



**Russell Badders**  
Vice President, Associate General Counsel

March 27, 2020

Mr. Adam Teitzman, Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

RE: Docket No. 20180162-EI, Order Number PSC-2019-0070-FOF-EI  
Application of Gulf Power Company for authority to receive common equity  
contributions and to issue and sell securities  
Document 1 of 3

Dear Mr. Teitzman:

Pursuant to Rule-25-8.009, F.A.C., attached is the Consummation Report dated  
March 27, 2020, for official filing in the above-referenced docket. Due to the  
large size, the report is being broken into three (3) separate documents.

Sincerely,

A handwritten signature in black ink that reads 'Russell Badders'.

Russell Badders  
Vice President & Associate General Counsel  
Gulf Power Company

md

Attachments

cc w/ att.: Florida Public Service Commission

DOCKET NO. 20180162-EI  
ORDER NO. PSC-2018-0542-FOF-EI / PSC-2019-0070-FOF-EI / PSC-2019-0070A-FOF-EI

FLORIDA PUBLIC SERVICE COMMISSION  
TALLAHASSEE, FLORIDA

---

CONSUMMATION REPORT  
IN CONNECTION WITH  
APPLICATION OF  
GULF POWER COMPANY  
FOR AUTHORITY TO ISSUE AND SELL SECURITIES DURING 2019

Address communications in connection with this Consummation Report to:

Mitchell P. Goldstein  
Vice President, Finance  
Gulf Power Company  
500 Bayfront Parkway  
Pensacola, Florida 32520  
Telephone: (850) 444-6385

Date: March 27, 2020

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

---

IN RE: APPLICATION OF GULF POWER COMPANY  
FOR AUTHORITY TO ISSUE AND SELL SECURITIES DURING 2019

CONSUMMATION REPORT

In compliance with the requirements of Rule 25-8.009, Florida Administrative Code, and Order No. PSC-2018-0542-FOF-EI, issued by the Commission on November 19, 2018, as modified by Order No. PSC-2019-0070-FOF-EI, issued by the Commission on February 25, 2019, as amended by Order No. 2019-0070A-FOF-EI issued by the Commission on May 31, 2019, in the above-captioned matter (Docket No. 20180162-EI), the Applicant, Gulf Power Company (“Gulf Power”), hereby submits its Consummation Report regarding transactions involving: (i) the execution of a loan agreement, dated as of October 1, 2019, between Gulf Power and Development Authority of Monroe County (Georgia), relating to the loan to Gulf Power of the proceeds from the sale of \$45.0 million principal amount of Development Authority of Monroe County Revenue Bonds (Gulf Power Company Project), Series 2019 due October 1, 2049 (the “DAMC Series 2019 Bonds”); (ii) the execution of a loan agreement, dated as of December 1, 2019, between Gulf Power and the Mississippi Business Finance Corporation, relating to the loan to Gulf Power of the proceeds from the sale of \$55.0 million principal amount of Mississippi Business Finance Corporation Revenue Bonds (Gulf Power Company Project), Series 2019 due December 1, 2049 (the “MBFC Series 2019 Bonds”); (iii) the issuance and sale of commercial paper; (iv) borrowings under three revolving credit agreements; and (v) borrowings under two term loan agreements.

This Consummation Report provides the following information required by Rule 25-8.009 of the Florida Administrative Code (all references to proceeds are before expenses):

(1) On October 17, 2019 (the closing date of the transaction), Development Authority of Monroe County (Georgia) sold to an underwriter \$45,000,000 principal amount of the DAMC 2019 Bonds. The DAMC Series 2019 Bonds were then sold through a negotiated underwritten public offering by the underwriter, and the proceeds were loaned to Gulf Power pursuant to a loan agreement, dated as of October 1, 2019, between Gulf Power and Development Authority of Monroe County (Georgia). Under the loan agreement, Gulf Power is obligated to make payments on the loan when payments on the DAMC Series 2019 Bonds are required to be made. The proceeds received by Gulf Power on October 17, 2019 were \$44,970,003, representing the aggregate price to the public minus the underwriting discount and the underwriter's out-of-pocket expenses. The proceeds from the sale of the DAMC Series 2019 Bonds, together with funds provided by Gulf Power, are being used to (1) finance or refinance the cost of acquisition, construction, installation and equipping of additions, extensions and improvements to the undivided interest of Gulf Power in certain sewage or solid waste disposal facilities at Unit 3 of the Plant Robert W. Scherer coal-fired steam electric generating facilities located in Monroe County, Georgia and common facilities associated therewith and (2) pay related costs of issuance of the DAMC Series 2019 Bonds.

(2) On December 12, 2019 (the closing date of the transaction), the Mississippi Business Finance Corporation sold to an underwriter \$55,000,000 principal amount of the MBFC 2019 Bonds. The MBFC Series 2019 Bonds were then sold through a negotiated underwritten public offering by the underwriter, and the proceeds were loaned to Gulf Power pursuant to a loan agreement, dated as of December 1, 2019, between Gulf Power and Mississippi Business Finance

Corporation. Under the loan agreement, Gulf Power is obligated to make payments on the loan when payments on the MBFC Series 2019 Bonds are required to be made. The proceeds received by Gulf Power on December 12, 2019 were \$54,964,288, representing the aggregate price to the public minus the underwriting discount and the underwriter's out-of-pocket expenses. The proceeds from the sale of the MBFC Series 2019 Bonds, together with funds provided by Gulf Power, are being used to (1) finance or refinance the cost of the acquisition, construction, installation and equipping of additions, extensions and improvements to the undivided interest of Gulf Power in certain sewage or solid waste disposal facilities at Plant Daniel Units 1 and 2 located in Jackson County, Mississippi and common facilities associated therewith and (2) pay related costs of issuance of the MBFC Series 2019 Bonds.

(3) Gulf Power regularly issues commercial paper for terms up to but not exceeding 270 days from the date of issuance. During 2019, commercial paper was issued pursuant to Commercial Paper Dealer Agreements dated as of June 24, 2019 with each of Citigroup Global Markets Inc. and MUFG Securities Americas Inc. (collectively, the "Dealer Agreements"). The commercial paper is sold at a discount, including the discount of the commercial paper dealers, at a rate comparable to rates being paid in the commercial paper market by borrowers of similar creditworthiness. Given the frequency of these sales, it is not practicable to provide the details of each issue. However, Gulf Power's 2019 commercial paper activity is summarized as follows:

2019 Commercial Paper Activity (\$ in thousands)

Commercial paper issued:	\$1,408,500
Commercial paper matured:	\$1,216,500
Daily average outstanding:	\$150,249
Weighted average yield:	2.22%
Weighted average term (issued):	27 days

Gulf Power’s outstanding revolving credit facilities described in paragraph (4) below provide backup support for its commercial paper program.

(4) On June 24, 2019, Gulf Power entered into a syndicated revolving credit and letter of credit agreement (referred to as the “2019 Revolving Credit Agreement”), which provides for \$900 million in commitments and has an expiration date of February 8, 2024. Borrowings and letter of credit issuances under the 2019 Revolving Credit Agreement are available for general corporate purposes, including, without limitation, to pay any interest or fees owing under that agreement, provide backup for Gulf Power’s self-insurance program covering its operating facilities, and fund the cost of the prompt restoration, reconstruction and/or repair of facilities that may be damaged or destroyed due to the occurrence of any man-made or natural disaster or event or otherwise. Borrowings and/or letter of credit issuances available to Gulf Power under the 2019 Revolving Credit Agreement also can be used to support the purchase of Revenue Bonds that are tendered by individual bond holders and not remarketed prior to maturity.

On July 26, 2011, Gulf Power entered into a Credit Agreement with a commercial bank (“Bank 1”) which agreement was amended and restated on November 13, 2015 (the “Bank 1 2015 Credit Agreement”), which provided for a \$30 million commitment with a maturity date of November 13, 2018. On November 8, 2017, the Bank 1 2015 Credit Agreement was amended (the “Bank 1 2017 First Amendment”) to extend the maturity date to November 18, 2020. In

January 2019, Bank 1 made a revolving loan under such facility to Gulf Power in the amount of \$25 million, which amount was repaid in June 2019. The Bank 1 2015 Credit Agreement was terminated in June 2019.

On July 26, 2011, Gulf Power entered into a Credit Agreement with a commercial bank (“Bank 2”) which agreement was amended and restated on November 13, 2015 (the “Bank 2 2015 Credit Agreement”), which provided for a \$50 million commitment with a maturity date of November 13, 2018. On November 8, 2017, the Bank 2 2015 Credit Agreement was amended (the “Bank 2 2017 First Amendment”) to extend the maturity date to November 18, 2020. In March 2019, Bank 2 made a revolving loan under such facility to Gulf Power in the amount of \$50 million, which amount was repaid in June 2019. The Bank 2 2015 Credit Agreement was terminated in June 2019.

On July 26, 2011, Gulf Power entered into a Credit Agreement with a commercial bank (“Bank 3”) which agreement was amended and restated on November 18, 2015 (the “Bank 3 2015 Credit Agreement”), which provided for a \$30 million commitment with a maturity date of November 19, 2018. On November 8, 2017, the Bank 3 2015 Credit Agreement was amended (the “Bank 3 2017 First Amendment”) to extend the maturity date to November 18, 2020. In April 2019, Bank 3 made a revolving loan under such facility to Gulf Power in the amount of \$30 million, which amount was repaid in June 2019. The Bank 3 2015 Credit Agreement was terminated in June 2019.

On June 6, 2019, Gulf Power entered into a revolving credit agreement with a commercial bank (referred to as the “Bank 1 2019 Revolving Credit Agreement”), which provided for a \$100 million commitment which expired on November 30, 2019.

On June 6, 2019, Gulf Power entered into a revolving credit agreement with a commercial bank (referred to as the “Bank 2 2019 Revolving Credit Agreement”), which provided for a \$100 million commitment which expired on November 30, 2019.

Gulf Power did not borrow under any of the (1) 2019 Revolving Credit Agreement, (2) Bank 1 Revolving Credit Agreement or (3) Bank 2 Revolving Credit Agreement in 2019.

(5) On September 30, 2019, Gulf Power entered into a \$300 million term loan with a commercial bank (referred to as the “Bank 1 2019 Term Loan Agreement”), and borrowed the entire amount under the agreement. Proceeds from the borrowing under the Bank 1 2019 Term Loan Agreement provided funding for Gulf Power’s general corporate purposes. The borrowing under the Bank 1 2019 Term Loan Agreement has a maturity date of September 30, 2021.

On December 13, 2019, Gulf Power entered into a \$200 million term loan with a commercial bank (referred to as the “Bank 2 2019 Term Loan Agreement”), and borrowed the entire amount under the agreement. Proceeds from the borrowing under the Bank 2 2019 Term Loan Agreement provided funding for Gulf Power’s general corporate purposes. The borrowing under the Bank 2 2019 Term Loan Agreement has a maturity date of December 13, 2021.

Gulf further states that all capital raised by Gulf during the annual period ended December 31, 2019, was used in connection with the regulated activities of Gulf and Gulf’s affiliates, and not the nonregulated activities of its affiliates.

\*\*\*

For terms and conditions of issues: See Exhibits 1(c), 1(f), 1(o) and 1(p).

As of December 31, 2019, Gulf Power's consolidated statement of capitalization, statement of pretax interest coverage, together with debt interest are set forth below:

<u>Capital Structure</u>	(\$ Millions)
Short-Term Debt	\$392
Long-Term Debt (including amounts due within one year)	1,685
Common Equity	1,716
Total Capitalization	<u>\$3,793</u>
<u>Pretax Interest Coverage</u>	
Including AFUDC	5.29
Excluding AFUDC	5.26
<u>Debt Interest Requirements</u>	\$53

As of December 31, 2019, Gulf Power had no preferred stock outstanding; consequently there were no preferred stock dividend requirements as of that date.

The costs incurred to date by Gulf Power in connection with the DAMC Series 2019 Bonds and the MBFC Series 2019 Bonds are tabulated as follows:

	DAMC Series 2019 Bonds	MBFC Series 2019 Bonds
Legal, Accounting, Rating Agency and Trustee Fees	\$303,400	\$180,526
Printing & Miscellaneous (S-3, Prospectus, etc.)	\$96,750	\$132,681
Underwriter's Discounts and Commissions	\$28,125	\$34,375
Total Costs <sup>1</sup>	\$428,275	\$347,582

The costs incurred to date by Gulf Power in connection with its 2019 commercial paper issuances (in addition to the discount of the commercial paper dealers) include banking fees, legal fees and fees relating to credit ratings. The aggregate of these incurred costs in connection with the 2019 commercial paper issuances is approximately \$73,000.

---

<sup>1</sup> Under the terms of the Trust Indenture set forth as Exhibit 1(a) (the "DAMC Trust Indenture"), the holders of the DAMC Series 2019 Bonds are entitled to tender the DAMC Series 2019 Bonds for purchase. Gulf Power has a Remarketing Agreement with Morgan Stanley & Co. LLC to act as remarketing agent for the remarketing of tendered DAMC Series 2019 Bonds. Under the terms of the agreement, Gulf Power pays the remarketing agent a fee for its services equal to 0.07% per annum of the weighted average principal amount of the DAMC Series 2019 Bonds outstanding during each annual period that the DAMC Series 2019 Bonds bear interest at a Daily Interest Rate, a Weekly Interest Rate or a Commercial Paper Term Rate (each, as defined in the DAMC Trust Indenture) and in an amount to be agreed to by Gulf Power and the remarketing agent if the DAMC Series 2019 Bonds bear interest at a Long-Term Interest Rate (as defined in the DAMC Trust Indenture) or at an alternate interest rate as may be established pursuant to the DAMC Trust Indenture.

Under the terms of the Trust Indenture set forth as Exhibit 1(d) (the "MBFC Trust Indenture"), the holders of the MBFC Series 2019 Bonds are entitled to tender the MBFC Series 2019 Bonds for purchase. Gulf Power has a Remarketing Agreement with Fifth Third Securities, Inc. to act as remarketing agent for the remarketing of tendered MBFC Series 2019 Bonds. Under the terms of the agreement, Gulf Power pays the remarketing agent a fee for its services equal to 0.07% per annum of the weighted average principal amount of the MBFC Series 2019 Bonds outstanding during each annual period that the MBFC Series 2019 Bonds bear interest at a Daily Interest Rate, a Weekly Interest Rate or a Commercial Paper Term Rate (each, as defined in the MBFC Trust Indenture) and in an amount to be agreed to by Gulf Power and the remarketing agent if the MBFC Series 2019 Bonds bear interest at a Long-Term Interest Rate (as defined in the MBFC Trust Indenture) or at an alternate interest rate as may be established pursuant to the MBFC Trust Indenture

The costs incurred in 2019 by Gulf Power in connection with the Bank 1 2019 Loan Agreement are \$14,320, and Bank 2 2019 Loan Agreement are \$10,192.

There are other miscellaneous costs which have not been reported to Gulf Power as of this date, but it is the belief of Gulf Power that any costs not so reported would be minor.

Exhibit Index (Corresponds to sections of Rule 25-8.009)

- 1 (a) Trust Indenture, dated as of October 1, 2019, between Development Authority of Monroe County and U.S. Bank National Association, as trustee, with respect to the DAMC Series 2019 Bonds.
- 1 (b) Loan Agreement, dated as of October 1, 2019, between Gulf Power and Development Authority of Monroe County, with respect to the DAMC Series 2019 Bonds.
- 1 (c) Official Statement and Appendices thereto dated October 10, 2019 with respect to the DAMC Series 2019 Bonds.
- 1 (d) Trust Indenture, dated as of December 1, 2019, between Mississippi Business Finance Corporation and U.S. Bank National Association, as trustee, with respect to the MBFC Series 2019 Bonds.
- 1 (e) Loan Agreement, dated as of December 1, 2019, between Gulf Power and Mississippi Business Finance Corporation, with respect to the MBFC Series 2019 Bonds.
- 1 (f) Official Statement and Appendices thereto dated December 3, 2019 with respect to the MBFC Series 2019 Bonds.
- 1 (g) Amended and Restated Credit Agreement, dated as of November 13, 2015, between Gulf Power and Bank 1.
- 1 (h) First Amendment to Amended and Restated Credit Agreement, dated as of November 8, 2017, between Gulf Power and Bank 1.
- 1 (i) Amended and Restated Credit Agreement, dated as of November 13, 2015, between Gulf Power and Bank 2.
- 1 (j) First Amendment to Amended and Restated Credit Agreement, dated as of November 8, 2017, between Gulf Power and Bank 2.
- 1 (k) Amended and Restated Credit Agreement, dated as of November 18, 2015, between Gulf Power and Bank 3.

- 1 (l) First Amendment to Amended and Restated Credit Agreement, dated as of November 8, 2017, between Gulf Power and Bank 3.
- 1 (m) Term Loan Agreement, between Gulf Power and a commercial bank, dated as of September 30, 2019 (Bank 1 2019 Term Loan Agreement).
- 1 (n) Term Loan Agreement, between Gulf Power and a commercial bank, dated as of December 13, 2019 (Bank 2 2019 Term Loan Agreement).
- 1 (o) Commercial Paper Issuer Information Memorandum dated June 2019 of Citigroup Global Markets Inc.
- 1 (p) Commercial Paper Offering Memorandum dated June 2019 of MUFG Securities Americas Inc.
- 2 (a) Signed opinions of Gulf Power's legal counsel with respect to the legality of the loan agreement executed by Gulf Power in connection with the DAMC Series 2019 Bonds.
- 2 (b) Signed opinions of Gulf Power's legal counsel with respect to the legality of the loan agreement executed by Gulf Power in connection with the MBFC Series 2019 Bonds.
- 2 (c) Signed opinion of FPL's legal counsel with respect to the legality of the Bank 1 2019 Term Loan Agreement.
- 2 (d) Signed opinion of FPL's legal counsel with respect to the legality of the Bank 2 2019 Term Loan Agreement.
- 2 (e) Signed opinions of Gulf Power's legal counsel with respect to the legality of the issuance of the commercial paper under the Dealer Agreements.
- 4 (a) Underwriting Agreement, dated October 16, 2019, with respect to the DAMC Series 2019 Bonds.
- 4 (b) Letter of Representation, dated October 16, 2019, with respect to the DAMC Series 2019 Bonds.
- 4 (c) Remarketing Agreement, dated as of October 1, 2019, with respect to the DAMC Series 2019 Bonds.
- 4 (d) Tender Agreement, dated as of October 1, 2019, with respect to the DAMC Series 2019 Bonds.

- 4 (e) Underwriting Agreement, dated December 11, 2019, with respect to the MBFC Series 2019 Bonds.
- 4 (f) Letter of Representation, dated December 11, 2019, with respect to the MBFC Series 2019 Bonds.
- 4 (g) Remarketing Agreement, dated as of December 1, 2019, with respect to the MBFC Series 2019 Bonds.
- 4 (h) Tender Agreement, dated as of December 1, 2019, with respect to the MBFC Series 2019 Bonds.
- 4 (i) Commercial Paper Dealer Agreement dated as of June 24, 2019 between Gulf Power and Citigroup Global Markets Inc.
- 4 (j) Commercial Paper Dealer Agreement dated as of June 24, 2019 between Gulf Power and MUFG Securities Americas Inc.
- 5 Statement as to Underwriter's Fees.

5(a)(i) See Exhibit 1(c), Page 36 (as to Underwriter and fee) of the Official Statement with respect to the DAMC Series 2019 Bonds.

Morgan Stanley & Co. LLC  
 1585 Broadway  
 New York, NY 10036

(a)(ii) See Exhibit 1(f), Page 38 (as to Underwriter and fee) of the Official Statement with respect to the MBFC Series 2019 Bonds.

Fifth Third Securities, Inc.  
 38 Fountain Square Plaza  
 MD 1090SB  
 Cincinnati, OH 45263

- 5 (b) Citigroup Global Markets Inc. and MUFG Securities Americas Inc. act as private placement agents and/or dealers with respect to the commercial paper in return for which they receive fees based on the differential between the bid and ask price for the commercial paper.

Citigroup Global Markets Inc.	390 Greenwich Street 4 <sup>th</sup> Floor New York, NY 10013
MUFG Securities Americas Inc.	1221 Avenue of the Americas 6 <sup>th</sup> Floor New York, NY 10020

Commercial paper dealers' agreements, and the use of placement agents/dealers in public company commercial paper programs, are standard practice, and the fees charged are consistent with fees charged to companies of similar creditworthiness for commercial paper transactions. The services provided by the placement agents/dealers are described in Exhibits 4(i) and 4(j).

5 (c) No affiliation.

5 (d) None.

---

Respectfully submitted this 27<sup>th</sup> day of March, 2020.

GULF POWER COMPANY

By:   
\_\_\_\_\_  
Mitchell P. Goldstein  
Vice President, Finance

---

---

**DEVELOPMENT AUTHORITY OF MONROE COUNTY**

**and**

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

---

**TRUST INDENTURE**

**Dated as of October 1, 2019**

---

**Relating to**

**\$45,000,000  
DEVELOPMENT AUTHORITY OF MONROE COUNTY  
REVENUE BONDS  
(GULF POWER COMPANY PROJECT),  
SERIES 2019**

---

---

(This Table of Contents is not part of the Trust Indenture  
but is for convenience of reference only.)

## TABLE OF CONTENTS

	<u>Page</u>
<b>ARTICLE I</b>	
<b>DEFINITIONS</b>	
SECTION 101	Meaning of Words and Terms ..... 4
SECTION 102	Rules of Construction ..... 12
<b>ARTICLE II</b>	
<b>FORM, EXECUTION, AUTHENTICATION AND DELIVERY OF BONDS</b>	
SECTION 201	Issuance of Bonds ..... 13
SECTION 202	Purchase of Bonds..... 24
SECTION 203	Execution and Payment..... 27
SECTION 204	Authentication of Bonds ..... 29
SECTION 205	Exchange of Bonds ..... 29
SECTION 206	Transfer of Bonds ..... 29
SECTION 207	Ownership of Bonds ..... 30
SECTION 208	Prerequisite to Execution of Bonds ..... 31
SECTION 209	Temporary Bonds..... 32
SECTION 210	Mutilated, Destroyed, Stolen or Lost Bonds..... 33
SECTION 211	Completion Bonds ..... 33
<b>ARTICLE III</b>	
<b>REDEMPTION OF BONDS</b>	
SECTION 301	Redemption. .... 33
SECTION 302	Notice of Redemption ..... 36
SECTION 303	Effect of Redemption ..... 37
SECTION 304	Partial Redemption..... 38
<b>ARTICLE IV</b>	
<b>CONSTRUCTION FUND</b>	
SECTION 401	Creation of Construction Fund..... 39
SECTION 402	Payments from Construction Fund ..... 39
SECTION 403	Items of Cost ..... 39
SECTION 404	Disbursements ..... 41
SECTION 405	Reliance on Requisitions..... 42
SECTION 406	Completion of the Project ..... 42

ARTICLE V  
BOND FUND

SECTION 501	Creation of Bond Fund.....	44
SECTION 502	Payments into Bond Fund.....	44
SECTION 503	Use of Moneys in Bond Fund .....	44
SECTION 504	Custody of Bond Fund .....	44
SECTION 505	Non-Presentation of Bonds .....	45
SECTION 506	Cancellation and Destruction of Bonds .....	45

ARTICLE VI  
DEPOSITARIES OF MONEYS, SECURITY FOR DEPOSITS AND INVESTMENT  
OF FUNDS

SECTION 601	Deposits Constitute Trust Funds.....	46
SECTION 602	Investment of Moneys.....	46

ARTICLE VII  
PARTICULAR COVENANTS AND PROVISIONS

SECTION 701	Covenant of Issuer as to Performance of Obligations .....	48
SECTION 702	Covenant to Perform Obligations .....	48
SECTION 703	Covenant to Perform Further Acts.....	49
SECTION 704	Bonds Not to Become Arbitrage Bonds .....	49

ARTICLE VIII  
DEFAULTS AND REMEDIES

SECTION 801	Events of Default .....	50
SECTION 802	Acceleration of Maturities .....	50
SECTION 803	Other Remedies.....	51
SECTION 804	Application of Moneys .....	52
SECTION 805	Effect of Discontinuance of Proceedings.....	53
SECTION 806	Right of Bondholders to Direct Proceedings .....	54
SECTION 807	Rights and Remedies of Bondholders.....	54
SECTION 808	Appointment of Receiver by Trustee.....	55
SECTION 809	Action by Trustee without Possession of Bonds .....	55
SECTION 810	No Remedy Exclusive.....	55
SECTION 811	Waiver of Default .....	55
SECTION 812	Notice of Default.....	56
SECTION 813	Remedies in Article VIII in Addition to Remedies in Loan Agreement AND PLEDGE AGREEMENT .....	56

ARTICLE IX  
TRUSTEE; PAYING AGENT

SECTION 901	Acceptance of Trusts and Performance of Duties .....	57
SECTION 902	Indemnification of Trustee.....	60

SECTION 903	Limitation on Obligations and Responsibilities of the Trustee .....	60
SECTION 904	Trustee Not Liable for Failure of Issuer to Act .....	61
SECTION 905	Compensation of Trustee .....	61
SECTION 906	Records Open to Inspection .....	62
SECTION 907	Trustee May Rely on Certificates .....	62
SECTION 908	Trustee Not Deemed to Have Notice of Default.....	63
SECTION 909	Trustee May Deal in Bonds and take Action as Bondholder.....	63
SECTION 910	Trustee Not Responsible for Recitals, Etc .....	63
SECTION 911	Trustee Protected in Relying on Certain Documents.....	63
SECTION 912	Qualifications of Trustee.....	64
SECTION 913	Resignation by and Removal of Trustee.....	64
SECTION 914	Appointment of Successor Trustee .....	65
SECTION 915	Separate Trustee or Co-Trustee .....	66
SECTION 916	[Reserved] .....	67
SECTION 917	Paying Agent.....	67
SECTION 918	Qualifications of Paying Agent; Resignation; Removal.....	67
SECTION 919	Registrar .....	68
SECTION 920	Qualifications of Registrar; Resignation; Removal .....	69
SECTION 921	Procedures with DTC.....	70

#### ARTICLE X

#### EXECUTION OF INSTRUMENTS BY BONDHOLDERS AND PROOF OF OWNERSHIP OF BONDS

SECTION 1001	Consents, etc., of Bondholders .....	72
--------------	--------------------------------------	----

#### ARTICLE XI

#### SUPPLEMENTAL INDENTURES

SECTION 1101	Supplemental Indentures Not Requiring Consent of Bondholders.....	73
SECTION 1102	Supplemental Indentures Requiring Consent of Bondholders.....	74
SECTION 1103	Any Supplemental Indenture Shall Be Deemed a Part of Indenture.....	75
SECTION 1104	Discretion of Trustee; Reliance on Counsel .....	76

#### ARTICLE XII

#### SUPPLEMENTAL LOAN AGREEMENTS AND SUPPLEMENTAL PLEDGE AGREEMENTS

SECTION 1201	Supplemental Loan Agreements and Supplemental Pledge Agreements Not Requiring Consent of Bondholders.....	77
SECTION 1202	Supplemental Loan Agreements and Supplemental Pledge Agreements Requiring Consent of Bondholders.....	77

ARTICLE XIII  
DEFEASANCE

SECTION 1301	Defeasance of Bonds.....	79
--------------	--------------------------	----

ARTICLE XIV  
REMARKETING AGENT; TENDER AGENT; PURCHASE AND REMARKETING  
OF BONDS

SECTION 1401	Remarketing Agent and Tender Agent .....	81
SECTION 1402	Qualifications of Remarketing Agent and Tender Agent; Resignation; Removal .....	82
SECTION 1403	Notice of Bonds Delivered for Purchase; Purchase of Bonds .....	84
SECTION 1404	[Reserved] .....	85
SECTION 1405	[Reserved] .....	85
SECTION 1406	Remarketing of Bonds; Notice of Interest Rates .....	85
SECTION 1407	Delivery of Bonds .....	86
SECTION 1408	Delivery of Proceeds of Sale.....	86

ARTICLE XV  
MISCELLANEOUS PROVISIONS

SECTION 1501	Covenants Binding Upon Successors .....	87
SECTION 1502	Notices .....	87
SECTION 1503	Manner of Notice .....	89
SECTION 1504	Issuer, Trustee, the Borrower and Bondholders Alone Have Rights Under Indenture .....	89
SECTION 1505	Severability and Effect of Invalidity .....	89
SECTION 1506	Release of Officers, Employees and Agents of Issuer.....	89
SECTION 1507	If Payment or Performance Date not a Business Day .....	90
SECTION 1508	Headings Not Part of Indenture .....	90
SECTION 1509	Counterparts .....	90
SECTION 1510	Applicable Law .....	90

EXHIBIT A -	FORM OF BOND	
EXHIBIT B -	NOTICES OF TENDER OF BOOK-ENTRY BONDS	

## TRUST INDENTURE

**THIS TRUST INDENTURE**, made and entered into as of the 1st day of October, 2019, is by and between DEVELOPMENT AUTHORITY OF MONROE COUNTY, a public body corporate and politic duly created and existing under the laws of the State of Georgia (the "**Issuer**"), and U.S. BANK NATIONAL ASSOCIATION, a national banking association having a corporate trust office in Atlanta, Georgia (the national banking association and any bank or trust company becoming successor trustee under this Indenture being herein called the "**Trustee**").

### WITNESSETH:

**WHEREAS**, the Issuer is a public body corporate and politic, duly created and validly existing under the Development Authorities Law of the State of Georgia (O.C.G.A. Section 36-62-1, *et seq.*), as amended (the "**Act**"), and has the power to issue bonds for the purpose of paying all or part of the cost of acquisition and construction of certain facilities in furtherance of its public purposes and to enter into loan agreements for the purpose of providing funds sufficient to pay the principal of and premium, if any, and interest on such bonds; and

**WHEREAS**, in order to finance or refinance the cost of acquisition, construction and equipping of certain sewage facilities and solid waste facilities, including functionally related and subordinate facilities, of Gulf Power Company (the "**Borrower**"), the Borrower has requested the Issuer to issue, pursuant to the Act and this Indenture, its \$45,000,000 aggregate principal amount of Development Authority of Monroe County Revenue Bonds (Gulf Power Company Project), Series 2019 (the "**Bonds**"); and

**WHEREAS**, concurrently with the issuance of the Bonds, the Borrower and the Issuer have entered into the Loan Agreement, dated as of October 1, 2019 (the "**Loan Agreement**"), whereby the Issuer has agreed to lend the proceeds of the Bonds to the Borrower, and the Borrower has agreed to make Loan Repayments under and defined in the Loan Agreement equal to the principal of and interest and any premium on the Bonds and the Issuer will assign its right, title and interest in the Loan Agreement (except for certain reserved rights described below) to the Trustee for the benefit of the holders of the Bonds; and

**WHEREAS**, the Bonds are being issued to (i) finance or refinance all or a portion of the costs of the acquisition, construction and equipping of the Project (as defined in the Loan Agreement), and (ii) pay certain costs associated with the issuance of the Bonds; and

**WHEREAS**, the Issuer has determined that the Bonds, the certificate of validation and the certificate of authentication by the Registrar (hereinafter identified) to be endorsed on all such Bonds shall be, respectively, substantially in the form attached

hereto as EXHIBIT A, with such variations, omissions and insertions as are required or permitted by this Indenture; and

**WHEREAS**, the execution and delivery of this Indenture and the Loan Agreement have been duly authorized by a resolution or resolutions of the Issuer; and

**WHEREAS**, all acts, conditions and things required by the Constitution and laws of the State to happen, exist and be performed precedent to and in the execution and delivery of this Indenture and the Loan Agreement have happened, exist and have been performed as so required in order to make this Indenture a valid and binding trust indenture for the security of the Bonds in accordance with its terms and in order to make the Loan Agreement a valid and binding loan agreement in accordance with its terms; and

**WHEREAS**, the Trustee has accepted the trusts created by this Indenture and in evidence thereof has joined in the execution hereof.

**NOW, THEREFORE, THIS INDENTURE WITNESSETH**, that in consideration of the premises, of the acceptance by the Trustee of the trusts hereby created, and of the purchase and acceptance of the Bonds by the holders thereof, and also for and in consideration of the sum of One Dollar (\$1.00) to the Issuer in hand paid by the Trustee at or before the execution and delivery of this Indenture, the receipt of which is hereby acknowledged, and for the purpose of fixing and declaring the terms and conditions upon which the Bonds are to be issued, authenticated, delivered, secured and accepted by all persons who shall from time to time be or become holders thereof, and in order to secure the payment of the principal of all the Bonds at any time issued and outstanding hereunder and the premium, if any, and interest thereon according to their tenor, purport and effect, and in order to secure the performance and observance of all the covenants, agreements and conditions therein and herein contained, the Issuer has executed and delivered this Indenture and has pledged and assigned and does hereby pledge and assign to the Trustee the Trust Estate which consists of the Issuer's rights under the Loan Agreement (except its rights under Sections 5.1(c) and 9.4 of the Loan Agreement to payment of certain costs and expenses and under Section 7.3 of the Loan Agreement to indemnification), including its rights to the Loan Repayments and other moneys to the extent provided in this Indenture and under the Loan Agreement, and has granted and does hereby grant a security interest in the Bond Fund, all as security for the payment of the Bonds and the premium, if any, and interest thereon and as security for the satisfaction of any other obligation assumed by it in connection with such Bonds, and it is so mutually agreed and covenanted by and between the parties hereto;

**TO HAVE AND TO HOLD** all the same with all privileges and appurtenances hereby conveyed and assigned, or agreed or intended so to be, to the Trustee, its successors in trust and their assigns forever;

**IN TRUST NEVERTHELESS**, upon the terms and trusts herein set forth for the equal and proportionate benefit and security, except as otherwise hereinafter expressly provided, of all and singular the present and future holders of the Bonds issued and to be issued under this Indenture, without preference, priority or distinction as to lien or otherwise, except as otherwise hereinafter expressly provided, of any one Bond over any other Bond, by reason of priority in the issue, sale or negotiation thereof or otherwise; and

**PROVIDED, HOWEVER**, that if, after the rights, title and interest of the Trustee in and to the estate pledged and assigned to it under this Indenture shall have ceased, terminated and been discharged in accordance with Article XIII hereof, the principal of and premium, if any, and interest on all of the Bonds shall have been paid to the Bondholders or shall have been paid to the Borrower pursuant to Section 505 hereof, then this Indenture and all covenants, agreements and other obligations of the Issuer hereunder shall cease, determine and be discharged, and thereupon the Trustee shall cancel and discharge this Indenture and shall execute and deliver to the Issuer and the Borrower such instruments in writing prepared by or on behalf of the Issuer or the Borrower as shall be required to evidence the discharge hereof; otherwise this Indenture shall be and remain in full force and effect.

**THIS INDENTURE FURTHER WITNESSETH**, and it is expressly declared, that all Bonds issued and secured hereunder are to be issued, authenticated and delivered and all the Loan Repayments, revenues and other income and moneys hereby pledged are to be dealt with and disposed of under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as hereinafter expressed, and the Issuer has agreed and covenanted, and does hereby agree and covenant, with the Trustee and with the respective holders and owners, from time to time, of the Bonds, or any part thereof, as follows:

**ARTICLE I  
DEFINITIONS**

**SECTION 101 MEANING OF WORDS AND TERMS.**

(a) When used in this Indenture (except as otherwise expressly provided or unless the context otherwise requires), the following terms shall have the meanings specified in the foregoing recitals:

Act  
Borrower  
Issuer  
Loan Agreement  
Bonds  
Trustee

(b) All words and terms defined in Article I of the Loan Agreement shall have the same meanings in this Indenture, unless otherwise specifically defined herein. In addition, the following words and terms as used in this Indenture shall have the following meanings unless some other meaning is plainly intended:

**"Alternate Long-Term Interest Rate Index"** shall mean, if for any reason, the Long-Term Interest Rate for Bonds is not so determined for the Long-Term Interest Rate Period by the Remarketing Agent on or prior to the first day of such Long-Term Interest Rate Period, then such Bonds shall bear interest at the Weekly Interest Rate as provided in Section 201(e) hereof, and shall continue to bear interest at a Weekly Interest Rate determined in accordance with Section 201(e) hereof until such time as the interest rate on such Bonds shall have been adjusted to another Interest Rate Period as provided herein, and the Bonds shall continue to be subject to mandatory purchase as described in Section 202(d) hereof.

**"Authorized Borrower Representative"** shall mean each person at the time designated to act on behalf of the Borrower by written certificate furnished to the Issuer and the Trustee containing the specimen signature of such person and signed on behalf of the Borrower by the Chairman or any Vice Chairman of the Board, the President, any Senior or Administrative Vice President, any Vice President, the Treasurer or any Assistant Treasurer of the Borrower. Such certificate may designate an alternate or alternates who shall have the same authority, duties and powers as the Authorized Borrower Representative.

**"Authorized Denominations"** shall mean: (i) with respect to any Long-Term Interest Rate Period, \$5,000 and any integral multiple thereof; (ii) with respect to any Daily Interest Rate Period or Weekly Interest Rate Period, \$100,000 and any integral

multiple of \$5,000 in excess thereof; and (iii) with respect to any Commercial Paper Interest Rate Period, \$100,000 and any integral multiple of \$1,000 in excess of \$100,000.

**"Bond Counsel"** means King & Spalding LLP or other counsel nationally recognized on the subject of, and qualified to render approving legal opinions on the issuance of, municipal bonds and acceptable to the Borrower, the Trustee and the Issuer.

**"Bond Fund"** means the fund created by Section 501 hereof.

**"Bonds"** means the Bonds authorized to be issued under Sections 201 of this Indenture for the purpose of financing or refinancing the cost of acquisition, construction and equipping of the Project.

**"Borrower"** means Gulf Power Company, a corporation duly organized and validly existing under the laws of the State of Florida and qualified to transact business in the State of Georgia, and its successors or assigns and any surviving, resulting or transferee corporation as provided in Section 7.2 of the Loan Agreement.

**"Business Day"** shall mean any day other than (i) a Saturday or Sunday and (ii) a day on which banks located in the cities in which the Principal Offices of the Trustee, the Remarketing Agent or the Tender Agent are located are required or authorized to remain closed and on which the New York Stock Exchange is closed.

**"Chairman"** shall mean the person at the time occupying the office of Chairman or Vice-Chairman of the Issuer or any successor to the principal functions thereof.

**"Code"** shall mean the Internal Revenue Code of 1986, as amended from time to time and as applicable to the Bonds. References to the Code and Sections of the Code include relevant applicable regulations and proposed regulations thereunder and under the Internal Revenue Code of 1954, as amended to the date of enactment of the Tax Reform Act of 1986, and any successor provisions to those Sections, regulations or proposed regulations and, in addition, all revenue rulings, announcements, notices, procedures and judicial determinations under the foregoing applicable to the Bonds.

**"Commercial Paper Interest Rate Period"** shall mean each period, comprised of Commercial Paper Terms, during which Commercial Paper Term Rates are in effect.

**"Commercial Paper Term"** shall mean, with respect to any Bond, each period established in accordance with Section 201(g) hereof during which such Bond shall bear interest at a Commercial Paper Term Rate.

**"Commercial Paper Term Rate"** shall mean, with respect to each Bond, a fixed, non-variable interest rate on such Bond established periodically in accordance with Section 201(g) hereof.

**"Completion Bonds"** means the Bonds authorized pursuant to Section 211 hereof.

**"Construction Fund"** means the fund created by Section 401 hereof.

**"Daily Interest Rate"** shall mean a variable interest rate on the Bonds established in accordance with Section 201(d) hereof.

**"Daily Interest Rate Period"** shall mean each period during which a Daily Interest Rate is in effect.

**"Defeasance Obligations"** means (i) Government Obligations and (ii) evidences of ownership of a proportionate interest in specified Government Obligations, which Government Obligations are held by a bank or trust company in the capacity of custodian.

**"DTC"** shall mean The Depository Trust Company, its successors and their assigns.

**"Favorable Opinion of Bond Counsel"** shall mean an opinion of Bond Counsel addressed to the Issuer and the Trustee to the effect that the action proposed to be taken is authorized or permitted by the laws of the State and this Indenture and will not adversely affect any exclusion from gross income for federal income tax purposes of interest on the Bonds.

**"Government Obligations"** means obligations issued or unconditionally guaranteed as to the timely payment of principal and interest by the United States.

**"Interest Accrual Date"** shall mean (i) with respect to any Daily Interest Rate Period, the first day thereof and, thereafter, the first day of each calendar month during that Daily Interest Rate Period, (ii) with respect to any Weekly Interest Rate Period, the first day thereof and, thereafter, the first Wednesday of each month during that Weekly Interest Rate Period, (iii) with respect to any Long-Term Interest Rate Period, the first day thereof and, thereafter, each Interest Payment Date in respect thereof and (iv) with respect to each Commercial Paper Term, the first day thereof.

**"Interest Payment Date"** shall mean (i) with respect to any Daily Interest Rate Period, the fifth Business Day of each calendar month, (ii) with respect to any Weekly Interest Rate Period, the first Wednesday of each calendar month, or, if such first Wednesday shall not be a Business Day, the next succeeding Business Day, (iii) with respect to any Long-Term Interest Rate Period, the fifth day of the calendar month that is six months after the calendar month in which the adjustment to any Long-Term Interest Rate Period occurs and the fifth day of the calendar month every six months after each such payment date thereafter until the end of such Long-Term Interest Rate Period, (iv) with respect to any Commercial Paper Term, the day next succeeding the last day thereof,

(v) with respect to each Interest Rate Period, the day next succeeding the last day thereof and (vi) the Maturity Date.

