the Code, or any successor provision, as indicated by an opinion of Bond Counsel.

(iii) The Borrower shall keep records of the determinations made under clause (a)(i) this Section 9.01 on behalf of the City, until six years after the final payment on the Bond.

(b) One hundred percent (100%) of the sum of (i) the proceeds from the sale of the Bond plus (ii) the investment income from the investment thereof, if any, will be used to pay the Prior Bonds.

(c) The Borrower shall not (i) use any of the proceeds of the Bond for any purpose other than the Refunding, or (ii) request, approve, or permit to be approved on its behalf any payment of the proceeds of the Bond if, as a result of such payment, the provisions of subsection (b) above would not be satisfied.

(d) that the Project will at all times while the Bond is outstanding be used as a “manufacturing facility” within the meaning of Section 144(a)(12)(C) of the Code.

Section 9.02 Deficiencies in Revenues.

If for any reason amounts paid by the Borrower hereunder would not be sufficient to make payments of principal of and interest and on the Bond when and as the same shall become due and payable at maturity or otherwise, the Borrower will pay promptly the amounts required from time to time to make up any such deficiency without any further demand or notice from any party.

Section 9.03 Books and Records; Financial Statements and Other Information.

The Borrower covenants that it shall keep proper books of record and account in which full, true and correct entries will be made of all dealings or transactions of or in relation to the business and financial affairs of the Borrower, in accordance with generally accepted accounting principles, consistently applied. The City and the Owner and their duly authorized agents shall have the right at all reasonable times and upon reasonable written notice to the Borrower to examine and make copies of the books and records of the Borrower relating to the Project. The Borrower shall furnish to the Owner the following:

(a) as soon as possible, but in any event within ten days after any such occurrence, notice of the occurrence of any Event of Default or Taxable Event or of any act, omission, thing, or condition which upon the giving of notice or lapse of time, or both, would or might constitute an Event of Default or Taxable Event, which notice shall describe the Event of Default or Taxable Event or other act, omission, thing, or condition in question and shall set forth in detail what action the Borrower proposes to take with respect thereto; and

(b) upon request of the Owner and within a reasonable time thereafter, such other information concerning the Borrower, its operations, financial condition, and business, the Project, and the other property of the Borrower as the Owner may request.

Section 9.04 Inspection.

The Borrower covenants that the City and the Owner, at reasonable times and for purposes of determining compliance with this Agreement, may inspect any part of the Project.

Section 9.05 Additional Information.

The Borrower, whenever requested by the City or the Owner, will provide and certify or cause to be provided and certified such information as the City or the Owner may reasonably request concerning the Borrower or the Project as the City or the Owner considers necessary to enable it to make any reports or supply any information required by this Agreement, law, or otherwise.

Section 9.06 Payment of Taxes and Impositions.

The Borrower shall pay or cause to be paid to the public officers charged with the collection thereof, promptly as the same become due, all taxes or alternative payments thereto, including but not limited to income, profits, or property taxes, if any, which may now or hereafter be imposed by the United States of America, any state or municipality, or any political subdivision or subdivisions thereof, and all assessments for public improvements or other assessments, levies, license fees, charges for publicly supplied water or sewer services, excises, franchises, imposts, and charges, general or special, ordinary or extraordinary (including interest, penalties, and all costs resulting from delayed payment of any of the foregoing), of whatever name, nature, and kind and whether or not now within the contemplation of the parties, hereto, which are now or may hereafter be levied, assessed, charged, or imposed or which are or may become a lien upon the revenues of the Borrower, the Project, or the Borrower's other facilities, or the use or occupation thereof or upon the Borrower or upon any franchises, businesses, transactions, income, earnings, and receipts (gross, net or otherwise) of the City in connection with this Agreement for payment or collection of which the City otherwise would be liable or accountable under any lawful authority whatever; provided, however, that the Borrower shall not be required to pay or discharge or cause to be paid or discharged any tax, assessment, lien, or other matter hereunder so long as the validity thereof is being contested by the Borrower in good faith and by appropriate legal proceedings diligently pursued and neither the Borrower's facilities nor any rent or income therefrom would be in any immediate danger of being sold, forfeited, attached, or lost. The Borrower will, upon request, provide the City and the Owner with copies of any tax returns and receipts for payments of taxes.

Section 9.07 Insurance.

The Borrower shall maintain or cause to be maintained, with financially sound and reputable insurers, reasonably acceptable to the Owner, insurance with respect to its property and business, including, but not limited to, the Project, insuring against such casualties and contingencies, of such types (including public liability insurance) and in such amounts as are acceptable to Owner.

Section 9.08 Further Assurances; Financing Statements.

The Borrower shall perform or cause to be performed any such acts, and execute and cause to be executed any and all further instruments, as may be required by law or as shall reasonably be requested by the Owner for such protection of the interests of the Owner. The Borrower, if required by the Owner, will join with the City and the Owner in executing such financing statements and other documents under the Uniform Commercial Code or other applicable law as the City or Owner may specify and will pay the costs of filing the same in such public offices as the City or Owner shall designate, in order to preserve the security interests granted under this Agreement and the Financing Documents. The Borrower authorizes the filing by Purchaser of such Uniform Commercial Code financing statements as may be necessary or desirable to perfect the security interests created by the Collateral Documents.

Section 9.09 Indemnification.