**"Interest Rate Period"** shall mean any Daily Interest Rate Period, any Weekly Interest Rate Period, any Commercial Paper Interest Rate Period or any Long-Term Interest Rate Period.

**"Investment Obligations"** shall mean any one or more of the following investments, if and to the extent the same are then legal investments under the applicable laws of the State for moneys proposed to be invested therein:

(i) Bonds or obligations of the State or other states, or of counties, municipal corporations, or political subdivisions of the State;

(ii) Bonds or other obligations of the U.S. Government or of subsidiary corporations of the U.S. Government which are fully guaranteed by such government;

(iii) Obligations of and obligations guaranteed by agencies or instrumentalities of the U.S. Government, including those issued by the Federal Land Bank, Federal Home Loan Bank, Federal Intermediate Credit Bank, Bank for Cooperatives, and any other such agency or instrumentality; provided, however, that all such obligations shall have a current credit rating from a nationally recognized rating service of at least one of the three highest rating categories available and have a nationally recognized market;

(iv) Bonds or other obligations issued by any public housing agency or municipal corporation in the United States, which such bonds or obligations are fully secured as to the payment of both principal and interest by a pledge of annual contributions under an annual contributions contract or contracts with the United States Government, or project notes issued by any public housing agency, urban renewal agency, or municipal corporation in the United States which are fully secured as to payment of both principal and interest by a requisition, loan, or payment agreement with the U.S. Government;

(v) Certificates of deposit of national or state banks located within the State which have deposits insured by the Federal Deposit Insurance Corporation and certificates of deposit of federal savings and loan associations and state building and loan associations located within the State which have deposits insured by the Savings Association Insurance Fund of the Federal Deposit Insurance Corporation or the Georgia Credit Union Deposit Insurance Corporation, including the certificates of deposit of any bank, savings and loan association, or building and loan association acting as depository, custodian, or

trustee for any such bond proceeds. The portion of such certificates of deposit in excess of the amount insured by the Federal Deposit Insurance Corporation, the Savings Association Insurance Fund of the Federal Deposit Insurance Corporation or the Georgia Credit Union Deposit Insurance Corporation, if any, shall be secured by deposit, with the Federal Reserve Bank of New York, or with any national or state bank or federal savings and loan association or state building and loan or savings and loan association located within the State or with a trust office within the State, of one or more the following securities in an aggregate principal amount equal at least to the amount of such excess; direct and general obligations of the State or other states or of any county or municipal corporation in the State, obligations of the U.S. Government or subsidiary corporations included in paragraph (ii) hereof, obligations of the agencies and instrumentalities of the U.S. Government included in paragraph (iii) hereof, or bonds, obligations, or project notes of public housing agencies, urban renewal agencies, or municipalities included in paragraph (iv) hereof;

(vi) Securities of or other interests in any no-load, open-end management type investment company or investment trust registered under the Investment Company Act of 1940, as from time to time amended, or any common trust fund maintained by any bank or trust company which holds such proceeds as trustee or by an affiliate thereof so long as:

(a) the portfolio of such investment company or investment trust or common trust fund is limited to the obligations referenced in paragraph (ii) and (iii) hereof and repurchase agreements fully collateralized by any such obligations;

(b) such investment company or investment trust or common trust fund takes delivery of such collateral either directly or through an authorized custodian;

(c) such investment company or investment trust or common trust fund is managed so as to maintain its shares at a constant net asset value; and

(d) securities of or other interests in such investment company or investment trust or common trust fund are purchased and redeemed only through the use of national or state banks having corporate trust powers and located within the State;

(vii) Interest-bearing time deposits, repurchase agreements, reverse repurchase agreements, rate guarantee agreements, or other similar banking arrangements with a bank or trust company having capital and surplus aggregating

at least \$50 million or with any government bond dealer reporting to, trading with, and recognized as a primary dealer by the Federal Reserve Bank of New York having capital aggregating at least \$50 million or with any corporation which is subject to registration with the Board of Governors of the Federal Reserve System pursuant to the requirements of the Bank Holding Company Act of 1956, provided that each such interest-bearing time deposit, repurchase agreement, reverse repurchase agreement, rate guarantee agreement, or other similar banking arrangement shall permit the money so placed to be available for use at the time provided with respect to the investment or reinvestment of such moneys; and

(viii) Any other investments to the extent at the time permitted by then applicable law for the investment of public funds.

**"Letter of Representations"** shall mean any letter of representations with DTC with respect to Bonds deposited with DTC in its book-entry system.

**"Long-Term Interest Rate"** shall mean, with respect to each Bond, a fixed, non-variable interest rate on such Bond established in accordance with Section 201(f) hereof.

**"Long-Term Interest Rate Period"** shall mean each period during which a Long-Term Interest Rate is in effect.

**"Maturity Date"** shall mean October 1, 2049.

**"No Call Period"** means the period during a Long-Term Interest Rate Period during which the Bonds are not subject to optional redemption by the Issuer at the direction of the Borrower pursuant to Section 301(c)(ii) hereof.

**"Outstanding"** or **"outstanding"** means all Bonds which have been authenticated and delivered by the Trustee under this Indenture, except:

(a) Bonds paid or redeemed or delivered to or acquired by the Trustee for cancellation;

(b) Bonds deemed to have been paid in accordance with Article XIII hereof;

(c) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered under this Indenture; and

(d) Undelivered Bonds;

provided, however, that in determining whether the holders of the requisite principal amount of outstanding Bonds have given any request, demand, authorization, direction,

notice, consent or waiver hereunder, Bonds owned by the Issuer or the Borrower or any other obligor upon the Bonds or the Loan Agreement or any Affiliate of the Borrower or such other obligor shall be disregarded and deemed not to be outstanding (unless all of the outstanding Bonds are then owned by the Borrower or any other obligor upon the Bonds or the Loan Agreement or any Affiliate of the Borrower or such other obligor), except that, in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Bonds which a Responsible Officer of the Trustee actually knows to be so owned shall be so disregarded. Bonds so owned which have been pledged in good faith may be regarded as outstanding if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Bonds and that the pledgee is not the Issuer or the Borrower or any other obligor upon the Bonds or the Loan Agreement or any Affiliate of the Borrower or such other obligor. "Affiliate of the Borrower or such other obligor" as used in this definition means any person directly or indirectly controlling or controlled by or under direct or indirect common control with the Borrower or such other obligor. For the purposes of this definition, "control" when used with respect to the Borrower or such other obligor means the power to direct the management and policies of the Borrower or such other obligor, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise, and the terms "controlling" and "controlled" have meanings correlative to the foregoing. For purposes of this definition, "Responsible Officer" means any vice president, assistant vice president or other officer of the Trustee within the corporate trust office specified in Section 1502 (or any successor corporate trust office) customarily performing functions similar to those performed by the persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred at the corporate trust office specified in Section 1502 because of such person's knowledge of and familiarity with the particular subject and having direct responsibility for the administration of this Indenture.

**"Paying Agent"** shall mean the initial and any successor paying agent or agents appointed in accordance with Section 917 hereof. "Principal Office" of the Paying Agent shall mean the Principal Office of the Tender Agent or such other office thereof designated in writing to the Issuer, the Trustee, the Tender Agent and the Remarketing Agent.

**"Pledge Agreement"** means a Pledge Agreement to be entered into by and between the Borrower and the Trustee, in the event additional collateral is pledged as collateral security for the payment of the principal of and interest on the Bonds, as provided in Section 5.3 of the Loan Agreement.

**"Principal Office"** in the case of the Trustee or Tender Agent, means the office at which, at the time in question, its corporate trust activities relating to the Bonds are principally conducted, and, in the case of the Remarketing Agent, means the office at

which, at the time in question, its remarketing activities relating to the Bonds are principally conducted.

**"Project"** means the sewage facilities and solid waste disposal facilities and functionally related and subordinate facilities described in EXHIBIT A to the Loan Agreement.

**"Purchase Fund"** shall mean the fund created by Section 1401 hereof.

**"Rating Category"** shall mean a generic securities rating category, without regard, in the case of a long-term rating category, to any refinement or gradation of such long-term rating category by a numerical modifier or otherwise.

**"Record Date"** shall mean (a) with respect to any Interest Payment Date in respect of any Daily Interest Rate Period, the last Business Day of each calendar month or, in the case of the last Interest Payment Date in respect of a Daily Interest Rate Period, the Business Day immediately preceding such Interest Payment Date, (b) with respect to any Interest Payment Date in respect of any Weekly Interest Rate Period, the Business Day next preceding each Interest Payment Date, (c) with respect to any Interest Payment Date in respect of any Commercial Paper Term, the Business Day immediately preceding such Interest Payment Date, and (d) with respect to any Interest Payment Date in respect of any Long-Term Interest Rate Period, the 15th day (whether or not a Business Day) immediately preceding such Interest Payment Date or, in the event that an Interest Payment Date shall occur less than 15 days after the first day of a Long-Term Interest Rate Period, such first day.

**"Registrar"** shall mean the registrar or registrars appointed in accordance with Section 206 hereof. **"Principal Office"** of the Registrar shall mean the Principal Office of the Tender Agent or such other office thereof designated in writing to the Issuer, the Trustee, the Tender Agent and the Remarketing Agent.

**"Remarketing Agent"** shall mean the initial and any successor remarketing agent appointed in accordance with Section 1401(a)(i) hereof. **"Principal Office"** of the Remarketing Agent shall mean Morgan Stanley & Co. LLC, 1585 Broadway, New York, New York 10036, Attention: Municipal Short Term Products, or such other office thereof designated in writing to the Issuer, the Trustee and the Tender Agent.

**"Secretary"** shall mean the person at the time occupying the office of Secretary of the Issuer.

**"SIFMA Index"** means the Securities Industry and Financial Markets Association Municipal Swap Index, which is an index compiled from the weekly interest rate resets of tax-exempt variable rate issues included in a database maintained by Bloomberg which meet specific criteria established from time to time by SIFMA and

issued on Wednesday of each week, or if any Wednesday is not a Business Day, the next succeeding Business Day.

**"Special Record Date"** shall mean, with respect to any Bond, the date established by the Trustee in connection with the payment of overdue interest on that Bond pursuant to Section 203 hereof.

**"State"** shall mean the State of Georgia.

**"Tender Agent"** shall mean the initial and any successor tender agent appointed in accordance with Section 1401(b) hereof. "Principal Office" of the Tender Agent shall initially mean U.S. Bank National Association, 111 Filmore Avenue E., St. Paul, Minnesota 55107, Attention: Bond Drop Window, or such other office thereof designated in writing to the Issuer, the Trustee and the Remarketing Agent.

**"Tender Agreement"** shall mean the Tender Agreement, dated as of October 1, 2019, between the Trustee, the Borrower, the Remarketing Agent and the Tender Agent, as supplemented or amended in accordance with the provisions thereof.

**"Trust Estate"** shall mean the property and rights assigned by the Issuer to the Trustee in the granting clauses of this Indenture.

**"Undelivered Bonds"** shall mean any Bond so designated in accordance with the provisions of Section 202(f) hereof.

**"Weekly Interest Rate"** shall mean a variable interest rate on the Bonds established in accordance with Section 201(e) hereof.

**"Weekly Interest Rate Period"** means each period during which a Weekly Interest Rate is in effect.

**SECTION 102 RULES OF CONSTRUCTION.** (a) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, the words "Bond", "owner", "holder" and "person" shall include the plural as well as the singular number; the word "person" shall include any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization or government or any agency or political subdivision thereof; and the words "holder" or "Bondholder" or "Owner" when used herein with respect to Bonds shall mean the registered owner of one or more Bonds at the time issued and outstanding hereunder.

(b) Words importing the redemption or calling for redemption of the Bonds shall not be deemed to refer to or connote payment of Bonds at their stated maturity.

(c) The captions or headings in this Indenture are for convenience only and in no way limit the scope or intent of any provision or section of this Indenture.

(d) All reference herein to particular articles or sections are references to articles or sections of this Indenture unless some other reference is indicated.

## **ARTICLE II FORM, EXECUTION, AUTHENTICATION AND DELIVERY OF BONDS**

### **SECTION 201 ISSUANCE OF BONDS.**

(a) (i) Limitations on Issuance. No Bonds may be issued under the provisions of this Indenture except in accordance with the provisions of this Article. There shall be issued under and secured by this Indenture the Bonds of the Issuer in the aggregate principal amount of Forty-Five Million Dollars (\$45,000,000) to (A) finance or refinance all or a portion of the costs of the acquisition, construction and equipping of the Project, and (B) pay certain costs associated with the issuance of the Bonds. The Bonds shall initially be issued in the aggregate principal amount of \$45,000,000 and shall be designated "Development Authority of Monroe County Revenue Bonds (Gulf Power Company Project), Series 2019" and shall be dated their date of original issuance. The Bonds issued hereunder shall mature, subject to the right of prior redemption as hereinafter set forth, on the Maturity Date and shall bear interest at the rate or rates determined as hereinafter provided.

(ii) Form of Bonds. The Bonds are issuable as registered Bonds without coupons in Authorized Denominations and shall initially be issued and held under the book-entry system maintained by DTC; provided, however, that the Borrower may at any time elect to discontinue the use of such book-entry system. The Bonds shall be substantially in the form set forth as EXHIBIT A hereto, with such appropriate variations, omissions and insertions as are permitted or required by this Indenture, and may have endorsed thereon such legends or text as may be necessary or appropriate to conform to any applicable rules and regulations of any governmental authority or any usage or requirement of law with respect thereto.

(b) (i) The Bonds bearing interest at a rate other than a Commercial Paper Term Rate shall bear interest from and including the Interest Accrual Date immediately preceding the date of authentication thereof, or, if such date of authentication shall be an Interest Accrual Date to which interest on the Bonds has been paid in full or duly provided for or the date of initial authentication of the Bonds, from such date of authentication and each Bond bearing interest at a Commercial Paper Term Rate shall bear interest from and including the first day of the related Commercial Paper Term; provided, however, that if, as shown by the records of the Trustee, interest on the Bonds shall be in default, Bonds issued in exchange for Bonds surrendered for registration of transfer or exchange shall bear interest from the date to which interest has been paid in

full on the Bonds or, if no interest has been paid on the Bonds, the date of the first authentication of Bonds hereunder.

(ii) For any Daily Interest Rate Period, interest on the Bonds shall be payable on each Interest Payment Date for the period commencing on the second preceding Interest Accrual Date and ending on the day immediately preceding the immediately preceding Interest Accrual Date (that is, generally, for the calendar month immediately preceding such Interest Payment Date), unless the Interest Payment Date shall be the day next succeeding the last day of a Daily Interest Rate Period, in which case interest shall be payable on such Interest Payment Date for the period commencing on the Interest Accrual Date to which interest shall have been paid in full and ending on the day immediately preceding such Interest Payment Date. For any Weekly Interest Rate Period, interest on the Bonds shall be payable on each Interest Payment Date for the period commencing on the immediately preceding Interest Accrual Date (or, if any Interest Payment Date is not a Wednesday, commencing on the second preceding Interest Accrual Date) and ending on the Tuesday immediately preceding the Interest Payment Date (or, if the period ends sooner than that Tuesday, ending on the last day of the Weekly Interest Rate Period). For any Commercial Paper Interest Rate Period or Long-Term Interest Rate Period, interest on the Bonds shall be payable on each Interest Payment Date for the period commencing on the immediately preceding Interest Accrual Date and ending on the day immediately preceding such Interest Payment Date. In any event, interest on the Bonds shall be payable for the final Interest Rate Period to the date on which the Bonds shall have been paid in full.

(iii) Interest shall be computed, in the case of a Long-Term Interest Rate Period, on the basis of a 360-day year consisting of twelve, 30-day months, and in the case of any other Interest Rate Period, on the basis of a 365 or 366-day year, as appropriate, and the actual number of days elapsed.

(c) In the manner hereinafter provided, the term of the Bonds will be divided into consecutive Interest Rate Periods during each of which the Bonds shall bear interest at the Daily Interest Rate, the Weekly Interest Rate, Commercial Paper Term Rates or Long-Term Interest Rates. The first Interest Rate Period shall commence on the date of issuance and delivery of the Bonds and shall be a Daily Interest Rate Period. The Bonds shall initially bear interest at the rates per annum determined in accordance with the provisions hereof as set forth in the acceptance of their respective appointments as Remarketing Agent signed by Morgan Stanley & Co. LLC, on the date of issuance and delivery of the Bonds. Notwithstanding any other provision hereof, except during a Long-Term Interest Rate Period ending on the day immediately preceding the Maturity Date, the Daily, Weekly, Commercial Paper or Long-Term Interest Rate shall not exceed 12% per annum.

(d) (i) Determination of Daily Interest Rate. During each Daily Interest Rate Period, the Bonds shall bear interest at the Daily Interest Rate, which shall be

determined by the Remarketing Agent on each Business Day for such Business Day. The Daily Interest Rate shall be the rate of interest per annum determined by the Remarketing Agent (based on the examination of tax-exempt obligations comparable to such Bonds known by the Remarketing Agent to have been priced or traded under then-prevailing market conditions) to be the minimum interest rate which, if borne by such Bonds, would enable the Remarketing Agent to sell such Bonds on such Business Day at a price (without regard to accrued interest) equal to the principal amount thereof. The Daily Interest Rate for a day that is not a Business Day shall be the same as the Daily Interest Rate for the immediately preceding Business Day. If for any reason, the Daily Interest Rate cannot be determined for any Business Day by the Remarketing Agent as hereinbefore provided, then (1) the Daily Interest Rate for such day shall be the same as the Daily Interest Rate for the immediately preceding day if the Daily Interest Rate for such preceding day was determined by the Remarketing Agent or (2) if no Daily Interest Rate for the immediately preceding day was determined by the Remarketing Agent or if the Daily Interest Rate determined by the Remarketing Agent shall be held to be invalid or unenforceable by a court of law, then the interest rate to be determined by the Remarketing Agent for such day shall be equal to 100% of the SIFMA Index, made available for such day, or if such index is no longer available, or no such index was so made available for such day, 70% of the interest rate on 30-day high grade unsecured commercial paper notes sold through dealers by major corporations as reported in *The Wall Street Journal* or *The Bond Buyer* on the day the Daily Interest Rate would otherwise be determined as provided herein for such Daily Interest Rate Period.

(ii) Adjustment to Daily Interest Rate. At any time, the Borrower, by written direction to the Trustee, the Registrar, the Tender Agent and the then current Remarketing Agent, may elect that the Bonds shall bear interest at a Daily Interest Rate. Such direction shall specify (A) the effective date of such adjustment to a Daily Interest Rate, which shall be (1) a Business Day not earlier than the 15th day (or if the then-current Interest Rate Period shall be a Long-Term Interest Rate Period and such Long-Term Interest Rate Period shall end on a day prior to the day originally established as the last day thereof, not earlier than the 30th day) following the second Business Day after receipt by the Trustee of such direction, (2) in the case of an adjustment from a Long-Term Interest Rate Period, the day immediately following the last day of the then-current Long-Term Interest Rate Period or a day on which the Bonds would otherwise be subject to optional redemption pursuant to Section 301(c)(ii) hereof if such adjustment did not occur, and (3) in the case of an adjustment from a Commercial Paper Interest Rate Period, either the day immediately following the last day of the Commercial Paper Interest Rate Period or, as to any Bond, the day immediately following the last day of the Commercial Paper Term then in effect (or to be in effect) with respect to that Bond, and (B) the name and Principal Office of the Remarketing Agent while the Bonds bear interest at the Daily Interest Rate. In addition, the direction shall be accompanied by a Favorable Opinion of Bond Counsel. During each Daily Interest Rate Period commencing on a date so specified and ending on the day immediately preceding the

effective date of the next succeeding Interest Rate Period, the interest rate borne by the Bonds shall be a Daily Interest Rate.

(iii) Notice of Adjustment to Daily Interest Rate. The Registrar shall give notice by first-class mail of an adjustment to a Daily Interest Rate Period to the Owners of the Bonds not less than 15 days (unless the then-current Interest Rate Period shall be a Long-Term Interest Rate Period and such Long-Term Interest Rate Period shall end on a day prior to the day originally established as the last day thereof, in which case not less than 30 days) prior to the effective date of such Daily Interest Rate Period. The Borrower shall cause the form of such notice to be provided to the Registrar. Such notice shall state (A) that the interest rate on the Bonds will be adjusted to a Daily Interest Rate, (B) the effective date of such Daily Interest Rate Period, (C) that the Bonds are subject to mandatory tender for purchase on such effective date, setting forth the applicable purchase price, and (D) the procedures of such purchase.

(e) (i) Determination of Weekly Interest Rate. During each Weekly Interest Rate Period, the Bonds shall bear interest at the Weekly Interest Rate, which shall be determined by the Remarketing Agent no later than the Business Day immediately preceding the first day of each Weekly Interest Rate Period and thereafter no later than the Business Day immediately preceding Wednesday of each week during such Weekly Interest Rate Period. The Weekly Interest Rate shall be the rate of interest per annum determined by the Remarketing Agent (based on the examination of tax-exempt obligations comparable to such Bonds known by the Remarketing Agent to have been priced or traded under then-prevailing market conditions) to be the minimum interest rate which, if borne by such Bonds, would enable the Remarketing Agent to sell such Bonds on such Business Day at a price (without regard to accrued interest) equal to the principal amount thereof. If for any reason, the Weekly Interest Rate cannot be determined for any week by the Remarketing Agent as hereinbefore provided, then (A) the Weekly Interest Rate for such week shall be the same as the Weekly Interest Rate for the immediately preceding week if the Weekly Interest Rate for such immediately preceding week was determined by the Remarketing Agent or (B) if no Weekly Interest Rate for the immediately preceding week was determined by the Remarketing Agent or if the Weekly Interest Rate determined by the Remarketing Agent shall be held to be invalid or unenforceable by a court of law, then the Weekly Interest Rate for such week shall be equal to 100% of the SIFMA Index, made available for the week preceding the date of determination, or if such index is no longer available, or no such index was made available for the week preceding the date of determination, 70% of the interest rate on 30-day high grade unsecured commercial paper notes sold through dealers by major corporations as reported in *The Wall Street Journal* or *The Bond Buyer* on the day such Weekly Interest Rate would otherwise be determined as provided herein for such Weekly Interest Rate Period.

(ii) Adjustment to Weekly Interest Rate. At any time, the Borrower, by written direction to the Trustee, the Registrar, the Tender Agent and the Remarketing Agent, may elect that the Bonds shall bear interest at a Weekly Interest Rate. Such direction shall specify (A) the effective date of such adjustment to a Weekly Interest Rate, which shall be (1) a Business Day not earlier than the 15th day (or if the then-current Interest Rate Period shall be a Long-Term Interest Rate Period and such Long-Term Interest Rate Period shall end on a day prior to the day originally established as the last day thereof, not earlier than the 30th day) following the second Business Day after receipt by the Trustee of such direction, (2) in the case of an adjustment from a Long-Term Interest Rate Period, the day immediately following the last day of the then-current Long-Term Interest Rate Period or a day on which such Bonds would otherwise be subject to optional redemption pursuant to Section 301(c)(ii) hereof if such adjustment did not occur, and (3) in the case of an adjustment from a Commercial Paper Interest Rate Period, either the day immediately following the last day of the Commercial Paper Interest Rate Period or, as to any Bond, the day immediately following the last day of the Commercial Paper Term then in effect (or to be in effect) with respect to that Bond, and (B) the name and Principal Office of the Remarketing Agent while such Bonds bear interest at the Weekly Interest Rate. In addition, the direction shall be accompanied by a Favorable Opinion of Bond Counsel. During each Weekly Interest Rate Period commencing on a date so specified and ending on the day immediately preceding the effective date of the next succeeding Interest Rate Period, the interest rate borne by such Bonds shall be a Weekly Interest Rate.

(iii) Notice of Adjustment to Weekly Interest Rate. The Registrar shall give notice by first-class mail of an adjustment to a Weekly Interest Rate Period to the Owners of the Bonds not less than 15 days (unless the then-current Interest Rate Period shall be a Long-Term Interest Rate Period and such Long-Term Interest Rate Period shall end on a day prior to the day originally established as the last day thereof, in which case not less than 30 days) prior to the effective date of such Weekly Interest Rate Period. The Borrower shall cause the form of such notice to be provided to the Registrar. Such notice shall state (A) that the interest rate on such Bonds will be adjusted to a Weekly Interest Rate, (B) the effective date of such Weekly Interest Rate Period, (C) that such Bonds are subject to mandatory tender for purchase on such effective date, setting forth the applicable purchase price, and (D) the procedures of such purchase.

(f) (i) Determination of Long-Term Interest Rate. During each Long-Term Interest Rate Period, the Bonds shall bear interest at the Long-Term Interest Rate. The Long-Term Interest Rate for such Bonds, or, in the case of an adjustment from a Commercial Paper Interest Rate Period in accordance with Alternative (II) set forth in Section 201(g)(iv) hereof, the Long-Term Interest Rate for such Bond, shall be determined by the Remarketing Agent on the effective date, or on a Business Day selected by it not more than 30 days prior to such effective date, of such Long-Term Interest Rate Period, with respect to the Bonds. The Long-Term Interest Rate shall be the

rate of interest per annum determined by the Remarketing Agent (based on the examination of tax-exempt obligations comparable to such Bonds known by the Remarketing Agent to have been priced or traded under then-prevailing market conditions) to be the minimum interest rate which, if borne by such Bonds, would enable the Remarketing Agent to sell such Bonds on such effective date at a price (without regard to accrued interest) equal to the principal amount thereof. If for any reason, the Long-Term Interest Rate for any Long-Term Interest Rate Period cannot be determined by the Remarketing Agent as hereinabove provided, the Long-Term Interest Rate for such Long-Term Interest Rate Period the Long-Term Interest Rate will be at the Weekly Interest Rate as provided in Section 201(e) hereof, and shall continue to bear interest at a Weekly Interest Rate determined in accordance with Section 201(e) until such time as the interest rate on such Bonds shall have been adjusted to another Interest Rate Period as provided herein, and such Bonds shall continue to be subject to mandatory purchase as described in Section 202(d) hereof.

(ii) Adjustment to Long-Term Interest Rate. (a) At any time, the Borrower, by written direction to the Trustee, the Registrar, the Tender Agent and the then current Remarketing Agent may elect that the Bonds shall bear interest at a Long-Term Interest Rate. As a part of such election, the Borrower also may determine that the initial Long-Term Interest Rate Period shall be followed by successive Long-Term Interest Rate Periods. Such direction shall specify (1) the effective date of such Long-Term Interest Rate Period, which date shall be (a) a Business Day not earlier than the 15th day (or if the then-current Interest Rate Period shall be a Long-Term Interest Rate Period and such Long-Term Interest Rate Period shall end on a day prior to the day originally established as the last day thereof, not earlier than the 30th day) following the second Business Day after receipt by the Trustee of such direction, (b) in the case of an adjustment from a Long-Term Interest Rate Period to another Long-Term Interest Rate Period, the day immediately following the last day of the then-current Long-Term Interest Rate Period or a day on which the Bonds would otherwise be subject to optional redemption pursuant to Section 301(c)(ii) hereof if such adjustment did not occur, (c) in the case of the determination of successive Long-Term Interest Rate Periods, the day immediately following the last day of the immediately preceding Long-Term Interest Rate Period and (d) in the case of an adjustment from a Commercial Paper Interest Rate Period, the date or dates determined in accordance with Alternatives (I) or (II) set forth in Section 201(g)(iv) hereof (provided, that if prior to the Borrower's making such election, any Bonds shall have been called for redemption and such redemption shall not have theretofore been effected, the effective date of such Long-Term Interest Rate Period shall not precede such redemption date); (2) the duration of such Long-Term Interest Rate Period or, if successive Long-Term Interest Rate Periods shall have been designated, of each such Long-Term Interest Rate Period, in accordance with Section 201(f)(iii) hereof; (3) a date or dates on or prior to which Owners are required to deliver such Bonds to be purchased (if other than the effective date); and (4) state the name and Principal Office of the Remarketing Agent while such Bonds bear interest at the Long-Term Interest Rate or

Rates; provided, however, that in lieu of including the information to be provided pursuant to clause (2) above in such direction, such information may be provided in a supplemental written direction of the Borrower at any time prior to the effective date if also accompanied by a Favorable Opinion of Bond Counsel. The foregoing notwithstanding, the Borrower, by written direction to the Trustee, the Registrar, the Tender Agent and the Remarketing Agent may rescind its decision that such Bonds shall bear interest at a Long-Term Interest Rate provided that notice of such recession is sent to the Trustee and the Remarketing Agent not less than one day prior to the effective date of such Long-Term Interest Rate Period in which case such Bonds will remain in the then current Interest Rate Period; provided, however, that notwithstanding such rescission such Bonds shall still be subject to mandatory purchase as described in Section 202(d) hereof.

(B) Unless the Long-Term Interest Rate Period or Periods so determined are part of a series of successive Long-Term Interest Rate Periods which, together with the then-current Long-Term Interest Rate Period, shall be equal in length, as nearly as possible taking into account the requirements of this Section 201(f)(ii), such notice shall be accompanied by a Favorable Opinion of Bond Counsel. In any event, a Favorable Opinion of Bond Counsel shall be required prior to adjustment from a Long-Term Interest Rate Period of a duration in excess of one year to a Long-Term Interest Rate Period of a duration of exactly one year. If the Borrower shall designate successive Long-Term Interest Rate Periods, but shall not, with respect to the second or any subsequent Long-Term Interest Rate Period, specify any of the information described in clauses (3) or (4) of Section 201(f)(ii)(A) above, the Borrower, by written direction to the Trustee, the Tender Agent and the Remarketing Agent, given not later than the third Business Day preceding the 15th day prior to the first day of such Long-Term Interest Rate Period, may specify any of such information not previously specified with respect to such Long-Term Interest Rate Period, accompanied by a Favorable Opinion of Bond Counsel if such opinion was required pursuant to the provisions above at the time of the determination of the initial Long-Term Interest Rate Period. During the Long-Term Interest Rate Period commencing and ending on the dates so determined and during each successive Long-Term Interest Rate Period, if any, so determined, the interest rate borne by the Bonds shall be a Long-Term Interest Rate.

(C) If, in connection with the expiration of any Long-Term Interest Rate Period (other than one of a succession of Long-Term Interest Rate Periods of equal duration, determined as aforesaid), by the Business Day preceding the date on which the Registrar must mail notice to the Owners of an adjustment of Interest Rate Period pursuant to Section 201(f)(iv) hereof, the Trustee shall not have received notice of the Borrower's election that, during the next succeeding Interest Rate Period, the Bonds shall bear interest at a Daily Interest Rate, a Weekly Interest Rate or a Long-Term Interest Rate, or at Commercial Paper Term Rates, the next succeeding Interest Rate Period shall be (1) if the Long-Term Interest Rate Period to expire is longer than one year in duration, a

Weekly Interest Rate Period, so long as a Favorable Opinion of Bond Counsel shall be delivered or (2) if the Long-Term Interest Rate Period to expire is one year in duration, a Daily Interest Rate Period, so long as a Favorable Opinion of Bond Counsel shall be delivered.

(iii) Selection of Long-Term Interest Rate Period. The Long-Term Interest Rate Period shall be established by the Borrower in the notice given pursuant to Section 201(f)(ii) hereof (the first such Long-Term Interest Rate Period commencing on the date of adjustment of the Bonds to the Long-Term Interest Rate) and thereafter each successive Long-Term Interest Rate Period shall be the same as that so established by the Borrower until a different Long-Term Interest Rate Period is specified by the Borrower in accordance with this Section or until the adjustment of the Bonds to a Daily, Weekly or Commercial Paper Interest Rate Period or the Maturity Date. Each Long-Term Interest Rate Period shall be at least one year in duration and shall end on the day next preceding an Interest Payment Date (which must be a Business Day).

(iv) Notice of Adjustment to Long-Term Interest Rate. The Registrar shall give notice by first-class mail of an adjustment to a Long-Term Interest Rate Period to the Owners of the Bonds not less than 15 days (unless the then-current Interest Rate Period shall be a Long-Term Interest Rate Period and such Long-Term Interest Rate Period shall end on a day prior to the day originally established as the last day thereof, in which case not less than 30 days) prior to the effective date (or each effective date in the case of an adjustment from a Commercial Paper Interest Rate Period in accordance with Alternative (II) set forth in Section 201(g)(iv) hereof) of such Long-Term Interest Rate Period. The Borrower shall cause the form of such notice to be provided to the Registrar. Such notice shall state: (A) that the interest rate on the Bonds shall be adjusted to a Long-Term Interest Rate, (B) the effective date or dates and the last day of such Long-Term Interest Rate Period, (C) that the Bonds are subject to mandatory tender for purchase on such effective date, (D) the procedures of such purchase, (E) that, although the adjustment to a Long-Term Interest Rate is subject to rescission by the Borrower, the Bonds remain subject to purchase.

(v) Adjustment from Long-Term Interest Rate Period. In addition to an adjustment from a Long-Term Interest Rate Period on the day immediately following the last day of the Long-Term Interest Rate Period, at any time during a Long-Term Interest Rate Period (subject to the provisions set forth in this paragraph (v)) the Borrower may elect that the Bonds no longer shall bear interest at a Long-Term Interest Rate and shall instead bear interest at a Daily Interest Rate, a Weekly Interest Rate, Commercial Paper Term Rates or a new Long-Term Interest Rate, as specified in such election. In the notice of such election, the Borrower shall also specify (A) the effective date of the new Interest Rate Period, which date shall be no earlier than the first date, not less than thirty-five days following the date of receipt by the Trustee of the notice of election from the Borrower, on which the Bonds shall be subject to optional redemption in accordance with

Section 301(c)(ii) hereof, and (B) the name and Principal Office of the Remarketing Agent while such Bonds bear interest based on such new interest rate determination method. Bonds shall be subject to mandatory tender for purchase on the effective date of the new Interest Rate Period thereof, in accordance with Section 202(d) hereof, at a purchase price equal to the optional redemption price set forth in Section 301(c)(ii) hereof which would be applicable on that date. Notwithstanding any other provision of this Indenture, in the event that the Borrower elects to adjust from a Long-Term Interest Rate Period prior to the day following the last day thereof, the Registrar shall give the notice of adjustment to the new Interest Rate Period required by Sections 201(d)(iii), (e)(iii), (f)(iv) and (g)(iii), as applicable, not less than 30 days prior to the effective date of the new Interest Rate Period.

(g) (i) Determination of Commercial Paper Terms and Commercial Paper Term Rates. (A) During each Commercial Paper Interest Rate Period, the Bonds shall bear interest during each Commercial Paper Term for such Bond at the Commercial Paper Term Rate for such Bond. Each of such Commercial Paper Terms and Commercial Paper Term Rates for the Bond shall be determined by the Remarketing Agent no later than the first day of each Commercial Paper Term. Each Commercial Paper Term for the Bond shall be a period of not more than 270 days, determined by the Remarketing Agent to be the period which, together with all other Commercial Paper Terms for all Bonds then Outstanding, will result in the lowest overall interest expense on such Bonds over the next succeeding 270 days. Further, each Commercial Paper Term shall end on either a day which immediately precedes a Business Day or on the day immediately preceding the Maturity Date. If for any reason a Commercial Paper Term for any Bond cannot be so determined by the Remarketing Agent, it will extend by one Business Day (or until the earlier stated maturity of the Bonds) automatically until the Remarketing Agent is able to set the rate and, if in that instance the Remarketing Agent fails for whatever reason to determine the interest rate for such Bond, then the interest rate for such Bond for that Commercial Paper Interest Rate Period shall be the interest rate in effect for the preceding Commercial Paper Interest Rate Period. In determining the number of days in each Commercial Paper Term, the Remarketing Agent shall take into account the following factors: (1) existing short-term tax-exempt market rates and indices of such short-term rates, (2) the existing market supply and demand for short-term tax-exempt securities, (3) existing yield curves for short-term and long-term tax-exempt securities for obligations of credit quality comparable to such Bonds, (4) general economic conditions, (5) industry economic and financial conditions that may affect or be relevant to such Bonds, and (6) such other facts, circumstances and conditions as the Remarketing Agent, in its sole discretion, shall determine to be relevant. Not later than 12:30 p.m. on the first day of each Commercial Paper Term the Remarketing Agent shall notify the Tender Agent of each Commercial Paper Term and Commercial Paper Term Rate established on such day.

(B) The Commercial Paper Term Rate for each Commercial Paper Term for each Bond shall be the rate of interest per annum determined by the Remarketing Agent (based on the examination of tax-exempt obligations comparable to the Bonds known by the Remarketing Agent to have been priced or traded under then-prevailing market conditions) to be the minimum interest rate which, if borne by such Bond, would enable the Remarketing Agent to sell such Bond on the date and at the time of such determination at a price (without regard to accrued interest) equal to the principal amount thereof.

(ii) Adjustment to Commercial Paper Term Rates. At any time, the Borrower, by written direction to the Trustee, the Registrar, the Tender Agent and the Remarketing Agent, may elect that the Bonds shall bear interest at Commercial Paper Term Rates. Such direction shall specify (A) the effective date of the Commercial Paper Interest Rate Period (during which such Bonds shall bear interest at Commercial Paper Term Rates), which shall be (1) a Business Day not earlier than the 15th day (or if the then-current Interest Rate Period shall be a Long-Term Interest Rate Period and such Long-Term Interest Rate Period shall end on a day prior to the day originally established as the last day thereof, not earlier than the 30th day) following the second Business Day after receipt by the Trustee of such direction, and (2) in the case of an adjustment from a Long-Term Interest Rate Period, the day immediately following the last day of the then-current Long-Term Interest Rate Period or a day on which such Bonds would otherwise be subject to optional redemption pursuant to Section 301(c)(ii) hereof if such adjustment did not occur; provided that, if prior to the Borrower's making such election any Bonds shall have been called for redemption and such redemption shall not have theretofore been effected, the effective date of such Commercial Paper Interest Rate Period shall not precede such redemption date; and (B) the name and Principal Office of the Remarketing Agent while the Bonds bear interest at the Commercial Paper Term Rates. In addition, the direction shall be accompanied by a Favorable Opinion of Bond Counsel. During each Commercial Paper Interest Rate Period commencing on the date so specified and ending, with respect to each applicable Bond, on the day immediately preceding the effective date of the next succeeding Interest Rate Period with respect to such Bond, each such Bond shall bear interest at a Commercial Paper Term Rate during each Commercial Paper Term for such Bond.

(iii) Notice of Adjustment to Commercial Paper Term Rates. The Registrar shall give notice by first-class mail of an adjustment to a Commercial Paper Term Rate Period to the Owners of the Bonds not less than 15 days (unless the then-current Interest Rate Period shall be a Long-Term Interest Rate Period and such Long-Term Interest Rate Period shall end on a day prior to the day originally established as the last day thereof, in which case not less than 30 days) prior to the effective date of such Commercial Paper Interest Rate Period. The Borrower shall cause the form of such notice to be provided to the Registrar. Such notice shall state (A) that during such Commercial Paper Interest Rate Period, the Bond will have one or more consecutive Commercial Paper Terms

during each of which such Bond will bear a Commercial Paper Term Rate, (B) the effective date of such Commercial Paper Interest Rate Period, (C) that the Bonds are subject to mandatory tender for purchase on the effective date of such Commercial Paper Interest Rate Period, setting forth the applicable purchase price, and (D) the procedures for such purchase.

(iv) Adjustment from Commercial Paper Interest Rate Period. At any time during a Commercial Paper Interest Rate Period, the Borrower may elect, pursuant to Section 201(d)(ii), (e)(ii) or (f)(ii) hereof, that the Bonds no longer shall bear interest at Commercial Paper Term Rates and shall instead bear interest at a Daily Interest Rate, a Weekly Interest Rate or a Long-Term Interest Rate, as specified in such election. Such election also shall specify an alternative from the immediately succeeding Alternatives (I) and (II) and, in accordance with such election, the Remarketing Agent shall effect one of such alternatives:

Alternative (I): determine Commercial Paper Terms of such duration that, as soon as possible, all Commercial Paper Terms shall end on the same date; or

Alternative (II): determine Commercial Paper Terms of such duration that will, in the judgment of the Remarketing Agent, best promote an orderly transition to the next succeeding Interest Rate Period.

If Alternative (I) above shall be selected, the date on which all Commercial Paper Terms so determined shall end shall be the last day of the then-current Commercial Paper Interest Rate Period and the day next succeeding such date shall be the effective date of the Daily Interest Rate Period, Weekly Interest Rate Period or Long-Term Interest Rate Period elected by the Borrower. If Alternative (II) above shall be selected, beginning on the 14th day following the second Business Day after the receipt by the Trustee of the direction of the Borrower effecting such election, the day next succeeding the last day of the Commercial Paper Term determined in accordance with Alternative (II) with respect to each Bond shall be, with respect to such Bond, the effective date of the Daily Interest Rate Period, Weekly Interest Rate Period or Long-Term Interest Rate Period elected by the Borrower. The Remarketing Agent, promptly upon the determination thereof, shall give written notice of each such last date and each such effective date with respect to each Bond to the Borrower, the Trustee and the Tender Agent.