The Borrower agrees to indemnify and hold harmless the Indemnified Parties from any loss, claim, damage, tax, penalty, expense (including reasonable counsel fees), or liability of any nature due to any and all suits, actions, legal or administrative proceedings, claims, or demands, of every kind, character, and nature asserted by or on behalf of any Person arising out of, resulting from, or in any way connected with: (a) the adoption of the Resolutions, the execution and delivery of this Agreement, the performance and observance by the Indemnified Parties of their respective obligations under this Agreement or any other Financing Document, (b) the condition, use, operation, maintenance, possession, conduct, management, planning, design, acquisition, construction, installation, financing, or sale of the Project, or (c) any act, failure to act, or misrepresentation by any person in connection with the issuance, sale, and delivery of the Bond. If any action shall be brought against any Indemnified Party in respect of which indemnity may be sought under the foregoing provisions of this Section 9.09 against the Borrower, the Indemnified Party shall promptly notify the Borrower in writing, and the Borrower shall assume the defense thereof including the employment of counsel and the payment of all expenses. In any such action the Indemnified Party shall have the right to employ separate counsel, but the reasonable fees and expenses of such counsel shall be at the expense of the Indemnified Party unless (i) the Borrower's counsel is unable to represent such Indemnified Party due to a conflict of interest, (ii) the Indemnified Party believes in good faith that there are defenses available to it which are not available to the Borrower and cannot be effectively asserted by common counsel, (iii) the Borrower's counsel fails (by reason of delays, failure to assert defenses to which an Indemnified Party is entitled or otherwise) to adequately defend the action, or (iv) the Borrower and such Indemnified Party mutually agree to the employment of such counsel. The Borrower shall not be liable for any settlement of such action effected without its written consent, but if settled with the written consent of the Borrower or if there be a final judgment for the plaintiff in any such action, the Borrower agrees to indemnify and hold harmless such Indemnified Party from and against any loss or liability by reason of such settlement or judgment.

The Borrower shall not be obligated to indemnify any Indemnified Party under the foregoing paragraph if a court of competent jurisdiction finds that the liability in question was caused by the willful misconduct or sole gross negligence of the Indemnified Party, unless the court determines that, despite the adjudication of liability but in view of all circumstances of

the case, the Indemnified Party is fairly and reasonably entitled to indemnity for the expenses which the court considers proper.

The Borrower further agrees to indemnify the Indemnified Parties for, and hold the Indemnified Parties harmless from, any and all losses, claims, damages, or liabilities caused by any untrue or misleading statement or alleged untrue or misleading statement of a material fact contained in the information submitted to the City or the Purchaser by the Borrower with respect to the Borrower, the Project, or the issuance and purchase of the Bond (the “**Borrower Information**”) or caused by any omission or alleged omission of any material fact necessary to be stated in the Borrower Information in order to make such statements in the Borrower Information not misleading or incomplete.

The Borrower shall also indemnify the Indemnified Parties for, and hold the Indemnified Parties harmless from, all reasonable costs and expenses, including reasonable fees and expenses of counsel incurred in: (i) investigating any Event of Default or Taxable Event or any act, omission, thing, or condition which upon the giving of notice or lapse of time, or both, would or might constitute an Event of Default or Taxable Event, (ii) responding to any inquiries of the Internal Revenue Service or any other governmental body or authority with respect to the Bond, the Project, this Agreement, or any other Financing Document, (iii) enforcing any obligation of the Borrower under the Promissory Note, this Agreement, or any other Financing Document, (iv) taking any action requested by the Borrower, (v) taking any action required by this Agreement or any related agreement, or (vi) taking any action considered necessary by the Indemnified Party and which is authorized by this Agreement, any other Financing Document, or any related agreement.

The indemnifications provided in this Section 9.09 are in addition to any other indemnification provided by the Borrower to the Indemnified Parties.

Any provision herein or elsewhere to the contrary notwithstanding, this Section 9.09 shall survive the termination of this Agreement, any transfer of the Bond, and any resignation or replacement of the Fiscal Agent.

Section 9.10 Covenants in Financing Documents.

The Borrower agrees that it shall comply with its covenants and agreements set forth in the Credit Agreement, as the same may be amended from time to time by the Borrower and the Purchaser in accordance with the terms of the Credit Agreement, and subject to any waiver in respect thereto given by the Purchaser. The obligations and agreements of the Borrower hereunder shall, to the extent possible, be construed in a manner that avoids any conflict with the provisions of the other Financing Documents; however, in the event of any inconsistency between the terms hereof and the terms of any other Financing Document, the Owner shall be entitled to exercise its rights and enforce the Borrower’s obligations hereunder or thereunder as it deems to be in its best interests.

ARTICLE X
EVENTS OF DEFAULT AND REMEDIES

Section 10.01 Events of Default.

Each of the following shall be an “Event of Default” under this Agreement:

(a) Failure to pay any of the principal of, or premium or interest on, the Bond when due, whether on the Final Maturity Date or a redemption date or Interest Payment Date; or

(b) Failure by the Borrower to pay any other amount due hereunder, and such failure continues for five Business Days; or

(c) Failure to perform or observe any other of the covenants, agreements or conditions on the part of the City or the Borrower contained in this Agreement or any other Financing Document; provided, however, that except for any such failure which constitutes an “event of default” (as defined therein) under the Credit Agreement, if such failure shall be curable, no such failure shall constitute an Event of Default hereunder unless and until the Borrower shall have become aware of such failure (or should have become so aware with the exercise of reasonable diligence) and shall not have cured such failure within 30 days thereafter; or

(d) The Borrower shall commence a voluntary case or other proceeding seeking liquidation, reorganization, or other relief with respect to itself or its debts under any bankruptcy, insolvency, or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian, or other similar official of it or any substantial part of its property, or shall consent to any such relief or to the appointment of or taking position by any such official in an involuntary case or other proceeding commenced against it, or shall make a general assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due, or shall take any corporate action to authorize any of the foregoing; or

(e) An involuntary case or other proceeding shall be commenced against the Borrower seeking liquidation, reorganization, or other relief with respect to it or its debts under any bankruptcy, insolvency, or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian, or other similar official of it or any substantial part of its property, and such involuntary case or other proceeding shall remain undismissed and unstayed for a period of 60 days; or an order for relief shall be entered against the Borrower under the Federal bankruptcy laws as now or hereafter in effect; or

(f) Any representation or warranty by or on behalf of the Borrower made herein or in any report, certificate, financial statement, or other instrument furnished in connection with the Financing Documents shall prove to be false or misleading in any material respect when made; or

(g) An “event of default” (as defined therein) shall occur under the Credit Agreement.

Section 10.02 Acceleration.

If any Event of Default under clause (d) or (e) of Section 10.01 occurs, then the principal of the Bond then Outstanding, together with interest accrued thereon, shall become due and payable immediately without notice or demand. Upon the occurrence of any Event of Default under Section 10.01 other than an Event of Default under clause (d) or (e), the Owner may, by notice in writing delivered to the City and the Borrower, declare the principal of the Bond and the interest accrued thereon immediately due and payable, and the same shall thereupon become and be immediately due and payable. Upon any acceleration of the Bond under this Section 10.02, all amounts payable under Section 5.03 hereof shall be immediately due and payable.

Section 10.03 Legal Proceedings by Owner.

Upon the occurrence of any Event of Default under Section 10.01 hereof, the Owner may:

- (a) by mandamus, or other suit, action, or proceeding at law or in equity, enforce all of its rights as Owner of the Bond and as assignee of the Pledged Revenues and other Assigned Interests, and require the Borrower to carry out any other agreements with or for the benefit of the Owner of the Bond;
- (b) bring suit upon the Bond;
- (c) by action or suit in law or equity enjoin any acts or things which may be unlawful or in violation of the rights of the Owner of the Bond;
- (d) take or cause to be taken any action available under applicable law as the beneficiary of the liens and security interests and other rights created under the Collateral Documents; and/or
- (e) exercise any and all rights and remedies available to Owner under the Financing Documents or otherwise available at law or in equity.

No remedy conferred upon or reserved to the Owner is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Owner hereunder or now or hereafter existing at law, in equity, or by statute. Nothing herein contained shall affect or impair the right of action, which is absolute and unconditional, of the Owner of the Bond to institute suits to enforce payment thereof.

No delay or omission to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or acquiescence therein; and every such right and power may be exercised from time to time and as often as may be deemed expedient.

No waiver of any Event of Default hereunder shall extend to or shall affect any other existing or subsequent Event of Default or shall impair any rights or remedies consequent thereon.

Section 10.04 Application of Moneys.

All moneys received by the Owner of the Bond upon the exercise of any remedies provided in Section 10.03 hereof shall be applied (subject to any provision of the Credit Agreement or the Collateral Documents providing for amounts collected by the Owner from or for the account of the Borrower to be applied for other purposes), first to the payment of all expenses of the City and/or the Owner in connection with the exercise of such remedies (including reasonable attorneys fees and expenses), then to the payment of any other amounts owing pursuant to the Credit Agreement, then to the payment of interest due on the Bond, and then to the payment of principal of, and premium with respect to, the Bond then due and unpaid (together with interest on overdue installments of principal and, to the extent permitted by law, on any overdue interest, at the rate per annum specified herein for such overdue installments).

Section 10.05 Termination of Proceedings.

In case the Owner shall have proceeded to enforce any right under this Agreement, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely, then and in every such case the City, the Owner, and the Borrower shall be restored to their former positions and rights hereunder, and all rights, remedies and powers of the Owner shall continue as if no such proceedings had been taken.

Section 10.06 Waivers of Events of Default; Rescission of Declaration of Maturity.

The Owner may waive any Event of Default under this Agreement and its consequences, or rescind any declaration of maturity of principal of the Bond upon written notice to the Borrower. In case of any such waiver or rescission, then and in every such case the City, the Borrower, and the Owner shall be restored to their respective former positions and rights under this Agreement, but no such waiver or rescission shall extend to any subsequent or other default, or impair any right consequent thereon. All waivers under this Agreement shall be in writing, and a copy of each waiver affecting the Bond shall be delivered to the City and the Borrower; however, the failure of the Owner to deliver a copy of any such waiver to the City shall not subject the Owner to pecuniary liability,.

Section 10.07 No Waiver by City.

Any provision of this Agreement or any other instrument or document executed and delivered in connection therewith to the contrary notwithstanding, the City retains the right to enforce any applicable federal or state law or regulation or ordinance of the City and any rights accorded the City thereby, and nothing in this Agreement shall be construed as an express or implied waiver thereof.

**ARTICLE XI
AMENDMENTS TO FINANCING DOCUMENTS**

Section 11.01 Amendments to Agreement.