(v) During any transition period from a Commercial Paper Interest Rate Period to the next succeeding Interest Rate Period in accordance with Alternative (II) of Section 201(g)(iv) hereof, Bonds bearing interest at a Commercial Paper Term Rate shall be governed by the provisions of this Indenture applicable to a Commercial Paper Interest Rate Period and Bonds bearing interest at a Daily Interest Rate, Weekly Interest Rate or Long-Term Interest Rate, as applicable, shall be governed by the provisions of this Indenture applicable to such Interest Rate Period.

(h) The determination of the Alternate Long-Term Interest Rate Index and the determination of each Daily Interest Rate, Weekly Interest Rate and Long-Term Interest Rate and each Commercial Paper Term and Commercial Paper Term Rate by the Remarketing Agent shall be conclusive and binding upon the Remarketing Agent, the Trustee, the Tender Agent, the Issuer, the Borrower, and the Owners of the Bonds.

(i) The Bonds shall be numbered from R-1 consecutively upwards in order of authentication.

(j) Notwithstanding anything to the contrary contained in this Indenture, the Borrower may at any time, by written direction of an Authorized Borrower Representative to the Trustee, the Registrar, the Tender Agent and the Remarketing Agent and but only upon the approval of the Issuer, elect that the Bonds shall bear interest based on an alternate interest rate determination method not included under the provisions of this Indenture. Such direction shall set forth in full the Bonds affected by such election, the details of such interest rate determination method, including (without limitation) the manner of determining interest rates, the effective date of adjustment, the term of the interest rate period, the interest payment dates, the provisions for tender for purchase and redemption, if any, and the name and Principal Office of the Remarketing Agent while such Bonds bear interest based on such interest rate determination method, and shall include the form of Bonds incorporating such details; provided, however, that the effective date of such adjustment shall be (i) a Business Day not earlier than the 15th day (or if the then-current Interest Rate Period shall be a Long-Term Interest Rate Period and such Long-Term Interest Rate Period shall end on a day prior to the day originally established as the last day thereof, not earlier than the 30th day) following the second Business Day after receipt by the Trustee of such direction, (ii) in the case of an adjustment from a Long-Term Interest Rate Period, the day immediately following the last day of the then-current Long-Term Interest Rate Period or a day on which the Bonds would otherwise be subject to optional redemption pursuant to Section 301(c)(ii) hereof if such adjustment did not occur, and (iii) in the case of an adjustment from a Commercial Paper Interest Rate Period, either the day immediately following the last day of the Commercial Paper Interest Rate Period or, as to any Bond, the day immediately following the last day of the Commercial Paper Interest Term then in effect (or to be in effect) with respect to that Bond. In addition, the direction shall be accompanied by a Favorable Opinion of Bond Counsel. The Trustee, the Registrar, the Tender Agent, the Remarketing Agent and the Borrower shall take such actions and enter into such documents, and the Borrower shall appoint such additional parties, as may be necessary to effectuate such direction.

## **SECTION 202 PURCHASE OF BONDS.**

(a) During Daily Interest Rate Period. During any Daily Interest Rate Period, any Bond or portion thereof in an Authorized Denomination shall be purchased from its Owner at the option of the Owner on any Business Day at a purchase price equal to the

principal amount thereof plus accrued interest from the Interest Accrual Date immediately preceding the date of purchase through the day immediately preceding the date of purchase, unless the date of purchase shall be an Interest Accrual Date, in which case at a purchase price equal to the principal amount thereof, payable in immediately available funds, upon delivery to the Tender Agent at its Principal Office, by no later than 11:00 a.m., New York City time, on such Business Day, of an irrevocable written notice or an irrevocable telephonic notice, promptly confirmed by telecopy or other writing, which states the Bonds to be tendered, the principal amount of such Bond or such portion thereof and the date of purchase. For payment of such purchase price on the date specified in such notice, such Bond must be delivered, at or prior to 12:00 Noon, New York City time, on such Business Day, to the Tender Agent at its Principal Office, accompanied by an instrument of transfer thereof, in form satisfactory to the Tender Agent, executed in blank by the Owner thereof or his duly-authorized attorney, with such signature guaranteed by an "eligible guarantor institution" as defined in Rule 17Ad-15 under the Securities Exchange Act of 1934 (an "*Eligible Guarantor Institution*"). Notwithstanding the foregoing, during any period when the Bonds are registered in the name of Cede & Co. or such other nominee of DTC as DTC shall designate and held by DTC in its book-entry system, the optional tender of Bonds shall be accomplished in accordance with the Letter of Representations with DTC with respect to the Bonds and a tender of such Bonds must be initiated by the delivery of a notice to the Tender Agent in the form set forth as EXHIBIT B hereto.

(b) During Weekly Interest Rate Period. During any Weekly Interest Rate Period, any Bond or portion thereof in an Authorized Denomination shall be purchased from its Owner at the option of the Owner on any Business Day at a purchase price equal to the principal amount thereof plus accrued interest, if any, from the Interest Accrual Date immediately preceding the date of purchase through the day immediately preceding the date of purchase, unless the date of purchase shall be an Interest Accrual Date in which case at a purchase price equal to the principal amount thereof, payable in immediately available funds, upon delivery to the Tender Agent at its Principal Office of an irrevocable written notice or an irrevocable telephonic notice, promptly confirmed by tested telex, telecopy or other writing, which states the Bonds to be tendered, the principal amount of such Bond or such portion thereof and the date on which the same shall be purchased, which date shall be a Business Day not prior to the seventh day next succeeding the date of the delivery of such notice to the Tender Agent. For payment of such purchase price on the date specified in such notice, such Bond must be delivered, at or prior to 12:00 Noon, New York City time, on the date specified in such notice, to the Tender Agent at its Principal Office, accompanied by an instrument of transfer thereof, in form satisfactory to the Tender Agent, executed in blank by the Owner thereof or his duly-authorized attorney, with such signature guaranteed by an Eligible Guarantor Institution. Notwithstanding the foregoing, during any period when the Bonds are registered in the name of Cede & Co. or such other nominee of DTC as DTC shall designate and held by DTC in its book-entry system, the optional tender of Bonds shall

be accomplished in accordance with the Letter of Representations with DTC with respect to the Bonds and a tender of such Bonds must be initiated by the delivery of a notice to the Tender Agent in the form set forth as EXHIBIT B hereto.

(c) Mandatory Tender for Purchase On Business Day Next Succeeding the Last Day of Each Commercial Paper Term. On the Business Day next succeeding the last day of each Commercial Paper Term for a Bond, unless such day is the first day of a new Interest Rate Period (in which event Section 202(d) hereof shall be applicable), such Bond shall be purchased from its Owner, at a purchase price equal to the principal amount thereof, payable in immediately available funds. For payment of such purchase price on such day, such Bond must be delivered, at or prior to 12:30 p.m., New York City time, on such day, to the Tender Agent at its Principal Office, accompanied by an instrument of transfer thereof, in form satisfactory to the Tender Agent, executed in blank by the Owner thereof or his duly-authorized attorney, with such signature guaranteed by an Eligible Guarantor Institution.

(d) Mandatory Tender for Purchase on First Day of Each Interest Rate Period. The Bonds shall be subject to mandatory tender for purchase on the first day of each Interest Rate Period, at a purchase price, payable in immediately available funds, equal to 100% of the principal amount of the Bonds or, in the case of a purchase on the first day of an Interest Rate Period which shall be preceded by a Long-Term Interest Rate Period and which shall commence prior to the day originally established as the last day of such preceding Long-Term Interest Rate Period, at a purchase price equal to the optional redemption price set forth in Section 301(c)(ii) which would have been applicable to the Bonds on such mandatory purchase date if such preceding Long-Term Interest Rate Period had continued to the day originally established as its last day.

(e) Notice of Mandatory Tender for Purchase. In connection with any mandatory tender for purchase of Bonds in accordance with Section 202(d) hereof, the Registrar shall give notice as a part of the notice given pursuant to Sections 201(d)(iii), (e)(iii), (f)(iv) or (g)(iii) hereof. Such notice shall state (i) the Bonds to be tendered, (ii) the type of Interest Rate Period to commence on such mandatory purchase date; (iii) that the purchase price of any Bond so subject to mandatory purchase shall be payable only upon surrender of such Bond to the Tender Agent at its Principal Office, accompanied by an instrument of transfer thereof, in form satisfactory to the Tender Agent, executed in blank by the Owner thereof or his duly-authorized attorney, with such signature guaranteed by an Eligible Guarantor Institution; and (iv) that all Bonds so subject to mandatory tender for purchase shall be purchased on the mandatory purchase date.

(f) Irrevocable Notice Deemed to be Tender of Bond; Undelivered Bonds. (i) The giving of notice by an Owner of a Bond as provided in Sections 202(a) or (b) hereof, shall constitute the irrevocable tender for purchase of each Bond with respect to which such notice shall have been given irrespective of whether such Bond shall be delivered as provided in such Section, except that Bonds held at DTC and for which an optional

tender has been made by delivery of the notice set forth as EXHIBIT B hereto shall not be purchased unless such Bonds are transferred to the name of the Tender Agent in DTC's book-entry-only system on the tender date as provided in such notice. Further, each Bond shall be deemed irrevocably tendered for purchase on the first day of each Commercial Paper Term or Interest Rate Period as provided in Sections 202(c) or (d) hereof, in each case irrespective of whether such Bond shall be delivered as provided in this Section.

(ii) The Tender Agent may refuse to accept delivery of any Bonds for which a proper instrument of transfer has not been provided. In the event that any Owner of a Bond who shall have given notice of tender for purchase pursuant to Sections 202(a) or (b) hereof, or the Owner of any Bond subject to mandatory tender for purchase pursuant to Section 202(c) or (d) hereof, shall fail to deliver such Bond to the Tender Agent at the place and on the applicable date and time specified, or shall fail to deliver such Bond properly endorsed, such Bond shall constitute an Undelivered Bond. If funds in the amount of the purchase price of the Undelivered Bond are available for payment to the Owner thereof on the date and at the time specified, from and after the date and time of that required delivery, (A) the Undelivered Bond shall no longer be deemed to be Outstanding under this Indenture; (B) interest shall no longer accrue thereon; and (C) funds in the amount of the purchase price of the Undelivered Bond shall be held by the Tender Agent for the benefit of the Owner thereof (provided that the Owner shall have no right to any investment proceeds derived from such funds), to be paid on delivery (or proper endorsement) of the Undelivered Bond to the Tender Agent. Any funds held by the Tender Agent as described in clause (C) of the preceding sentence shall be held uninvested.

**SECTION 203 EXECUTION AND PAYMENT.** The Bonds shall be executed on behalf of the Issuer with the manual or facsimile signatures of the Chair and attested by the Secretary, and the official seal of the Issuer shall be impressed or a facsimile thereof imprinted thereon. The validation certificate to be printed on the Bonds shall be executed by the manual or facsimile signature of the Clerk or Deputy Clerk of the Superior Court of Monroe County and the official seal of such Court shall be impressed or imprinted thereon.

In case any officer whose signature or facsimile signature shall appear on any Bonds shall cease to be such officer before the delivery of such Bonds, such signature or such facsimile signature shall nevertheless be valid and sufficient for all purposes the same as if the officer had remained in office until such delivery, and also any Bond may be signed by or bear the facsimile signature of such persons as at the actual time of the execution of such Bond shall be the proper officers to sign such Bond although at the date of such Bond such persons may not have been such officers.

Principal or redemption price of and interest on the Bonds shall be payable, without deduction for the services of any paying agent, in any coin or currency of the

United States of America which, at the time of payment, is legal tender for the payment of public and private debts, subject to the further provisions of this Section, (a) in the case of principal or redemption price of such Bond, when due, upon presentation and surrender of such Bond at the Principal Office of the Trustee or at the office, designated by the Trustee, of any other paying agent and (b) in the case of interest on such Bond, on each Interest Payment Date by check mailed on that date to the address of the person entitled thereto, as of the applicable Record Date, as such address appears on the registration books of the Issuer hereinafter provided or, except for interest in respect of a Long-Term Interest Rate Period, upon the request of each Owner of Bonds who has provided deposit or transfer instructions to the Paying Agent at least two Business Days prior to such Record Date, deposited in immediately available funds to the account of such Owner maintained with the Paying Agent or transmitted by wire transfer to the account of such Owner maintained with a commercial bank located within the United States of America, but, in the case of interest payable in respect of a Commercial Paper Term, only upon delivery of such Bond to the Tender Agent.

If and to the extent, however, that payment or provision for payment of interest on any Bond on any Interest Payment Date is not made, that interest shall cease to be payable to the Owner of that Bond as of the applicable Record Date. When moneys become available for payment of the interest, (a) the Trustee shall establish a Special Record Date for the payment of that interest which shall be not more than 15 nor fewer than 10 days prior to the date of the proposed payment, and (b) the Trustee shall give notice by first-class mail of the proposed payment and of the Special Record Date to each Owner not fewer than 10 days prior to the Special Record Date and, thereafter, the interest shall be payable to the Owners of the Bonds as of the Special Record Date at the close of business on the Special Record Date.

Notwithstanding any provision of this Indenture or of any Bond, the Trustee or the Paying Agent may enter into an agreement with any holder of 100% in aggregate principal amount of the Bonds providing for making any or all payments to that holder of principal or redemption price of and interest on that Bond or any part thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner other than as provided in this Indenture and in the Bond, without presentation or surrender of the Bond, and for giving any notice required hereunder, upon any conditions that shall be satisfactory to the Trustee, the Paying Agent and the Borrower; provided that no such agreement with such a holder shall provide for less notice than is otherwise provided for herein.

The Trustee or the Paying Agent, as the case may be, will furnish a copy of each of those agreements, certified to be correct by an officer of the Trustee, to the Borrower. Any payment of principal, redemption price or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, this Indenture.

**SECTION 204 AUTHENTICATION OF BONDS.** Only such of the Bonds having endorsed thereon a certificate of authentication substantially in the form set forth in EXHIBIT A hereto, duly executed by the Registrar, shall be entitled to any benefit or security under this Indenture. No Bond shall be valid or obligatory for any purpose unless and until such certificate of authentication shall have been duly executed by the Registrar, and such certificate of the Registrar upon any such Bond shall be conclusive evidence that such Bond has been duly issued and delivered under this Indenture. The Registrar's certificate of authentication on any Bond shall be deemed to have been duly executed if signed by an authorized signatory of the Registrar, but it shall not be necessary that the same signatory sign the certificate of authentication on all of the Bonds that may be issued hereunder at any one time.

Each Bond shall bear a certificate of validation. The Bonds, the certificate of authentication and the certificate of validation to be endorsed thereon and the form of assignment to be included therein shall be substantially in the form attached hereto as EXHIBIT A, with such appropriate variations, omissions, substitutions and insertions as are permitted or required by this Indenture.

**SECTION 205 EXCHANGE OF BONDS.** Upon surrender thereof at the Principal Office of the Registrar, Bonds may, at the option of the registered owner thereof, be exchanged for an equal aggregate principal amount of Bonds of any denomination or denominations authorized by this Indenture, and bearing interest at the same rate as the Bonds surrendered for exchange.

**SECTION 206 TRANSFER OF BONDS.** The Tender Agent is hereby appointed as Registrar and as such shall keep books for the registration and for the registration of transfer of Bonds as provided in this Indenture, provided that during a Long-Term Interest Rate Period, the Trustee shall be and is hereby appointed as Registrar, with responsibility for the duties of the Registrar hereunder.

At reasonable times and under reasonable regulations established by the Registrar, the books for the registration and registration of transfer of Bonds may be inspected and copied by the Issuer, the Trustee, the Borrower, or by Owners (or a designated representative thereof) of a majority in principal amount of the Bonds then Outstanding, the authority of any such designated representative to be evidenced to the satisfaction of the Registrar.

The Issuer, the Trustee, the Tender Agent, the Paying Agent and the Remarketing Agent may deem and treat the Owner of any Bond as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal of and interest and any premium on, or the purchase price of, such Bond and for all other purposes, and neither the Issuer, the Trustee, the Tender Agent, the Paying Agent nor any Remarketing Agent shall be affected by any notice to the contrary. All such payments so made to any such Owner or upon his order shall be

valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

The transfer of any Bond may be registered only upon the books kept for the registration and registration of transfer of Bonds upon surrender thereof to the Registrar, together with an assignment duly executed by the registered owner or his attorney or legal representative in such form as shall be satisfactory to the Registrar. Upon any such registration of transfer the Issuer shall execute and the Registrar shall authenticate and deliver in exchange for such Bond a new Bond or Bonds, registered in the name of the transferee, of any denomination or denominations authorized by this Indenture, in an aggregate principal amount equal to the principal amount of such Bonds and bearing interest at the same rate.

In all cases in which Bonds shall be exchanged or the transfer of Bonds shall be registered hereunder, the Issuer shall execute and the Registrar shall authenticate and deliver at the earliest practicable time Bonds in accordance with the provisions of this Indenture. All Bonds surrendered in any such exchange or registration of transfer shall forthwith be canceled by the Registrar. The Issuer or the Registrar may make a charge for every such exchange or registration of transfer of Bonds sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or registration of transfer, and such charge shall be paid before any such new Bond shall be delivered. Except in connection with the remarketing of Bonds, neither the Issuer nor the Registrar shall be required to make any such exchange or registration of transfer of Bonds, in the case of any proposed redemption of Bonds, during the 15 days immediately preceding the selection of Bonds for such redemption or after any such Bond or any portion thereof has been called for redemption.

The transferor shall provide or cause to be provided to the Trustee all information necessary to allow the Trustee to comply with any applicable tax reporting obligations, including without limitation any cost basis reporting obligations under Internal Revenue Code Section 6045. The Trustee may rely on the information provided to it and shall have no responsibility to verify or ensure the accuracy of such information.

**SECTION 207 OWNERSHIP OF BONDS.** Except as provided in Section 203 hereof, the person in whose name any Bond shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal of and premium, if any, and interest on any such Bond shall be made only to or upon the order of the registered owner thereof or his registered assigns on the applicable Record Date. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond, including the interest thereon, to the extent of the sum or sums so paid.

Any owner of any Bond is hereby granted power to transfer absolute title thereto by assignment thereof to a bona fide purchaser for value (present or antecedent) without

notice of prior defenses or equities or claims of ownership enforceable against his assignor or any person in the chain of title and before the maturity of such Bond. Every prior owner of any Bond shall be deemed to have waived and renounced all of his equities or rights therein in favor of every such bona fide purchaser, and every such bona fide purchaser shall acquire absolute title thereto and to all rights represented thereby.

**SECTION 208 PREREQUISITE TO EXECUTION OF BONDS.** The Bonds shall be executed substantially in the form and manner herein set forth, shall bear a certificate of validation and shall be deposited with the Registrar for authentication, but prior to or simultaneously with the authentication and delivery of the Bonds by the Registrar there shall be delivered to the Trustee the following:

(a) copies, certified by the Secretary, of the resolutions adopted by the Issuer authorizing the issuance, sale and delivery of the Bonds and the execution and delivery of the Loan Agreement and this Indenture;

(b) executed counterparts or certified copies of the Loan Agreement and this Indenture;

(c) opinions of counsel to the Issuer or Bond Counsel, addressed to the Trustee, to the effect that the execution and delivery of the Loan Agreement has been duly authorized by the Issuer, and that, assuming proper authorization and the execution and delivery of the Loan Agreement by the Borrower, the Loan Agreement is valid and binding on the Issuer in accordance with its terms;

(d) an opinion of counsel for the Borrower, addressed to the Trustee, to the effect that the execution and delivery of the Loan Agreement has been duly authorized by the Borrower, and that, assuming proper authorization, execution and delivery of the Loan Agreement by the Issuer, the Loan Agreement is valid and binding on the Borrower in accordance with its respective terms;

(e) an opinion of Bond Counsel as to the validity of the Bonds and as to the exclusion of interest on the Bonds for federal income tax purposes in customary form;

(f) a request and authorization of the Issuer, signed by the Chair, to the Registrar to authenticate and deliver the Bonds to such person or persons named therein upon payment to the Trustee for the account of the Issuer of a sum specified therein;

(g) delivery of a non-arbitrage certificate from the Issuer in form and substance acceptable to Bond Counsel;

(h) delivery of a tax certificate from the Borrower in form and substance acceptable to Bond Counsel; and

(i) a certified copy of the transcript of judicial proceedings providing for the validation of the Bonds; and

(j) a written statement or certificate signed by a duly authorized representative of the Borrower approving the terms, purchase price of, and use of the proceeds of the sale of the Bonds.

When the documents mentioned above in this Section shall have been filed with the Trustee and when the Bonds shall have been executed as required by this Indenture, the Registrar shall authenticate the Bonds and deliver them to or upon the order of the purchasers named in the authentication order referred to in clause (f) of this Section, but only upon payment to the Trustee for the account of the Issuer of the purchase price of the Bonds. The Trustee shall be entitled to rely upon such resolution, or any certificate of award authorized by such resolution, as to the names of the purchasers, the interest rate or rates and periods of the Bonds and the amount of such purchase price.

The amount of the proceeds representing accrued interest on the Bonds shall be deposited by the Trustee in accordance with Section 502 hereof simultaneously with the delivery of the Bonds. The balance of the proceeds received from the sale of the Bonds, net underwriter's discount and certain out of pocket expenses of the underwriter for the Bonds, shall be deposited by the Trustee into the Construction Fund; all simultaneously with the delivery of the Bonds.

**SECTION 209 TEMPORARY BONDS.** Until definitive Bonds are ready for delivery, there may be executed, and upon request of the Issuer the Registrar shall authenticate and deliver, in lieu of definitive Bonds and subject to the same limitations and conditions, temporary Bonds, in the form of registered Bonds without coupons in Authorized Denominations, substantially of the tenor set forth in EXHIBIT A hereto and with such appropriate omissions, insertions and variations as may be required. Until definitive Bonds are ready for delivery, any temporary Bond may, if so provided by the Issuer by resolution, be exchanged at the Principal Office of the Registrar, without charge to the holder thereof, for an equal aggregate principal amount of temporary registered Bonds without coupons, of like tenor and bearing interest at the same rate.

If temporary Bonds shall be issued, the Issuer shall cause the definitive Bonds to be prepared and to be executed and delivered to the Registrar, and the Registrar, upon presentation to it at its Principal Office of any temporary Bond shall cancel the same and authenticate and deliver in exchange therefor at the Principal Office of the Registrar, without charge to the holder thereof, a definitive Bond or Bonds of an equal aggregate principal amount and bearing interest at the same rate as the temporary Bond surrendered. Until so exchanged the temporary Bonds shall in all respects be entitled to the same benefit and security of this Indenture as the definitive Bonds to be issued and authenticated hereunder.

**SECTION 210 MUTILATED, DESTROYED, STOLEN OR LOST BONDS.** In case any Bond secured hereby shall become mutilated or be destroyed, stolen, or lost, the Issuer shall cause to be executed, and the Registrar shall authenticate and deliver, a new Bond of like date and tenor in exchange and substitution for and upon the cancellation of such mutilated Bond, or in lieu of and in substitution for such Bond destroyed, stolen, or lost, upon the holder's paying the reasonable expenses and charges of the Issuer and the Registrar in connection therewith and, in the case of a Bond destroyed, stolen, or lost, his filing with the Registrar evidence satisfactory to it, the Issuer and the Borrower that such Bond was destroyed, stolen, or lost, and of his ownership thereof and furnishing the Issuer, the Registrar, the Trustee and the Borrower indemnity satisfactory to each of them.

In case any such mutilated, destroyed, stolen or lost Bond has become or is about to become due and payable, the Issuer, at the direction of the Borrower, may, instead of issuing a new Bond, direct the Trustee to pay such Bond.

**SECTION 211 COMPLETION BONDS.** Anything in this Indenture to the contrary notwithstanding, at the direction of the Borrower, the Issuer may issue Completion Bonds in one or more series to complete the Project; provided that aggregate principal amount of Completion Bonds together with the Bonds shall in no event exceed \$100,000,000. The delivery and execution of such Completion Bonds shall be subject to fulfilling the requirements of Section 208 hereof. This Indenture and the Loan Agreement shall be supplemented to take into account the issuance of Completion Bonds.

### **ARTICLE III REDEMPTION OF BONDS**

**SECTION 301 REDEMPTION.** Dates and Prices.

(a) The Bonds issued under the provisions of this Indenture shall not be subject to prior redemption except as provided or permitted in this Article III.

(b) During any Long-Term Interest Rate Period, in the event of a prepayment by the Borrower of Loan Repayments with respect to the Bonds pursuant to subsection (a) of Section 10.1 of the Loan Agreement, the Bonds shall be redeemed in whole on the date selected by the Borrower at a redemption price of 100% of the principal amount thereof plus accrued interest to the date fixed for redemption, if:

(i) the Borrower shall have determined that the continued operation of any portion of the Project, or the plant of which the Project is a part, is impracticable, uneconomical or undesirable; or

(ii) all, or substantially all of, or any portion of, the Project, or the plant of which the Project is a part, shall have been condemned or taken by eminent domain; or

(iii) the operation of any portion of the Project, or the plant of which the Project is a part, shall have been enjoined for a period of at least six consecutive months; or

(iv) as a result of any change in the Constitution of the State of Georgia or the Constitution of the United States of America, or as a result of any legislative or administrative action (whether state or federal) or by final decree, judgment or order of any court or administrative body (whether state or federal) after any contest thereof by the Borrower in good faith, the Indenture, the Loan Agreement or the Bonds shall be discharged or unenforceable or impossible of performance in accordance with the intent and purposes of the parties as expressed in the Loan Agreement.

(c) In the event of a prepayment by the Borrower of all or a portion of the Loan Repayments, together with interest thereon, pursuant to subsection (b) of Section 10.1 of the Loan Agreement, the Bonds to which such Loan Repayments are applicable shall be subject to redemption prior to maturity as follows:

(i) (A) On any Business Day during a Daily Interest Rate Period or a Weekly Interest Rate Period, the Bonds shall be subject to optional redemption by the Issuer, at the direction of the Borrower, in whole or in part, at a redemption price of 100% of the principal amount thereof plus accrued interest, if any, to the redemption date.

(B) On the day succeeding the last day of any Commercial Paper Term with respect to any Bond, such Bond shall be subject to optional redemption by the Issuer, at the direction of the Borrower, in whole or in part, at 100% of its principal amount.

(ii) During any Long-Term Interest Rate Period, the Bonds are subject to optional redemption by the Issuer, at the direction of the Borrower (i) on the final Interest Payment Date for such Long-Term Interest Rate Period, at a redemption price equal to 100% of the principal amount thereof plus interest accrued, if any, to the redemption date, and (ii) prior to the end of the then current Long-Term Interest Period, at any time during the redemption periods and at the redemption prices set forth below, plus interest accrued, if any, to the redemption date:

<u>Original Length of Current Term Rate Period (Years)</u>	<u>Commencement of Redemption Period</u>	<u>Redemption Price as Percentage of Principal</u>
More than 10 years	Tenth anniversary of commencement of Long-Term Interest Rate Period	100%
Equal to or less than 10 years	Non-callable	Non-callable

If the Borrower has given notice of a change in the Long-Term Interest Rate Period or notice of an adjustment of the Interest Rate Period for the Bonds to the Long-Term Interest Rate Period and, at least one day prior to such change in the Long-Term Interest Rate Period or such adjustment the Borrower has provided (i) a certification of the Remarketing Agent to the Trustee that the foregoing schedule is not consistent with prevailing market conditions, (ii) evidence of approval by the Issuer of the revised redemption provisions described below, and (iii) a Favorable Opinion of Bond Counsel addressed to the Trustee that a change in the redemption provisions of the Bonds will not adversely affect the exclusion from gross income of interest on the Bonds for federal income tax purposes, the foregoing redemption periods and redemption prices may be revised, effective as of the date of such adjustment in the Long-Term Interest Rate Period or an adjustment to the Long-Term Interest Rate Period, as determined by the Remarketing Agent in its judgment, taking into account the then prevailing market conditions as set forth in such certification.

(iii) In addition, during any No Call Period, the Bonds will be nonetheless subject to optional redemption by the Issuer, at the direction of the Borrower, in whole or in part, at any time, if the Borrower delivers to the Trustee a written certificate (i) to the effect that by reason of a change in use of the Project or any portion thereof, the Borrower has been unable, after reasonable effort, to obtain an opinion of Bond Counsel to the effect that a court, in a properly presented case, should decide that (a) Section 150 of the Code (or successor provision of similar import) does not prevent that portion of the Loan Repayments payable under the Loan Agreement and attributable to interest on the Bonds from being deductible by the Borrower for federal income tax purposes and (b) Treasury Regulations Section 1.142-2 (or a successor provision of similar import) does not prevent interest on the Bonds from being excluded for federal income tax purposes from the gross income of the Bondholders thereof (other than a Bondholder who is a "substantial user" of the Project or a "related person" within the meaning of Section 147(a) of the Code), (ii) specifying that as a result of its inability to obtain such opinion of Bond Counsel, the Borrower has elected to prepay amounts due under the Loan Agreement equal to the redemption price of the Bonds to be so redeemed and (iii) specifying the principal amount of the Bonds which the Borrower has determined to be the minimum necessary to be so redeemed in order for the Borrower to retain its rights to such interest deductions and for interest on the Bonds to retain such exclusion from gross income for federal income tax purposes (which principal amount of the Bonds will be so redeemed). The redemption price for the Bonds shall be equal to the outstanding principal amount thereof plus accrued interest, if any, to the redemption date.

(d) The Bonds shall be subject to mandatory redemption by the Issuer, at the principal amount thereof plus accrued interest to the redemption date, on the 180th day (or such earlier date as may be designated by the Borrower) after a final determination by a court of competent jurisdiction or an administrative agency, or receipt by the Issuer and the Borrower of an opinion of Bond Counsel obtained by the Borrower and rendered at

the request of the Borrower, to the effect that (x) as a result of a failure by the Borrower to perform or observe any covenant or agreement in the Loan Agreement, or the inaccuracy of any representation, the interest on the Bonds is included for federal income tax purposes in the gross income of the Bondholders thereof, or would be so included absent such redemption, or (y) such redemption is required under the terms of a closing agreement or other similar agreement with the Internal Revenue Service settling an issue raised in connection with an examination of the Bonds or in connection with a submission to the Internal Revenue Service Voluntary Closing Agreement Program or similar program. No determination by any court or administrative agency shall be considered final for the purposes of this paragraph unless the Borrower shall have had the opportunity to participate in the proceeding which resulted in such determination, either directly or through a Bondholder, to a degree it deems sufficient and until the conclusion of any court proceeding initiated after a final agency determination, and of any appellate review sought by any party to such agency or court proceeding or the expiration of the time for seeking such review. The Bonds shall be redeemed either in whole or in part in such principal amount that the interest payable on the Bonds remaining outstanding after such redemption would not be included in the gross income of any Bondholder thereof, other than a Bondholder who is a "substantial user" of the Project or a "related person" within the meaning of Section 147(a) of the Code.

(e) If less than all of the Bonds shall be called for redemption, the particular Bonds or portions of Bonds to be redeemed shall be selected by the Trustee, by lot or in such other manner as the Trustee in its discretion may determine to be fair and appropriate, in the principal amounts designated by the Borrower or otherwise as required by this Indenture; provided, however, that in connection with any redemption of Bonds, the Trustee shall first select for redemption any Bonds held by the Tender Agent for the account of the Borrower (or any nominees thereof) pursuant to Section 1407(c) hereof, and that if, as indicated in a certificate of an Authorized Borrower Representative delivered to the Trustee, the Borrower shall have offered to purchase all Bonds then Outstanding and less than all of such Bonds shall have been tendered to the Borrower for such purchase, the Trustee, at the direction of an Authorized Borrower Representative, shall select for redemption all such Bonds which have not been so tendered; and provided, further, that the portion of any Bond to be redeemed shall be in the principal amount constituting an Authorized Denomination, and that, in selecting Bonds for redemption, the Trustee shall treat each Bond as representing that number of Bonds which is obtained by dividing the principal amount of such Bond by the minimum Authorized Denomination.

**SECTION 302 NOTICE OF REDEMPTION.** At least 30 days before the redemption date of any Bonds, the Registrar shall cause a notice of any such redemption, in the name of the Issuer, to be mailed by first class mail (except as otherwise provided below), postage prepaid, to all registered owners of Bonds to be redeemed as a whole or in part at their addresses as they appear on the registration books hereinabove provided

for. The notice provided pursuant to this Section shall be sent by certified mail, return receipt requested, to any owner of the Bonds that is a depository institution and those entities described in the immediately preceding sentence. Any such notice shall be given in the name of the Issuer, shall identify (i) the complete official name of the issue, (ii) the Bonds or portions thereof to be redeemed by designation, letters, CUSIP numbers, numbers or other distinguishing marks, dated date, interest rate, maturity date and principal amount, (iii) the redemption price to be paid, (iv) the date of mailing and the date fixed for redemption, (v) the place or places, by name and address, where the amounts due upon redemption are payable and (vi) the name, address and telephone number of the person to whom inquiries regarding the redemption may be directed, and shall state that on the redemption date the Bonds called for redemption will be payable and that from that date interest will cease to accrue. A second notice shall be sent in the same manner described above not more than 60 days after the redemption date to the owner of any called Bond which was not presented for payment on the redemption date. Failure so to mail any such notice to the registered owner of any Bond shall not affect the validity of the proceedings for redemption of any other Bond and failure to mail any such notice to any other entity as required by this Section shall not affect the validity of the proceedings for redemption of any Bond. The Registrar shall not be subject to any liability to any Bondholder by reason of its failure to mail any such notice provided in this Section. In case any Bond is to be redeemed in part only, the notice of redemption which relates to such Bond shall state also that on or after the redemption date, upon surrender of such Bond, a new Bond in principal amount equal to the unredeemed portion of such Bond will be issued.

Any notice of redemption, except a notice of mandatory redemption pursuant to Section 301(d) hereof or any similar provision contained in any indenture supplemental hereto, shall, unless at the time such notice is given the Bonds to be redeemed are deemed to have been paid in accordance with Article XIII hereof, state any conditions to the redemption. Such notice shall be of no effect unless the conditions, if any, set forth in the notice have been satisfied. In the event that such notice contains conditions and the conditions have not been satisfied on or prior to the redemption date, the redemption shall not be made, and the Trustee shall within a reasonable time thereafter give notice, in the manner in which the notice of redemption was given, that such conditions have not been satisfied.

If a notice of redemption shall be unconditional, or if the conditions of a conditional notice of redemption shall have been satisfied, the Bonds so called for redemption shall become and be due and payable on the date fixed for redemption, and upon the presentation and surrender of such Bonds at the place or places specified such Bonds shall be redeemed.

**SECTION 303 EFFECT OF REDEMPTION.** All Bonds and portions of Bonds which have been duly selected for redemption under the provisions of this Article

and which are deemed to have been paid in accordance with Article XIII hereof shall cease to bear interest on the date fixed for redemption.

**SECTION 304 PARTIAL REDEMPTION.** In case part but not all of an outstanding Bond shall be selected for redemption, the owner thereof or his attorney or legal representative shall present and surrender such Bond to the Trustee for payment of the principal amount thereof so called for redemption, and the Issuer shall execute and the Trustee shall authenticate and deliver to or upon the order of such owner or his attorney or legal representative, without charge therefor, for the unredeemed portion of the principal amount of the Bond so surrendered, a Bond bearing interest at the same rate.

**ARTICLE IV  
CONSTRUCTION FUND**

**SECTION 401 CREATION OF CONSTRUCTION FUND.** (a) A special fund is hereby created and designated the Development Authority of Monroe County Revenue Bonds, Series 2019 (Gulf Power Company Project) Construction Fund (herein called the "*Construction Fund*"), to the credit of which such deposits shall be made as are required by the provisions of Section 208 of this Indenture. Any moneys received by the Trustee from any other source for the payment of the Cost of the Project shall be deposited to the credit of the Construction Fund.

(b) The monies in the Construction Fund shall be held by the Trustee in trust, and subject to the provisions of Section 404, 406 and 602 of this Indenture, shall be applied to the payment of the Cost of the Project (as described in Section 403 hereof), and, pending such application, shall be subject to a lien and charge in favor of the holders of the Bonds issued and outstanding under this Indenture and for the further security of such holders until paid out or transferred as herein provided.

**SECTION 402 PAYMENTS FROM CONSTRUCTION FUND.** Payment of the Cost of the Project shall be made from the Construction Fund. All payments from the Construction Fund shall be subject to the provisions and restrictions set forth in this Article, and the Issuer covenants that it will not cause to be paid from the Construction Fund any sums except in accordance with such provisions and restrictions.

**SECTION 403 ITEMS OF COST.** For purposes of this Indenture, the Cost of the Project shall embrace all the costs paid or incurred by the Borrower, but only the costs permitted by the Act of acquiring, constructing and installing the Project and, without intending thereby to limit or restrict any proper definition of such Cost under the Act, shall include:

(a) To the extent permitted under the Code and applicable United States Treasury Regulations, payment to the Borrower and the Issuer of such amounts, if any, as shall be necessary to reimburse the Borrower and the Issuer in full for advances and payments made by them or either of them or for their accounts before or after the delivery of the Bonds for expenditures in connection with the acquisition of any property required for the Project including payment of any short-term, temporary or other borrowings, bonds, notes or other evidences of indebtedness (including any unpaid fees, charges or costs in connection therewith), the proceeds of which have been applied to the payment of items of the Cost of the Project, the preparation of plans and specifications for the Project (including any preliminary study or planning of the Project or any aspect thereof and any reports of analyses concerning the Project), the acquisition, construction and installation of the Project, including reimbursement to the Borrower for allowance for funds used during construction before the date of the Bonds, interest on the Bonds during construction (which shall mean the period beginning with the date of delivery of the

Bonds and ending on the date upon which the acquisition, construction and installation of the Project shall have been completed, except if the Project consist of facilities which will be placed in service at different times, the date to which interest may be paid from Bond proceeds will be the date upon which all such portions of the Project shall have been placed in service) and all real or personal property, deemed necessary in connection with the Project, or any one or more of the expenditures (including architectural, engineering and supervisory services). The foregoing notwithstanding, the expenditures to be reimbursed pursuant to this Section have been incurred within 60 days prior to October 16, 2015 or constitute preliminary expenditures within the meaning and to the extent permitted by Section 1.150-2(f)(2) of the United States Treasury Regulations or will be incurred after such date in connection with the Project.

(b) Payment of the initial or acceptance fee of the Trustee, legal, accounting and financial advisory fees and expenses (including, without limitation, fees for preparation of any "blue sky" or legal investment surveys), underwriting fees, filing and rating agencies' fees and printing and engraving costs incurred in connection with the authorization, sale and issuance of the Bonds, the execution and filing of this Indenture, the Loan Agreement, Tender Agreement, any Pledge Agreement and any financing statements and all other documents in connection therewith, and payment of all fees, costs and expenses for the preparation of this Indenture, the Loan Agreement, Tender Agreement, any Pledge Agreement and the Bonds, including recording fees and documentary stamp taxes, if any, and any other fees and expenses necessary or incident to the issuance and sale of the Bonds or the acquisition, installation and construction of the Project.

(c) Payment for labor, services, materials and supplies used or furnished in site improvement and in the acquisition, construction and installation of the Project, all as provided in the plans and specifications therefor, payment for the cost of the acquisition, construction and installation of utility services or other facilities, and all real and personal property deemed necessary in connection with the Project and payment for the miscellaneous expenses incidental to any of the foregoing items.

(d) Payment, as they become due, of the fees and expenses of the Trustee (as Trustee and Bond Registrar), properly incurred under this Indenture that may become due until the Completion Date.

(e) Payment of any other costs and expenses relating to the acquisition, construction and installation of the Project (including testing) or the authorization, issuance and sale of the Bonds.

(f) Costs incurred in connection with the validation of the Bonds.

**SECTION 404 DISBURSEMENTS.** Payments from the Construction Fund shall be made by the Trustee upon the order of the Borrower in accordance with the provisions of this Section, but no such payment shall be made unless and until the Trustee shall receive a requisition signed by the Authorized Borrower Representative, in substantially the form attached to the Loan Agreement as Exhibit "B", which requisition shall state:

- (a) the item number of each such payment,
- (b) the name of the person, firm or corporation to whom each such payment is due,
- (c) the respective amounts to be paid,
- (d) the purpose by general classification for which each obligation to be paid was incurred,
- (e) that obligations in the stated amounts have been incurred and have been paid or are presently due and payable or have been paid by the Borrower and that each item thereof is a proper charge against the Construction Fund and has not been the subject of a previous withdrawal from the Construction Fund,
- (f) that there has not occurred and is not continuing any event of default under the Loan Agreement and to the best of his knowledge there has not been filed with or served upon the Issuer or the Borrower notice of any lien, right or attachment upon, or claim affecting the right of any such persons, firms or corporations to receive payment of, the respective amounts stated in such requisition which has not been released or will not be released simultaneously with the payment of such obligation, and
- (g) that, after giving effect to such requisition, (i) not less than 95% of the proceeds of the Bonds withdrawn from the Construction Fund will have been used to provide "sewage facilities" or "solid waste disposal facilities" within the meaning of Section 142(a)(5) or 142(a)(6) of the Code, as the case may be and (ii) no more than 2% of the proceeds (within the meaning of Section 147(g) of the Code) of the Bonds will have been used to pay costs of issuance of any of the Bonds.