This Agreement may be amended only by the written agreement of the City, the Borrower, the Owner, and the Fiscal Agent; provided that, at the request and with the consent of the Borrower, the Owner may, in its discretion and without the consent or agreement of the City or the Fiscal Agent, waive or amend Section 9.10 hereof or any covenant incorporated herein by reference pursuant thereto.

Section 11.02 Amendments to Other Financing Documents.

The other Financing Documents may be amended as provided therein.

**ARTICLE XII
MISCELLANEOUS**

Section 12.01 Limitation of Rights.

Nothing expressed or mentioned in or to be implied from this Agreement or the Bond is intended or shall be construed to give to any Person, other than the City, the Borrower, the Purchaser, and the Owner of the Bond, any legal or equitable right, remedy, or claim under or in respect to this Agreement or any covenants, conditions, and provisions herein contained; this Agreement and all of the covenants, conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of the City, the Borrower, the Purchaser, and the Owner of the Bond as herein provided.

Section 12.02 Limitation on Assignment.

The City's assignment of its rights shall be limited as provided in Section 6.02 hereof. The Borrower may not assign its rights hereunder without the written consent of the City, the Purchaser, and the Owner, except as provided in Section 7.01 hereof.

Section 12.03 Severability.

The provisions of this Agreement are intended to be severable. If any provision of this Agreement shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases, because it conflicts with any other provision or provisions hereof or any Constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever.

The invalidity of any one or more phrases, sentences, clauses, or Sections in this Agreement contained shall not affect the remaining portions of this Agreement, or any part thereof.

Section 12.04 Notices.

All notices and directions to any party to this Agreement pursuant hereto shall be in writing, and, except as otherwise provided, shall be deemed to be sufficiently given if hand delivered or sent by first-class mail, electronic mail, registered or certified mail, facsimile, or overnight delivery addressed as follows:

Borrower

R & B Wagner, Inc.
10600 West Brown Deer Road
Milwaukee, Wisconsin 53224
Attention: Stan Wos
Phone: (414) 214-0444
Facsimile: (414) 214-0450
Email: swos@mailwagner.com

City

City of Milwaukee
[City Hall
200 East Wells Street, Room ____]
[Department of City Development
800 North Broadway, Room ____]
Milwaukee, Wisconsin 53202
Attention: _____
Phone: (414) 286-____
Facsimile: (414) 286-____

Purchaser

TCF Investments Management, Inc.
c/o TCF National Bank
500 West Brown Deer Road
Milwaukee, Wisconsin 53217
Attention: Mark Pietrowiak
Phone: (414) _____
Facsimile: (414) _____
Email: mpietro1@tcfbank.com

with a copy to:

TCF Investments Management, Inc.
200 Lake Street East
Wayzata, MN 55391
Attention: James S. Broucek
Phone: (____) _____
Facsimile: (____) _____
Email: jbroucek@tcfbank.com

Fiscal Agent

TCF National Bank
500 West Brown Deer Road
Milwaukee, Wisconsin 53217
Attention: Mark Pietrowiak
Phone: (414) _____
Facsimile: (414) _____
Email: mpietro1@tcfbank.com

or to such other address as the addressee shall have indicated by prior notice to the one giving the notice or direction in question. Any notice required to be sent to the Owner of the Bond shall be sent to Purchaser or, if the Purchaser is no longer the Owner, then to the Owner at the address as shown on the registration books maintained by the Fiscal Agent with respect to the Bond pursuant to Section 3.06 hereof.

Section 12.05 Acts of Owner of the Bond.

Any action to be taken by the Owner of the Bond may be evidenced by a written instrument signed or executed by the Owner in person or by an agent appointed in writing. The fact and date of the execution by any Person of any such instrument may be proved by acknowledgment before a notary public or other officer empowered to take acknowledgments or by an affidavit of a witness to such execution. Any action by the Owner of the Bond shall bind any future Owner of the Bond.

Section 12.06 Exculpation of City.

In the exercise of the power of the City and its officers, employees and agents hereunder, including (without limiting the foregoing) the application of moneys and any action taken by it upon the occurrence of an Event of Default by the Borrower, neither the City nor its officers, employees, or agents shall be accountable to the Borrower, the Purchaser, or the Owner for any action taken or omitted by it or its officers, employees, or agents in good faith unless in express violation of the provisions of this Agreement. The City and its officers, employees, and agents shall be protected in its or their acting upon any paper or document believed by it or them to be genuine, and it or they may conclusively rely upon the advice of counsel (who may also be counsel for the Borrower, the Purchaser, or the Owner) and may (but need not) require further evidence of any fact or matter before taking any action.

All covenants, stipulations, promises, agreements, and obligations of the City contained in this Agreement, the Bond, or any agreement, instrument, or certificate entered into or delivered by the City in connection therewith shall be deemed to be the covenants, stipulations, promises, agreements, and obligations solely of the City and not of any officer, employee, or agent of the City in an individual capacity, and no recourse shall be had for the payment of the Bond or for any claim based thereon or under this Agreement or any agreement, instrument, or certificate entered into by the City in connection therewith against any officer, employee, or agent in an individual capacity.

Section 12.07 Counterparts.

This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 12.08 Termination.

Upon the payment in full of the principal of and interest due on the Bond at maturity or the earlier payment of the redemption price of the Bond then Outstanding in whole, and the payment of, or provision for, all other amounts (including expense reimbursements and indemnity payments) due hereunder to the satisfaction of the City, the Purchaser, and the Owner, this Agreement and the parties' obligations hereunder shall terminate, except for the obligations of the Borrower pursuant to Sections 5.04, 9.01(a) and 9.09, which shall survive the termination of this Agreement. Upon such termination, the Owner shall cause the Promissory Note to be cancelled and returned to the Borrower, and shall cancel and destroy the Bond.

Section 12.09 Authorization of Agreement; Agreement to Constitute Contract.

This Agreement is entered into pursuant to the Act and the Resolutions and the provisions of this Agreement shall be deemed to be and shall constitute a contract among the City, the Borrower, the Purchaser, and the Owner from time to time of the Bond. This Agreement constitutes a security agreement for purposes of the Uniform Commercial Code.

Section 12.10 Governing Law.

This Agreement shall be governed by and construed in accordance with the laws of the State.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers thereunto duly authorized all as of the date first above written.

CITY OF MILWAUKEE, WISCONSIN

By: _____
Name: Tom Barrett
Title: Mayor

Attest: _____
Name: Ronald D. Leonhardt
Title: Clerk

Countersigned:

By: _____
Name: W. Martin Morics
Title: Comptroller

R & B WAGNER, INC.

By: _____
Name: _____
Title: _____

TCF NATIONAL BANK

By: _____
Name: _____
Title: Vice President

TCF INVESTMENTS MANAGEMENT, INC.

By: _____

Name: _____

Title: _____

[Signature Page to Bond Financing Agreement]

EXHIBIT A

FORM OF BOND

United States of America
State of Wisconsin
City of Milwaukee, Wisconsin

INDUSTRIAL DEVELOPMENT REVENUE REFUNDING BOND, SERIES 2011
(R & B WAGNER, INC. PROJECT)

No. R-__ Registered
\$2,615,000

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Original Issue Date</u>	<u>CUSIP</u>
Described herein	September 1, 2031	September [23], 2011	None

REGISTERED OWNER: TCF INVESTMENTS MANAGEMENT, INC., or its registered assigns

PRINCIPAL AMOUNT: TWO MILLION SIX HUNDRED FIFTEEN THOUSAND DOLLARS

The CITY OF MILWAUKEE, WISCONSIN (the “City”), a municipal corporation and political subdivision of the State of Wisconsin, for value received, hereby promises to pay (but only from the revenues hereinafter described and not otherwise) to the Registered Owner, on the Maturity Date, subject to the redemption requirements set forth herein, without the need for the presentation or surrender hereof, the principal sum of TWO MILLION SIX HUNDRED FIFTEEN THOUSAND DOLLARS (\$2,615,000) and to pay (but only from said revenues) interest on said principal sum at the Interest Rate in effect from time to time, as hereinafter described. Payment of the principal of and interest on this Bond shall be in any coin or currency of the United States of America as, at the respective times of payment, shall be legal tender for the payment of public and private debts.

GENERAL PROVISIONS

THIS BOND IS A LIMITED OBLIGATION OF THE CITY. THE PRINCIPAL OF AND INTEREST AND REDEMPTION PREMIUM, IF ANY, ON THIS BOND ARE PAYABLE SOLELY OUT OF THE REVENUES TO BE DERIVED FROM THE AGREEMENT (HEREINAFTER DEFINED) AND THE COLLATERAL SECURING THE SAME AS SET FORTH IN THE AGREEMENT. THIS BOND AND THE INTEREST HEREON ARE NOT AN INDEBTEDNESS OF THE CITY WITHIN THE MEANING OF ANY STATE OF WISCONSIN CONSTITUTIONAL PROVISION OR STATUTORY LIMITATION AND ARE NOT A CHARGE AGAINST THE CITY’S GENERAL CREDIT OR TAXING POWERS OR A PECUNIARY LIABILITY OF THE CITY, THE STATE, OR ANY POLITICAL SUBDIVISION THEREOF.

This Bond is has been issued under and pursuant to the Constitution and laws of the State of Wisconsin, including particularly Section 66.1103 Wisconsin Statutes, as amended (the “**Act**”), and a Bond Financing Agreement (the “**Agreement**”) dated as of the Original Issue Date among the City, R & B Wagner, Inc., a Wisconsin corporation (the “**Borrower**”), TCF National Bank (the “**Bank**”), as fiscal agent, and TCF Investments Management, Inc. (the “**Purchaser**”) for the purpose of refunding the outstanding principal amount of the City’s \$5,000,000 Industrial Development Revenue Bonds, Series 2001, dated July 26, 2001 (R & B Wagner, Inc. Project), the proceeds of which financed the costs of acquisition of land, renovation and expansion of an existing manufacturing facility and acquisition and installation of new machinery and equipment to be used in connection with the Borrower’s business of manufacturing and distribution of hand-rail products and systems and contract manufacturing in the specialty area of tube bending and fabricating (the “**Project**”) in the City. The City has pledged and assigned certain of its rights under the Agreement, including its right to receive loan payments from the Borrower thereunder, to the Owner of this Bond to secure the City’s obligations with respect to this Bond. As security for the payment by Borrower of its obligations under the Agreement, Borrower has granted to Purchaser, as the initial Registered Owner of this Bond and the assignee of the City’s rights under the Agreement, among other things, a mortgage on, assignment of rents in respect to, and a security interest in the real property and fixtures comprising the Project pursuant to a Mortgage of Real Property, Security Agreement and Assignment of Rents and Profits, dated as of the Original Issue Date, from Borrower to the Bank (for itself and as agent for the Purchaser) and all other personal property of Borrower pursuant to a General Business Security Agreement dated the Original Issue Date from Borrower to the Bank (for itself and as agent for the Purchaser).