Upon receipt of the requisition, the Trustee shall pay such obligation from the Construction Fund. If prior to payment of any item in a requisition the Borrower should for any reason desire not to pay such item, the Borrower shall give notice of such decision to the Trustee. In making any disbursement the Trustee shall pay each such obligation directly to the Borrower or to any payee designated by the Authorized Borrower Representative, as set forth in such requisition.

**SECTION 405 RELIANCE ON REQUISITIONS.** The Trustee may rely fully on any requisition delivered pursuant to this Article and shall not be required to make any investigation in connection therewith. The Trustee shall be under no duty or obligation to analyze or verify the payments or reimbursements by the Borrower, but shall hold such requisitions solely as a repository, subject at all reasonable times (following delivery to the Trustee of reasonable prior written notice of such party's desire to inspect such requisition) to examination by the Borrower, the Issuer and the agents and representatives thereof.

**SECTION 406 COMPLETION OF THE PROJECT.** (a) Upon the receipt by the Trustee of the certificate required by Section 4.5 of the Loan Agreement, any balance remaining in the Construction Fund attributable to the Bonds (other than amounts retained by the Trustee to pay costs not then due and payable or for which the liability for payment is in dispute and amounts directed by the Borrower to be retained therein in furtherance of the Borrower's covenants set forth in Section 4.7 of the Loan Agreement) shall (i) be applied in whole or in part to the redemption of Bonds on the earliest date upon which such Bonds may called for redemption without premium pursuant to Sections 301(b) or (c) hereof or any similar provisions contained in any indenture supplemental hereto, to the purchase of Bonds in such amounts, at such prices, at such times and otherwise as directed by the Borrower or in any other manner directed by the Borrower which in all such cases, as indicated in an opinion of Bond Counsel furnished by the Borrower to the Issuer and the Trustee, will not impair the validity under the Act of the Bonds or the exclusion from gross income for purposes of federal income taxes of the interest thereon, or (ii) in the absence of any such redemption, purchase or direction within sixty (60) days of the receipt by the Trustee of such certificate, be deposited by the Trustee into the Bond Fund. From time to time as the proper disposition of the amounts retained by the Trustee in the Construction Fund as aforesaid shall be determined, to the extent that such amounts are not paid out in full by the Trustee pursuant to Section 404 hereof, the Borrower shall so notify the Trustee and the Issuer by one or more certificates as aforesaid and any amounts from time to time no longer to be so retained by the Trustee shall be applied as aforesaid.

(b) In the event that the Borrower exercises an option under the Loan Agreement to effect the redemption of all the Bonds then outstanding, the Trustee shall, upon the direction of the Borrower, deposit in the Bond Fund, on the date the prepayment is made, any balance remaining in the Construction Fund.

(c) If the principal of all outstanding Bonds shall have become due and payable in accordance with Section 802 of this Indenture, the Trustee shall, upon the obtaining or entering of a judgment or decree for the payment of moneys due as provided in Article VIII of this Indenture, or at the direction of the Borrower, deposit in the Bond Fund any balance remaining in the Construction Fund.

(d) In the event that the Issuer shall be required to redeem Bonds pursuant to Section 301(d) hereof or pursuant to any similar provision contained in any indenture supplemental hereto, the Trustee shall, at the direction of the Borrower, withdraw from the Construction Fund and deposit into the Bond Fund an amount not exceeding the aggregate principal amount of, and accrued interest on, the Bonds so to be redeemed.

(e) In the event of an acceleration of the Bonds in accordance with Section 802 hereof, the Trustee without further direction shall immediately transfer all of the moneys in the Construction Fund to the Bond Fund.

[Remainder of page intentionally left blank]

**ARTICLE V  
BOND FUND**

**SECTION 501 CREATION OF BOND FUND.** A special fund is hereby created and designated the "Development Authority of Monroe County Revenue Bonds (Gulf Power Company Project), Series 2019 Bond Fund" (the "*Bond Fund*"). The moneys in the Bond Fund shall be held by the Trustee in trust and applied as hereinafter provided and, pending such application, shall be subject to a lien and charge in favor of the holders of the Bonds issued and outstanding under this Indenture and for the further security of such holders until paid out or transferred as herein provided.

**SECTION 502 PAYMENTS INTO BOND FUND.** There shall be deposited to the credit of the Bond Fund (a) the accrued interest received on the Bonds issued hereunder, (b) all Loan Repayments and (c) all other moneys received by the Trustee under and pursuant to any of the provisions of the Loan Agreement or otherwise which are required, or are accompanied by directions from the Borrower or the Issuer that such moneys are, to be paid into the Bond Fund. The Trustee is authorized to receive at any time payments from the Borrower pursuant to the Loan Agreement or otherwise for deposit in the Bond Fund. In the event of an acceleration of the Bonds in accordance with Section 802 hereof, the Trustee without further direction shall immediately transfer all of the moneys in the Construction Fund to the Bond Fund.

**SECTION 503 USE OF MONEYS IN BOND FUND.** All interest accruing on the Bonds up to the dates of their delivery shall be paid from the amounts deposited in the Bond Fund pursuant to Section 502(a) hereof. Except as otherwise provided in this Indenture, moneys in the Bond Fund shall be used solely for the payment of the principal of and premium, if any, and interest on the Bonds. Upon receipt of a written notice from the Borrower pursuant to Article X of the Loan Agreement, and, in the case of a directed purchase of Bonds, upon the deposit of cash or Investment Obligations in the Bond Fund sufficient, together with other amounts available therefor in the Bond Fund, to make the directed purchase of Bonds, the Issuer and the Trustee covenant and agree to take and cause to be taken the necessary steps to redeem or purchase such principal amount of Bonds as specified by the Borrower in such written notice; provided, however, that any moneys in the Bond Fund may be used on direction of the Borrower to redeem a part of the Bonds outstanding and then redeemable or to purchase Bonds for cancellation only so long as the Borrower is not in default with respect to any payments required pursuant to Section 5.1 of the Loan Agreement and to the extent the moneys are in excess of the amount required for payment of the Bonds theretofore matured or called for redemption and interest accrued and payable in respect of outstanding Bonds.

**SECTION 504 CUSTODY OF BOND FUND.** The Bond Fund shall be in the custody of the Trustee but in the name of the Issuer, and the Issuer hereby authorizes and directs the Trustee to withdraw sufficient funds from the Bond Fund to pay the principal of and premium, if any, and interest on the Bonds as the same become due and

payable, for the purpose of paying the principal and premium, if any, and interest, which authorization and direction the Trustee hereby accepts.

**SECTION 505 NON-PRESENTMENT OF BONDS.** All moneys which the Trustee shall have withdrawn from the Bond Fund or shall have received from any other source and set aside, for the purpose of paying any of the Bonds hereby secured, either at the maturity thereof or upon call for redemption, shall be held in trust for the respective holders of such Bonds, but any moneys which shall be so set aside by the Trustee and which shall remain unclaimed by the holders of such Bonds for a period of one year after the date on which such Bonds shall have become due and payable shall upon request in writing be paid to the Borrower; provided, however, that the Trustee, before being required to make any such payment, may at the expense of the Borrower cause a notice to be published as required by applicable unclaimed property laws, rules or regulations that the moneys have not been claimed and that after a date named therein any unclaimed balance of the moneys then remaining will be returned to the Borrower and thereafter the holders of such Bonds shall look only to the Borrower for payment and then only to the extent of the amount so received without any interest thereon, and the Issuer and the Trustee shall have no responsibility with respect to such moneys. In the absence of any such written request from the Borrower, the Trustee shall from time to time deliver such unclaimed funds to or as directed by pertinent escheat authority, as identified by the Trustee in its sole discretion, pursuant to and in accordance with applicable unclaimed property laws, rules or regulations. Any such delivery shall be in accordance with the customary practices and procedures of the Trustee and the escheat authority. Any money held by Trustee pursuant to this paragraph shall be held uninvested and without any liability for interest.

**SECTION 506 CANCELLATION AND DESTRUCTION OF BONDS.** All Bonds paid, redeemed or purchased, either at or before maturity, and all Bonds acquired by or delivered to the Trustee for cancellation shall be canceled upon the payment, redemption or purchase, or upon such acquisition or delivery, of such Bonds. All Bonds canceled under any of the provisions of this Indenture shall be destroyed by the Trustee. The Trustee shall execute a certificate in duplicate describing the Bonds so destroyed, and one executed certificate shall be filed with the Borrower and the other executed certificate shall be retained by the Trustee.

[Remainder of page intentionally left blank]

**ARTICLE VI**  
**DEPOSITARIES OF MONEYS, SECURITY FOR DEPOSITS**  
**AND INVESTMENT OF FUNDS**

**SECTION 601 DEPOSITS CONSTITUTE TRUST FUNDS.** All moneys deposited with the Trustee under the provisions of this Indenture or the Loan Agreement shall be held in trust and applied only in accordance with the provisions of this Indenture and the Loan Agreement and shall not be subject to lien or attachment by any creditor of the Issuer or the Borrower.

All moneys deposited with the Trustee under this Indenture and the Loan Agreement shall be continuously secured for the benefit of the Issuer and the holders of the Bonds either (a) by lodging with a bank or trust company approved by the Issuer and by the Trustee, as custodian, as collateral security, obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States of America, or other marketable securities eligible as security for the deposit of trust funds under regulations of the Comptroller of the Currency of the United States of America, having a market value (exclusive of accrued interest) not less than the amount of such deposit, or (b) in such other manner as may then be required or permitted by applicable state or federal laws and regulations regarding the security for, or granting a preference in the case of, the deposit of trust funds; provided, however, that it shall not be necessary for the Trustee to give security for any moneys which shall be represented by the investments mentioned in the first paragraph of Section 602 of this Article VI purchased under the provisions of this Article VI as an investment of such moneys.

**SECTION 602 INVESTMENT OF MONEYS.** The Trustee shall, except as provided in Article XIII hereof, invest and reinvest moneys held for the credit of the Bond Fund or the Construction Fund in Investment Obligations upon the receipt of, and in accordance with written instructions of an Authorized Borrower Representative in Investment Obligations. Any request by an Authorized Borrower Representative shall specify the issuer or obligor, type, principal amount, interest rate and maturity of each such requested investment of moneys. The Trustee may conclusively rely upon the Borrower's written instructions as to both the suitability and legality of the directed investments.

Investment Obligations so purchased as an investment of moneys in the Bond Fund and the Construction Fund shall be deemed at all times to be part of such Fund and any interest accruing on and any profit realized from the investment of moneys in such Fund shall be credited to such Fund and any loss resulting from such investment shall be charged to such Fund. Neither the Trustee nor the Issuer shall be liable or responsible for any loss resulting from any such investment.

The Issuer hereby authorizes and directs the Trustee to comply with any written instructions of the Borrower given from time to time with respect to income from the

investment of moneys in the Bond Fund or the Construction Fund or any other fund created under the Indenture to pay all or a portion of such income to the United States in furtherance of the covenants set forth in Section 4.7 of the Loan Agreement, which authorization and direction the Trustee hereby accepts. Amounts held by the Tender Agent in the Purchase Fund shall not be invested.

The Trustee may make any and all such investments through its own investment department or that of its affiliates or subsidiaries, and may charge its ordinary and customary fees for such trades, including cash sweep account fees. In the absence of investment instructions from the Borrower, the Trustee shall not be responsible or liable for keeping the moneys held by it hereunder fully invested in Investment Obligations.

Although the Issuer and the Borrower each recognizes that it may obtain a broker confirmation or written statement containing comparable information at no additional cost, the Issuer and the Borrower hereby agree that confirmations of permitted investments are not required to be issued by the Trustee for each month in which a monthly statement is rendered. No statement need be rendered for any fund or account if no activity occurred in such fund or account during such month.

[Remainder of page intentionally left blank]

**ARTICLE VII  
PARTICULAR COVENANTS AND PROVISIONS**

**SECTION 701 COVENANT OF ISSUER AS TO PERFORMANCE OF OBLIGATIONS.** The Issuer covenants that it will cause to be paid promptly the principal of and premium, if any, and interest on every Bond issued under the provisions of this Indenture at the places, on the dates and in the manner provided herein and in such Bond, according to the true intent and meaning thereof; provided, however, that any amount in the Bond Fund available for any payment of the principal of or premium, if any, or interest on such Bond shall be credited against any amount required to be caused by the Issuer so to be paid. Such principal, premium and interest are payable solely from the Loan Repayments, any other income derived from the sale, leasing or operation of the Project and other moneys to the extent provided in this Indenture and any payments under any credit enhancement provided by the Borrower in accordance with the provisions of the Loan Agreement and this Indenture, which Loan Repayments and any other income and other moneys to the extent provided in this Indenture are hereby pledged to the payment thereof in the manner and to the extent hereinabove particularly specified.

Neither the State nor any political subdivision thereof shall in any event be liable for the payment of the principal of, purchase price, redemption premium, or interest on the Bonds, or for the performance of any pledge, mortgage, obligation or agreement of any kind whatsoever that may be undertaken by the Issuer, and none of the Bonds shall be construed to constitute a debt or a pledge of the faith and credit of the State or any political subdivision thereof, including Monroe County, within the meaning of any constitutional or statutory provision whatsoever, and shall not directly, indirectly or contingently obligate the State or any of its political subdivisions to levy or to pledge any form of taxation whatever therefor or to make any appropriation for the payment thereof; nor shall any breach of any such pledge, mortgage, obligation or agreement impose any pecuniary liability upon any member, officer, employee or agent of the Issuer, or any charge upon the general credit of the Issuer, or any pecuniary liability upon the Issuer payable from any moneys, revenues, payments, and proceeds other than the Trust Estate. The Issuer has no taxing power.

**SECTION 702 COVENANT TO PERFORM OBLIGATIONS.** The Issuer covenants and agrees that it will not knowingly consent to or take any action or fail to take any action upon request by the Trustee or the Borrower or fail to do anything upon request by the Trustee or the Borrower which would result in the termination of the Loan Agreement so long as any Bonds are outstanding; that it will not terminate the Loan Agreement or cause it to be terminated except in strict accordance with the terms of the Loan Agreement; that it will promptly notify the Trustee, when known to the Issuer, of any actual or alleged event of default under or breach of the Loan Agreement, whether by the Borrower or the Issuer; that it will not execute or agree to any change, amendment or modification of or supplement to the Loan Agreement except by a supplement or an

amendment duly executed by the Borrower and the Issuer with the approval of the Trustee and upon the further terms and conditions set forth in Article XII of this Indenture; and that it will not agree to any abatement, reduction, abrogation, waiver, diminution or other modification in any manner or to any extent whatsoever of the obligation of the Borrower under the Loan Agreement to pay the Loan Repayments without the consent of the holder of each Bond adversely affected thereby. The Issuer covenants that it will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Indenture, in any and every Bond executed, authenticated and delivered hereunder and in all proceedings of the Issuer pertaining thereto. The Issuer represents that it is duly authorized under the Constitution and laws of the State of Georgia, including particularly and without limitation the Act, to issue the Bonds authorized hereby and to enter into this Indenture, to pledge and assign the Loan Repayments and any other income and other moneys in the manner and to the extent herein set forth; that all action on its part for the issuance of the Bonds initially issued hereunder and the execution and delivery of this Indenture has been duly and effectively taken; and that such Bonds in the hands of the owners thereof are and will be valid and binding obligations of the Issuer according to the tenor and import thereof.

**SECTION 703 COVENANT TO PERFORM FURTHER ACTS.** The Issuer covenants that it will do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, such supplements and amendments to this Indenture and such further acts, instruments and transfers as the Trustee may reasonably require for the better pledging and assigning unto the Trustee of each and all of the Loan Repayments and any other income and other moneys pledged and assigned hereby to the payment of the principal of and premium, if any, and interest on the Bonds.

**SECTION 704 BONDS NOT TO BECOME ARBITRAGE BONDS.** The Issuer covenants with the holders of the Bonds that, notwithstanding any other provision of this Indenture or any other instrument, to the best of its knowledge, information and belief, it will not take or consent to be taken on its behalf any actions and will make no investment or other use of the proceeds of the Bonds which would cause the Bonds to be arbitrage bonds under Section 148 of the Code and it further covenants that it will, to the extent within its control, comply with the requirements of such Section at the expense of the Borrower. The foregoing covenants shall extend, throughout the term of the Bonds, to all funds created under this Indenture and all moneys on deposit to the credit of any such fund, and to any other amounts which are proceeds of the Bonds for purposes of Section 148 of the Code and the regulations thereunder. In taking any action pursuant to this Section 704, the Issuer may rely on a Favorable Opinion of Bond Counsel.

**ARTICLE VIII  
DEFAULTS AND REMEDIES**

**SECTION 801      EVENTS OF DEFAULT.** Each of the following events is hereby declared an "event of default":

(a) Failure to pay the principal of or premium, if any, on any of the Bonds when the same shall become due and payable, whether at maturity, through unconditional proceedings for redemption or otherwise; or

(b) Failure to pay interest on any of the Bonds when the same shall become due and payable and the continuation of such failure for one Business Day; or

(c) Failure to pay an amount due pursuant to Section 202 hereof after such payment has become due and payable and the continuation of such failure for one Business Day; or

(d) Failure to perform any other covenant, condition, agreement or provision contained in the Bonds or in this Indenture on the part of the Issuer to be performed which failure shall continue for 90 days after written notice specifying such failure and requiring same to be remedied shall have been given to the Issuer by the Trustee, which may give such notice in its discretion and shall give such notice at the written request of the holders of not less than a majority in aggregate principal amount of the Bonds then outstanding, unless the Trustee, or the Trustee and the holders of a principal amount of Bonds not less than the principal amount of Bonds the holders of which requested such notice, as the case may be, agree in writing to an extension of such period prior to its expiration; provided, however, that the Trustee, or the Trustee and the holders of such principal amount of Bonds, as the case may be, shall be deemed to have agreed to an extension of such period if corrective action is instituted by the Issuer or the Borrower within the applicable period and is being diligently pursued; or

(e) An "event of default" as defined in Section 9.1 of the Loan Agreement.

**SECTION 802      ACCELERATION OF MATURITIES.**

(a) Upon the occurrence and continuance of an event of default specified in clause (a), (b) or (c) of Section 801 of this Article or an event of default specified in clauses (c) or (d) of Section 9.1 of the Loan Agreement, the Trustee may, and upon the written request of the holders of not less than a majority in aggregate principal amount of Bonds then outstanding shall, by a notice in writing to the Issuer and the Borrower, declare the principal of all the Bonds then outstanding (if not then due and payable) to be immediately due and payable, and upon such declaration the same shall become and be immediately due and payable, anything in this Indenture or in the Bonds to the contrary notwithstanding; and the Trustee shall give notice thereof in writing to the Issuer, the

Borrower, the Tender Agent and the Remarketing Agent, and notice to the holders of the Bonds in the same manner as a notice of redemption under Section 302 of this Indenture.

(b) The provisions of the preceding paragraph (a), however, are subject to the condition that, if, after the principal of the Bonds shall have been so declared to be due and payable, and before any judgment or decree for the payment of the moneys due shall have been obtained or entered as hereinafter provided, the Borrower, pursuant to the Loan Agreement, shall deposit with the Trustee a sum sufficient to pay all matured installments of interest upon all Bonds and the principal of any and all Bonds which shall have become due otherwise than by reason of such declaration (with interest upon such principal and, to the extent permissible by law, on overdue installments of interest, at the rate per annum borne by the Bonds on the date of such declaration) and such amounts as shall be sufficient to cover reasonable compensation and reimbursement of expenses payable to the Trustee, and all events of default hereunder other than nonpayment of the principal of Bonds which shall have become due by such declaration shall have been remedied, then, in every such case, such event of default shall be deemed waived and such declaration and its consequences rescinded and annulled, and the Trustee shall promptly give written notice of such waiver, rescission and annulment to the Issuer, the Borrower, the Tender Agent, the Remarketing Agent, and, if notice of the acceleration of the Bonds shall have been given to the Owners, shall give notice thereof to the Owners; but no such waiver, rescission and annulment shall extend to or affect any subsequent event of default or impair any right or remedy consequent thereon.

### **SECTION 803      OTHER REMEDIES.**

(a) Upon the occurrence and continuance of any event of default specified in Section 801 of this Indenture, then and in every such case the Trustee may proceed, and upon the written request of the holders of not less than a majority in aggregate principal amount of the Bonds then outstanding hereunder shall proceed, subject to the provisions of Section 902 of this Indenture, to protect and enforce its rights and the rights of the Bondholders under the laws of the State of Georgia and under this Indenture and the Loan Agreement by such suits, actions or special proceedings in the office of any board or officer having jurisdiction, either for the specific performance of any covenant or agreement contained herein or therein or in aid or execution of any power herein or therein granted or for the enforcement of any proper legal or equitable remedy, as the Trustee, being advised by counsel, shall deem most effectual to protect and enforce such rights.

(b) In the enforcement of any remedy under this Indenture the Trustee shall be entitled to sue for, enforce payment of and receive any and all amounts then or during any default becoming, and at any time remaining, due for principal, interest or otherwise under any of the provisions of this Indenture or of the Bonds or in respect of Loan Repayments under the Loan Agreement and unpaid, with interest on overdue payments of principal and interest or Loan Repayments (if and to the extent permitted by law) at the

rate or rates of interest specified in such Bonds, together with any and all costs and expenses of collection and all proceedings hereunder, and under such Bonds and the Loan Agreement, without prejudice to any other right or remedy of the Trustee or of the Bondholders, but solely subject to the limitations provided herein and in such Bonds and the Loan Agreement, for any portion of such amounts remaining unpaid and interest, costs and expenses as above provided, and to collect in any manner provided by law any moneys adjudged or decreed to be payable; provided that any amounts due from the Issuer and not payable by the Borrower under the Loan Agreement shall be payable solely from moneys in the Bond Fund and available therefor.

**SECTION 804 APPLICATION OF MONEYS.** Anything in this Indenture to the contrary notwithstanding, if at any time the moneys in the Bond Fund shall not be sufficient to pay the principal of or premium, if any, or interest on the Bonds as the same shall become due and payable (either by their terms or by acceleration of maturities under the provisions of Section 802 of this Article), such moneys, together with any moneys then available or thereafter becoming available for such purpose, whether through the exercise of the remedies provided for in this Article or otherwise, shall be applied, following the satisfaction of any payments due to the Trustee under the provisions of Sections 902 and 905 of this Indenture, as follows:

(a) If the principal of all the Bonds shall not have become due and payable either in accordance with their terms or by acceleration, all such moneys shall be applied

First: to the payment to the persons entitled thereto of all installments of interest then due and payable in the order in which such installments became due and payable and, if the amount available shall not be sufficient to pay in full any particular installment, then to the payment, ratably, according to the amounts due on such installment, to the persons entitled thereto, without any discrimination or preference except as to any difference in the respective rates of interest specified in the Bonds;

Second: to the payment to the persons entitled thereto of the unpaid principal of and premium, if any, on any of such Bonds which shall have become due and payable (other than Bonds deemed to have been paid in accordance with Article XIII hereof), in the order of their due dates, with interest on the principal amount of such Bonds at the respective rates specified therein from the respective dates upon which such Bonds became due and payable to the payment date, and, if the amount available shall not be sufficient to pay in full the principal of and premium, if any, on such Bonds due and payable on any particular date, together with such interest, then to the payment first of such interest, ratably, according to the amount of such interest due on such payment date, and then to the payment of such principal and premium, if any, ratably, according to the amount of such principal and premium, if any, due on such date, to the persons entitled thereto without any discrimination or preference; and

Third: to the payment of the interest and premium, if any, on and the principal of such Bonds, to the purchase and retirement of such Bonds and to the redemption of such Bonds, all in accordance with the provisions of this Indenture.

(b) If the principal of all the Bonds has become due and payable either in accordance with their terms or by acceleration, all such moneys shall be applied to the payment of the principal, premium, if any, and interest then due on the Bonds, without preference or priority of principal and premium, if any, over interest or of interest over principal and premium, if any, or of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal, premium, if any, and interest, to the persons entitled thereto, without discrimination or preference except as to any difference in the respective rates of interest specified in the Bonds.

(c) If the principal of all the Bonds shall have become immediately due and payable under the provisions of Section 802 of this Article and if such acceleration shall thereafter have been rescinded and annulled, then, subject to the provisions of subparagraph (b) of this Section in the event that the principal of all such Bonds shall later become due and payable, the moneys remaining in and thereafter accruing to the Bond Fund for such Bonds shall be applied in accordance with the provisions of subparagraph (a) of this Section.

Whenever moneys are to be applied by the Trustee pursuant to the provisions of this Section, such moneys shall be applied by the Trustee at such times, and from time to time, as the Trustee in its sole discretion shall determine, having due regard to the amount of such moneys available for such application and the likelihood of additional moneys becoming available for such application in the future; setting aside such moneys in trust for the proper purpose shall constitute proper application by the Trustee; and the Trustee shall incur no liability whatsoever to the Issuer, to any Bondholder or to any other person for any delay in applying any such moneys, so long as the Trustee acts with reasonable diligence, having due regard to the circumstances, and ultimately applies the same in accordance with such provisions of this Indenture as may be applicable at the time of application by the Trustee. Whenever the Trustee shall exercise such discretion in applying such moneys, it shall fix the date (which shall be an Interest Payment Date unless the Trustee shall deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal to be paid on such date shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the fixing of any such date, and shall not be required to make payment to the holder of any Bond until such Bond shall be surrendered to the Trustee for appropriate endorsement, or for cancellation if fully paid.

#### **SECTION 805 EFFECT OF DISCONTINUANCE OF PROCEEDINGS.**

In case any proceeding taken by the Trustee on account of any default shall have been discontinued or abandoned for any reason, then and in every such case the Issuer, the

Borrower, the Trustee and the Bondholders shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Trustee shall continue as though no proceeding had been taken.

**SECTION 806 RIGHT OF BONDHOLDERS TO DIRECT PROCEEDINGS.** Anything in this Indenture to the contrary notwithstanding, the holders of a majority in principal amount of the Bonds then outstanding hereunder shall have the right, subject to the provisions of Section 902 of this Indenture, by an instrument or concurrent instruments in writing executed and delivered to the Trustee, to direct the method and place of conducting all remedial proceedings to be taken by the Trustee hereunder or the exercise of any trust or power conferred upon the Trustee hereunder, provided that such direction shall not be otherwise than in accordance with law and the provisions of this Indenture.

**SECTION 807 RIGHTS AND REMEDIES OF BONDHOLDERS.** No holder of any of the Bonds shall have any right to institute any suit, action or proceeding in equity or at law on any Bond or for the execution of any trust hereunder or for any other remedy hereunder unless such holder previously shall have given to the Trustee and to the Borrower written notice of the event of default on account of which such suit, action or proceeding is to be instituted, and unless also the holders of not less than a majority in aggregate principal amount of the Bonds then outstanding shall have made written request of the Trustee, after the right to exercise such powers or right of action, as the case may be, shall have accrued, to institute such action, suit or proceeding in its or their name and shall have afforded the Trustee a reasonable opportunity either to proceed to exercise the powers hereinabove granted or to institute such action, suit or proceeding in its or their name, and unless, also, there shall have been offered to the Trustee reasonable security and indemnity against the costs, expenses and liabilities to be incurred therein or thereby, and the Trustee shall have refused or neglected to comply with such written request within a reasonable time; and such notification, request and offer to indemnify are hereby declared in every such case, at the option of the Trustee, to be conditions precedent to the execution of the powers and trusts of this Indenture or to any other remedy hereunder. It is understood and intended that, except as otherwise above provided, no one or more holders of the Bonds hereby secured shall have any right in any manner whatever by his or their action to affect, disturb or prejudice the security of this Indenture, or to enforce any right hereunder except in the manner herein provided, that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the benefit of all holders of such outstanding Bonds, and that any individual rights of action or any other right given to one or more of such holders by law are restricted by this Indenture to the rights and remedies herein provided.

Nothing in this Section shall affect or impair the right of any Bondholder to enforce the payment of the principal of and premium, if any, and interest on his Bond or Bonds, at the time and place in the Bond expressed.

**SECTION 808 APPOINTMENT OF RECEIVER BY TRUSTEE.** Upon the occurrence of an event of default, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Trustee and of the Bondholders under this Indenture, the Trustee shall be entitled, as a matter of right, to the appointment of a receiver or receivers of the Loan Repayments and other amounts payable under the Loan Agreement pending such proceedings, with such powers as the court making such appointment shall confer, whether or not the Loan Repayments and other amount and income shall be deemed sufficient ultimately to satisfy the Bonds outstanding hereunder.

**SECTION 809 ACTION BY TRUSTEE WITHOUT POSSESSION OF BONDS.** All rights of action under this Indenture or under any of the Bonds secured hereby, enforceable by the Trustee, may be enforced by it without the possession of any of the Bonds or the production thereof in the trial or other proceeding relative thereto, and any such suit, action or proceeding instituted by the Trustee shall be brought in its name for the benefit of all the holders of such Bonds, subject to the provisions of this Indenture.

**SECTION 810 NO REMEDY EXCLUSIVE.** No remedy herein conferred upon or reserved by the Trustee or to the holders of the Bonds is intended to be exclusive of any other remedy or remedies herein provided, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or by law.

**SECTION 811 WAIVER OF DEFAULT.** No delay or omission of the Trustee or of any holder of the Bonds to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or any acquiescence therein and every power and remedy given by this Indenture to the Trustee and to the holders of the Bonds, respectively, may be exercised from time to time and as often as may be deemed expedient.

Before the entry of final judgment or decree in any suit, action or proceeding instituted by it under the provisions of this Indenture or before the completion of the enforcement of any other remedy under this Indenture, the Trustee shall be permitted to discontinue such suit, action, proceeding or enforcement of any remedy if in its opinion any default forming the basis of such suit, action, proceeding or enforcement of any remedy shall have been remedied.

Notwithstanding anything contained herein to the contrary, the Trustee, upon the written request of the holders of not less than a majority in aggregate principal amount of the Bonds then outstanding, shall waive any event of default hereunder and its consequences; provided, however, that, except under the circumstances set forth in clause (b) of Section 802 hereof, an event of default under clauses (a), (b) or (c) of Section 801 hereof with respect to any Bonds may not be waived without the written consent of the holders of all such Bonds.

**SECTION 812 NOTICE OF DEFAULT.** The Trustee shall mail, by first-class mail, postage prepaid, to all owners of the Bonds at their addresses as they appear on the registration books written notice of the occurrence of any event of default set forth in Section 801 of this Article within 30 days (i) after the occurrence of an event of default under clause (a) or (b) of Section 801 hereof or (ii) after the Trustee shall have notice, pursuant to the provisions of Section 908 of this Indenture, that any other such event of default shall have occurred; provided, however, that, except in the case of a default under clause (a) or (b) of Section 801 hereof, the Trustee shall be protected in withholding such notice if so long as the Board of Directors, the Executive Committee or a Trust Committee of Directors and/or responsible officers of the Trustee in good faith determines that the withholding of such notice is in the best interest of the Bondholders. The Trustee shall not, however, be subject to any liability to any Bondholder by reason of its failure to mail any such notice.

**SECTION 813 REMEDIES IN ARTICLE VIII IN ADDITION TO REMEDIES IN LOAN AGREEMENT AND PLEDGE AGREEMENT.** The remedies conferred in this Article shall be in addition to any remedies available to the Trustee under the Loan Agreement or any other instruments now or hereafter securing the Loan Repayments, which remedies are hereby incorporated herein by reference.

[Remainder of page intentionally left blank]

**ARTICLE IX  
TRUSTEE; PAYING AGENT**

**SECTION 901 ACCEPTANCE OF TRUSTS AND PERFORMANCE OF DUTIES.** The Trustee accepts and agrees to execute the trusts imposed upon it by this Indenture, but only upon subject to the terms and conditions set forth in this Article and subject to the provisions of this Indenture, to all of which the parties hereto and the respective holders of the Bonds agree:

(a) The Trustee may execute any of the trusts or powers hereof and perform any of its duties by or through attorneys, agents or receivers, but shall not be answerable for the conduct of the same if appointed with due care, and shall be entitled to advice of counsel concerning all matters of trusts hereof and duties hereunder.

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

(c) The Trustee shall not be accountable for the use or application by the Borrower of any of the Bonds or the proceeds thereof or for the use or application of any money paid over by the Trustee in accordance with the provisions of this Indenture or for the use and application of money received by any paying agent.

(d) The Trustee shall be protected in acting and relying upon any notice, order, requisition, request, consent, certificate, order, opinion (including an opinion of independent counsel), affidavit, letter, telegram or other paper or document in good faith deemed by it to be genuine and correct and to have been signed or sent by the proper person or persons. Any action taken by the Trustee pursuant to this Indenture upon the request or authority or consent of any person who at the time of making such request or giving such authority or consent is the holder of any Bonds shall be conclusive and binding upon all future owners of the same Bonds and upon Bonds issued in exchange therefor or in place thereof.

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

(f) Before taking any action under this Indenture relating to an event of default or in connection with its duties under this Indenture other than making payments of principal and interest on the Bonds as they become due or causing an acceleration of the Bonds whenever required by the Indenture, the Trustee may require that a satisfactory indemnity bond be furnished for the reimbursement of all expenses to which it may be put and to protect it against all liability, including, but not limited to, any liability arising

directly or indirectly under any federal, state or local statute, rule, law or ordinance related to the protection of the environment or hazardous substances and except liability which is adjudicated to have resulted from its gross negligence or willful misconduct in connection with any action so taken.

(g) The Trustee shall have no responsibility with respect to any information, statement or recital in any official statement, offering memorandum or any other disclosure material prepared or distributed with respect to the Bonds, except for any information provided by the Trustee, and shall have no responsibility for compliance with any state or federal securities laws in connection with the Bonds.

(h) None of the provisions of this Indenture shall require the Trustee to expend or risk its own funds or otherwise to incur any liability, financial or otherwise, in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers if it shall have reasonable grounds for believing that repayment of such funds or indemnity satisfactory to it against such risk or liability is not assured to it.

(i) At any and all reasonable times the Trustee, and its duly authorized agents, attorneys, experts, engineers, accountants and representatives, shall have the right fully to inspect all books and records of the Issuer pertaining to the Bonds, and to make such copies and memoranda from and with regard thereto as may be desired.

(j) The Trustee shall not be required to give any certificate or surety in respect of the execution of this Indenture or otherwise in respect thereof.

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

(l) All moneys received by the Trustee shall, until used or applied or invested as herein provided, be held in trust for the purposes for which they were received but need not be segregated from other funds except to the extent otherwise required herein or required by law.

(m) The Trustee's immunities and protections from liability and its right to compensation and indemnification in connection with the performance of its duties under this Indenture shall be enforceable by the Trustee in each of its capacities hereunder. Notwithstanding anything else contained herein or in any other document or instrument executed by or on behalf of the Trustee in connection herewith, no stipulation, covenant,

agreement or obligation contained herein or therein shall be deemed or construed to be a stipulation, covenant, agreement or obligation of any present or future officer, director, employee, or agent of the Trustee in any such person's individual capacity and no such person, in his individual capacity shall be liable personally for any breach or non-observance of or for any failure to perform, fulfill or comply with any such stipulation, covenant, agreement or obligation. All immunities and protections and rights to indemnification of the Trustee and its officers, directors, employees and agents, together with the Trustee's rights to compensation, shall survive the Trustee's resignation or removal and final payment of the Bonds.

(n) In the event the Trustee receives inconsistent or conflicting requests and indemnity from two or more groups of holders of the Bonds, each representing less than a majority in aggregate principal amount of the Bonds outstanding, the Trustee, in its sole discretion, may determine what action, if any, shall be taken.

(o) In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the Trustee shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

(p) In no event, except as a result of gross negligence or willful misconduct, shall the Trustee be responsible or liable for any special, indirect, punitive or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit), irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

(q) Pursuant to Section 12.8 of the Loan Agreement, the Borrower shall file and refile and record and re-record or cause to be filed and refiled and recorded and re-recorded all instruments, financing statements, continuation statements, notices and other instruments required by applicable law to be filed and refiled and recorded and re-recorded and shall continue or cause to be continued the liens of such instruments for so long as the Bonds shall be outstanding in order fully to preserve and protect the rights of the holders of the Bonds and the Trustee and the Trustee shall have no responsibility with regards to any of the foregoing.

The Trustee shall have only such duties and obligations as are expressly specified in this Indenture and no duties or obligations shall be implied to the Trustee.

The Trustee, prior to the occurrence of an event of default within the purview of Section 801 hereof and after the curing of all events of default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture, and no implied covenants or obligations should be read into this Indenture against the Trustee. If any event of default under this Indenture shall have occurred and be continuing, the Trustee shall exercise such of the rights and powers vested in it by this Indenture and shall use the same degree of care as a prudent person would exercise or use in the circumstances in the conduct of such prudent person's own affairs.

The Trustee also accepts and agrees to do and perform the duties and obligations imposed upon it by and under the Loan Agreement and any Pledge Agreement, but only upon the terms and conditions set forth in the Loan Agreement, any Pledge Agreement and this Indenture.

**SECTION 902 INDEMNIFICATION OF TRUSTEE.** The Trustee shall be under no obligation to institute any suit, or to take any remedial proceeding under this Indenture or under the Loan Agreement or any Pledge Agreement, or to enter any appearance or in any way defend in any suit in which it may be made defendant, or to take any steps in the execution of the trusts hereby created or in the enforcement of any rights and powers hereunder or under the Loan Agreement or any Pledge Agreement, until it shall be indemnified to its satisfaction against any and all costs and expenses, outlays and counsel fees (including counsel fees on appeal, if any) and other reasonable disbursements, and against all liability; the Trustee may, nevertheless, begin suit, or appear in and defend suit, or do anything else in its judgment proper to be done by it as such Trustee, without indemnity, and in such case the Issuer shall reimburse the Trustee, but solely from funds available therefor under the Loan Agreement, for all costs and expenses, outlays and counsel fees and other reasonable disbursements properly incurred in connection therewith to the extent not previously reimbursed by the Borrower pursuant to Section 7.3(a) of the Loan Agreement. If the Borrower shall fail to make such reimbursement pursuant to Section 7.3(a) of the Loan Agreement and the Issuer shall fail to make such reimbursement from the funds available therefor under the Loan Agreement, the Trustee may reimburse itself from any moneys in its possession under the provisions of this Indenture and it shall be entitled to a preference over any of the Bonds Outstanding hereunder.

**SECTION 903 LIMITATION ON OBLIGATIONS AND RESPONSIBILITIES OF THE TRUSTEE.**

(a) Trustee shall not be under any obligation to effect or maintain insurance or to renew any policies of insurance or to inquire as to the sufficiency of any policies or insurance carried by the Issuer or the Borrower, or to report, or make or file claims or proof of loss for, any loss or damage insured against or which may occur, or to keep itself informed or advised as to the payment of any taxes or assessments, or to require any such payment to be made.

(b) The Trustee shall not have any responsibility in respect to the validity, sufficiency, due execution or acknowledgment of this Indenture by the Issuer or the validity or sufficiency of the security provided hereunder or in respect of the title or value of the Project or, except as to the authentication thereof by the Trustee, in respect of the validity of the Bonds or the due execution or issuance thereof.

(c) The Trustee shall not be under any obligation to see that any duties herein or in the Loan Agreement imposed upon any party other than itself, or any covenants herein or therein contained on the part of any party other than itself to be performed, but the Trustee may require of the Issuer and the Borrower full information and advice as to the performance of the aforesaid covenants, conditions and agreements.

**SECTION 904 TRUSTEE NOT LIABLE FOR FAILURE OF ISSUER TO ACT.** The Trustee shall not be liable or responsible because of the failure of the Issuer or of any of its employees or agents to make any collections or deposits or to perform any act herein required of the Issuer or because of the loss of any moneys arising through the insolvency or the act or default or omission of any other depository in which such moneys shall have been deposited under the provisions of this Indenture. The Trustee shall not be responsible for the application of any of the proceeds of the Bonds or any other moneys deposited with it and paid out, withdrawn or transferred thereunder if such application, payment, withdrawal or transfer shall be made in accordance with the provisions of this Indenture. The immunities and exemptions from liability of the Trustee hereunder shall extend to its directors, officers, employees and agents.

None of the provisions of this Indenture or any Pledge Agreement shall be construed to relieve the Trustee from liability for its own grossly negligent action, its own grossly negligent failure to act, or its own willful misconduct, except that:

(a) the Trustee shall not be liable for any error or judgment made in good faith by any one of its officers, unless it shall be established that the Trustee was grossly negligent in ascertaining the pertinent facts; and

(b) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the holders of not less than a majority in principal amount of the Bonds then outstanding relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust or power conferred upon the Trustee under the provisions of this Indenture.

**SECTION 905 COMPENSATION OF TRUSTEE.** The Trustee, the Paying Agent, the Registrar, the Tender Agent and the Remarketing Agent under this Indenture shall be entitled to reasonable compensation for their services rendered hereunder (not limited by any provision of law in regard to the compensation of the trustee of an express trust) and to reimbursement for their actual out-of-pocket expenses

(including counsel fees) reasonably incurred in connection therewith except as a result of their gross negligence or willful misconduct. If the Issuer shall fail to perform any of the covenants or agreements contained in this Indenture, other than the covenants or agreements in respect of the payment of the principal of and interest on the Bonds, the Trustee may, in its discretion and without notice to the Owners of the Bonds, at any time and from time to time, make advances to effect performance of the same on behalf of the Issuer, but the Trustee shall be under no obligation to do so; but no such advance shall operate to relieve the Issuer from any default hereunder. In Section 5.1 of the Loan Agreement, the Borrower has agreed that it will pay the Trustee, the Paying Agent, the Registrar, the Tender Agent and the Remarketing Agent such compensation and reimbursement of expenses and advances, but the Borrower may, without creating a default hereunder, contest in good faith the reasonableness of any such services, expenses and advances. In Section 7.3 of the Loan Agreement, the Borrower has agreed to indemnify the Trustee to the extent stated therein. If the Borrower shall have failed to make any payment to the Trustee under Section 5.1 of the Loan Agreement and such failure shall have resulted in an event of default under the Loan Agreement, the Trustee shall have, in addition to any other rights hereunder, a first lien with right of payment prior to payment on account of principal of and premium, if any, and interest on any Bond, upon the trust estate for the foregoing fees, charges and expenses incurred by it, except for moneys or obligations deposited with or paid to the Trustee for the redemption or payment of Bonds which are deemed to have been paid in accordance with Article XIII hereof and funds held pursuant to Article XIV hereof. When the Trustee incurs expenses or renders services after the occurrence of an event of default hereunder or under the Loan Agreement, such expenses and the compensation for such services are intended to constitute expenses of administration under any federal or state bankruptcy, insolvency, arrangement, moratorium, reorganization or other debtor relief law.

**SECTION 906 RECORDS OPEN TO INSPECTION.** All records and files pertaining to the Project in the custody of the Trustee shall be open at all reasonable times (following delivery to the Trustee of reasonable prior written notice of such party's desire to inspect such records or files) to the inspection of the Issuer, the Borrower and the agents and representatives of either of them. The Trustee shall have no duty to review or analyze such records or files and shall hold such records or files solely as a repository for the benefit of the Bondholders; the Trustee shall not be deemed to have notice of any information contained therein or event of default which may be disclosed therein in any manner.

**SECTION 907 TRUSTEE MAY RELY ON CERTIFICATES.** In case at any time it shall be necessary or desirable for the Trustee to make any investigation respecting any fact preparatory to taking or not taking any action or doing or not doing anything as such Trustee, and in any case in which this Indenture provides for permitting or taking any action, the Trustee may rely upon any certificate required or permitted to be filed with it under the provisions of this Indenture, and any such certificate shall be

evidence of such fact to protect the Trustee in any action that it may or may not take or in respect of anything it may or may not do, in good faith, by reason of the supposed existence of such fact. Except as otherwise provided in this Indenture, any request, notice, certificate or other instrument from the Issuer or the Borrower to the Trustee shall be deemed to have been signed by the proper party or parties if signed by the Authorized Issuer Representative or by the Authorized Borrower Representative, as the case may be, and the Trustee may accept and rely upon a request, notice, certificate or other instrument so signed as to any action taken by the Issuer or the Borrower.

**SECTION 908 TRUSTEE NOT DEEMED TO HAVE NOTICE OF DEFAULT.** Except upon the happening of any event of default specified in clause (a) or (b) of Section 801 of this Indenture, the Trustee shall not be obliged to take notice or be deemed to have notice of any event of default hereunder or under the Loan Agreement, unless specifically notified in writing of such event of default by the holders of not less than a majority in aggregate principal amount of the Bonds hereby secured and then outstanding and all notices or other instruments required by this Indenture to be delivered to the Trustee, must, in order to be effective, reference this Indenture and the Bonds, and in the absence of such notice so delivered the Trustee may conclusively assume there is no Default except as aforesaid.

**SECTION 909 TRUSTEE MAY DEAL IN BONDS AND TAKE ACTION AS BONDHOLDER.** Any bank or trust company acting as Trustee under this Indenture, and its directors, officers, employees or agents, may in good faith buy, sell, own, hold and deal in any of the Bonds issued under and secured by this Indenture, and may join in the capacity of a Bondholder in any action which any bondholder may be entitled to take with like effect as if such bank or trust company were not the Trustee under this Indenture.

**SECTION 910 TRUSTEE NOT RESPONSIBLE FOR RECITALS, ETC.** The recitals, statements and representations contained herein and in the Bonds (excluding the Trustee's certificate of authentication on the Bonds) shall be taken and construed as made by and on the part of the Issuer and not by the Trustee, and the Trustee does not assume and shall not be under any responsibility for the correctness of the same.

**SECTION 911 TRUSTEE PROTECTED IN RELYING ON CERTAIN DOCUMENTS.** The Trustee shall be protected and shall incur no liability in acting or proceeding, or in not acting or not proceeding, in good faith, reasonably and in accordance with the terms of this Indenture, upon any resolution, order, notice, request, consent, waiver, certificate, statement, affidavit, requisition, bond or other paper or document which it shall in good faith reasonably believe to be genuine and to have adopted or signed by the purported proper board or person or to have been repaired and furnished pursuant to any of the provisions of this Indenture, or upon the written opinion of any attorney, engineer, accountant or other expert reasonably believed by the Trustee to be qualified in relation to the subject matter, and the Trustee shall be under no duty to

make any investigation or inquiry as to any statements contained or matters referred to in any such instrument. Neither the Trustee nor the Issuer shall be under any obligation to see the recording or filing of the Indenture, the Loan Agreement, and Financing Statements or any other instrument or otherwise to the giving to any person of notice of the provisions hereof or thereof.

**SECTION 912 QUALIFICATIONS OF TRUSTEE.** There shall at all times be a trustee hereunder which shall be a corporation organized and doing business under the laws of the United States of America or of any State, authorized under such laws to exercise corporate trust powers, having a combined capital and surplus of at least \$25,000,000 and subject to supervision or examination by federal or state authority. If such corporation published reports of condition at least annually, pursuant to law or to the requirements of the aforesaid supervising or examining authority, then for the purposes of this Section 912, the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section 912, it shall resign immediately in the manner and with the effect specified in Section 913 hereof.

**SECTION 913 RESIGNATION BY AND REMOVAL OF TRUSTEE.**

(a) No resignation by or removal of the Trustee and no appointment of a successor Trustee pursuant to this Article shall become effective until the acceptance of appointment by the successor Trustee under Section 914 hereof.

(b) The Trustee may resign at any time by giving written notice thereof to the Issuer and the Borrower. If an instrument of acceptance by a successor Trustee shall not have been delivered to the Trustee within 30 days after the giving of such notice of resignation, the resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee.

(c) The Trustee may be removed at any time (i) by demand of the holders of a majority in principal amount of the Bonds then outstanding, signed in person by such holders or by their attorneys, legal representatives or agents and delivered to the Trustee, the Issuer and the Borrower (such demand to be effective only when received by the Trustee, the Issuer and the Borrower) or (ii) as long as no event of default hereunder shall have occurred and be continuing, by the Issuer, at the direction of the Borrower.

(d) If at any time:

(1) the Trustee shall cease to be eligible under Section 912 hereof and shall fail to resign after written request therefor by the Issuer, by the Borrower or by any Bondholder who shall have been a bona fide Bondholder for at least six months, or

(2) the Trustee shall become incapable of acting or shall be adjudged a bankrupt or insolvent or a receiver of the Trustee or of its property shall be appointed or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation, then, in any such case, (A) the Issuer or the Borrower may remove the Trustee, or (B) any Bondholder who has been a Bondholder for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor.

(e) If the Trustee shall resign, be removed, be dissolved or otherwise become incapable of action or the bank or trust company acting as Trustee shall be taken over by any governmental official, agency, department or board, or if a vacancy shall occur in the office of the Trustee for any reason, the Issuer at the direction of the Borrower shall promptly appoint a successor. If, within thirty (30) days after such resignation, removal, incapability or taking over, or the occurrence of such vacancy, a successor Trustee shall be appointed by an instrument or concurrent instruments in writing executed by the holders of a majority in principal amount of the Bonds then outstanding and delivered to the Issuer, the successor Trustee so appointed shall, forthwith upon its acceptance of such appointment, become the successor Trustee and supersede the successor Trustee appointed by the Issuer and approved by the Borrower. Photographic copies of each such instrument shall be delivered promptly by the Issuer to the Borrower, to the successor Trustee appointed by the Issuer and to the successor Trustee so appointed by the Bondholders. If no successor Trustee shall have been so appointed and accepted appointment within thirty (30) days of such resignation, removal, dissolution, incapability or the occurrence of a vacancy in the office of Trustee, in the manner herein provided, the Trustee or holder of any Bond may petition any court of competent jurisdiction for the appointment of a successor Trustee, until a successor shall have been appointed as above provided.

(f) The resigning Trustee or Trustee being removed shall give notice, on behalf of the Issuer, of any resignation or removal, as applicable, of the Trustee and each appointment of a successor Trustee by mailing written notice of such event by first class mail, postage prepaid, to all registered owners of Bonds at their addresses as they may appear on the registration books. Each notice shall include the name of the successor Trustee and the address of its principal office. The Issuer and such resigning Trustee or Trustee being removed shall not, however, be subject to any liability to any Bondholder by reason of the failure to mail any such notice.

(g) The resigning Trustee or Trustee being removed shall be entitled to be paid in full for any amount owing to it under Section 905 of this Indenture prior to signing any agreements transferring the transaction to a successor Trustee.

**SECTION 914 APPOINTMENT OF SUCCESSOR TRUSTEE.** Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its

predecessor, and also to the Issuer, an instrument in writing accepting such appointment hereunder, and thereupon such successor Trustee, without any further act, shall become fully vested with all the rights, immunities, powers and trusts, and subject to all the duties and obligations, of its predecessor; but such predecessor shall, nevertheless, on the written request of its successors or of the Issuer, and upon payment of the expenses, charges and other disbursements of such predecessor which are payable pursuant to the provisions of Section 905 of this Article, execute and deliver an instrument transferring to such successor Trustee all the rights, immunities, powers and trusts of such predecessor hereunder; and every predecessor Trustee shall deliver all property and moneys held by it hereunder to its successor. Should any instrument in writing from the Issuer be required by any successor Trustee for more fully and certainly vesting in such Trustee the rights, immunities, powers and trusts hereby vested or intended to be vested in the predecessor Trustee, any such instrument in writing shall and will, on request, be executed, acknowledged and delivered by the Issuer.

Notwithstanding any of the foregoing provisions of this Article, any bank, corporation or association into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any bank, corporation or association succeeding to all or substantially all of the corporate trust business of the Trustee, having power to perform the duties and execute the trusts of this Indenture and otherwise qualified to act as Trustee hereunder, shall be the successor of the Trustee hereunder without the execution or filing of any paper with any party hereto or any further act on the part of any of the parties hereto except on the part of any of the parties hereto except where an instrument of transfer or assignment is required by law to effect such succession, anything herein to the contrary notwithstanding.

**SECTION 915 SEPARATE TRUSTEE OR CO-TRUSTEE.** It is the purpose of this Indenture that there shall be no violation of any law of any jurisdiction (including particularly the law of Georgia) denying or restricting the right of banking corporations or associations to transact business as trustees in such jurisdiction. Therefore, in the event of the incapacity or lack of authority of the Trustee, as determined by the Trustee, by reason of any present or future law of any jurisdiction, to exercise any of the powers, rights or remedies herein granted to the Trustee or to hold title to the property in trust as herein granted or to take other action which may be necessary or desirable in connection therewith in such jurisdiction, the Trustee may appoint an additional individual or institution as a separate Trustee or Co-Trustee, and each and every remedy, power, right, claim, demand, cause of action, immunity, estate, title, interest and lien expressed or intended by this Indenture to be exercised by or vested in or conveyed to the Trustee with respect thereto shall be exercisable by and vest in such separate Trustee or Co-Trustee to exercise such powers, rights and remedies, and every covenant and obligation necessary to the exercise thereof by such separate Trustee or Co-Trustee shall run to and be enforceable by either of them.

Should any conveyance or instrument in writing from the Issuer be required by the separate Trustee or Co-Trustee so appointed by the Trustee for more fully and certainly vesting in and confirming to him or it such properties, rights, powers, trusts, duties and obligations, any and all such conveyances and instruments in writing shall, on request, be executed, acknowledged and delivered by the Issuer. In case any separate Trustee or Co-Trustee, or a successor to either, shall die, become incapable of acting, resign or be removed, all the estates, properties, rights, powers, trusts, duties and obligations of such separate Trustee or Co-Trustee, so far as permitted by law, shall vest in and be exercised by the Trustee until the appointment of a new Trustee or successor to such separate Trustee or Co-Trustee.

**SECTION 916 [RESERVED].**

**SECTION 917 PAYING AGENT.** The Tender Agent is hereby appointed as the initial Paying Agent. The Borrower shall appoint any successor Paying Agent for the Bonds, subject to the conditions set forth in Section 918 hereof. Each Paying Agent (if not also the Trustee) shall designate to the Trustee its Principal Office and signify its acceptance of the duties and obligations imposed upon it hereunder by a written instrument of acceptance delivered to the Issuer, the Borrower and the Trustee under which such Paying Agent will agree, particularly:

(a) to hold all sums held by it for the payment of the principal of and interest and any premium on Bonds in trust for the benefit of the Owners until such sums shall be paid to the Owners or otherwise disposed of as herein provided; and

(b) to keep such books and records as shall be consistent with prudent industry practice and to make such books and records available for inspection by the Issuer, the Trustee and the Borrower at all reasonable times.

The Issuer shall cooperate with the Trustee and the Borrower to cause the necessary arrangements to be made and to be thereafter continued whereby funds will be made available for the payment when due of the Bonds as presented at the Principal Office of the Paying Agent.

**SECTION 918 QUALIFICATIONS OF PAYING AGENT; RESIGNATION; REMOVAL.** The Paying Agent shall be a bank, a trust company or another corporation duly organized under the laws of the United States of America or any state or territory thereof, and, in each case, having a combined capital and surplus of at least \$25,000,000 and authorized by law to perform all the duties imposed upon it by this Indenture. The Paying Agent may at any time resign and be discharged of the duties and obligations created by this Indenture by giving at least 60 days' notice to the Issuer, the Borrower and the Trustee. The Paying Agent may be removed at any time by an instrument, signed by the Borrower, filed with the Issuer, the Paying Agent and the Trustee.

Notwithstanding any of the foregoing provisions of this Article, any bank, corporation or association into which the Paying Agent may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Paying Agent shall be a party, or any bank, corporation or association succeeding to all or substantially all of the corporate trust business of the Paying Agent, having power to perform the duties and execute the trusts of this Indenture and otherwise qualified to act as the Paying Agent hereunder, shall be the successor of the Paying Agent hereunder without the execution or filing of any paper with any party hereto or any further act on the part of any of the parties hereto except on the part of any of the parties hereto except where an instrument of transfer or assignment is required by law to effect such succession, anything herein to the contrary notwithstanding.

In the event of the resignation or removal of the Paying Agent, the Paying Agent shall pay over, assign and deliver any moneys held by it in such capacity to its successor or, if there be no successor, to the Trustee.

If an instrument of acceptance by a successor Paying Agent shall not have been delivered to the Paying Agent within sixty (60) days after the giving of such notice of resignation, the resigning Paying Agent may petition any court of competent jurisdiction for the appointment of a successor Paying Agent. If no successor Paying Agent shall have been so appointed and accepted appointment within sixty (60) days of such resignation, removal, incapability or the occurrence of a vacancy in the office of Paying Agent, in the manner herein provided, the Paying Agent or any Bondowner may petition any court of competent jurisdiction for the appointment of a successor Paying Agent, until a successor shall have been appointed as above provided.

In the event that the Paying Agent shall resign, be removed or be dissolved, or if the property or affairs of the Paying Agent shall be taken under the control of any state or federal court or administrative body because of bankruptcy, insolvency or any other reason, and the Borrower shall not have appointed its successor as Paying Agent, the Paying Agent or any Bondholder may petition any court of competent jurisdiction for the appointment of a successor Paying Agent, until a successor shall have been appointed as above provided and the Trustee shall ipso facto be deemed to be the Paying Agent for all purposes of this Indenture until the appointment of the Paying Agent or successor Paying Agent, as the case may be.

The resigning Paying Agent or Paying Agent being removed shall be entitled to be paid in full for any amount owing to it under Section 905 of this Indenture prior to signing any agreements transferring the transaction to a successor Paying Agent.

**SECTION 919 REGISTRAR.** The Tender Agent is hereby appointed as the initial Registrar. The Borrower shall appoint any successor Registrar for the Bonds, subject to the conditions set forth in Section 920 and Section 206 hereof. Each Registrar

(if not also the Trustee) shall designate to the Trustee its Principal Office and signify its acceptance of the duties imposed upon it hereunder by a written instrument of acceptance delivered to the Issuer, the Borrower and the Trustee under which such Registrar will agree, particularly, to keep such books and records as shall be consistent with prudent industry practice and to make such books and records available for inspection by the Issuer, the Trustee and the Borrower at all reasonable times.

The Issuer shall cooperate with the Trustee and the Borrower to cause the necessary arrangements to be made and to be thereafter continued whereby Bonds, executed by the Issuer and authenticated by the Trustee, shall be made available for exchange and registration of transfer at the Principal Office of the Registrar. The Issuer shall cooperate with the Trustee, the Registrar and the Borrower to cause the necessary arrangements to be made and thereafter continued whereby the Paying Agent and the Remarketing Agent shall be furnished such records and other information, at such times, as shall be required to enable the Paying Agent and the Remarketing Agent to perform the duties and obligations imposed upon them hereunder.

**SECTION 920 QUALIFICATIONS OF REGISTRAR; RESIGNATION; REMOVAL.** The Registrar shall be a corporation duly organized under the laws of the United States of America or any state or territory thereof, having a combined capital and surplus of at least \$25,000,000 and authorized by law to perform all the duties imposed upon it by this Indenture. The Registrar may at any time resign and be discharged of the duties and obligations created by this Indenture by giving at least 60 days' notice to the Issuer, the Trustee and the Borrower. The Registrar may be removed at any time by an instrument, signed by the Borrower, filed with the Issuer, the Registrar and the Trustee.

Notwithstanding any of the foregoing provisions of this Article, any bank, corporation or association into which the Registrar may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Registrar shall be a party, or any bank, corporation or association succeeding to all or substantially all of the corporate trust business of the Registrar, having power to perform the duties and execute the trusts of this Indenture and otherwise qualified to act as the Registrar hereunder, shall be the successor of the Registrar hereunder without the execution or filing of any paper with any party hereto or any further act on the part of any of the parties hereto except on the part of any of the parties hereto except where an instrument of transfer or assignment is required by law to effect such succession, anything herein to the contrary notwithstanding.

In the event of the resignation or removal of the Registrar, the Registrar shall deliver any Bonds held by it in such capacity to its successor or, if there be no successor, to the Trustee.

If an instrument of acceptance by a successor Registrar shall not have been delivered to the Registrar within sixty (60) days after the giving of such notice of

resignation, the resigning Registrar may petition any court of competent jurisdiction for the appointment of a successor Registrar. If no successor Registrar shall have been so appointed and accepted appointment within sixty (60) days of such resignation, removal, incapability or the occurrence of a vacancy in the office of Registrar, in the manner herein provided, the Registrar or any Bondowner may petition any court of competent jurisdiction for the appointment of a successor Registrar, until a successor shall have been appointed as above provided.

In the event that the Registrar shall resign, be removed or be dissolved, or if the property or affairs of the Registrar shall be taken under the control of any state or federal court or administrative body because of bankruptcy, insolvency or any other reason, and the Borrower shall not have appointed its successor as Registrar, The Registrar or any Bondholder may petition any court of competent jurisdiction for the appointment of a successor Registrar, until a successor shall have been appointed as above provided and the Trustee shall ipso facto be deemed to be the Registrar for all purposes of this Indenture until the appointment by the Borrower of the Registrar or successor Registrar, as the case may be.

The resigning Registrar or Registrar being removed shall be entitled to be paid in full for any amount owing to it under Section 905 of this Indenture prior to signing any agreements transferring the transaction to a successor Registrar.

**SECTION 921 PROCEDURES WITH DTC.** During any period when the Bonds are held under the book-entry system maintained by DTC, the Trustee is hereby directed to comply with the provisions of the Letter of Representations and, to the extent such provisions conflict with the provisions of this Indenture, the provisions of the Letter of Representations shall control with respect to Bonds to which such Letter of Representations applies. Notwithstanding any other provisions of this Indenture to the contrary, the Issuer and the Remarketing Agent agree to give the Trustee such notices and to make payment at such time or times as shall be necessary in order to enable the Trustee to comply with the provisions of the Letter of Representations. Neither the Issuer nor the Trustee shall have any responsibility or obligation to DTC participants or the persons for whom they act as nominees with respect to the Bonds regarding accuracy of any records maintained by DTC or DTC participants, the payments by DTC or DTC participants of any amount in respect of principal, redemption price or interest on the Bonds, any notice which is permitted or required to be given to or by Owners hereunder (except such notice as is required to be given by the Issuer to the Trustee or to DTC), or any consent given or other action taken by DTC as Bondowner.

In the event that Bonds are no longer held under the book-entry system maintained by DTC and are issued to the owners thereof in bond (physical) form, the Registrar will authenticate and deliver to the owners of the Bonds a new Bond or Bonds in the principal amount equal to the aggregate principal amount of Bonds then Outstanding (less the principal amount of the Bonds not held by means of a book-entry system), registered in

the name of the owners, in exchange for the Bond or bonds then held by DTC and DTC shall surrender such Bond or Bonds then held by it to the Trustee for cancellation and destruction in accordance with the terms of Section 506 hereof.

In connection with any proposed transfer outside the book-entry system maintained by DTC, the Issuer, the Borrower or DTC shall provide or cause to be provided to the Trustee all information necessary to allow the Trustee to comply with any applicable tax reporting obligations, including without limitation any cost basis reporting obligations under Internal Revenue Code Section 6045. The Trustee may rely on the information provided to it and shall have no responsibility to verify or ensure the accuracy of such information.

[Remainder of page intentionally left blank]

**ARTICLE X**  
**EXECUTION OF INSTRUMENTS BY BONDHOLDERS**  
**AND PROOF OF OWNERSHIP OF BONDS**

**SECTION 1001 CONSENTS, ETC., OF BONDHOLDERS.** Any request, direction, consent or other instrument in writing required or permitted by this Indenture to be signed or executed by Bondholders may be in any number of concurrent instruments of similar tenor and may be signed or executed by such Bondholders or their attorneys or legal representatives. Proof of the execution of any such instrument and of the ownership of Bonds shall be sufficient for any purpose of this Indenture and shall be conclusive in favor of the Trustee with regard to any action taken by it under such instrument if made in the following manner:

(a) The fact and date of the execution by any person of any such instrument may be proved in accordance with such reasonable rules as the Trustee may adopt.

(b) The ownership of Bonds shall be proved by the registration books kept under the provisions of Section 206 of this Indenture.

But nothing contained in this Article shall be construed as limiting the Trustee to such proof, it being intended that the Trustee may accept any other evidence of the matters herein stated which it may deem sufficient. Any request or consent of the holder of any Bond shall bind every future holder of the same Bond and of any Bond issued in place thereof in respect of anything done by the Trustee in pursuance of such request or consent.

[Remainder of page intentionally left blank]

**ARTICLE XI  
SUPPLEMENTAL INDENTURES**

**SECTION 1101 SUPPLEMENTAL INDENTURES NOT REQUIRING CONSENT OF BONDHOLDERS.** The Issuer and the Trustee may, from time to time and at any time, with the consent of the Borrower but without the consent of Bondholders, enter into such supplements and amendments to this Indenture as shall not be inconsistent with the terms and provisions hereof and, in the opinion of Bond Counsel, shall not be detrimental to the interests of the Bondholders (except to the extent permitted under (k)):

(a) to cure any ambiguity or defect or omission in this Indenture or in any supplemental trust indenture;

(b) to grant to or confer upon the Trustee for the benefit of the Bondholders any additional rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon the Bondholders or the Trustee;

(c) to confirm the lien of this Indenture or to subject to this Indenture additional revenues, properties or collateral;

(d) to correct any description of, or to reflect changes in, any properties comprising the Project;

(e) in connection with any other change which, in the judgment of the Trustee, will not restrict, limit or reduce the obligation of the Issuer to pay the principal of and premium, if any, and interest on the Bonds or otherwise impair the security of the Bondholders under this Indenture;

(f) to modify, amend or supplement this Indenture or any supplemental trust indenture hereto in such manner as to permit the qualification hereof and thereof under the Trust Indenture Act of 1939, as amended, or any similar federal statute hereafter in effect or to permit the qualification of the Bonds for sale under the securities laws of any of the states of the United States;

(g) to make amendments to the provisions hereof relating to matters under Section 148(f) of the Code, provided that an opinion of Bond Counsel, to the effect that such amendments will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Bonds, is delivered to the Trustee;

(h) to authorize different Authorized Denominations of the Bonds and to make correlative amendments and modifications to this Indenture regarding exchangeability of Bonds of different Authorized Denominations, redemptions of portions of Bonds of particular Authorized Denominations and similar amendments and modifications of a technical nature;

(i) to increase or decrease the number of days specified in Sections 201(d)(ii) and (iii), 201(e)(ii) and (iii), 201(f)(i), (ii), (iii) and (iv) and 201(g)(i), (ii) and (iii) hereof; provided that no decreases in any such number of days shall become effective except during a Daily Interest Rate Period or a Weekly Interest Rate Period and until 30 days after the Trustee shall have given notice to the holders of the Bonds affected thereby;

(j) to make any amendments appropriate or necessary to provide for the delivery of additional collateral or any insurance policy, irrevocable transferable letter of credit, guaranty, surety bond, line of credit, revolving credit agreement or other agreement or security device delivered to the Trustee and providing for (i) payment of the principal, interest and redemption premium on the Bonds or a portion thereof, or (ii) payment of the purchase price of the Bonds, or (iii) both (i) and (ii);

(k) on any date on which all of the Bonds are subject to mandatory purchase to modify the Indenture in any respect (even if to the adverse interest of Owners) provided that such supplement will not be effective until after such mandatory purchase and the payment of the purchase price in connection therewith;

(l) on any date on which all of the Bonds are subject to mandatory purchase, to modify the Indenture to specify redemption prices greater or lesser, and after periods longer or shorter, than those set forth in Section 301(c)(ii) hereof; or

(m) to make amendments in connection with the issuance of Completion Bonds.

**SECTION 1102 SUPPLEMENTAL INDENTURES REQUIRING CONSENT OF BONDHOLDERS.** Subject to the terms and provisions contained in this Section, and not otherwise, the holders of not less than a majority in aggregate principal amount of the Bonds then outstanding and the Borrower shall have the right, from time to time, anything contained in this Indenture to the contrary notwithstanding, to consent to and approve the execution by the Issuer and the Trustee of such trust indenture or trust indentures supplemental hereto as shall be deemed necessary or desirable by the Issuer for the purpose of modifying, altering, amending, adding to or rescinding, in any particular way, any of the terms or provisions contained in this Indenture or in any supplemental trust indenture; provided, however, that, unless approved in writing by the holders of all Bonds then Outstanding and the Borrower, nothing herein contained shall permit, or be construed as permitting, (a) an extension of the maturity of the principal of or the interest on any Bond issued hereunder, (b) a reduction in the principal amount of any Bond or the redemption premium or the rate of interest thereon, (c) the creation of a lien upon or a pledge of the Trust Estate, including the Loan Repayments or any other income derived from the Trust Estate, (d) a preference or priority of any Bond or Bonds over any other Bond or Bonds, or (e) a reduction in the aggregate principal amount of the Bonds required for consent to such supplemental trust indenture. Nothing herein contained, however, shall be construed as making necessary

the approval by Bondholders of the execution of any supplemental trust indenture as authorized in Section 1101 of this Article.

If at any time the Issuer shall request the Trustee to enter into any supplement or amendment for any of the purposes of this Section, the Trustee shall, at the expense of the Borrower, cause notice of the proposed execution of such supplement or amendment to be mailed by first class mail, postage prepaid, to all owners of Bonds at their addresses as they appear on the registration books. Such notice shall briefly set forth the nature of the proposed supplement or amendment and shall state that copies thereof are on file at the Principal Office of the Trustee for inspection by any Bondholder. The Trustee shall not, however, be subject to any liability to any Bondholder by reason of its failure to mail any such notice, and any such failure shall not affect the validity of such supplement or amendment when consented to and approved as provided in this Section.

Whenever, at any time within one year after the date of the mailing of such notice, the Issuer shall deliver to the Trustee an instrument or instruments in writing purporting to be executed by the holders of not less than the required aggregate principal amount of the Bonds then Outstanding and the Borrower, which instrument or instruments shall refer to the proposed supplemental trust indenture described in such notice and shall specifically consent to and approve the execution thereof in substantially the form of the copy thereof referred to in such notice, thereupon, but not otherwise, the Trustee may execute such supplemental trust indenture in substantially such form, without liability or responsibility to any holder of any Bond, whether or not such holder shall have consented thereto.

If the holders of not less than the percentage of Bonds required by this Section 1102 shall have consented to and approved the execution thereof as herein provided, no holder of any Bond shall have any right to object to the execution of such supplement or amendment, or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the Issuer from executing the same or from taking any action pursuant to the provisions thereof.

Upon the execution of any supplement or amendment pursuant to the provisions of this Section, this Indenture shall be and be deemed to be modified and amended in accordance therewith, and the respective rights, duties and obligations under this Indenture of the Issuer, the Trustee and all holders of Bonds then Outstanding shall thereafter be determined, exercised and enforced hereunder, subject in all respects to such modifications and amendments.

**SECTION 1103 ANY SUPPLEMENTAL INDENTURE SHALL BE DEEMED A PART OF INDENTURE.** The Trustee is authorized to join with the Issuer in the execution of any supplemental trust indenture hereto and to make the further agreements and stipulations which may be contained therein. Any supplemental trust

indenture executed in accordance with the provisions of this Article shall thereafter form a part of this Indenture, and all of the terms and conditions contained in any such supplemental trust indenture as to any provision authorized to be contained therein shall be and shall be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

**SECTION 1104 DISCRETION OF TRUSTEE; RELIANCE ON COUNSEL.** In each and every case provided for in this Article, the Trustee shall be entitled to exercise its discretion in determining whether or not to execute any proposed supplemental trust indenture, if the rights, obligations and interests of the Trustee would be affected, and the Trustee shall not be under any responsibility or liability to the Issuer or to any Bondholder or to anyone whomsoever for its refusal in good faith to enter into any such supplemental trust indenture if such supplemental trust indenture is deemed by it to be contrary to the provisions of this Article. The Trustee shall be entitled to receive, and shall be fully protected in relying upon, the opinion of any counsel approved by it, who may be counsel for the Borrower, as conclusive evidence that any such proposed supplemental trust indenture does or does not comply with the provisions of this Indenture, and that it is or is not proper for it, under the provisions of this Article, to join in the execution of such supplemental trust indenture.

[Remainder of page intentionally left blank]

**ARTICLE XII**  
**SUPPLEMENTAL LOAN AGREEMENTS**  
**AND SUPPLEMENTAL PLEDGE AGREEMENTS**

**SECTION 1201 SUPPLEMENTAL LOAN AGREEMENTS AND SUPPLEMENTAL PLEDGE AGREEMENTS NOT REQUIRING CONSENT OF BONDHOLDERS.** Without the consent of any Bondholder, the Issuer and the Borrower may enter into, and the Trustee may consent to, from time to time and at any time, such agreements supplemental to the Loan Agreement as shall not be inconsistent with the terms and provisions thereof and, if a Pledge Agreement shall then be in effect, the Trustee may enter into any agreement supplemental to the Pledge Agreement as shall not be inconsistent with the terms thereof, which in the opinion of Bond Counsel shall not be detrimental to the interests of the Bondholders (which supplemental agreements shall thereafter form a part of the Loan Agreement and Pledge Agreement, respectively),

(a) to cure any ambiguity or defect or omission in the Loan Agreement or in any supplemental agreement, or in any Pledge Agreement or in any supplemental pledge agreement then in effect, or

(b) to grant to or confer upon the Issuer or the Trustee for the benefit of the Bondholders any additional rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon the Issuer or the Bondholders or the Trustee, or

(c) to correct any description of, or to reflect changes in, any properties comprising the Project, or

(d) in connection with any other change which, in the judgment of the Trustee, will not restrict, limit or reduce the obligation of the Borrower to pay the Loan Repayments or otherwise materially impair the security of the Bondholders under this Indenture, or

(e) in connection with the issuance of Completion Bonds.

**SECTION 1202 SUPPLEMENTAL LOAN AGREEMENTS AND SUPPLEMENTAL PLEDGE AGREEMENTS REQUIRING CONSENT OF BONDHOLDERS.** Except for supplemental agreements or supplemental pledge agreements provided for in Section 1201 of this Article or amendments to the Loan Agreement and any Pledge Agreement as therein provided for, the Issuer shall not enter into and the Trustee shall not consent to any supplemental agreement or amendment to the Loan Agreement or enter into any supplemental pledge agreement or amendment to any Pledge Agreement unless notice of the proposed execution of such supplemental agreement, supplemental pledge agreement or amendment shall have been given and the holders of not less than a majority in aggregate principal amount of the Bonds then outstanding shall have consented to and approved the execution thereof all as provided

for in Section 1102 of this Indenture in the case of supplemental trust indentures; provided that the Trustee shall be entitled to exercise its discretion in consenting or not consenting to any such supplemental agreement, supplemental pledge agreement or amendment in the same manner as provided for in Section 1104 of this Indenture in the case of supplemental trust indentures.

[Remainder of page intentionally left blank]

## **ARTICLE XIII DEFEASANCE**

**SECTION 1301 DEFEASANCE OF BONDS.** If there is paid to the holders of all of the Bonds secured hereby the principal of and premium, if any, and interest on such Bonds which is and shall thereafter become due and payable thereon, together with all other sums payable hereunder, then and in that case the rights, title and interest of the Trustee in and to the estate pledged and assigned to it under this Indenture shall cease, terminate and be discharged, and such Bonds shall cease to be entitled to any lien, benefit or security under this Indenture. In such event, the Trustee shall transfer and assign to the Borrower all property then held by the Trustee, shall execute such documents as may be reasonably required by the Issuer or the Borrower to evidence the transfer and assignment and shall turn over to the Borrower any surplus in the Bond Fund and any surplus in any other fund created hereunder. If the Issuer shall pay or cause to be paid to the holders of less than all of the outstanding Bonds the principal of and premium, if any, and interest on such Bonds which is and shall thereafter become due and payable upon such Bonds, such Bonds, or portions thereof, shall cease to be entitled to any lien, benefit or security under this Indenture.

Any or all of the outstanding Bonds then bearing interest at a Long-Term Interest Rate during a Long-Term Interest Rate Period ending on or after the redemption date or on the day immediately preceding the Maturity Date, as the case may be, or at Commercial Paper Term Rates for Commercial Paper Terms which end on the redemption date or the day immediately preceding the Maturity Date, as the case may be, shall be deemed to have been paid within the meaning and with the effect expressed in this Section when (a) in case the Bonds, or portions thereof, have been selected for redemption in accordance with Section 301 hereof prior to their maturity, the Borrower shall have given to the Trustee irrevocable instructions to mail in accordance with the provisions of Section 302 hereof notice of redemption of such Bonds, or portions thereof, (b) there shall have been deposited with the Trustee either moneys in an amount which shall be sufficient, or Defeasance Obligations, which shall not contain provisions permitting the redemption thereof at the option of the issuer thereof, the principal of and the interest on which when due, and without any reinvestment thereof, will provide moneys which, together with the moneys, if any, deposited with or held by the Trustee available therefor, shall be sufficient to pay when due the principal of and premium, if any, and interest due and to become due on the Bonds, or portions thereof, on or prior to the redemption date or maturity date thereof, as the case may be, and (c) in the event the Bonds do not mature and are not to be redeemed within the next succeeding 60 days, the Borrower (i) shall have given the Trustee irrevocable instructions to mail, as soon as practicable in the same manner as a notice of redemption is mailed pursuant to Section 302 hereof, a notice to the holders of the Bonds, or portions thereof, stating that the deposit of moneys or Defeasance Obligations required by clause (b) of this paragraph has been made with the Trustee and that the Bonds are deemed to have been paid in

accordance with this Section and stating such maturity or redemption date upon which moneys are to be available for the payment of the principal of and premium, if any, and interest on the Bonds, or portions thereof and (ii) shall cause to be delivered to the Trustee or escrow agent, as the case may be, a verification report of any independent, nationally recognized, certified public accountant showing the sufficiency of such deposit. Neither the moneys or Defeasance Obligations deposited with the Trustee pursuant to this Section nor principal or interest payments on any such obligations shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal of and premium, if any, and interest on the Bonds, or portions thereof. If payment of less than all of the Bonds is to be provided for in the manner and with the effect expressed in this Section, the Trustee shall select such Bonds, or portions thereof, in the manner specified in Section 301 hereof for selection for redemption of less than all Bonds in the principal amounts designated to the Trustee by the Borrower.

[Remainder of page intentionally left blank]

**ARTICLE XIV  
REMARKETING AGENT; TENDER AGENT; PURCHASE  
AND REMARKETING OF BONDS**

**SECTION 1401    REMARKETING AGENT AND TENDER AGENT.**

(a) Morgan Stanley & Co. LLC shall be the initial Remarketing Agent for the Bonds. The Borrower shall appoint any successor Remarketing Agent for the Bonds, subject to the conditions set forth in Section 1402(a) hereof. The term of appointment of any Remarketing Agent shall expire, and the Borrower shall appoint a successor Remarketing Agent, upon the adjustment of the interest rate determination method for the Bonds in accordance with Section 201 hereof; provided, however, that the Borrower may elect to appoint the then current Remarketing Agent as the successor Remarketing Agent, in which event any remarketing agreement between the Borrower and the then current Remarketing Agent may, at the option of the Borrower, remain in effect during such new term of appointment. The Remarketing Agent shall designate its Principal Office and signify its acceptance of the duties and obligations imposed upon it hereunder by a written instrument of acceptance delivered to the Issuer, the Trustee, the Tender Agent and the Borrower under which the Remarketing Agent will agree, particularly, to keep such books and records as shall be consistent with prudent industry practice and to make such books and records available for inspection by the Issuer, the Trustee, the Tender Agent and the Borrower at all reasonable times.

(b) The initial Tender Agent shall be U.S. Bank National Association. The Borrower shall appoint any successor Tender Agent for the Bonds, subject to the conditions set forth in Section 1402(b) hereof. The Tender Agent shall designate its Principal Office and signify its acceptance of the duties and obligations imposed upon it hereunder by a written instrument of acceptance delivered to the Issuer, the Trustee, the Borrower, and the Remarketing Agent. By acceptance of its appointment hereunder, the Tender Agent agrees:

(i) to hold all Bonds delivered to it pursuant to Section 202 hereof, as agent and bailee of, and in escrow for the benefit of, the respective Owners which shall have so delivered such Bonds until moneys representing the purchase price of such Bonds shall have been delivered to or for the account of or to the order of such Owners;

(ii) to establish and maintain, and there is hereby established with the Tender Agent, a separate segregated trust fund designated as the "Development Authority of Monroe County Revenue Bonds (Gulf Power Company Project), Series 2019 Purchase Fund" (the "Purchase Fund"), including any subaccounts within the Purchase Fund, as directed, until such time as it has been discharged from its duties as Tender Agent hereunder;

(iii) to hold all moneys (without investment thereof) delivered to it hereunder for the purchase of Bonds pursuant to Section 202 hereof in the Purchase Fund for the purchase of Bonds pursuant to Section 202 hereof, as agent and bailee of, and in escrow for the benefit of, the person or entity which shall have so delivered such moneys until the Bonds purchased with such moneys shall have been delivered to or for the account of such person or entity;

(iv) to hold all Bonds registered in the name of the new Owners thereof and make such Bonds available for delivery to the Remarketing Agent in accordance with the Tender Agreement; and

(v) to keep such books and records as shall be consistent with prudent industry practice and to make such books and records available for inspection by the Issuer, the Trustee, the Borrower and the Remarketing Agent at all reasonable times (following reasonable prior written notice of such party's desire to inspect such books and records).

The Issuer shall cooperate with the Borrower and the Trustee to cause the necessary arrangements to be made and to be thereafter continued to enable the Tender Agent to perform its duties and obligations described above.