This Bond shall be issued in the form of a single bond of the denomination equal to the entire principal amount hereof.

Payments of principal of, and premium, if any, and interest on, this Bond shall be payable by the Fiscal Agent, as paying agent, by bank wire transfer of immediately available funds to the bank account designated by the Registered Owner or in such other manner as Borrower and the Registered Owner shall agree.

This Bond is transferable, in accordance with the provisions of the Agreement, by the Registered Owner hereof or its duly authorized attorney at the principal office of the Fiscal Agent, upon surrender of this Bond, accompanied by a duly executed instrument of transfer, in the form attached hereto or such other form as may be satisfactory to the Fiscal Agent, and upon payment by the Registered Owner hereof of any taxes, fees, or other governmental charges incident to such transfer. Upon any such transfer, a new fully-registered Bond in the same aggregate principal amount will be issued to the transferee. The person in whose name this Bond is registered may be deemed the Registered Owner thereof by the City and the Borrower, and no notice to the contrary shall be binding upon the City or the Borrower.

INTEREST PROVISIONS

Definitions. For purposes hereof, the following definitions shall apply.

“Credit Spread” means (a) 2.50% per annum or (b) upon receipt by the Registered Owner of an opinion of Bond Counsel that using such other credit spread will not adversely affect the status of this Bond as a “qualified tax-exempt obligation,” such other credit spread as determined by the Registered Owner for a borrower similarly situated to the Borrower, based on the Registered Owner’s then-current underwriting standards, and with credit committee oversight, including without limitation, factors such as the current credit profile and current and historical operating performance and duration of the Reset Period.

“Default Rate” means as of any date, the lesser of (1) 25% per annum or (2) the Initial Interest Rate, Floating Rate, Fixed Rate or Taxable Rate, as then applicable, plus 3% per annum.

“Fixed Rate” means, for any Reset Period, a rate per annum equal to the lesser of (1) 25% per annum or (2) the product of the Multiplier multiplied by the greater of (a) the sum of (i) the Credit Spread plus (ii) the applicable Treasury Rate for such Reset Period or (b) 5.25% per annum.

“Floating Rate” means a rate per annum equal, for each Quarterly Interest Period, to the lesser of (1) 25% per annum or (2) the product of the Multiplier multiplied by the greater of (a) the sum of the LIBOR Rate for such Quarterly Interest Period plus 2.75% per annum or (b) 4.0% per annum.

“Initial Interest Rate” means the rate of [3.675]% per annum.

“Interest Payment Date” means the first Business Day of each calendar month, commencing November 2011.

“LIBOR Rate” means, for any Quarterly Interest Period, the three-month LIBOR rate as shown on the display designated as [“British Bankers Association Interest Settlement Rates”] on Reuters Screen LIBOR01 Page or any successor page or reporting service; provided, however, that if such rate is not available then such rate shall be otherwise independently determined by the Registered Owner from an alternate, substantially similar independent source or shall be calculated by a substantially similar methodology as that theretofore used to determine such offered rate. The LIBOR Rate shall be determined on the second Business Day preceding the first day of each Quarterly Interest Period.

“Multiplier” means, at the time of determination, the Registered Owner’s multiplier for tax exempt obligations that are not “qualified tax-exempt obligations,” which shall be the same multiplier for tax exempt obligations which are not “qualified tax-exempt obligations” quoted to customers of the Registered Owner for such obligations; initially, the Multiplier shall be .70.

“Quarterly Interest Period” means, for any Reset Period during which the Floating Rate will be in effect pursuant to the Agreement, the period from (and including) the Reset Date on which such Reset Period commences to (but not including) the Interest Payment Date in the succeeding December, and thereafter each period from (and including) the Interest Payment Date in March, June, September, or December of any year to (but not including) the next Interest Payment Date in March, June, September, or December.

“Reset Date” means each of September 1, 2016, September 1, 2021 and September 1, 2026 (or, if any such day is not a Business Day, the next succeeding Business Day).

“Reset Period” means each period from (and including) a Reset Date to (but excluding) the next Reset Date or the Maturity Date, as the case may be.

“Treasury Rate” means, for any Reset Period, a rate per annum equal to the rate set forth for 5-year constant maturity U.S. Treasury obligations in Federal Reserve Statistical Release H.15 as most recently published as of the Reset Date; provided, however, that if such rate is not available, then such rate shall be otherwise independently determined by the Registered Owner from an alternate, substantially similar independent source or shall be calculated by a substantially similar methodology as that theretofore used to determine such rate

“Taxable Rate” means, at any time, the interest rate that would otherwise be in effect if the Multiplier were equal to 1.0.

Interest Rate. The unpaid principal amount of this Bond shall bear at a rate equal to (i) during the period from the Original Issue Date to the initial Reset Date, the Initial Interest Rate, and (ii) during any Reset Period, the Fixed Rate for such Reset Period or the Floating Rate, as determined pursuant to the Agreement; provided, however, that (a) upon a Taxable Event, the interest rate shall be adjusted, retroactively to the date on which the interest on the Bond became includable in gross income for federal income tax purposes, to a rate equal to the Taxable Rate, and (b) upon an Event of Default, the interest rate shall be adjusted to a rate equal to the Default Rate. This Bond shall bear interest on overdue principal and, to the extent permitted by law, on overdue interest, at the Default Rate.