#### **SECTION 1402 QUALIFICATIONS OF REMARKETING AGENT AND TENDER AGENT; RESIGNATION; REMOVAL.**

(a) The Remarketing Agent shall be a member of the Financial Industry Regulatory Authority, having a combined capital stock, surplus and undivided profits of at least \$15,000,000 and authorized by law to perform all the duties imposed upon it by this Indenture. The Remarketing Agent may at any time resign and be discharged of the duties and obligations created by this Indenture by giving at least 45 days' notice to the Issuer, the Trustee, the Tender Agent and the Borrower. Such resignation shall take effect on the earlier of the day a successor Remarketing Agent shall have been appointed by the Borrower and shall have accepted such appointment or 45 days from the date the Remarketing Agent submits such resignation. The Borrower may from time to time remove the Remarketing Agent upon five Business Days' notice and appoint a different Remarketing Agent by an instrument signed by the Borrower and filed with the Issuer, the Remarketing Agent, the Trustee and the Tender Agent.

(b) The Tender Agent shall be a corporation or a national or state banking association or trust company duly organized under the laws of the United States of America or any state or territory thereof, and, if not a bank or trust company, and in any case having a combined capital stock, surplus and undivided profits of at least \$25,000,000 and authorized by law to perform all the duties imposed upon it by this Indenture and the Tender Agreement. The Tender Agent may at any time resign and be discharged of the duties and obligations created by this Indenture by giving at least 60

days' notice to the Issuer, the Trustee, the Borrower and the Remarketing Agent. Such resignation shall take effect on the day a successor Tender Agent shall have been appointed by the Borrower and shall have accepted such appointment. The Tender Agent may be removed by the Borrower, at any time by an instrument signed by the Borrower, filed with the Tender Agent, the Issuer, the Trustee, and the Remarketing Agents.

Notwithstanding any of the foregoing provisions of this Article, any bank, corporation or association into which the Tender Agent may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Tender Agent shall be a party, or any bank, corporation or association succeeding to all or substantially all of the corporate trust business of the Tender Agent, having power to perform the duties and execute the trusts of this Indenture and otherwise qualified to act as the Tender Agent hereunder, shall be the successor of the Tender Agent hereunder without the execution or filing of any paper with any party hereto or any further act on the part of any of the parties hereto except on the part of any of the parties hereto except where an instrument of transfer or assignment is required by law to effect such succession, anything herein to the contrary notwithstanding.

In the event of the resignation or removal of the Tender Agent, the Tender Agent shall deliver any Bonds and moneys held by it in such capacity to its successor or, if there is no successor, to the Trustee.

If an instrument of acceptance by a successor Tender Agent shall not have been delivered to the Tender Agent within sixty (60) days after the giving of such notice of resignation, the resigning Tender Agent may petition any court of competent jurisdiction for the appointment of a successor Tender Agent. If no successor Tender Agent shall have been so appointed and accepted appointment within sixty (60) days of such resignation, removal, incapability or the occurrence of a vacancy in the office of Tender Agent, in the manner herein provided, the Tender Agent or any Bondowner may petition any court of competent jurisdiction for the appointment of a successor Tender Agent, until a successor shall have been appointed as above provided.

In the event that the Tender Agent shall resign, be removed or be dissolved, or if the property or affairs of the Tender Agent shall be taken under the control of any state or federal court or administrative body because of bankruptcy, insolvency or any other reason, and the Borrower shall not have appointed its successor as Tender Agent, the Tender Agent or any Bondholder may petition any court of competent jurisdiction for the appointment of a successor Tender Agent, until a successor shall have been appointed as above provided and the Trustee shall ipso facto be deemed to be the Tender Agent for all purposes of this Indenture until the appointment of the Tender Agent or successor Tender Agent, as the case may be.

The resigning Tender Agent or Tender Agent being removed shall be entitled to be paid in full for any amount owing to it under Section 905 of this Indenture prior to signing any agreements transferring the transaction to a successor Tender Agent.

**SECTION 1403 NOTICE OF BONDS DELIVERED FOR PURCHASE;  
PURCHASE OF BONDS.**

(a) The Tender Agent shall determine timely and proper delivery of Bonds pursuant to this Indenture and the proper endorsement of such Bonds. Such determination shall be binding on the Owners of such Bonds, the Issuer, the Borrower, the Remarketing Agent and the Trustee absent manifest error. As promptly as practicable, in accordance with the provisions of the Tender Agreement, the Tender Agent shall give telephonic or electronic notice, promptly confirmed by a written notice, to the Trustee, the Remarketing Agent and the Borrower specifying the principal amount of Bonds, if any, as to which it shall receive notice of tender for purchase in accordance with Sections 202(a) or (b).

(b) Bonds required to be purchased in accordance with Section 202 hereof shall be purchased from the Owners thereof, on the date and at the purchase price at which such Bonds are required to be purchased. Funds for the payment of such purchase price shall be derived from the following sources in the order of priority indicated:

(i) moneys furnished by the Trustee to the Tender Agent pursuant to Section 1301 hereof, such moneys to be applied only to the purchase of Bonds which are deemed to be paid in accordance with Article XIII hereof;

(ii) proceeds of the sale of such Bonds remarketed pursuant to Section 1406 hereof and furnished to the Tender Agent by the Remarketing Agent for deposit into the Purchase Fund;

(iii) moneys furnished to the Tender Agent representing moneys provided by the Borrower pursuant to Section 11.1 or 11.2 of the Loan Agreement or otherwise available for such purpose.

(c) (i) The Registrar shall authenticate a new Bond or Bonds in an aggregate principal amount equal to the principal amount of Bonds purchased in accordance with Section 1403(b), whether or not the Bonds so purchased are presented by the Owners thereof, bearing a number or numbers not contemporaneously outstanding. Every Bond authenticated and delivered as provided in this Section 1403(c) shall be entitled to all the benefits of this Indenture equally and proportionately with any and all other Bonds duly issued hereunder. The Registrar shall maintain a record of the Bonds purchased as provided in this Section 1403, together with the names and addresses of the former Owners thereof.

(ii) In the event any Bonds purchased as provided in this Section 1403 shall not be presented to the Tender Agent, the Tender Agent shall segregate and hold the moneys for the purchase price of such Bonds in trust for the benefit of the former Owners of such Bonds, who shall, except as provided in the following sentence, thereafter be restricted exclusively to such moneys for the satisfaction of any claim for the purchase price of such Bonds. Any moneys which the Tender Agent shall segregate and hold in trust for the payment of the purchase price of any Bond and remaining unclaimed for one year after the date of purchase shall, upon the Borrower's written request to the Tender Agent, be paid to the Borrower. After the payment of such unclaimed moneys to the Borrower, the former Owner of such Bond shall look only to the Borrower for the payment thereof. In the absence of any such written request from the Borrower, the Tender Agent shall from time to time deliver such unclaimed funds to or as directed by pertinent escheat authority, as identified by the Tender Agent in its sole discretion, pursuant to and in accordance with applicable unclaimed property laws, rules or regulations. Any such delivery shall be in accordance with the customary practices and procedures of the Tender Agent and the escheat authority. Any money held by the Tender Agent pursuant to this paragraph shall be held uninvested and without any liability for interest.

**SECTION 1404 [RESERVED].**

**SECTION 1405 [RESERVED].**

**SECTION 1406 REMARKETING OF BONDS; NOTICE OF INTEREST RATES.**

(a) Upon notice of the tender for purchase of Bonds, or in connection with any mandatory tender for purchase of Bonds, in accordance with Section 202 hereof, and except to the extent the Borrower directs the Remarketing Agent not to do so, the Remarketing Agent shall offer for sale and use its best efforts to sell such Bonds, any such sale to be made on the date of such purchase in accordance with Section 202. Any Bond which is tendered for purchase, pursuant to Sections 202(a) or (b) hereof, after that Bond has become subject to mandatory tender for purchase pursuant to Sections 202(c) or (d) hereof, shall be sold only to a purchaser who agrees to refrain from selling that Bond other than under the terms of this Indenture and hold that Bond only to the date of mandatory purchase.

(b) The Remarketing Agent shall determine the rate of interest to be borne by the Bonds during each Interest Rate Period and by each Bond during each Commercial Paper Term for such Bond and the Commercial Paper Terms for each Bond during each Commercial Paper Interest Rate Period as provided in Section 201 hereof and shall furnish to the Registrar, Paying Agent, the Borrower and the Trustee on the Business Day of determination each rate of interest and Commercial Paper Term so determined.

(c) The Remarketing Agent shall give telephonic or electronic notice to the Trustee and the Tender Agent on each date on which Bonds shall have been purchased pursuant to Section 1403(b) hereof, specifying the principal amount of Bonds, if any, sold by it pursuant to Section 1406(a) hereof.

**SECTION 1407 DELIVERY OF BONDS.**

(a) Bonds purchased with moneys described in clause (i) of Section 1403(b) hereof shall be delivered to the Trustee for cancellation.

(b) Bonds purchased with moneys described in clause (ii) of Section 1403(b) hereof shall be made available for delivery by the Tender Agent to the Remarketing Agent for delivery to the purchasers thereof against payment therefor in accordance with the Tender Agreement.

(c) Bonds purchased with moneys described in clause (iii) of Section 1403(b) hereof shall at the direction of the Borrower, be (i) held by the Tender Agent for the account of the Borrower, (ii) delivered to the Trustee for cancellation or (iii) delivered to the Borrower; provided, however, that any Bonds so purchased after the selection thereof by the Trustee for redemption shall be delivered to the Trustee for cancellation.

(d) Bonds delivered as provided in this Section 1407 shall be registered in the manner directed by the recipient thereof.

**SECTION 1408 DELIVERY OF PROCEEDS OF SALE.** The proceeds of the sale by the Remarketing Agent of any Bonds delivered to it by, or held by it for the account of, the Trustee, or the Borrower, or delivered to it by any other Owner, shall be turned over to the Tender Agent, the Borrower, or such other Owner, as the case may be; provided, however, that if any such Bond is sold by the Remarketing Agent at a price in excess of the principal amount thereof (exclusive of that portion, if any, of such price representing accrued interest), such excess shall be paid to the Borrower.

[Remainder of page intentionally left blank]

**ARTICLE XV  
MISCELLANEOUS PROVISIONS**

**SECTION 1501 COVENANTS BINDING UPON SUCCESSORS.** In the event of the dissolution of the Issuer, all of the covenants, stipulations, obligations and agreements contained in this Indenture by or on behalf of or for the benefit of the Issuer shall bind or inure to the benefit of the successor or successors of the Issuer from time to time and any officer, board, commission, authority, agency or instrumentality to whom or to which any power or duty affecting such covenants, stipulations, obligations and agreements shall be transferred by or in accordance with law, and the word "Issuer" as used in this Indenture shall include such successor or successors.

**SECTION 1502 NOTICES.** Any notice, demand, direction, request or other instrument authorized or required by this Indenture to be given to or filed with the Issuer or the Trustee shall be (subject, with respect to the Trustee, to Section 913 hereof) deemed to have been sufficiently given or filed for all purposes of this Indenture if and when sent by certified mail, return receipt requested:

to the Issuer, if addressed to:

Development Authority of Monroe County  
Attention: President  
10 West Chambers Street  
Forsyth, Georgia 31029;

to the Trustee, if addressed to:

U.S. Bank National Association  
Attention: Global Corporate Trust  
1349 W. Peachtree Street, NW  
Suite 1050  
Atlanta, Georgia 30309

to the Borrower, if addressed as provided in the Loan Agreement;

to the Tender Agent, if addressed to:

U.S. Bank National Association  
Attention: Global Corporate Trust  
1349 W. Peachtree Street, NW  
Suite 1050  
Atlanta, Georgia 30309  
E-mail: tender.notifications@usbank.com

to the Remarketing Agent, if addressed to:

Morgan Stanley & Co. LLC  
1585 Broadway  
New York, New York 10036  
Attention: Municipal Short Term Products

The Issuer, the Trustee, the Borrower, the Tender Agent, and the Remarketing Agent may, by notice given hereunder, designate any further or different addresses to which subsequent communications under this Indenture may be sent.

Furthermore, the Trustee shall have the right to accept and act upon any notice, demand, direction, request or other instructions, including funds transfer instructions ("Instructions"), given pursuant to this Indenture and delivered using Electronic Means (as defined below); provided, however, that the Borrower, the Issuer or and such other party giving such instruction (the "Sender") shall provide to the Trustee an incumbency certificate listing officers with the authority to provide such Instructions ("Authorized Officers") and containing specimen signatures of such Authorized Officers, which incumbency certificate shall be amended by the Sender whenever a person is to be added or deleted from the listing. If the Sender elects to give the Trustee Instructions using Electronic Means and the Trustee in its discretion elects to act upon such Instructions, the Trustee's understanding of such Instructions shall be deemed controlling. The Borrower, the Issuer and any other Sender understand and agree that the Trustee cannot determine the identity of the actual sender of such Instructions and that the Trustee shall conclusively presume that directions that purport to have been sent by an Authorized Officer listed on the incumbency certificate provided to the Trustee have been sent by such Authorized Officer. Each Sender shall be responsible for ensuring that only Authorized Officers transmit such Instructions to the Trustee and that the Sender and all Authorized Officers are solely responsible to safeguard the use and confidentiality of applicable user and authorization codes, passwords and/or authentication keys upon receipt by the Sender. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such Instructions notwithstanding such directions conflict or are inconsistent with a subsequent written instruction. The Borrower agrees: (i) to assume all risks arising out of the use of Electronic Means to submit Instructions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized Instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting Instructions to the Trustee and that there may be more secure methods of transmitting Instructions than the method(s) selected by the Borrower for use by the Borrower, the Issuer and the other parties who may give instructions to the Trustee under this Indenture; (iii) that the security procedures (if any) to be followed in connection with its transmission of Instructions provide to it a commercially reasonable degree of protection in light of its particular needs and

circumstances; and (iv) to notify the Trustee immediately upon learning of any compromise or unauthorized use of the security procedures. "Electronic Means" shall mean the following communications methods: S.W.I.F.T., e-mail, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys issued by the Trustee, or another method or system specified by the Trustee as available for use in connection with its services hereunder.

All documents received by the Trustee under the provisions of this Indenture, or photographic copies thereof, shall be retained in its possession until this Indenture shall be released under the provisions of this Indenture, subject at all reasonable times to the inspection of the Issuer, the Borrower, any Bondholder and any agent or representative thereof. A copy of any notice, certificate or other communication given pursuant to this Indenture shall also be given to the Borrower at the address set forth in Section 12.1 of the Loan Agreement.

**SECTION 1503 MANNER OF NOTICE.** If, because of the temporary or permanent suspension of publication of any newspaper or financial journal or for any other reason, the Trustee shall be unable to publish in a newspaper or financial journal any notice required to be published by the provisions of this Indenture, the Trustee shall give such notice in such other manner as directed by the Issuer in writing, and the giving of such notice in such manner shall for all purposes of this Indenture be deemed to be in compliance with the requirement for the publication thereof.

**SECTION 1504 ISSUER, TRUSTEE, THE BORROWER AND BONDHOLDERS ALONE HAVE RIGHTS UNDER INDENTURE.** Except as herein otherwise expressly provided, nothing in this Indenture express or implied is intended or shall be construed to confer upon any person, other than the parties hereto, the Borrower and the holders from time to time of the Bonds issued under and secured by this Indenture, any right, remedy or claim, legal or equitable, under or by reason of this Indenture or any provision thereof, this Indenture and all its provisions being intended to be and being for the sole and exclusive benefit of the parties hereto, the Borrower and the holders from time to time of the Bonds issued hereunder.

**SECTION 1505 SEVERABILITY AND EFFECT OF INVALIDITY.** In case any one or more of the provisions of this Indenture or of the Bonds issued hereunder shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Indenture or of the Bonds. In case any covenant, stipulation, obligation or agreement contained in the Bonds or in this Indenture shall for any reason be held to be in violation of law, then such covenant, stipulation, obligation or agreement shall be deemed to be the covenant, stipulation, obligation or agreement of the Issuer to the full extent permitted by law.

**SECTION 1506 RELEASE OF OFFICERS, EMPLOYEES AND AGENTS OF ISSUER.** All covenants, stipulations, obligations and agreements of the

Issuer contained in this Indenture shall be deemed to be covenants, stipulations, obligations and agreements of the Issuer to the full extent permitted by the Constitution and laws of the State. No covenant, stipulation, obligation or agreement contained herein shall be deemed to be a covenant, stipulation, obligation or agreement of any present or future member of the Issuer or other officer of the Issuer in his individual capacity, and neither the members of the Issuer nor any other officer executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof. No member of the Issuer, and no other officer of the Issuer shall incur any personal liability in acting or proceeding or in not acting or not proceeding, in good faith, reasonably and in accordance with the terms of this Indenture.

**SECTION 1507 IF PAYMENT OR PERFORMANCE DATE NOT A BUSINESS DAY.** If the date for making any payment of principal or premium, if any, or interest or the last date for performance of any act or the exercising of any right, as provided in this Indenture, shall be a legal holiday or a day on which banking institutions in the city in which the Trustee or the Paying Agent shall be located are authorized by law to remain closed, such payment may be made or act performed or right exercised on the next succeeding day not a legal holiday or not a day on which such banking institutions are authorized by law to remain closed, with the same force and effect as if done on the nominal date provided in this Indenture, and no interest shall accrue for the period after such nominal date.

**SECTION 1508 HEADINGS NOT PART OF INDENTURE.** Any headings preceding the texts of the several articles hereof, and any table of contents appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Indenture, nor shall they affect its meaning, construction or effect.

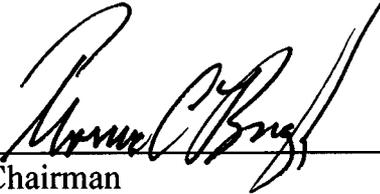
**SECTION 1509 COUNTERPARTS.** This Indenture may be executed in multiple counterparts, each of which shall be regarded for all purposes as an original, and such counterparts shall constitute but one and the same instrument.

**SECTION 1510 APPLICABLE LAW.** This Indenture shall be governed by, and construed in accordance with, the laws of the State of Georgia.

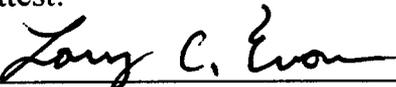
IN WITNESS WHEREOF, DEVELOPMENT AUTHORITY OF MONROE COUNTY has caused this Indenture to be executed by its Chairman, and its official seal to be impressed hereon and attested by its Secretary, and U.S. BANK NATIONAL ASSOCIATION, has caused this Indenture to be executed by an authorized signatory and its corporate seal to be impressed hereon for and on its behalf, all as of the day and year first above written.

**DEVELOPMENT AUTHORITY OF  
MONROE COUNTY**

(SEAL)

By:  \_\_\_\_\_  
Chairman

Attest:

 \_\_\_\_\_  
Secretary

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

By: \_\_\_\_\_  
Vice President

IN WITNESS WHEREOF, DEVELOPMENT AUTHORITY OF MONROE COUNTY has caused this Indenture to be executed by its Chairman, and its official seal to be impressed hereon and attested by its Secretary, and U.S. BANK NATIONAL ASSOCIATION, has caused this Indenture to be executed by an authorized signatory and its corporate seal to be impressed hereon for and on its behalf, all as of the day and year first above written.

**DEVELOPMENT AUTHORITY OF  
MONROE COUNTY**

(SEAL)

By: \_\_\_\_\_  
Chairman

Attest:

\_\_\_\_\_  
Secretary

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

By:  \_\_\_\_\_  
Vice President

**EXHIBIT A**  
**FORM OF BONDS**

**R-1**

**\$45,000,000**

**UNITED STATES OF AMERICA**  
**STATE OF GEORGIA**  
**DEVELOPMENT AUTHORITY OF MONROE COUNTY**  
**REVENUE BONDS**  
**(GULF POWER COMPANY PROJECT),**  
**SERIES 2019**

<u>Interest Rate</u>			
<u>Period</u>	<u>Original Issue Date</u>	<u>Maturity Date</u>	<u>CUSIP No.</u>
Daily	October 17, 2019	October 1, 2049	

[To be filled in only if the Interest Rate Period identified above is the Commercial Paper Rate]:

<u>Purchase Date</u>	<u>Commercial Paper Term</u>	<u>Commercial Paper Term Rate</u>	<u>Interest Payable</u>
----------------------	------------------------------	-----------------------------------	-------------------------

**REGISTERED OWNER: CEDE & CO.**

**PRINCIPAL AMOUNT: FORTY-FIVE MILLION AND 00/100 DOLLARS**

**DEVELOPMENT AUTHORITY OF MONROE COUNTY** (the "Issuer"), a public body corporate and politic duly created and existing under the laws of the State of Georgia, for value received, hereby promises to pay, solely from the special fund provided therefor as hereinafter referred to, to the Registered Owner referred to above or registered assigns, on the Maturity Date stated above or earlier as hereinafter referred to) upon the presentation and surrender hereof at the corporate trust office of the Trustee (hereinafter mentioned), the Principal Amount stated above, and to pay, solely from the special fund, to the Registered Owner at his address as it appears on the Bond registration books of the Issuer, interest on the Principal Amount until payment of such Principal Amount, at the rates and on the dates determined as described herein and in the Indenture (hereinafter defined). The principal of and any premium on this Bond are payable at the designated office of U.S. BANK NATIONAL ASSOCIATION, as Trustee. Interest on this Bond is payable by (i) check mailed to the Registered Owner hereof at the address of the Registered

Owner of this Bond as of the close of business on the Record Date (as defined in the Indenture) in respect of such interest, or (ii) except for interest in respect of a Long-Term Interest Rate Period (described herein), upon the request of the Registered Owner hereof, by wire transfer to such Registered Owner at an account maintained at a commercial bank located within the United States of America; provided that the Registered Owner hereof shall have provided transfer instructions to the Paying Agent at least two Business Days (hereinafter defined) prior to the applicable Record Date; provided further, that interest payable in respect of a Commercial Paper Term (described herein) is payable only upon delivery hereof to the Tender Agent (hereinafter identified). Principal or redemption price and interest shall be paid in any coin or currency of the United States of America which, at the time of payment, is legal tender for the payment of public and private debts without deduction for the services of the Paying Agent.

Capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to such terms in the Indenture or the Loan Agreement (herein defined).

THIS BOND DOES NOT CONSTITUTE AN INDEBTEDNESS OR OBLIGATION OF THE STATE OF GEORGIA OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING MONROE COUNTY, GEORGIA. THIS BOND IS PAYABLE BY THE ISSUER, SOLELY FROM THE TRUST ESTATE PLEDGED TO THE PAYMENT THEREOF UNDER THE INDENTURE. NO OWNER OF THIS BOND SHALL EVER HAVE THE RIGHT TO COMPEL THE EXERCISE OF THE TAXING POWER OF THE STATE OF GEORGIA OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING MONROE COUNTY, GEORGIA, TO PAY THIS BOND OR THE INTEREST HEREON OR ANY OTHER COST RELATING HERETO OR TO ENFORCE PAYMENT HEREOF AGAINST ANY PROPERTY OF THE STATE OF GEORGIA OR ANY POLITICAL SUBDIVISION THEREOF. NO RECOURSE SHALL BE HAD FOR THE PAYMENT OF THE PRINCIPAL OF, INTEREST ON, REDEMPTION PREMIUM OR PURCHASE PRICE OF THIS BOND AGAINST ANY OFFICER, DIRECTOR, MEMBER, AGENT OR EMPLOYEE OF THE ISSUER. THE ISSUER HAS NO TAXING POWER.

No recourse shall be had for the payment of the principal or redemption price or purchase price of, or interest on, this Bond, or for any claim based hereon or on the Indenture, against any member, officer, agent or employee, past, present or future, of the Issuer or of any successor body, as such, either directly or through the Issuer or any such successor body, under any constitutional provision, statute or rule of law, or by the enforcement of any assessment or by any legal or equitable proceeding or otherwise.

This Bond is one of a duly authorized series of revenue bonds of the Issuer in the aggregate principal amount of \$45,000,000 known as "Development Authority of Monroe County Revenue Bonds (Gulf Power Company Project), Series 2019" (the "Bonds"), dated October 17, 2019, and issued to (i) finance or refinance, in whole or in part, Gulf Power Company's (the "Borrower") share of the cost of the acquisition, construction, installation

and equipping of additions, extensions and improvements to certain sewage or solid waste disposal facilities (the "Facilities") Unit 3 at the Plant Robert W. Scherer coal-fired steam electric generating facilities ("Plant Scherer") located on Georgia Highway 87, approximately 4 miles south of Juliette, Georgia, in Monroe County, Georgia, and the common facilities associated with Units 1 to 4 (collectively, the "Project"); and (ii) pay all or a portion of the related costs of issuance of the Bonds, all as more specifically described in EXHIBIT A to the Loan Agreement.

The Bonds are issued under and pursuant to a Trust Indenture (the Trust Indenture, together with all trust indentures supplemental thereto as therein permitted, being herein called the "Indenture"), dated as of October 1, 2019, by and between the Issuer and U.S. Bank National Association, a national banking association, having a corporate trust office in Atlanta, Georgia (the national banking association and any bank or trust company becoming successor trustee under the Indenture being herein called the "Trustee"). Copies of the Indenture are on file at the designated office of the Trustee. Reference is hereby made to the Indenture for the provisions, among others, with respect to the custody and application of the proceeds of Bonds issued under the Indenture, the collection and disposition of revenues, a description of the funds charged with and pledged to the payment of the principal of and premium, if any, and interest on, or purchase price of, the Bonds, the nature and extent of the security, the terms and conditions under which the Bonds are or may be issued, the rights, duties and obligations of the Issuer and of the Trustee and the rights of the holders of the Bonds.

This Bond is issued, and the Indenture was made and entered into, under and pursuant to and in full compliance with the Development Authorities Law (O.C.G.A. Section 36-62-1, *et seq.*), as amended, and other applicable provisions of the law (collectively, the "Act"), and under and pursuant to a resolution dated September 10, 2019, as supplemented on October 8, 2019, duly adopted by the Issuer.

The Issuer has entered into a Loan Agreement, dated as of October 1, 2019 (the "Loan Agreement"), with the Borrower, under the provisions of which the Issuer will loan the proceeds of the Bonds to the Borrower and the Borrower has agreed to apply such proceeds to financing the cost of the Project. The Loan Agreement, in accordance with and as required by the Act, provides for the payment by the Borrower of amounts ("Loan Repayments") sufficient to pay the principal of and premium, if any, and interest on the Bonds as the same shall become due and payable and the Loan Agreement further obligates the Borrower to pay the cost of maintaining, repairing and operating the Project. The Loan Agreement provides that the Loan Repayments shall be paid directly to the Trustee for the account of the Issuer. Such Loan Repayments shall be deposited to the credit of a special fund created by the Indenture and designated "Development Authority of Monroe County Revenue Bonds (Gulf Power Company Project), Series 2019 Bond Fund" (the "Bond Fund"), which special fund is pledged to and charged with the payment of the principal of and premium, if any, and interest on all Bonds issued under the Indenture. The Loan

Agreement further obligates the Borrower to pay the purchase price of Bonds tendered for purchase by the Registered Owners thereof pursuant to the provisions thereof, to the extent that funds are not otherwise available under the Indenture. The Loan Agreement provides that the Borrower is unconditionally obligated to meet its obligations to pay the Loan Repayments and to perform and observe the other agreements on its part contained therein.

In the manner hereinafter provided, the term of the Bonds will be divided into consecutive Interest Rate Periods during each of which the Bonds shall bear interest at a Daily Interest Rate, a Weekly Interest Rate, or a Long-Term Interest Rate or Rates, or each Bond may bear interest at a Commercial Paper Term Rate during one or more consecutive Commercial Paper Terms. The first Interest Rate Period shall be as specified in the Indenture. The subsequent Interest Rate Period(s) and interest rate(s) for this Bond shall be determined in accordance with the Indenture.

The Bonds will be subject to optional, extraordinary optional and mandatory redemption prior to maturity and to optional and mandatory tender for purchase and remarketing in certain circumstances, all as provided in the Indenture.

If an event of default under the Indenture shall occur, the principal of all Bonds may be declared due and payable upon the conditions, in the manner and with the effect provided in the Indenture.

As provided in the Indenture, and subject to certain limitations therein set forth, this Bond or any portion of the principal amount thereof will be deemed to have been paid within the meaning and with the effect expressed in the Indenture, and the entire indebtedness of the Issuer in respect thereof shall be satisfied and discharged, if there has been irrevocably deposited with the Trustee moneys and/or Governmental Obligations as provided in the Indenture.

If any Bonds are not presented for payment on their redemption date or at maturity, the Registered Owners thereof shall look only to the moneys set aside for such purpose by the Trustee. After one year, such moneys may be paid to the Borrower, and the Registered Owners of such Bonds shall thereafter look only to the Borrower for payment thereof.

At the designated corporate trust office of the Registrar, in the manner and subject to the limitations, conditions and charges provided in the Indenture, Bonds may be exchanged for an equal aggregate principal amount of Bonds of Authorized Denominations and bearing interest at the same rate.

The Registered Owner of this Bond shall have no right to enforce the provisions of the Indenture or to institute action to enforce the covenants therein, or to take any action to enforce the covenants therein, or to take any action with respect to any event of default under the Indenture, or to institute, appear in or defend any suit or other proceeding with respect thereto, except as provided in the Indenture.

Modifications, alterations or amendments of the Indenture or of any trust indenture supplemental thereto may be made only to the extent and in the circumstances permitted by the Indenture.

The transfer of this Bond may be registered by the Registered Owner hereof in person or by his attorney or legal representative at the corporate trust office of the Registrar, but only in the manner and subject to the limitations and conditions provided in the Indenture and upon surrender and cancellation of this Bond. Upon any such registration of transfer the Issuer shall execute and the Registrar shall authenticate and deliver in exchange for this Bond a new Bond or Bonds, registered in the name of the transferee, of Authorized Denominations, in aggregate principal amount equal to the principal amount of this Bond and bearing interest at the same rate.

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

All acts, conditions and things required to happen, exist and be performed precedent to and in the issuance of this Bond and the execution of the Indenture and the Loan Agreement have happened, exist and have been performed as so required.

The Registered Owner of this Bond, by acceptance hereof, is deemed to have agreed and consented to the terms and provisions of the Indenture and the Loan Agreement and, in the event this Bond bears interest at a Long-Term Interest Rate and any Pledge Agreement.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any benefit or security under the Indenture until it shall have been authenticated by the execution by the Registrar of the Certificate of Authentication endorsed hereon.

[Signature page follows]

**IN WITNESS WHEREOF, DEVELOPMENT AUTHORITY OF MONROE COUNTY** has caused this Bond to be executed in its name by the manual or facsimile signatures of its Chairman and Secretary and the official seal of the Authority to be affixed hereon, as of the 17<sup>th</sup> day of October, 2019.

**DEVELOPMENT AUTHORITY OF  
MONROE COUNTY**

(SEAL)

Attest:

By: \_\_\_\_\_  
Chairman

\_\_\_\_\_  
Secretary

[SIGNATURE PAGE TO DEVELOPMENT AUTHORITY OF MONROE COUNTY  
REVENUE BONDS (GULF POWER COMPANY PROJECT), SERIES 2019]

**CERTIFICATE OF AUTHENTICATION**

This is one of the bonds designated therein and issued under the provisions of the within-mentioned Indenture.

Date of authentication: October 17, 2019

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

By: \_\_\_\_\_  
Authorized Signatory

**VALIDATION CERTIFICATE**

STATE OF GEORGIA

COUNTY OF MONROE

The undersigned Clerk of the Superior Court of Monroe County, Georgia, HEREBY CERTIFIES that the within bond was confirmed and validated by judgment of the Superior Court of Monroe County, Georgia, rendered on the 30<sup>th</sup> day of September, 2019, Civil Action 2019-CV-293, that no intervention or objection was filed thereto and that no appeal has been taken therefrom.

IN WITNESS WHEREOF, I have caused this certificate to be executed by my manual signature and have cause the official seal of such Court to be impressed hereon.

---

Clerk, Superior Court;  
Monroe County, Georgia

(SEAL)

**FORM OF ASSIGNMENT**

**FOR VALUE RECEIVED**, \_\_\_\_\_ the undersigned, hereby sells.  
assigns and transfers unto:

---

PLEASE PRINT OR TYPEWRITE NAME AND ADDRESS OF ASSIGNEE

---

TAX IDENTIFICATION OR SOCIAL SECURITY NO.

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated:

---

**NOTICE:** The signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatever. Signature must be guaranteed by a member of a Medallion Signature Program.

**EXHIBIT B**

**NOTICE OF TENDER OF BOOK-ENTRY BONDS  
WEEKLY INTEREST RATE PERIOD**

**Development Authority of Monroe County  
Revenue Bonds  
(Gulf Power Company Project), Series 2019**

The Undersigned DTC Participant representing the beneficial owner of the book-entry bonds described below (the "Tendered Book-Entry Bonds") does hereby irrevocably tender the Tendered Book-Entry Bonds to U.S. Bank National Association, Atlanta, Georgia, or its successor as Tender Agent (the "Tender Agent"), for purchase by the Tender Agent seven days from the date of the Tender Agent's receipt, by telecopy or otherwise, of this notice, or the next Business Day\* if such seventh day is not a Business Day (the "Tender Date"); provided, however, that if this notice is received by the Tender Agent by telecopy, this notice shall be of no force or effect, and the Tendered Book-Entry Bonds shall not be accepted or purchased by the Tender Agent, unless the Tender Agent receives this notice in original executed form by hand delivery prior to 2:00 p.m. New York time on the Business Day next succeeding its receipt of such notice by telecopy. The Purchase Price of Tendered Book-Entry Bonds shall be the unpaid principal amount of the Tendered Book-Entry Bonds plus accrued and unpaid interest, if any, thereon to, but not including, the Tender Date, and without premium (the "Purchase Price"). In the event that the Tender Date is also an interest payment date for the Tendered Book-Entry Bonds, interest on the Tendered Book-Entry Bonds to, but not including, the Tender Date shall be paid in the ordinary fashion and shall not constitute part of the Purchase Price.

**Tendered Book-Entry Bonds**

Tendered Principal Amount  
(\$100,000 and integral  
multiples of \$5,000 in  
excess thereof)  
\$

DTC Participant Number

CUSIP Number

---

\* "Business Day" shall have the meaning ascribed thereto by the Trust Indenture under which the Bonds are issued.

THE UNDERSIGNED ACKNOWLEDGES AND AGREES BY THE EXECUTION AND DELIVERY OF THIS NOTICE (1) THAT THE TENDER OF THE TENDERED BOOK-ENTRY BONDS IS IRREVOCABLE; (2) THAT THE UNDERSIGNED IS CONTRACTUALLY BOUND TO TENDER SUCH TENDERED BOOK-ENTRY BONDS TO THE TENDER AGENT ON THE TENDER DATE; AND (3) THAT IN THE EVENT OF A FAILURE TO TENDER THE TENDERED BOOK-ENTRY BONDS TO THE TENDER AGENT ON OR BEFORE 12:00 NOON NEW YORK TIME ON THE TENDER DATE THE UNDERSIGNED SHALL PAY TO THE TENDER AGENT AN AMOUNT (THE "DEFAULT AMOUNT") EQUAL TO THE DIFFERENCE BETWEEN (A) THE COSTS ARISING OUT OF THE FAILURE TO TENDER AND (B) THE PURCHASE PRICE, AS DEFINED ABOVE, WHICH WOULD HAVE BEEN PAID TO THE UNDERSIGNED UPON A TENDER. AS USED HEREIN THE "COSTS ARISING OUT OF THE FAILURE TO TENDER" SHALL MEAN THE SUM OF (X) THE AMOUNT EXPENDED BY THE TENDER AGENT, EITHER DIRECTLY OR THROUGH AN AGENT, IN ACQUIRING BOOK-ENTRY BONDS IN SUBSTITUTION OF THE TENDERED BOOK-ENTRY BONDS (INCLUDING INTEREST THEREON) AND (Y) THE ADMINISTRATIVE AND OTHER CHARGES, EXPENSES OR COMMISSIONS INCURRED IN CONNECTION WITH THE ACQUISITION OF SUCH SUBSTITUTE BOOK-ENTRY BONDS.

THE UNDERSIGNED AGREES THAT THE TENDER AGENT, EITHER DIRECTLY OR THROUGH AN AGENT, MAY ACQUIRE SUCH SUBSTITUTE BONDS IN SUCH MANNER AND MARKET AS IT DEEMS COMMERCIALY REASONABLE, AND FURTHER AGREES THAT THE DEFAULT AMOUNT IS REASONABLE IN LIGHT OF THE ANTICIPATED HARM CAUSED BY THE FAILURE TO TENDER AND THE INCONVENIENCE OF OBTAINING ANY OTHER REMEDY.

THE UNDERSIGNED HEREBY IRREVOCABLY APPOINTS THE TENDER AGENT AS HIS DULY AUTHORIZED ATTORNEY AND DIRECTS THE TENDER AGENT TO EFFECT THE TRANSFER OF THE TENDERED BOOK-ENTRY BONDS.

Date of Notice:  
Representing

Signature of DTC Participant  
the Beneficial Owner of the Tendered  
Book-Entry Bonds

---

---

---

Street City

---

State Zip

---

Area Code Telephone Number

Federal Taxpayer Identification Number

---

NOTICE OF TENDER OF BOOK-ENTRY BONDS  
DAILY INTEREST RATE PERIOD

**Development Authority of Monroe County  
Revenue Bonds  
(Gulf Power Company Project), Series 2019**

The Undersigned DTC Participant representing the beneficial owner of the book-entry bonds described below (the "***Tendered Book-Entry Bonds***") does hereby irrevocably tender the Tendered Book-Entry Bonds to U.S. Bank National Association, Atlanta, Georgia, or its successor as Tender Agent (the "***Tender Agent***"), for purchase by the Tender Agent on the date hereof or the next Business Day\* if the date hereof is not a Business Day (the "***Tender Date***"); provided, however, that if this notice is not received by the Tender Agent by 11:00 a.m. on the date hereof, this notice shall be of no force or effect, and the Tendered Book-Entry Bonds shall not be accepted or purchased by the Tender Agent. The Purchase Price of Tendered Book-Entry Bonds shall be the unpaid principal amount of the Tendered Book-Entry Bonds plus accrued and unpaid interest, if any, thereon to, but not including, the Tender Date, and without premium (the "***Purchase Price***"). In the event that the Tender Date is also an interest payment date for the Tendered Book-Entry Bonds, interest on the Tendered Book-Entry Bonds to, but not including, the Tender Date shall be paid in the ordinary fashion and shall not constitute part of the Purchase Price.

Tendered Book-Entry Bonds

Tendered Principal Amount  
(\$100,000 and integral  
multiples of \$5,000 in  
excess thereof)  
\$

DTC Participant Number

CUSIP Number

---

\* "Business Day" shall have the meaning ascribed thereto by the Trust Indenture under which the Bonds are issued.

THE UNDERSIGNED ACKNOWLEDGES AND AGREES BY THE EXECUTION AND DELIVERY OF THIS NOTICE (1) THAT THE TENDER OF THE TENDERED BOOK-ENTRY BONDS IS IRREVOCABLE; (2) THAT THE UNDERSIGNED IS CONTRACTUALLY BOUND TO TENDER SUCH TENDERED BOOK-ENTRY BONDS TO THE TENDER AGENT ON THE TENDER DATE; AND (3) THAT IN THE EVENT OF A FAILURE TO TENDER THE TENDERED BOOK-ENTRY BONDS TO THE TENDER AGENT ON OR BEFORE 12:00 NOON NEW YORK TIME ON THE TENDER DATE THE UNDERSIGNED SHALL PAY TO THE TENDER AGENT AN AMOUNT (THE "DEFAULT AMOUNT") EQUAL TO THE DIFFERENCE BETWEEN (A) THE COSTS ARISING OUT OF THE FAILURE TO TENDER AND (B) THE PURCHASE PRICE, AS DEFINED ABOVE, WHICH WOULD HAVE BEEN PAID TO THE UNDERSIGNED UPON A TENDER. AS USED HEREIN THE "COSTS ARISING OUT OF THE FAILURE TO TENDER" SHALL MEAN THE SUM OF (X) THE AMOUNT EXPENDED BY THE TENDER AGENT, EITHER DIRECTLY OR THROUGH AN AGENT, IN ACQUIRING BOOK-ENTRY BONDS IN SUBSTITUTION OF THE TENDERED BOOK-ENTRY BONDS (INCLUDING INTEREST THEREON) AND (Y) THE ADMINISTRATIVE AND OTHER CHARGES, EXPENSES OR COMMISSIONS INCURRED IN CONNECTION WITH THE ACQUISITION OF SUCH SUBSTITUTE BOOK-ENTRY BONDS.

THE UNDERSIGNED AGREES THAT THE TENDER AGENT, EITHER DIRECTLY OR THROUGH AN AGENT, MAY ACQUIRE SUCH SUBSTITUTE BONDS IN SUCH MANNER AND MARKET AS IT DEEMS COMMERCIALY REASONABLE, AND FURTHER AGREES THAT THE DEFAULT AMOUNT IS REASONABLE IN LIGHT OF THE ANTICIPATED HARM CAUSED BY THE FAILURE TO TENDER AND THE INCONVENIENCE OF OBTAINING ANY OTHER REMEDY.

THE UNDERSIGNED HEREBY IRREVOCABLY APPOINTS THE TENDER AGENT AS HIS DULY AUTHORIZED ATTORNEY AND DIRECTS THE TENDER AGENT TO EFFECT THE TRANSFER OF THE TENDERED BOOK-ENTRY BONDS.

Date of Notice:  
Representing

Signature of DTC Participant  
the Beneficial Owner of the Tendered  
Book-Entry Bonds

---

---

---

Street City

---

State Zip

---

Area Code Telephone Number

Federal Taxpayer Identification Number

---

---

**LOAN AGREEMENT**

**Between**

**DEVELOPMENT AUTHORITY OF MONROE COUNTY**

**and**

**GULF POWER COMPANY**

---

**\$45,000,000**  
**DEVELOPMENT AUTHORITY**  
**OF MONROE COUNTY REVENUE BONDS**  
**(GULF POWER COMPANY PROJECT),**  
**SERIES 2019**

---

**Dated as of October 1, 2019**

---

(This Table of Contents is not a part of the Loan Agreement  
but is for convenience of reference only)

**TABLE OF CONTENTS**

	<u>Page</u>
<b>ARTICLE I</b>	
<b>DEFINITIONS AND RULES OF CONSTRUCTION</b>	
SECTION 1.1	Definitions..... 1
SECTION 1.2	Rules of Construction ..... 3
<b>ARTICLE II</b>	
<b>REPRESENTATIONS</b>	
SECTION 2.1	Representations by the Issuer..... 5
SECTION 2.2	Representations by the Borrower..... 5
<b>ARTICLE III</b>	
<b>LOAN OF PROCEEDS OF THE BONDS</b>	
SECTION 3.1	Amount and Source of Loan ..... 7
<b>ARTICLE IV</b>	
<b>COMPLETION OF THE PROJECT; ISSUANCE OF THE BONDS</b>	
SECTION 4.1	Agreement to Acquire and Construct the Project ..... 8
SECTION 4.2	Agreement to Issue the Bonds; Application of the Bond Proceeds..... 8
SECTION 4.3	Disbursements from the Construction Fund ..... 9
SECTION 4.4	The Borrower Required to Pay Remaining Cost of the Project..... 9
SECTION 4.5	Establishment of Completion Date ..... 9
SECTION 4.6	Investment of Fund Moneys; Arbitrage Covenant ..... 10
SECTION 4.7	The Borrower and Issuer Not to Adversely Affect Exclusion of Interest on Bonds from Gross Income for Federal Income Tax Purposes ..... 10
SECTION 4.8	No Third Party Beneficiary..... 12
<b>ARTICLE V</b>	
<b>PAYMENT PROVISIONS</b>	
SECTION 5.1	Loan Repayments and Other Amounts Payable ..... 13
SECTION 5.2	Obligations of the Borrower Hereunder Unconditional ..... 13
SECTION 5.3	Other Credit Enhancement..... 14
<b>ARTICLE VI</b>	
<b>MAINTENANCE AND REMOVAL</b>	
SECTION 6.1	Maintenance and Modifications of Project by the Borrower..... 15
SECTION 6.2	Removal of Portions of the Project..... 15

ARTICLE VII  
SPECIAL COVENANTS

SECTION 7.1	No Warranty of Condition or Suitability by the Issuer.....	16
SECTION 7.2	The Borrower to Maintain its Legal Existence; Conditions Under Which Exceptions Permitted.....	16
SECTION 7.3	Indemnification Covenants.....	16
SECTION 7.4	Limitation of Liability of the Issuer.....	18

ARTICLE VIII  
ASSIGNMENT, LEASING AND SALE

SECTION 8.1	Assignment, Leasing and Sale by the Borrower.....	19
SECTION 8.2	Assignment of Rights by the Issuer.....	19

ARTICLE IX  
EVENTS OF DEFAULT AND REMEDIES

SECTION 9.1	Events of Default Defined.....	21
SECTION 9.2	Remedies on Default.....	22
SECTION 9.3	No Remedy Exclusive.....	23
SECTION 9.4	Agreement to Pay Attorneys' Fees and Expenses.....	23
SECTION 9.5	No Additional Waiver Implied by One Waiver.....	23

ARTICLE X  
PREPAYMENT

SECTION 10.1	Right to Prepay Loan Repayments.....	24
SECTION 10.2	Procedure for Prepayments.....	24
SECTION 10.3	Relative Position of Agreement and Indenture.....	25
SECTION 10.4	Compliance with Indenture.....	25

ARTICLE XI  
PURCHASE AND REMARKETING OF BONDS

SECTION 11.1	Purchase of Bonds; Initial Remarketing Agent; Initial Tender Agent.....	26
SECTION 11.2	Optional Purchase of Bonds.....	26
SECTION 11.3	Determination of Interest Rate Periods.....	27

ARTICLE XII  
MISCELLANEOUS

SECTION 12.1	Notices.....	28
SECTION 12.2	Binding Effect.....	29
SECTION 12.3	Severability and Effect of Invalidity.....	29
SECTION 12.4	Termination.....	29
SECTION 12.5	If Payment or Performance Date a Legal Holiday.....	29

SECTION 12.6	Trustee, The Borrower and Issuer May Rely on Authorized Representatives.....	30
SECTION 12.7	Agreement Represents Complete Agreement.....	30
SECTION 12.8	Other Instruments.....	30
SECTION 12.9	Execution of Counterparts .....	30
SECTION 12.10	Applicable Law .....	30
SECTION 12.11	U.S.A. PATRIOT ACT.....	30

EXHIBIT A - Description of the Project

EXHIBIT B – Form of Requisition

## LOAN AGREEMENT

This LOAN AGREEMENT, made and entered into as of the 1st day of October, 2019 is by and between DEVELOPMENT AUTHORITY OF MONROE COUNTY, a public body corporate and politic created and existing under the laws of the State of Georgia (the "*Issuer*"), and GULF POWER COMPANY (the "*Borrower*"), a corporation duly organized and validly existing under the laws of the State of Florida and qualified to transact business in the State of Georgia:

### WITNESSETH:

In consideration of the respective representations and agreements hereinafter contained, the parties hereto agree as follows:

### ARTICLE I DEFINITIONS AND RULES OF CONSTRUCTION

#### SECTION 1.1 DEFINITIONS.

(a) When used in this Loan Agreement (except as otherwise expressly provided or unless the context otherwise requires), the following terms shall have the meanings specified in the Indenture (as defined below):

Act  
Authorized Borrower Representative  
Bond Counsel  
Bond Fund  
Code  
Commercial Paper Interest Rate Period  
Construction Fund  
Daily Interest Rate Period  
Interest Payment Date  
Interest Rate Periods  
Long-Term Interest Rate Period  
Outstanding  
Paying Agent  
Pledge Agreement  
Purchase Fund  
Registrar  
Remarketing Agent  
Tender Agent  
Trustee  
Weekly Interest Rate Period

(b) When used herein, the word defined below shall have the meanings given to them by the language employed in this Section 1.1(b) defining such words and terms, unless the context clearly indicates otherwise.

**"Authorized Issuer Representative"** means the Chairman, Vice Chairman or Secretary of the Issuer or each of the persons at the time designated to act on behalf of the Issuer by written certificate furnished to the Borrower and the Trustee containing the specimen signatures of such persons and signed on behalf of the Issuer by the Chairman, Vice Chairman or Secretary of the Issuer.

**"Bonds"** means the Bonds authorized to be issued under Section 201 of the Indenture.

**"Borrower"** means Gulf Power Company, a corporation duly organized and validly existing under the laws of the State of Florida and qualified to transact business in the State of Georgia, and its successors or assigns and any surviving, resulting or transferee corporation as provided in Section 7.2 hereof.

**"Chairman"** shall mean the person at the time occupying the office of Chairman or Vice-Chairman of the Issuer or any successor to the principal functions thereof.

**"Completion Date"** means the date established in accordance with the provisions of Section 4.5 hereof.

**"Cost"** means any item of cost within any proper definition of such word under the Act and as defined for purposes of the Indenture.

**"Favorable Opinion of Bond Counsel"** means an opinion of Bond Counsel addressed to the Issuer and the Trustee to the effect that the action proposed to be taken is authorized or permitted by the laws of the State and this Loan Agreement and will not adversely affect any exclusion from gross income for federal income tax purposes of interest on the Bonds.

**"Force Majeure"** means the following: acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders of any kind of the government of the United States of America or of the State or any of their departments, agencies or officials or any political subdivision thereof, or any civil or military authority; insurrections; riots; epidemics; landslides; lightning; earthquakes; fire; hurricanes; storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; breakage or accident to machinery; partial or entire failure of utilities; terrorist activity; or any other cause or event not reasonably within the control of the Borrower.

**"Indenture"** means the Trust Indenture, of even date herewith, between the Issuer and U.S. Bank National Association, as Trustee, pursuant to which (i) the Bonds are

authorized to be issued and (ii) the Issuer's rights under this Loan Agreement (except the Issuer's rights under Sections 5.1(c) and 9.4 hereof relating to payment of certain costs and expenses and under Section 7.3 hereof relating to indemnification), including the Loan Repayments and other revenues and proceeds receivable by the Issuer are pledged and assigned as security for the payment of principal of and premium, if any, and interest on the Bonds, and any amendments or supplements thereto.

**"Issuer"** means the Development Authority of Monroe County, a public body corporate and politic duly created and existing under the laws of the State of Georgia, and its successors and assigns and any resulting entity from or surviving any consolidation or merger to which it or its successors may be a party.

**"Loan Agreement"** means this Loan Agreement, as amended or supplemented.

**"Loan Repayments"** means the payments required by Section 5.1(a) hereof.

**"Project"** means the industrial wastewater, solid waste and functionally related and subordinate facilities of the Borrower described in EXHIBIT A attached hereto, as the same may be amended from time to time, together with all additions thereto and substitutions therefor, and less any deletions therefrom, as they may at any time exist.

**"State"** means the State of Georgia.

**SECTION 1.2 RULES OF CONSTRUCTION.** (a) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders.

(b) Unless the context shall otherwise indicate, the words "Bond", "owner", "holder" and "person" shall include the plural as well as the singular number; the word "person" shall include any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization or government or any agency or political subdivision thereof; and the words "Holder", "Bondholder" or "Owner" when used herein with respect to Bonds shall mean the registered owner of one or more Bonds at the time issued and outstanding under the Indenture.

(c) Words importing the redemption or calling for redemption of the Bonds shall not be deemed to refer to or to connote the payment of Bonds at their stated maturities.

(d) The captions or headings in this Loan Agreement are for convenience only and in no way limit the scope or intent of any provision or section of this Loan Agreement.

(e) All references herein to particular articles or sections are references to articles or sections of this Loan Agreement unless some other reference is indicated.

## **ARTICLE II REPRESENTATIONS**

**SECTION 2.1 REPRESENTATIONS BY THE ISSUER.** The Issuer makes the following representations, as of the date of delivery of this Loan Agreement:

(a) The Issuer is a public body corporate and politic, duly created and validly existing under the Constitution and laws of the State of Georgia;

(b) The Issuer is duly authorized under the provisions of the Act to enter into, execute and deliver this Loan Agreement, to undertake the transactions contemplated on its part by this Loan Agreement, and to carry out its obligations hereunder, and the Issuer has duly authorized the execution and delivery of this Loan Agreement;

(c) The Issuer proposes to issue under Section 201 of the Indenture \$45,000,000 aggregate principal amount of its Bonds for the purpose of financing the Cost of the Project; and

(d) By proper action of the Issuer, the officers of the Issuer executing and attesting this Loan Agreement have been duly authorized to execute and deliver this Loan Agreement.

**SECTION 2.2 REPRESENTATIONS BY THE BORROWER.** The Borrower makes the following representations, as of the date of delivery of this Loan Agreement:

(a) The Borrower is a corporation organized and existing under the laws of the State of Florida, is duly qualified to do business in the State and has power to enter into this Loan Agreement, and by proper corporate action has duly authorized the execution and delivery of this Loan Agreement;

(b) The Borrower has the power to enter into, and to perform and observe the covenants on its part contained in, this Loan Agreement, and, by proper corporate action, has duly authorized the execution and delivery of this Loan Agreement;

(c) The Borrower is not subject to any charter, bylaw or contractual limitation which in any way limits, restricts or prevents it from entering into, or performing and observing any of the covenants and agreements on its part contained in, this Loan Agreement;

(d) The execution and delivery of this Loan Agreement, does not, and the consummation of the transactions contemplated hereby and thereby and the fulfillment of the terms hereof and thereof will conflict with or not result in a breach of any of the terms or provisions of, or constitute a default under, any indenture, mortgage, deed of trust or other agreement or instrument to which the Borrower is a party or by which it is bound or

constitute a default under any of the foregoing or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Borrower under the terms of any instrument or agreement;

(e) All necessary authorizations, approvals, consents and other orders of any governmental authority or agency for the execution and delivery by the Borrower of this Loan Agreement have been obtained and are in full force and effect; and

(f) The information furnished by the Borrower and used by the Issuer in preparing the certification with respect to the Bonds pursuant to Section 148 of the Code and in preparing the information statement pursuant to Section 149(e) of the Code is accurate and complete as of the date of issuance of the Bonds.

**ARTICLE III**  
**LOAN OF PROCEEDS OF THE BONDS**

**SECTION 3.1 AMOUNT AND SOURCE OF LOAN.** Concurrently with the delivery of the Bonds, the Issuer will, upon the terms and conditions of this Loan Agreement, lend the proceeds of the Bonds to the Borrower, by depositing the proceeds of the sale thereof in accordance with the provisions of the Indenture.

**ARTICLE IV**  
**COMPLETION OF THE PROJECT; ISSUANCE OF THE BONDS**

**SECTION 4.1 AGREEMENT TO ACQUIRE AND CONSTRUCT THE PROJECT.** In accordance with the provisions of Section 4.3 hereof and Section 404 of the Indenture and except as otherwise provided in the Indenture, it is agreed that the proceeds, except accrued interest, from the sale of the Bonds will be used solely for the purpose of paying all or a portion of the Cost of the Project and thereby to cause the acquisition, construction and installation of the Project substantially in accordance with the plans and specifications of the Project, including any and all supplements, amendments and additions thereto and in accordance with change orders approved in writing by the Borrower, and to reimburse the Borrower for any Cost of the Project heretofore or hereafter paid by the Borrower from its own funds; provided, however, that no supplement, amendment, addition or change order relating to the plans and specifications shall be inconsistent with the representations made in Section 2.2 hereof or, except as permitted by the third paragraph of this Section 4.1, change the essential character and function of the Project initially described in EXHIBIT A hereto.

The Borrower agrees to use commercially reasonable efforts to cause the acquisition, construction and installation of the Project to be performed with reasonable dispatch in accordance with the plans and specifications therefor, delays by reason of Force Majeure beyond the reasonable control of the Borrower excepted, but if for any reason such acquisition, construction and installation is not completed there shall be no diminution in the Loan Repayments and other amounts required to be paid by the Borrower.

In addition to supplementing, amending and adding to the plans and specifications for the Project including any change orders, within the limits set forth in the first paragraph of this Section, it is understood and agreed that the Borrower may cause components of the Project to be omitted or deleted or new components to be substituted or added as an addition to the Project or in substitution of components thereof so omitted or deleted, provided that, if any change would alter the essential character or function of the Project, the Borrower shall, prior to causing any such change, file with the Trustee a written opinion of Bond Counsel to the effect that such change will not result in the interest on the Bonds, or any thereof, becoming subject to inclusion in gross income for purposes of federal income taxes then in effect. In the event of an omission, deletion, addition or substitution as aforesaid which shall cause EXHIBIT A to be inaccurate in any material respect, the Borrower and the Issuer shall revise EXHIBIT A to this Loan Agreement to reflect such omission, deletion, addition or substitution and mail a copy of such revised EXHIBIT A to the Trustee.

**SECTION 4.2 AGREEMENT TO ISSUE THE BONDS; APPLICATION OF THE BOND PROCEEDS.** (a) The Issuer agrees that it will, as promptly as possible, issue, sell and cause to be delivered to the purchasers thereof

\$45,000,000 aggregate principal amount of its Bonds for the purpose of paying a portion of the Cost of the Project. The Issuer will cause proceeds of the Bonds to be applied in the manner required by the Indenture in accordance with directions of the Borrower provided upon issuance of the Bonds.

(b) The Borrower hereby approves the terms and conditions of the Indenture and the Bonds, and the terms and conditions under which the Bonds have been issued, sold and delivered.

**SECTION 4.3 DISBURSEMENTS FROM THE CONSTRUCTION FUND.** The Issuer and the Borrower hereby agree that moneys in the Construction Fund shall be applied to the payment of the Cost of the Project or otherwise in accordance with Article IV of the Indenture. The Trustee shall not make any disbursement from the Construction Fund until the Borrower shall have provided the Trustee with a requisition in substantially the form attached hereto as Exhibit "B" and shall have delivered such requisition in accordance with Article IV of the Indenture.

**SECTION 4.4 THE BORROWER REQUIRED TO PAY REMAINING COST OF THE PROJECT.** In the event that moneys in the Construction Fund available for the payment of the Cost of the Project should not be sufficient to pay the Cost of the Project, the Borrower agrees to pay all that portion of the Cost of the Project not available therefor in the Construction Fund. The Issuer does not make any warranty that the foregoing amounts paid into the Construction Fund will be sufficient to pay the Cost of the Project. The Borrower agrees that if, after exhaustion of the moneys in the Construction Fund, the Borrower should pay any portion of the Cost of the Project it shall not be entitled to any reimbursement therefor from the Trustee, except as contemplated by Section 403(a) of the Indenture, or from the holders of any of the Bonds, and that it shall not be entitled to any abatement or diminution of the Loan Repayments payable under Section 5.1(a) hereof.

**SECTION 4.5 ESTABLISHMENT OF COMPLETION DATE.** The Completion Date shall be evidenced to the Trustee by a certificate dated and signed by an Authorized Borrower Representative setting forth the Cost of the Project and stating that, except for amounts not then due and payable or the liability for the payment of which is being contested or disputed by the Borrower, (i) the acquisition, construction and installation of the Project have been completed substantially in accordance with the plans and specifications therefor and the Cost of the Project has been paid, and (ii) all other facilities necessary in connection with the Project have been acquired, constructed and installed in accordance with the plans and specifications therefor and all costs and expenses incurred in connection therewith have been paid. Notwithstanding the foregoing, such certificate shall state that it is given without prejudice to any rights against third parties which exist at the date of such certificate or which may subsequently come into being.

**SECTION 4.6 INVESTMENT OF FUND MONEYS; ARBITRAGE COVENANT.** Any moneys held as part of the Bond Fund or Construction Fund shall be invested or reinvested by the Trustee as provided in the Indenture. The Borrower hereby covenants that it will restrict that investment and reinvestment and the use of the proceeds of the Bonds in such manner and to such extent, if any, as may be necessary so that the Bonds will not constitute arbitrage bonds under Section 148 of the Code.

The Borrower shall provide the Issuer with, and the Issuer may base its certificate required under Section 148 of the Code on, a certificate of an appropriate officer, employee or agent of or consultant to the Borrower for inclusion in the transcript of proceedings for the Bonds, setting forth the reasonable expectations of the Borrower on the date of delivery of and payment for the Bonds regarding the amount and use of the proceeds of the Bonds and the facts, estimates and circumstances on which those expectations are based.

**SECTION 4.7 THE BORROWER AND ISSUER NOT TO ADVERSELY AFFECT EXCLUSION OF INTEREST ON BONDS FROM GROSS INCOME FOR FEDERAL INCOME TAX PURPOSES.** (a) The Borrower and the Issuer each hereby represents and covenants, for the benefit of the holders of the Bonds, that, to the best of its knowledge, information and belief, respectively, it has taken and caused to be taken and that it shall take and cause to be taken all actions that may be required of it for the interest on the Bonds to be and to remain excluded from the gross income of the owners thereof for federal income tax purposes, and that, to the best of its knowledge, information and belief, respectively, it has not taken or permitted to be taken on its behalf, and that it shall not take, or permit to be taken on its behalf, any action which, if taken, would adversely affect that exclusion for federal income tax purposes. The Borrower further covenants with the Issuer, for the benefit of the holders of the Bonds, that it shall take all steps necessary to comply with the provisions of Section 148(f) of the Code, relating to rebate payments to the United States of America, to the extent applicable.

(b) Without limiting the foregoing, the Borrower agrees as follows:

1. At least 95% of the proceeds of the Bonds will be used to provide "sewage or solid waste disposal facilities" or land, buildings or other property functionally related and subordinate thereto within the meaning of Section 142(a)(5) or (6) of the Code, and the applicable existing and proposed regulations promulgated thereunder, in each case the original use of which facilities commenced with the Borrower. All of the proceeds of the Bonds will be spent for Costs of the Project.

2. Not more than 2% of the proceeds (within the meaning of Section 147(g) of the Code) of the Bonds will be used to pay for any costs of issuance of the Bonds.

3. No portion of the proceeds of the Bonds will be used to provide a skybox or other private luxury box, airplane, any health club facility, store the principal business of which is the sale of alcoholic beverages for consumption off premises or facility used primarily for gambling.

4. Any portion of the proceeds of the Bonds to be used to pay the cost of acquisition of any real or personal property (or any interest therein) to be included in the Project is or will be with respect to land or either (i) real or personal property of which the Borrower is the first user; or (ii) a building (and the equipment therefor) if the rehabilitation expenditures (as defined in Section 147(d)(3) of the Code) with respect to such building equals or exceeds fifteen percent (15%) of the portion of the cost of acquiring such building (and equipment) to be financed with the proceeds of the Bonds; or (iii) a structure other than a building (and equipment therefor) if the rehabilitation expenditures (as defined in Section 147(d)(3) of the Code) with respect to such structure equals or exceeds one hundred percent (100%) of the portion of the cost of acquiring such property to be financed with the proceeds of the Bonds.

5. No portion of the proceeds of the Bonds will be used directly or indirectly for the acquisition of land or any interest therein to be used for the purpose of farming.

6. Less than twenty-five percent (25%) of the proceeds of the Bonds will be used directly or indirectly for the acquisition of land or any interest therein to be used for purposes other than farming.

7. The Project does not and will not include any office except for offices (i) located at the site of the Project and (ii) not more than a de minimis amount of the functions to be performed at which is not directly related to the day-to-day operations of the Project.

8. Except for certain “preliminary expenditures” described below, no portion of the proceeds of the Bonds will be used to reimburse the Borrower for costs of the Project paid more than 60 days prior to October 16, 2015 (the date on which the Issuer adopted a resolution declaring its official intent to issue revenue bonds in order for the Borrower to reimburse itself for such expenditures from the proceeds of the Bonds). Except for preliminary expenditures, the Borrower agrees that it will not seek reimbursement from the proceeds of the Bonds for any expenditure that was paid more than three years prior to the date of reimbursement, nor will the Borrower seek reimbursement of any expenditure for any facility more than 18 months after such facility has been placed in service. The Borrower agrees that the amount of proceeds of the Bonds to be used to reimburse “preliminary expenditures” will not exceed 20% of the proceeds of the Bonds. “Preliminary expenditures” means expenditures for architectural,

engineering, surveying, soil testing, and similar costs that were incurred prior to commencement of the acquisition, construction, installation, modification or equipping of the Project (other than land acquisition, site preparation and similar costs incident to the commencement of construction).

**SECTION 4.8 NO THIRD PARTY BENEFICIARY.** It is specifically agreed between the parties executing this Loan Agreement that it is not intended by any of the provisions of any part of this Loan Agreement to create in favor of the public or any member thereof, other than as expressly provided herein or in the Indenture, the rights of a third party beneficiary hereunder, or to authorize anyone not a party to this Loan Agreement, or specifically indemnified hereunder, to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Loan Agreement. The duties, obligations and responsibilities of the parties to this Loan Agreement with respect to third parties shall remain as imposed by law.

## **ARTICLE V PAYMENT PROVISIONS**

**SECTION 5.1 LOAN REPAYMENTS AND OTHER AMOUNTS PAYABLE.** (a) The Borrower agrees to repay the loan made by the Issuer by paying to the Trustee for the account of the Issuer an amount equal to the principal amount of the Bonds plus the interest accrued thereon and any premium in installments (the "Loan Repayments") due on the dates, in the amounts and in the manner provided in the Indenture for the Issuer to cause payment to be made to the holders of the Bonds of the principal of and interest and any premium on the Bonds, whether at maturity, upon redemption or otherwise, provided that any amount credited under the Indenture against any payment required to be made by the Issuer thereunder shall be credited against the corresponding payment required to be made by the Borrower hereunder. Notwithstanding anything to the contrary contained herein, the Borrower covenants that it will pay the Loan Repayments at such times and in such amounts to assure that payment of the principal of and interest and any premium on the Bonds shall be made when due.

(b) The Borrower agrees to pay to the Trustee promptly upon billing, (i) the reasonable fees and charges of the Trustee, Paying Agent, Registrar, Remarketing Agent and Tender Agent and all expenses (including reasonable counsel fees) incurred by such parties under this Loan Agreement, the Indenture or any Pledge Agreement as the same become due, (ii) any expenses incurred in connection with the purchase or redemption of Bonds and (iii) the amounts owed to the Trustee pursuant to Section 902 of the Indenture.

(c) The Borrower agrees to pay to the Issuer promptly upon billing, an amount equal to the reasonable costs and expenses (including reasonable counsel fees) of the Issuer incurred in connection with this Loan Agreement, the Indenture and the Bonds, until the principal of and premium, if any, and interest on the Bonds shall have been fully paid or provision for the payment thereof shall have been made in accordance with the provisions of the Indenture.

(d) The Borrower covenants, for the benefit of the owners of the Bonds, to pay or cause to be paid, to the Tender Agent for deposit in the Purchase Fund, such amounts as shall be necessary to enable the Tender Agent to pay the purchase price of Bonds delivered to it for purchase, all as more particularly described in Article XIV of the Indenture.

**SECTION 5.2 OBLIGATIONS OF THE BORROWER HEREUNDER UNCONDITIONAL.** Until such time as the principal of and premium, if any, and interest on all Bonds shall have been fully paid or deemed to have been paid in accordance with Article XIII of the Indenture, the Borrower's obligations under this Loan Agreement shall be absolute and unconditional, and the Borrower (a) will not suspend or discontinue payment of any amounts required to be paid by it pursuant to Section 5.1 hereof, (b) will perform and observe all of its other agreements contained in this Loan

Agreement, and (c) except as permitted by this Loan Agreement, will not terminate this Loan Agreement for any cause, including, without limiting the generality of the foregoing, the occurrence of any act or circumstance that may constitute failure of consideration, destruction of or damage to the Project, commercial frustration of purpose, any change in the tax or other laws of the United States of America or of the State or any political subdivision of either of them, or any failure of the Issuer to perform or observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Loan Agreement. Notwithstanding anything in the Indenture or this Agreement, the Borrower agrees that the obligation of the Borrower to pay the expenses of the Issuer and the Trustee under Section 9.4, as well as the indemnification afforded to the Issuer Indemnified Parties and the Trustee under Section 7.3 of this Loan Agreement, shall not be discharged upon the payment in full of the Bonds

Nothing contained in this Section shall be construed to release the Issuer from the performance of any of the agreements on its part herein contained; and in the event the Issuer should willfully fail to perform any such agreement on its part, the Borrower may institute such action against the Issuer as the Borrower may deem necessary to compel performance so long as such action shall not violate the agreements on the part of the Borrower contained in the first sentence of this Section or diminish the amounts required to be paid by the Borrower pursuant to Section 5.1 hereof. The Borrower may also, at its own cost and expense and in its own name or in the name of the Issuer, prosecute or defend any action or proceeding or take any other action involving third persons which the Borrower deems reasonably necessary in order to secure or protect its right of possession, occupancy and use hereunder, and in such event the Issuer hereby agrees to cooperate fully with the Borrower and to take all action necessary to effect the substitution of the Borrower for the Issuer in any action or proceeding if the Borrower shall so request.

**SECTION 5.3 OTHER CREDIT ENHANCEMENT.** The Borrower may at its discretion in connection with an adjustment of the Bonds to a Long-Term Interest Rate Period provide additional collateral security for the payment of principal of and interest on the Bonds including, but not limited to, an insurance policy, irrevocable transferable letter of credit, guaranty, surety bond, line of credit, revolving credit agreement or other agreement or device providing for the payment of the principal, interest and redemption premium on, and purchase price of, the Bonds; provided, however, that prior to the delivery of such other credit enhancement, the Borrower shall cause to be delivered to the Trustee (1) a Favorable Opinion of Bond Counsel, and (2) an opinion of counsel to the provider of such credit enhancement with respect to the enforceability of such credit enhancement. Notwithstanding anything to the contrary contained in the Indenture, the Bonds or this Loan Agreement, upon delivery of such credit enhancement, the principal, interest and redemption premium on, and purchase price of, the Bonds shall also be secured by, and payable from, such credit enhancement.

**ARTICLE VI  
MAINTENANCE AND REMOVAL**

**SECTION 6.1 MAINTENANCE AND MODIFICATIONS OF PROJECT BY THE BORROWER.** Subject to the provisions of Section 6.2 hereof, the Borrower agrees that so long as any Bonds are outstanding it will, at no expense to the Issuer, maintain, repair and operate the Project, or cause the Project to be maintained, repaired and operated, in accordance with the Act. The Borrower may cause modifications to be made to completed components of the Project.

**SECTION 6.2 REMOVAL OF PORTIONS OF THE PROJECT.** The Borrower shall not be under any obligation to cause renewal, repair or replacement of any inadequate, obsolete, worn-out, unsuitable, undesirable or unnecessary portion of the Project. In any instance where the Borrower determines that any portion of the Project have become inadequate, obsolete, worn-out, unsuitable, undesirable or unnecessary, the Borrower may cause such portion of the Project to be removed and cause the sale, trade in, exchange or other disposal of such removed portion of the Project without any responsibility or accountability to the Issuer, the Trustee or the holders of the Bonds.

The removal of any portion of the Project pursuant to the provisions of this Section shall not entitle the Borrower to any abatement or diminution of the amounts required to be paid pursuant to Section 5.1 hereof.

**ARTICLE VII  
SPECIAL COVENANTS**

**SECTION 7.1 NO WARRANTY OF CONDITION OR SUITABILITY BY THE ISSUER.** The Issuer makes no warranty, either express or implied, as to the condition of the Project or their suitability for the Borrower's purposes or needs.

**SECTION 7.2 THE BORROWER TO MAINTAIN ITS LEGAL EXISTENCE; CONDITIONS UNDER WHICH EXCEPTIONS PERMITTED.** The Borrower agrees that, so long as any Bonds are outstanding, it will maintain its legal existence, will not dissolve or otherwise dispose of all or substantially all of its assets and will not consolidate with or merge into one or more other entities or permit one or more other entities to consolidate with or merge into it; provided that the Borrower may, without violating its agreement contained in this Section, consolidate with or merge into one or more other entities, or permit one or more other entities to consolidate with or merge into it, or sell or otherwise transfer to one or more other entities all or substantially all of its assets as an entirety and thereafter dissolve, provided the surviving, resulting or transferee entity or entities, as the case may be (if other than the Borrower), assumes or assume in writing all of the obligations of the Borrower herein, and, if not organized under the laws of the State, is or are qualified to do business in the State.

**SECTION 7.3 INDEMNIFICATION COVENANTS.** (a) The Borrower hereby agrees to indemnify and hold harmless the Trustee and its officers, directors, agents and employees from and against any and all costs, claims, liabilities, losses or damages whatsoever (including reasonable costs and fees of counsel, auditors or other experts), asserted or arising out of or in connection with the acceptance or administration of the trusts established pursuant to the Indenture, except costs, claims, liabilities, losses or damages resulting from the gross negligence or willful misconduct of the Trustee, including the reasonable costs and expenses (including the reasonable fees and expenses of its counsel) of defending itself against any such claim or liability in connection with its exercise or performance of any of its duties hereunder and of enforcing this indemnification provision. The Borrower hereby agrees to indemnify and hold harmless the Trustee and its officers, directors, agents and employees from and against any and all costs, claims, liabilities, losses or damages whatsoever (including reasonable costs and fees of counsel, auditors or other experts), asserted or arising out of or in connection with claims arising out of the construction agreements and the construction or operation of the Project. If any such claim is asserted, or any such lien or charge upon payments, or any such taxes, assessments, impositions or other charges are sought to be imposed, the Trustee shall give prompt notice to the Borrower, and the Borrower shall pay the same or bond and assume the defense thereof, with full power to contest, litigate, compromise or settle the same in its sole discretion. The indemnifications set forth herein shall survive the termination of the Indenture and this Loan Agreement and the resignation or removal of the Trustee and shall extend to the Trustee in each of its capacities under the Indenture.

(b) The Borrower agrees to indemnify the Issuer, its members, officers, employees and agents (the "Issuer Indemnified Parties") against all claims arising out of (1) the breach by the Borrower of the Borrower's covenants under Sections 4.4 and 4.5 hereof and (2) the Indenture, this Loan Agreement, any Pledge Agreement, construction agreements and the construction or operation of the Project and to pay or bond or discharge and indemnify and hold harmless the Issuer Indemnified Parties from and against (a) any lien or charge upon payments by the Borrower, to or for the account of the Issuer hereunder, and (b) any taxes, assessments, impositions and other charges of any federal, state or municipal government or political body in respect of the Project; provided, however, the Borrower shall not indemnify the Issuer Indemnified Parties against claims resulting from any willfully wrongful act of the Issuer. If any such claim is asserted, or any such lien or charge upon payments or any such taxes, assessments, impositions or other charges are sought to be imposed, the Issuer will give prompt notice to the Borrower, and the Borrower shall pay the same or bond and assume the defense thereof, with full power to contest, litigate, compromise or settle the same in its sole discretion.

(c) The Borrower shall at all times protect and hold the Issuer Indemnified Parties harmless against any claims or liability resulting from any loss or damage to property or any injury to or death of any person that may be occasioned by any cause whatsoever pertaining to the Project or the use thereof, including without limitation any assignment of its interest in this Loan Agreement, such indemnification to include reasonable expenses and attorneys' fees incurred by the Issuer Indemnified Parties in connection therewith, provided that such indemnity shall be effective only to the extent of any loss that may be sustained by the Issuer Indemnified Parties in excess of the net proceeds received by it or them from any insurance carried by the Borrower with respect to such loss and provided further that the benefits of this Section 7.3(c) shall not inure to any person other than the Issuer Indemnified Parties and provided that the Borrower shall not indemnify the Issuer Indemnified Parties against any claim or liability resulting from the willfully wrongful act of the Issuer.

(d) The Borrower further agrees to indemnify and hold harmless the Issuer Indemnified Parties against any and all losses, claims, damages or liabilities, joint or several, to which they or any of them may become subject and to reimburse each of them for any legal or other expenses (including, to the extent hereinafter provided, reasonable counsel fees) incurred by them in connection with investigating any such losses, claims, damages or liabilities or in connection with defending any actions, insofar as such losses, claims, damages, liabilities, expenses or actions arise out of or are based upon any untrue statement or alleged untrue statement of a material fact contained in any disclosure or offering document prepared in connection with the initial sale of the Bonds or any remarketing of the Bonds, including any documents incorporated into such disclosure or offering document, or the omission or alleged omission to state therein a material fact necessary to make the statements therein, in the light of the circumstances under which

they were made, not misleading. The Issuer agrees promptly to notify the Borrower of the commencement of any litigation or proceedings against it, any of its aforesaid officials or employees in connection with the issuance and sale or remarketing of the Bonds. The omission so to notify the Borrower of any such action shall not relieve the Borrower from any liability which it may have to the Issuer otherwise than on account of the foregoing indemnity. In case such notice of any such action shall be so given, the Borrower shall be entitled to participate at its own expense in the defense of such action, in which event such defense shall be conducted by counsel chosen by the Borrower satisfactory to the Issuer and the Issuer shall bear the fees and expenses of any additional counsel retained by it; but if the Borrower shall elect not to assume the defense of such action, the Borrower will reimburse the Issuer Indemnified Parties for the reasonable fees and expenses of any counsel retained by them; provided, however, if the Issuer Indemnified Parties in any such action include both the Borrower and the Issuer Indemnified Parties and counsel for the Borrower shall have reasonably concluded that there may be a conflict of interest involved in the representation by such counsel of both the Borrower and the Issuer Indemnified Party, the Issuer Indemnified Party or Parties shall have the right to select separate counsel, satisfactory to the Borrower, to participate in the defense of such action on behalf of such Issuer Indemnified Party or Parties (it being understood, however, that the Borrower shall not be liable for the expenses of more than one separate counsel representing the Issuer Indemnified Parties who are parties to such action).

Notwithstanding the foregoing, the obligations of the Borrower and the indemnification afforded by this Section 7.3 shall not be discharged upon the payment in full of the Bonds

**SECTION 7.4 LIMITATION OF LIABILITY OF THE ISSUER.** In the event of any default by the Issuer hereunder, the liability of the Issuer to the Borrower shall be enforceable only out of its interest under this Loan Agreement and there shall be no other recourse by the Borrower against the Issuer, its members, officers, agents and employees, past, present or future, or any of the property now or hereafter owned by it or them. No obligation of the Issuer hereunder or under the Bonds shall be deemed to constitute a debt, liability or obligation of the Issuer, Monroe County, Georgia or of the State or any other political subdivision thereof. No covenant, agreement or obligation contained herein shall be deemed to be a covenant, agreement or obligation of any member, officer, employee or agent of the Issuer in his individual capacity, and neither the members of the Issuer nor any officer thereof executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof. No member, officer, employee or agent of the Issuer shall incur any personal liability with respect to any other action taken by him pursuant to this Agreement or the Indenture.

**ARTICLE VIII  
ASSIGNMENT, LEASING AND SALE**

**SECTION 8.1 ASSIGNMENT, LEASING AND SALE BY THE BORROWER.** This Loan Agreement may be assigned, and the Project may be leased or sold as a whole or in part, by the Borrower without the necessity of obtaining the consent of either the Issuer or the Trustee, subject, however, except as provided in Section 7.2 hereof, to each of the following conditions:

(a) no assignment, lease or sale shall relieve the Borrower from liability for any of its obligations hereunder, and in the event of any such assignment, lease or sale (unless the Issuer and the Trustee otherwise consent) the Borrower shall continue to remain primarily liable for the payments required to be made pursuant to Sections 5.1 and 5.3 hereof and for the performance and observance of the other agreements on its part contained herein;

(b) the assignee, lessee or buyer shall assume the obligations of the Borrower hereunder to the extent of the interest assigned, leased or sold, except, at the option of the Borrower, the Borrower may retain its obligations under Sections 5.1 and 5.3 hereof, including without limitation, its obligations with respect to Loan Repayments hereunder; and

(c) The Borrower shall, not later than 10 days prior to the delivery thereof, furnish or cause to be furnished to the Issuer and to the Trustee a true and complete copy of the form of each such proposed assignment, lease or conveyance, as the case may be.

**SECTION 8.2 ASSIGNMENT OF RIGHTS BY THE ISSUER.** The Borrower hereby consents to the pledge and assignment by the Issuer of all of its rights under this Loan Agreement (except its rights under Sections 5.1(c) and 9.4 hereof relating to payment of certain costs and expenses and under Section 7.3 hereof relating to indemnification) to the Trustee under the Indenture for the benefit of the holders from time to time of the Bonds, and the Borrower hereby agrees that by virtue of such assignment the Trustee may enjoy and enforce all such rights of the Issuer hereunder.

The Issuer agrees that, except for such pledge and assignment, it will not pledge, assign, mortgage, encumber, convey or otherwise transfer any of its interests or rights under this Loan Agreement; provided, however, that if the laws of the State at the time shall so permit, nothing contained in this Section shall prevent the consolidation of the Issuer with, or merger of the Issuer into, any public entity the property and income of which are not subject to, or are exempt from, taxation; and provided, further, that upon any such consolidation, merger or transfer, the due and punctual payment of the principal of, premium, if any, and interest on the Bonds according to their tenor, and the due and punctual performance and observance of all the agreements and conditions of this Loan

Agreement to be kept and performed by the Issuer, shall be expressly assumed in writing by the entity resulting from such consolidation or surviving such merger.

**ARTICLE IX**  
**EVENTS OF DEFAULT AND REMEDIES**

**SECTION 9.1 EVENTS OF DEFAULT DEFINED.** The following shall be "events of default" under this Loan Agreement, and the terms "event of default" and "default" shall mean, whenever they are used in this Loan Agreement, any one or more of the following events:

(a) Failure by the Borrower to pay or cause to be paid when due the Loan Repayments in the amounts and at the times specified in Section 5.1(a) hereof or the amounts payable under Section 5.1(d) hereof necessary to enable the Tender Agent to pay the purchase price of Bonds delivered to it for purchase, which failure shall have resulted in an event of default under subsection (a), (b) or (c) of Section 801 of the Indenture.

(b) Failure by the Borrower to observe or to perform any covenant, condition, representation or agreement in this Loan Agreement on its part to be observed or performed, other than as referred to in clause (a) of this Section, for a period of 90 days after written notice, specifying such failure and requesting that it be remedied, has been given to the Borrower by the Issuer or the Trustee, which may give such notice in its discretion and shall give such notice at the written request of the holders of not less than a majority in principal amount of the Bonds then outstanding, unless the Issuer and the Trustee, or the Issuer, the Trustee and the holders of a principal amount of Bonds not less than the principal amount of Bonds the holders of which requested such notice, as the case may be, agree in writing to an extension of such period prior to its expiration; provided, however, that the Issuer and the Trustee, or the Issuer, the Trustee and the holders of such principal amount of Bonds, as the case may be, shall be deemed to have agreed to an extension of such period if corrective action has been instituted by the Borrower within the applicable period and is being diligently pursued.