Accrual of Interest. The annual interest rate for this Bond shall be computed by applying the ratio of the annual interest rate over a year of 360 days, multiplied by the outstanding principal balance, multiplied by the actual number of days the principal balance is outstanding. Interest shall be payable in arrears on each Interest Payment Date, to the Registered Owner hereof determined as of the Business Day preceding such Interest Payment Date. Interest on this Bond shall accrue from the Original Issue Date, or from the most recent Interest Payment Date to which interest has been fully paid. Any amounts of additional interest due in respect of prior interest periods by reason of the retroactive application of the Taxable Rate shall be payable on the first Interest Payment Date occurring more than thirty days after a Taxable Event or, at the option of the Borrower, in a lump sum on any earlier date.

REDEMPTION PROVISIONS

Redemption at Borrower’s Option. This Bond may be redeemed, at the option and written direction of the Borrower, in whole or in part on any Business Day, at a redemption price equal to the principal amount so redeemed plus accrued interest to the date of redemption, plus any applicable premium pursuant to the next sentence. The redemption price for (i) any such redemption of this Bond made with proceeds of a refinancing (whether through a subsequent bond issue or any other borrowing), or (ii) any redemption of in excess of 20% of the outstanding balance during any Annual Period (computed based upon the outstanding amount as

of the beginning of such Annual Period), shall include a redemption premium of 4% during the first Annual Period commencing on the Original Issue Date or a Reset Date, as the case may be, 3% in the second Annual Period after the Original Issue Date or the most recent Reset Date, as the case may be, 2% in the third Annual Period after the Original Issue Date or the most recent Reset Date, as the case may be, and 1% in the fourth and fifth Annual Periods after the Original Issue Date or the most recent Reset Date, as the case may be. For this purpose, "Annual Period" means the period from the Original Issue Date to (but not including) September 1, 2012 and thereafter each period from (and including) a September 1 to (but not including) the next succeeding September 1. In the case of an optional redemption of the Bond in part, the principal amount so redeemed shall be applied to reduce the mandatory scheduled principal redemptions required to be made on the Scheduled Redemption Dates in the inverse order of the redemption dates.

Mandatory Redemption on Reset Date. This Bond shall be subject to redemption in whole, unless waived by the Registered Owner as provided in the Agreement, on any Reset Date, at a redemption price equal to 100% of the principal amount thereof, plus accrued interest to such Reset Date.

Mandatory Scheduled Redemption. This Bond shall be redeemed in part from time to time by the City, at a redemption price equal to 100% of the principal amount thereof and without premium, in the respective principal amounts and on the Scheduled Redemption Dates as provided in Section 3.09(c) of the Agreement.

Notice of Redemption. The Borrower shall provide the Registered Owner with notice of any redemption at the option of the Borrower by first-class mail, at least 30 days (or such shorter period as the Registered Owner shall approve, in its sole discretion) before such redemption date to the Registered Owner at the registered address of the Registered Owner appearing on the registration books maintained pursuant to Section 3.06 of the Agreement as of the close of business on the Business Day prior to such mailing. Notice of redemption having been so given, the Bond or portion thereof so called for redemption shall be due and payable on the redemption date and, if the redemption price is duly paid, interest thereon shall cease to accrue from and after such redemption date.

MISCELLANEOUS PROVISIONS

Reference is made to the Agreement for a description of the provisions with respect to the nature and extent of the security for this Bond, and the rights, duties, obligations, and immunities of the City, the Borrower, and the Registered Owner of this Bond, and the definitions of capitalized terms used in this Bond and not otherwise defined.

The Agreement permits the amendment thereof and the modifications of the rights and obligations of the City and the rights of the Registered Owner of the Bond upon the terms set forth therein. Any consent or waiver by the Registered Owner of this Bond shall be conclusive and binding upon such Registered Owner and upon all future Registered Owners of this Bond and of any Bond issued upon the transfer of this Bond whether or not notation of such consent or waiver is made hereon. The Agreement also contains provisions permitting the Registered Owner of the Bond to waive certain past defaults under the Agreement and their consequences.

This Bond is issued under and pursuant to, and in full compliance with the Constitution and laws of the State of Wisconsin, including particularly the Act, which shall govern its construction, and by appropriate action duly taken by the Common Council of the City which authorizes the execution and delivery of the Agreement and this Bond.

IT IS HEREBY CERTIFIED, RECITED, AND DECLARED that all acts, conditions, and procedures required to exist, happen, and be performed precedent to and in the execution and delivery of the Agreement and issuance of this Bond do exist, have happened, and have been performed in due time, form, and manner as required by law, that the issuance of this Bond has been duly authorized by the City and does not exceed or violate any constitutional or statutory limitation.

IN WITNESS WHEREOF, the City has caused this Bond to be executed in its name by the manual or facsimile signature of its Mayor, and the manual impression or facsimile of its corporate seal, to be affixed hereto, attested by the manual or facsimile signature of its Clerk, and countersigned by the manual or facsimile signature of its Comptroller.

CITY OF MILWAUKEE, WISCONSIN

By: _____
Title: Mayor

[SEAL]

And: _____
Title: Clerk

Countersigned:

By: _____
Title: Comptroller

Principal Repayment Schedule

\$2,615,000
 CITY OF MILWAUKEE, WISCONSIN
 INDUSTRIAL DEVELOPMENT REVENUE REFUNDING BOND, SERIES 2011
 (R & B WAGNER, INC. PROJECT)

<u>Date of Repayment</u>	<u>Principal Paid</u>	<u>Outstanding Principal Amount After Repayment</u>
_____	\$ _____	\$ _____
_____	_____	_____
_____	_____	_____
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EXHIBIT B

FORM OF PROMISSORY NOTE

THIS PROMISSORY NOTE HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933. THE TRANSFERABILITY HEREOF IS RESTRICTED BY THE BOND FINANCING AGREEMENT IDENTIFIED IN THE ASSIGNMENT ENDORSED HEREON.

PROMISSORY NOTE

\$2,615,000

September [23], 2011

FOR VALUE RECEIVED, the undersigned R & B WAGNER, INC. a Wisconsin corporation (the “**Borrower**,” which term shall be construed to include the successors and permitted assigns of the Borrower), promises to pay to the order of the CITY OF MILWAUKEE, WISCONSIN, a municipal corporation and political subdivision of the State of Wisconsin (the “**City**”), the principal sum of TWO MILLION SIX HUNDRED FIFTEEN THOUSAND DOLLARS (\$2,615,000), on September 1, 2031. The unpaid principal balance of this Promissory Note shall (except as hereinafter provided upon a Taxable Event or an Event of Default) bear interest (i) from the date hereof to but not including the initial Reset Date at the rate of ____% per annum, and (ii) during any Reset Period, the Fixed Rate for such Reset Period or the Floating Rate, as provided in the Agreement referred to below; provided, that (A) after the occurrence of a Taxable Event, the unpaid principal amount of this Promissory Note shall bear interest at the Taxable Rate, and (B) upon the occurrence of an Event of Default, the unpaid principal amount of this Promissory Note shall bear interest at the Default Rate.

The principal of and interest on this Promissory Note are payable in immediately available funds at the office of TCF National Bank, Milwaukee, Wisconsin, or at the office of its successor as Fiscal Agent; provided, that if Borrower is the Fiscal Agent, then such payments shall be made to TCF Investments Management, Inc. (the “**Purchaser**”), or its successor as Owner under that certain Bond Financing Agreement, dated as of September [23], 2011 (the “**Agreement**”), among the City, the Borrower, the Fiscal Agent, and the Purchaser.

This Promissory Note constitutes the Promissory Note issued under the Agreement, to which Agreement reference is hereby made for a statement of the terms and conditions on which the loan evidenced hereby was made, for a description of the terms and conditions upon which this Promissory Note may or must be prepaid or its maturity accelerated, and for the definitions of the terms “**Default Rate,**” “**Fixed Rate,**” “**Reset Period,**” “**Floating Rate,**” “**Event of Default,**” “**Fiscal Agent,**” “**Owner,**” “**Taxable Event,**” and “**Taxable Rate.**”

R & B WAGNER, INC.

By: _____
Its: _____

Attest: _____
Its: _____

FOR VALUE RECEIVED, the undersigned City of Milwaukee, Wisconsin hereby assigns, without recourse, all its right, title and interest in and to the above Promissory Note to TCF Investments Management, Inc., or its successor or successors as Owner under the Bond Financing Agreement referred to in such Promissory Note, to secure its \$2,615,000 Industrial Development Revenue Refunding Bond, Series 2011 (R & B Wagner, Inc. Project) issued pursuant to such Bond Financing Agreement.

Dated: September [23], 2011

CITY OF MILWAUKEE, WISCONSIN

By: _____
Title: Mayor

[SEAL]

And: _____
Title: Clerk

Countersigned:

By: _____
Title: Comptroller

EXHIBIT C

SCHEDULED MANDATORY REDEMPTIONS

The Bond is subject to scheduled mandatory redemptions on the first Business Day of each month, commencing October 2016 (“**Scheduled Redemption Dates**”), in principal amounts determined by the Owner as of each Reset Date, based upon equal monthly payments of principal and accrued interest from such Reset Date to the Final Maturity Date and the then-applicable Fixed Rate or Floating Rate, assuming that the Bond continues to bear interest at such rate to the Final Maturity Date. The principal amount to be redeemed on each Scheduled Redemption Date shall be re-determined as of the first day of each Reset Period, based upon the Final Maturity Date and the applicable Fixed Rate or Floating Rate taking effect on such date, and shall be re-determined as of any date on which the Bond begins to bear interest at a Taxable Rate, based upon Final Maturity Date and the Taxable Rate.

EXHIBIT D

DESCRIPTION OF PROJECT AND APPLICATION OF PROCEEDS

I. DESCRIPTION OF PROJECT

The Project consists of the acquisition of land, renovation and expansion of an existing manufacturing facility and acquisition and installation of new machinery and equipment to be used in connection with the Borrower's business of manufacturing and distribution of hand-rail products and systems and contract manufacturing in the specialty area of tube bending and fabricating.

II. APPLICATION OF PROCEEDS OF PRIOR BONDS

The proceeds of the Prior Bonds were applied as follows:

	<u>Costs Paid From Bond Proceeds</u>	<u>Total Costs</u>
Acquisition of Land and Buildings	\$1,426,780	\$4,800,000
Facility Rehabilitation and Addition	3,365,000	3,365,000
Equipment	108,220	1,500,000
Issuance Costs	100,000	100,000
TOTALS	<u>\$5,000,000</u>	<u>\$9,765,000</u>

III. APPLICATION OF PROCEEDS OF BOND

The proceeds of the Bond will be used to refund the entire outstanding principal amount of the Prior Bonds.