(c) The expiration of a period of ninety (90) days following:

(1) the adjudication of the Borrower as a bankrupt by any court of competent jurisdiction;

(2) the entry of an order approving a petition seeking reorganization or arrangement of the Borrower under the Federal Bankruptcy Laws or any other applicable law or statute of the United States of America, or of any state thereof;  
or

(3) the appointment of a trustee or a receiver of all or substantially all of the property of the Borrower;

(4) unless during such period such adjudication, order or appointment of a trustee or receiver shall be vacated or shall be stayed on appeal or otherwise or shall have otherwise ceased to continue in effect.

(d) The filing by the Borrower of a voluntary petition in bankruptcy or the making of an assignment for the benefit of creditors; the consenting by the Borrower to the appointment of a receiver or trustee of all or any part of its property; the filing by the Borrower of a petition or answer seeking reorganization or arrangement under the Federal Bankruptcy Laws, or any other applicable law or statute of the United States of America, or any state thereof; or the filing by the Borrower of a petition to take advantage of any insolvency act.

The provisions of clause (b) of this Section are subject to the following limitations: If by reason of Force Majeure the Borrower is unable as a whole or in part to carry out its agreements herein contained, other than the obligations on the part of the Borrower contained in Article V and Sections 7.3, 7.4 and 9.4 hereof, the Borrower shall not be deemed in default during the continuance of such inability. The Borrower agrees, however, to use its best efforts to remedy with all reasonable dispatch the cause or causes preventing the Borrower from carrying out its agreements; provided, that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of the Borrower, and the Borrower shall not be required to make settlement of strikes, lockouts and other industrial disturbances by acceding to the demands of the opposing party or parties when such course is in the judgment of the Borrower unfavorable to the Borrower.

**SECTION 9.2 REMEDIES ON DEFAULT.** Upon the occurrence and continuance of an event of default specified in clause (a), (c) or (d) of Section 9.1 hereof, and further upon the condition that all Bonds outstanding under the Indenture shall have become immediately due and payable, all Loan Repayments hereunder shall, without further action, become immediately due and payable.

Any waiver of an event of default under the Indenture and a rescission and annulment of its consequences shall constitute a waiver of the corresponding event of default under this Loan Agreement and a rescission and annulment of the consequences thereof.

Upon the occurrence and continuance of any event of default, the Issuer may take whatever action at law or in equity may appear necessary or desirable to collect the Loan Repayments then due and thereafter to become due or to enforce performance and observance of any obligation, agreement or covenant of the Borrower under this Loan Agreement.

Any amounts collected pursuant to action taken under this Section 9.2 shall, after deducting the costs of collection, be paid into the Bond Fund and applied in accordance

with the provisions of the Indenture or, if the Bonds have been fully paid (or deemed to have been paid in accordance with the provisions of Article XIII of the Indenture), to the Borrower.

In the enforcement of the remedies provided in this Section, the Issuer may treat, and the Borrower agrees to pay, all expenses of enforcement, including, without limitation, reasonable legal, accounting and advertising expenses and Trustee's fees and expenses, as amounts then due and owing under Section 5.1(b) or (c) hereof.

**SECTION 9.3 NO REMEDY EXCLUSIVE.** No remedy herein conferred upon or reserved to the Issuer is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Loan Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

**SECTION 9.4 AGREEMENT TO PAY ATTORNEYS' FEES AND EXPENSES.** In the event the Borrower should default under any of the provisions of this Loan Agreement or any Pledge Agreement and the Issuer should employ attorneys or incur other expenses for the collection of the Loan Repayments hereunder or the enforcement of performance or observance of any obligation or agreement of the Borrower herein or therein contained, the Borrower agrees that it will on demand therefor pay to the Issuer the reasonable fees of such attorneys and such other reasonable expenses so incurred by the Issuer, to the extent permitted by law.

**SECTION 9.5 NO ADDITIONAL WAIVER IMPLIED BY ONE WAIVER.** In the event any agreement contained in this Loan Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

**ARTICLE X  
PREPAYMENT**

**SECTION 10.1 RIGHT TO PREPAY LOAN REPAYMENTS.** (a) During any Long-Term Interest Rate Period, the Borrower shall have, and is hereby granted, the option to prepay Loan Repayments due hereunder with respect to the Bonds at any time by taking, or causing the Issuer to take, the actions required by the Indenture for the redemption, or provision therefor, of all Bonds then outstanding, if:

(1) The Borrower shall have determined that the continued operation of any portion of the Project is impracticable, uneconomical or undesirable; or

(2) all or substantially all of any of the Project shall have been condemned or taken by eminent domain; or

(3) the operation of any portion of the Project shall have been enjoined for a period of at least six consecutive months; or

(4) as a result of any change in the Constitution of the State or the Constitution of the United States of America, or as a result of any legislative or administrative action (whether state or federal) or by final decree, judgment or order of any court or administrative body (whether state or federal) after any contest thereof by the Borrower in good faith, the Indenture, the Agreement or the Bonds shall become void or unenforceable or impossible of performance in accordance with the intent and purposes of the parties as expressed in the Agreement.

(b) The Borrower shall have, and is hereby granted, the option to prepay all or any portion of the unpaid Loan Repayments hereunder, together with interest thereon, at any time by taking, or causing the Issuer to take, the actions required by the Indenture (i) to discharge the lien thereof through the redemption, or provision for payment or redemption, of all Bonds then outstanding or (ii) to effect the redemption, or provision for payment or redemption, of less than all Bonds then outstanding.

**SECTION 10.2 PROCEDURE FOR PREPAYMENTS.** To exercise an option granted in Section 10.1 hereof, the Borrower shall give written notice to the Issuer and the Trustee which shall designate therein the principal amount and maturities of the Bonds to be redeemed, or for the payment or redemption of which provision is to be made, and, in the case of a redemption of Bonds, shall specify (a) the date of redemption, which shall not be less than 45 days from the date the notice is mailed (unless a shorter notice is satisfactory to the Trustee) and (b) the applicable redemption provision of the Indenture. The exercise of an option granted in Section 10.1 hereof is revocable by the Borrower at any time prior to the time at which the Bonds to be redeemed, or for the

payment or redemption of which provision is to be made, are first deemed to have been paid in accordance with Article XIII of the Indenture.

Upon receipt of a notice pursuant to this Section, the Issuer shall forthwith take or cause to be taken all actions required under the Indenture to effect the redemption, or provision for payment or redemption, of Bonds in accordance with such notice and, in the case of a prepayment of the entire unpaid balance of the Loan Repayments, together with interest thereon, to discharge the lien of the Indenture.

**SECTION 10.3 RELATIVE POSITION OF AGREEMENT AND INDENTURE.** The rights granted to the Borrower in this Article shall be and remain prior and superior to the Indenture and may be exercised whether or not the Borrower is in default hereunder, provided that such default will not result in nonfulfillment of any condition to the exercise of any such right.

**SECTION 10.4 COMPLIANCE WITH INDENTURE.** Anything in this Loan Agreement to the contrary notwithstanding, the Issuer and the Borrower shall take all actions required by this Loan Agreement and the Indenture in order to comply with the provisions of Section 301(d) of the Indenture or any similar provision contained in any indenture supplemental thereto.

**ARTICLE XI**  
**PURCHASE AND REMARKETING OF BONDS**

**SECTION 11.1 PURCHASE OF BONDS; INITIAL REMARKETING AGENT; INITIAL TENDER AGENT.** (a) In consideration of the issuance of the Bonds by the Issuer, but for the benefit of the holders of the Bonds, the Borrower has agreed, and does hereby covenant, to cause the necessary arrangements to be made and to be thereafter continued whereby, from time to time, the Bonds will be purchased from the holders thereof in accordance with the provisions of the Indenture. In furtherance of the foregoing covenant of the Borrower, the Issuer, at the direction of the Borrower, has set forth in Section 202 of the Indenture the terms and conditions relating to such purchases and has set forth in Article XIV of the Indenture the duties and responsibilities of the Tender Agent with respect to the purchase of Bonds and of the Remarketing Agent with respect to the remarketing of Bonds. The Borrower appoints (i) Morgan Stanley & Co. LLC, as the initial Remarketing Agent with respect to the Bonds, and (ii) U.S. Bank National Association, as the initial Tender Agent and hereby authorizes and directs the Tender Agent and the Remarketing Agents to purchase, offer, sell and deliver Bonds in accordance with the provisions of Section 202 and Article XIV of the Indenture. The Issuer acknowledges that the Remarketing Agent, in undertaking its respective duties set forth in the Indenture with respect to the determination of the interest rates borne by the Bonds, will be acting as agent for and on behalf of the Issuer.

Without limiting the generality of the foregoing covenant of the Borrower, and in consideration of the Issuer's having set forth in the Indenture the aforesaid provisions of Section 202 and Article XIV thereof, the Borrower has covenanted and agreed in Section 5.1(d) hereof, for the benefit of the holders of the Bonds, to pay, or cause to be paid, to the Tender Agent such amounts as shall be necessary to enable the Tender Agent to pay the purchase price of Bonds, all as more particularly described in Section 202 and Article XIV of the Indenture.

(b) The Issuer shall have no obligation or responsibility, financial or otherwise, with respect to the purchase or remarketing of Bonds or the making or continuation of arrangements therefor, except that the Issuer shall generally cooperate with the Borrower, the Trustee, the Tender Agent and the Remarketing Agents as contemplated in Article XIV of the Indenture.

**SECTION 11.2 OPTIONAL PURCHASE OF BONDS.** Except after the occurrence of an event of default, the Borrower, at any time and from time to time, may furnish moneys to the Tender Agent accompanied by a notice directing that such moneys be applied to the purchase of Bonds to be purchased pursuant to Section 202 and Article XIV of the Indenture. Bonds so purchased shall be delivered to the Borrower in accordance with Section 1407(c) of the Indenture.

**SECTION 11.3 DETERMINATION OF INTEREST RATE PERIODS.**

The Issuer acknowledges and agrees that the Borrower may determine the duration and type of the Interest Rate Periods and certain redemption and other provisions relating to Long-Term Interest Rate Periods as, and to the extent, set forth in Section 201 of the Indenture.

## **ARTICLE XII MISCELLANEOUS**

**SECTION 12.1 NOTICES.** All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given on the fifth day following the day on which the same have been mailed by registered mail, postage prepaid, addressed as follows: if to the Issuer, to Development Authority of Monroe County, 10 West Chambers Street, Forsyth, Georgia 31029, Attention: President; if to the Borrower, to Gulf Power Company, 700 Universe Boulevard, Juno Beach, Florida 33408, Attention: Chief Financial Officer; and if to the Trustee, to U.S. Bank National Association, Attention: Global Corporate Trust, 1349 W. Peachtree Street, NW, Suite 1050, Atlanta, Georgia 30309. A duplicate copy of each notice, certificate or other communication given hereunder by either the Issuer or the Borrower to the other shall also be given to the Trustee. The Issuer, the Borrower and the Trustee may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Furthermore, the Trustee shall have the right to accept and act upon any notice, demand, direction, request or other instructions, including funds transfer instructions ("Instructions"), given pursuant to this Loan Agreement and delivered using Electronic Means (as defined below); provided, however, that the Borrower, the Issuer or and such other party giving such instruction (the "Sender") shall provide to the Trustee an incumbency certificate listing officers with the authority to provide such Instructions ("Authorized Officers") and containing specimen signatures of such Authorized Officers, which incumbency certificate shall be amended by the Sender whenever a person is to be added or deleted from the listing. If the Sender elects to give the Trustee Instructions using Electronic Means and the Trustee in its discretion elects to act upon such Instructions, the Trustee's understanding of such Instructions shall be deemed controlling. The Borrower, the Issuer and any other Sender understand and agree that the Trustee cannot determine the identity of the actual sender of such Instructions and that the Trustee shall conclusively presume that directions that purport to have been sent by an Authorized Officer listed on the incumbency certificate provided to the Trustee have been sent by such Authorized Officer. Each Sender shall be responsible for ensuring that only Authorized Officers transmit such Instructions to the Trustee and that the Sender and all Authorized Officers are solely responsible to safeguard the use and confidentiality of applicable user and authorization codes, passwords and/or authentication keys upon receipt by the Sender. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such Instructions notwithstanding such directions conflict or are inconsistent with a subsequent written instruction. the Borrower agrees: (i) to assume all risks arising out of the use of Electronic Means to submit Instructions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized Instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated

with the various methods of transmitting Instructions to the Trustee and that there may be more secure methods of transmitting Instructions than the method(s) selected by the Borrower for use by the Borrower, the Issuer and the other parties who may give instructions to the Trustee under this Loan Agreement; (iii) that the security procedures (if any) to be followed in connection with its transmission of Instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances; and (iv) to notify the Trustee immediately upon learning of any compromise or unauthorized use of the security procedures. "Electronic Means" shall mean the following communications methods: S.W.I.F.T., e-mail, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys issued by the Trustee, or another method or system specified by the Trustee as available for use in connection with its services hereunder.

**SECTION 12.2 BINDING EFFECT.** This Loan Agreement shall inure to the benefit of and shall be binding upon the Issuer, the Borrower and their respective successors and assigns, subject, however, to the limitations contained in this Loan Agreement and particularly in Sections 7.2, 8.1 and 8.2 hereof.

**SECTION 12.3 SEVERABILITY AND EFFECT OF INVALIDITY.** In the event any provision of this Loan Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof. In the event any covenant, stipulation, obligation or agreement contained in this Loan Agreement shall for any reason be held to be in violation of law, then such covenant, stipulation, obligation or agreement of the Issuer or the Borrower, as the case may be, shall be enforced to the full extent permitted by law.

**SECTION 12.4 TERMINATION.** This Loan Agreement shall remain in full force and effect from the date hereof until all of the Bonds shall have been paid or be deemed to have been paid in accordance with Article XIII of the Indenture and the fees, charges, expenses and costs of the Trustee and the Issuer and all other amounts payable by the Borrower under the Indenture and this Loan Agreement shall have been paid. After such payment or provision for payment has been made, any surplus amounts remaining in the Bond Fund not required for the payment of Bonds and surplus amounts in any other fund created under the Indenture shall belong to and be paid to the Borrower, as provided in Article XIII of the Indenture. Notwithstanding the foregoing, the obligations of the Borrower set forth in this Loan Agreement shall not be discharged upon the payment in full of the Bonds.

**SECTION 12.5 IF PAYMENT OR PERFORMANCE DATE A LEGAL HOLIDAY.** If the date for making any payment, or the last date for performance of any act or the exercising of any right, as provided in this Loan Agreement, shall be a legal holiday or a day on which banking institutions in the State of Florida or the City of New York, New York are authorized by law to remain closed, such payment may be made or

act performed or right exercised on the next succeeding day not a legal holiday or not a day on which such banking institutions are authorized by law to remain closed, with the same force and effect as if done on the nominal date provided in this Loan Agreement, and no interest shall accrue for the period after such nominal date.

**SECTION 12.6 TRUSTEE, THE BORROWER AND ISSUER MAY RELY ON AUTHORIZED REPRESENTATIVES.** Whenever under the provisions of this Loan Agreement the approval of the Borrower is required or the Issuer or the Trustee is required to take some action at the request of the Borrower, such approval shall be given or such request shall be made by an Authorized Borrower Representative unless otherwise specified in this Loan Agreement and the Issuer and the Trustee shall be authorized to act on any such approval or request and the Borrower shall have no complaint or recourse against the Issuer or the Trustee as a result of any such action taken. Whenever under the provisions of this Loan Agreement, the approval of the Issuer is required or the Borrower or the Trustee is required to take some action at the request of the Issuer, such approval shall be given or such request shall be made by an Authorized Issuer Representative unless otherwise specified in this Loan Agreement, the Borrower and the Trustee shall be authorized to act on any such approval or request and the Issuer shall have no complaint or recourse against the Borrower or the Trustee as a result of any such action taken.

**SECTION 12.7 AGREEMENT REPRESENTS COMPLETE AGREEMENT.** This Loan Agreement represents the entire agreement between the parties. This Loan Agreement may be modified, supplemented and amended only as provided in the Indenture.

**SECTION 12.8 OTHER INSTRUMENTS.** The Borrower shall file and refile and record and re-record or cause to be filed and refiled and recorded and re-recorded all instruments, financing statements, continuation statements, notices and other instruments required by applicable law to be filed and refiled and recorded and re-recorded and shall continue or cause to be continued the liens of such instruments for so long as the Bonds shall be outstanding in order fully to preserve and protect the rights of the holders of the Bonds and the Trustee.

**SECTION 12.9 EXECUTION OF COUNTERPARTS.** This Loan Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**SECTION 12.10 APPLICABLE LAW.** This Loan Agreement shall be governed by and construed in accordance with the laws of the State.

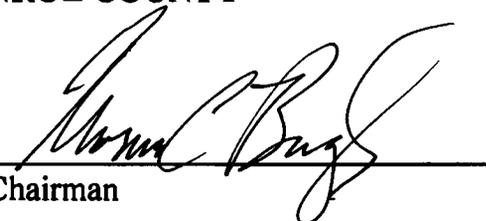
**SECTION 12.11 U.S.A. PATRIOT ACT.** The parties hereto acknowledge that in accordance with Section 326 of the U.S.A. Patriot Act, the Trustee, like all financial institutions and in order to help fight the funding of terrorism and money

laundering, is required to obtain, verify, and record information that identifies each person or legal entity that establishes a relationship or opens an account with the Trustee. The parties to this Loan Agreement agree that they will provide the Trustee with such information as it may request in order for the Trustee to satisfy the requirements of the U.S.A. Patriot Act.

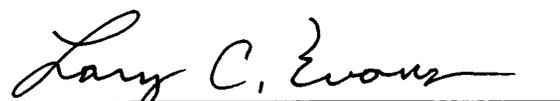
**IN WITNESS WHEREOF**, the Issuer and the Borrower have caused this Loan Agreement to be executed in their respective names by their duly authorized officers and, in the case of the Issuer, its seal to be hereunto affixed and attested by a duly authorized officer for and on its behalf, all as of the date first above written.

**DEVELOPMENT AUTHORITY OF  
MONROE COUNTY**

(SEAL)

By:   
Chairman

Attest:

  
Secretary



**GULF POWER COMPANY**

By: \_\_\_\_\_  
Name:  
Title:

**IN WITNESS WHEREOF**, the Issuer and the Borrower have caused this Loan Agreement to be executed in their respective names by their duly authorized officers and, in the case of the Issuer, its seal to be hereunto affixed and attested by a duly authorized officer for and on its behalf, all as of the date first above written.

**DEVELOPMENT AUTHORITY OF  
MONROE COUNTY**

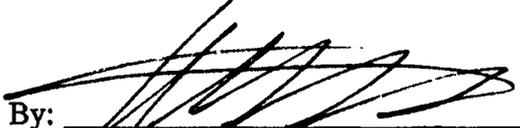
(SEAL)

By: \_\_\_\_\_  
Chairman

Attest:

\_\_\_\_\_  
Secretary

**GULF POWER COMPANY**

By:   
Name: Aldo E. Portales  
Title: Assistant Treasurer

**EXHIBIT A**  
**DESCRIPTION OF THE PROJECT**

The financing or refinancing, in whole or in part, the Borrower's share of the cost of the acquisition, construction, installation and equipping of additions, extensions and improvements to certain sewage facilities or solid waste disposal facilities and functionally related and subordinate facilities necessary or convenient in connection with the operation of the foregoing at Unit 3 of the Plant Robert W. Scherer coal-fired steam electric generating facilities located on Georgia Highway 87, approximately 4 miles south of Juliette, Georgia, in Monroe County, Georgia, and the common facilities associated with Units 1 to 4.

**EXHIBIT B**

**[FORM OF REQUISITION]**

REQUISITION NO. \_\_\_\_\_

U.S. Bank National Association, as trustee  
Attention: Global Corporate Trust  
Atlanta, Georgia

Re: \$45,000,000 Development Authority of Monroe County Revenue Bonds  
(Gulf Power Company Project), Series 2019

To the Addressee:

The undersigned Gulf Power Company (the "Borrower") hereby submits this requisition for payment from the Construction Fund established under the Trust Indenture, dated as of October 1, 2019 (the "Indenture"), between the Development Authority of Monroe County (the "Issuer") and you, as trustee, relating to the obligations in caption (the "Bonds"). All capitalized terms used herein and not defined herein shall have the meaning ascribed thereto in the Indenture unless the context or use clearly indicates a different meaning or intent.

Amount Requested: \_\_\_\_\_

Total Disbursements to Date: \_\_\_\_\_

1. Each obligation for which a disbursement is hereby requested is described in reasonable detail in Schedule I hereto together with the (a) name of the person, firm or corporation to whom payment is due, (b) the respective amounts to be paid, and (c) the purpose by general classification for which each obligation to be paid was incurred.

2. The Borrower hereby certifies that:

(a) obligations in the stated amounts have been incurred and have been paid or are presently due and payable or have been paid by the Borrower and that each item thereof is a proper charge against the Construction Fund and has not been the subject of a previous withdrawal from the Construction Fund;

(b) that there has not occurred and is not continuing any event of default under the Loan Agreement, and to the best of his knowledge there

has not been filed with or served upon the Issuer or the Borrower notice of any lien, right or attachment upon, or claim affecting the right of any such persons, firms or corporations to receive payment of, the respective amounts stated in such requisition which has not been released or will not be released simultaneously with the payment of such obligation, and

- (c) that, after giving effect to such requisition, (i) not less than 95% of the proceeds of the Bonds withdrawn from the Construction Fund will have been used to provide "sewage facilities" or "solid waste disposal facilities" within the meaning of Section 142(a)(5) or 142(a)(6) of the Code, as the case may be and (ii) no more than 2% of the proceeds (within the meaning of Section 147(g) of the Code) of the Bonds will have been used to pay costs of issuance of any of the Bonds.

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

GULF POWER COMPANY

By: \_\_\_\_\_  
Authorized Borrower Representative

*In the opinion of King & Spalding LLP, Bond Counsel, under existing statutes, rulings and court decisions, and under applicable regulations, and assuming the accuracy of certain representations and certifications and compliance with certain tax covenants, interest on the Series 2019 Bonds is not included in gross income for federal income tax purposes, except interest on any Series 2019 Bond for any period during which it is held by a "substantial user" of the facilities financed or a "related person," as those terms are used in Section 147(a) of the Internal Revenue Code of 1986, as amended (the "Code"); however such interest is an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals. In the opinion of Bond Counsel, interest on the Series 2019 Bonds is exempt from present State of Georgia income taxation under existing statutes as described herein. See "TAX MATTERS" herein.*

**\$45,000,000**

**DEVELOPMENT AUTHORITY OF MONROE COUNTY (GEORGIA)**

**Revenue Bonds**

**(Gulf Power Company Project),**

**Series 2019**

**CUSIP: 610532 BZ5\***

**Interest Accrual Date: Date of Delivery**

**Due: October 1, 2049**

The above captioned bonds (the "Series 2019 Bonds") may bear interest at a Daily, Weekly, Commercial Paper or Long-Term Rate, as described herein. The initial Interest Rate Period for the Series 2019 Bonds will be a Daily Interest Rate Period.

The Series 2019 Bonds will be subject to repurchase and redemption upon the terms and in the manner described herein.

**THE SERIES 2019 BONDS ARE NOT A DEBT OR A GENERAL OBLIGATION OR A PLEDGE OF THE FAITH AND CREDIT OF THE STATE OF GEORGIA OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING MONROE COUNTY. THE SERIES 2019 BONDS ARE LIMITED OBLIGATIONS OF THE ISSUER PAYABLE FROM THE TRUST ESTATE PLEDGED THERETO. NEITHER THE STATE OF GEORGIA, NOR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING MONROE COUNTY, HAS PLEDGED ITS FAITH AND CREDIT OR TAXING POWER TO THE PAYMENT OF THE AMOUNTS DUE ON THE SERIES 2019 BONDS. THE ISSUER DOES NOT HAVE ANY TAXING POWER.**



**Gulf Power**

The Series 2019 Bonds will be issuable as fully registered bonds and will be registered in the name of Cede & Co., as registered owner and nominee for The Depository Trust Company, New York, New York ("DTC"). DTC will act as securities depository for the Series 2019 Bonds. Purchases of Series 2019 Bonds may only be made (1) in the principal amount of \$100,000 and any integral multiple of \$5,000 in excess thereof while the Series 2019 Bonds bear interest at a Daily or Weekly Interest Rate, (2) in the principal amount of \$100,000 and any integral multiple of \$1,000 in excess of \$100,000 while the Series 2019 Bonds bear interest at a Commercial Paper Term Rate, and (3) in the principal amount of \$5,000 and any integral multiple of \$5,000 while the Series 2019 Bonds bear interest at a Long-Term Interest Rate. Except under the limited circumstances described herein, beneficial owners of interests in the Series 2019 Bonds will not receive certificates representing their interests in the Series 2019 Bonds. Payments of principal and premium, if any, and interest on Series 2019 Bonds will be made through DTC and its participants and disbursements of such payments to purchasers will be the responsibility of such participants (see "THE SERIES 2019 BONDS—Book-Entry System" herein). The Series 2019 Bonds are subject to redemption prior to maturity as described herein. U.S. Bank National Association, is the Trustee for the Series 2019 Bonds. U.S. Bank National Association is the Tender Agent/Paying Agent/Registrar for the Series 2019 Bonds.

---

**Price: 100%**

---

*The Series 2019 Bonds will be offered by the Underwriter when, as and if issued by the Issuer and accepted by the Underwriter, subject to the approving opinion of King & Spalding LLP, Bond Counsel and to certain other conditions. Morgan, Lewis & Bockius LLP, Liebler, Gonzalez, & Portuondo and McDaniel & Scott, P.C, counsel to Gulf Power Company (the "Company"), will pass upon certain legal matters pertaining to the Company. Certain legal matters will be passed upon for the Underwriter by Ballard Spahr LLP, Philadelphia, Pennsylvania, counsel to the Underwriter. Haygood, Lynch, Harris, Melton & Watson, LLP will pass upon certain legal matters for the Issuer. The Series 2019 Bonds will be available for delivery through the facilities of DTC on or about October 17, 2019.*

**Morgan Stanley**

October 10, 2019

\* CUSIP® is a registered trademark of the American Bankers Association ("ABA"). CUSIP data herein are provided by CUSIP Global Services, operated on behalf of the ABA by S&P Global Market Intelligence, a division of S&P Global Inc. The CUSIP number listed above is being provided solely for the convenience only and none of the Issuer (as defined herein), the Company nor the Underwriter makes any representation with respect to such number nor undertakes any responsibility for its accuracy now or at any time in the future. The CUSIP number is subject to being changed after the issuance of the Series 2019 Bonds as a result of various subsequent actions including, but not limited to, a refunding in whole or in part of the Series 2019 Bonds or as a result of the procurement of secondary market portfolio insurance or other similar enhancement by investors that is applicable to all or a portion of the Series 2019 Bonds.

**THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK**

In connection with this offering, the Underwriter may over allot or effect transactions that stabilize or maintain the market price of the Series 2019 Bonds at levels above those that might otherwise prevail in the open market. Such stabilizing, if commenced, may be discontinued at any time.

<b><u>Addresses Of Certain Parties</u></b>	
<b>The Company</b>	Gulf Power Company 700 Universe Boulevard Juno Beach, Florida 33408 Attention: Treasurer
<b>Initial Remarketing Agent for the Series 2019 Bonds</b>	Morgan Stanley & Co. LLC 1585 Broadway, 24 <sup>th</sup> Floor New York, New York 10036 Attention: Municipal Short Term Products
<b>Trustee/ Tender Agent/Paying Agent/Registrar</b>	U.S. Bank National Association Attention: Global Corporate Trust 1349 W. Peachtree Street, NW Suite 1050 Atlanta, Georgia 30309

No dealer, salesman or any other person has been authorized by the Issuer, by the Company or by the Underwriter to give any information or to make any representation other than as contained in this Official Statement or in the Appendices hereto in connection with the offering described herein, and, if given or made, such other information or representation must not be relied upon as having been authorized by any of the foregoing. This Official Statement does not constitute an offer of any securities other than those described on the cover page or an offer to sell or a solicitation of an offer to buy in any jurisdiction in which it is unlawful for such person to make such offer, solicitation or sale. No representation or warranty is made as to the accuracy or completeness of the information contained in this Official Statement, and nothing contained in this Official Statement is, or shall be relied on as, a promise or representation by the Issuer or the Underwriter. This Official Statement is submitted in connection with the sale of securities as referred to herein, and may not be reproduced or be used, in whole or in part, for any other purpose. The delivery of this Official Statement at any time does not imply that information herein or in the Appendices hereto is correct as of any time subsequent to its date.

Reference to website addresses presented herein are for informational purposes only and may be in the form of a hyperlink solely for the reader’s convenience. Such websites and the information or links contained therein are not incorporated into, and are not part of, this Official Statement for purposes of, and as that term is defined in, Rule 15c2-12 adopted by the Securities and Exchange Commission (“SEC”) under the Securities Exchange Act of 1934, as amended (the “Exchange Act”).

---

## TABLE OF CONTENTS

	<b>Page</b>
SELECTED INFORMATION RELATING TO THE SERIES 2019 BONDS.....	1
CERTAIN DEFINITIONS .....	7
INTRODUCTORY STATEMENT .....	9
THE ISSUER.....	10
THE SERIES 2019 BONDS.....	11
SPECIAL CONSIDERATIONS RELATING TO THE SERIES 2019 BONDS.....	26
THE AGREEMENT .....	27
THE INDENTURE .....	30
TAX MATTERS.....	35
CONTINUING DISCLOSURE.....	36
UNDERWRITING .....	36
LEGALITY.....	37
VALIDATION AND LITIGATION .....	37

**Appendix A—Gulf Power Company**  
**Appendix A-1— Company Financial Statements**  
**Appendix B—Summary of Terms**  
**Appendix C—Form of Approving Opinion of Bond Counsel**  
**Appendix D—Forms of Notice of Tender of Book-Entry Bonds**  
**Appendix E—Form of 15c2-12 Undertaking**

**THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK**

## SELECTED INFORMATION RELATING TO THE SERIES 2019 BONDS

The following information is furnished solely to provide limited introductory information regarding the terms of the Series 2019 Bonds and does not purport to be comprehensive. A summary of such terms in chart form appears as Appendix B to this Official Statement. All such information is qualified in its entirety by reference to the more detailed descriptions appearing in this Official Statement and should be read together therewith. Certain terms used in the following selected information are defined under "CERTAIN DEFINITIONS." The offering of the Series 2019 Bonds is made only by means of this entire Official Statement. No person is authorized to make offers to sell, or solicit offers to buy, Series 2019 Bonds unless this entire Official Statement is delivered in connection therewith.

### General

The Series 2019 Bonds will mature on October 1, 2049. The term of the Series 2019 Bonds will be divided into consecutive Interest Rate Periods at the direction of the Company, during which the Series 2019 Bonds may bear interest at a Daily Interest Rate, a Weekly Interest Rate, or Commercial Paper Term Rates applicable to each Series 2019 Bond or a Long-Term Interest Rate.

The initial Interest Rate Period for the Series 2019 Bonds will be a Daily Interest Rate Period. Morgan Stanley & Co. LLC has been appointed initial Remarketing Agent with respect to the Series 2019 Bonds. The initial Interest Payment Date shall be November 7, 2019.

### Daily Interest Rate Period

Interest Rate .....	<p>The interest rate for each Business Day will be established by the Remarketing Agent on that Business Day. The interest rate for a day that is not a Business Day will be the same as the interest rate for the preceding Business Day.</p> <p>The interest rate will be the minimum rate that the Remarketing Agent determines would permit the sale of the Series 2019 Bonds at 100% of their principal amount.</p> <p>Interest will be calculated on a 365/366-day year and the actual number of days elapsed.</p>
Interest Payment.....	<p>Interest will accrue on a calendar month basis and will be payable on the fifth Business Day of each month.</p>
Purchase of Series 2019 Bonds Upon Demand .....	<p>Owners may demand purchase of Series 2019 Bonds on any Business Day by giving an irrevocable notice by 11:00 a.m., New York City time.</p>

Optional Redemption.....	Series 2019 Bonds will be redeemable, upon 30 days' notice, at the option of the Company, at a price equal to 100% of their principal amount plus accrued interest on any Business Day.
Change of Interest Rate Period .....	At any time, the Interest Rate Period for the Series 2019 Bonds may be adjusted from a Daily Interest Rate Period to a Weekly Interest Rate Period, a Commercial Paper Interest Rate Period or a Long-Term Interest Rate Period. Notice to the Owners of the Series 2019 Bonds will be given at least 15 days prior to the effective date of the new Interest Rate Period.
Mandatory Tender for Purchase.....	The Series 2019 Bonds are subject to mandatory tender for purchase on the effective date of any change in the Interest Rate Period.

**Weekly Interest Rate Period**

Interest Rate .....	<p>The interest rate for each seven-day period, Wednesday through Tuesday, will be established by the Remarketing Agent no later than the Business Day preceding each Wednesday.</p> <p>The interest rate will be the minimum rate that the Remarketing Agent determines would permit the sale of the Series 2019 Bonds at a price equal to 100% of their principal amount.</p> <p>Interest will be calculated on a 365/366-day year and the actual number of days elapsed.</p>
Interest Payment.....	Interest will accrue on a monthly basis and will be payable on the first Wednesday of each month.
Purchase of Series 2019 Bonds Upon Demand .....	Owners may demand purchase of Series 2019 Bonds on any Business Day by giving at least seven days' irrevocable notice to the Tender Agent of the day of purchase.

Optional Redemption .....	Series 2019 Bonds will be redeemable, upon 30 days' notice, at the option of the Company, at a price equal to 100% of their principal amount plus accrued interest on any Business Day.
Change of Interest Rate Period .....	At any time, the Interest Rate Period for the Series 2019 Bonds may be adjusted from a Weekly Interest Rate Period to a Daily Interest Rate Period, a Commercial Paper Interest Rate Period or a Long-Term Interest Rate Period. Notice to the Owners of the Series 2019 Bonds will be given at least 15 days prior to the effective date of the new Interest Rate Period.
Mandatory Tender for Purchase.....	The Series 2019 Bonds are subject to mandatory tender for purchase on the effective date of any change in the Interest Rate Period.

**Commercial Paper Interest Rate Period**

Interest Periods and Rates for Each Series 2019 Bond .....	A Commercial Paper Interest Rate Period will be comprised, for each Series 2019 Bond, of a series of consecutive and individual Commercial Paper Terms. Each Commercial Paper Term will be not less than one nor more than 270 days. Each Commercial Paper Term will commence on a Business Day (the "Commercial Paper Date") and end on a day preceding a Business Day. During each Commercial Paper Term for each Series 2019 Bond, such Series 2019 Bond will bear interest at a fixed rate (the "Commercial Paper Term Rate"). Each Series 2019 Bond may have a different Commercial Paper Term and Commercial Paper Term Rate.
--	---

Interest Rate (Commercial Paper Term Rate).....	The Commercial Paper Term Rate for each Commercial Paper Term for each Series 2019 Bond will be established by the Remarketing Agent not later than the Commercial Paper Date for such Commercial Paper Term. The Commercial Paper Term Rate for each Commercial
---	--

Paper Term for each Series 2019 Bond will be the minimum rate that the Remarketing Agent determines would permit the sale of such Series 2019 Bond at a price equal to 100% of its principal amount on the Commercial Paper Date.

Interest will be calculated on a 365/366-day year and the actual number of days elapsed.

**Interest Payment.....** Interest will accrue from each Commercial Paper Date for each Series 2019 Bond through and including the last day of the related Commercial Paper Term and will be payable on the day after the last day of such Commercial Paper Term, upon presentation of such Series 2019 Bond to the Tender Agent.

**Optional Redemption.....** Each Series 2019 Bond will be redeemable, upon 30 days' notice, at the option of the Company, at a price equal to 100% of its principal amount on the day after the last day of each Commercial Paper Term for such Series 2019 Bond.

**Change of Interest Rate Period .....** On the day after the last day of any Commercial Paper Term for a Series 2019 Bond, the Interest Rate Period for such Series 2019 Bond may be adjusted from a Commercial Paper Interest Rate Period to a Daily Interest Rate Period, a Weekly Interest Rate Period or a Long-Term Interest Rate Period. Notice to the Owner of such Series 2019 Bond will be given at least 15 days prior to the effective date of the new Interest Rate Period.

**Mandatory Tender for Purchase.....** Each Series 2019 Bond will be purchased on the Business Day after the last day of each Commercial Paper Term with respect to such Series 2019 Bond.

**Long-Term Interest Rate Period**

Interest Rate .....	<p>The interest rate for each Long-Term Interest Rate Period will be established by the Remarketing Agent not later than the first day of that period.</p> <p>The interest rate will be the minimum rate that the Remarketing Agent determines would permit the sale of the Series 2019 Bonds at a price equal to 100% of their principal amount.</p> <p>Interest will be calculated on a 360-day year consisting of twelve 30-day months.</p>
Interest Payment.....	<p>Interest will be payable the fifth day of the calendar month that is six months after the calendar month in which the adjustment date occurs and the fifth day of the calendar month every six months after each such payment date thereafter until the end of such Long-Term Interest Rate Period.</p>
Optional Redemption .....	<p>Series 2019 Bonds will be redeemable, upon 30 days' notice, at the option of the Company, after the no-call period as described herein. Series 2019 Bonds will also be redeemable upon 30 days' notice, at the option of the Company, upon the occurrence of certain extraordinary events as described herein, at the principal amount thereof, plus accrued interest as described herein.</p>
Change of Interest Rate Period .....	<p>The Interest Rate Period may be adjusted from a Long-Term Interest Rate Period to a Daily Interest Rate Period, a Weekly Interest Rate Period, a Commercial Paper Interest Rate Period or another Long-Term Interest Rate Period. The effective date for such change must be the day after the end of the Long-Term Interest Rate Period or a day on which the Series 2019 Bonds could be redeemed at the option of the Company. Notice to the Owners of the Series 2019 Bonds will be given at least 15 days prior</p>

to the effective date (30 days if the effective date is not the day after the originally scheduled last day of the Long-Term Interest Rate Period).

Mandatory Tender for Purchase..... The Series 2019 Bonds are subject to mandatory tender for purchase on the first day of each Interest Rate Period.

**Length of Interest Rate Periods**

Each Commercial Paper Interest Rate Period, Daily Interest Rate Period and Weekly Interest Rate Period will continue until the date on which the Company determines that a different Interest Rate Period will begin. Each Long-Term Interest Rate Period shall be for a term selected by the Company, which shall be one year or more. The Company may also specify a succession of Long-Term Interest Rate Periods. Each Commercial Paper Term within a Commercial Paper Interest Rate Period will be for a term of 270 days or less.

## **CERTAIN DEFINITIONS**

As used in this Official Statement:

“Business Day” means any day other than (i) a Saturday or Sunday and (ii) a day on which banks located in the cities in which the Principal Offices of the Trustee, the Remarketing Agent or the Tender Agent are located, are required or authorized to remain closed and on which the New York Stock Exchange is closed.

“Commercial Paper Interest Rate Period” means each period, comprised of Commercial Paper Terms, during which Commercial Paper Term Rates are in effect.

“Commercial Paper Term” means, with respect to any Series 2019 Bond, each period established in accordance with the Indenture during which such Series 2019 Bond shall bear interest at a Commercial Paper Term Rate.

“Commercial Paper Term Rate” means, with respect to each Series 2019 Bond, a fixed, non variable interest rate on such Bond established periodically in accordance with the Indenture.

“Daily Interest Rate” means a variable interest rate on the Series 2019 Bonds established in accordance with the Indenture.

“Daily Interest Rate Period” means each period during which a Daily Interest Rate is in effect.

“Favorable Opinion” means an opinion of counsel nationally recognized on the subject of, and qualified to render approving legal opinions on the issuance of, municipal bonds, acceptable to the Company, the Trustee and the Issuer, to the effect that the action proposed to be taken is authorized or permitted by the laws of the State of Georgia and the Indenture and will not adversely affect any exclusion from gross income for federal income tax purposes of interest on the Series 2019 Bonds.

“Interest Accrual Date” means (i) with respect to any Daily Interest Rate Period, the first day thereof and, thereafter, the first day of each calendar month during that Daily Interest Rate Period, (ii) with respect to any Weekly Interest Rate Period, the first day thereof and, thereafter, the first Wednesday of each month during that Weekly Interest Rate Period, (iii) with respect to any Long Term Interest Rate Period, the first day thereof and, thereafter, each Interest Payment Date in respect thereof and (iv) with respect to each Commercial Paper Term, the first day thereof.

“Interest Payment Date” means (i) with respect to any Daily Interest Rate Period, the fifth Business Day of each calendar month, (ii) with respect to any Weekly Interest Rate Period, the first Wednesday of each calendar month, or, if such first Wednesday shall not be a Business Day, the next succeeding Business Day, (iii) with respect to any Long Term Interest Rate Period, the fifth day of the calendar month that is six months after the calendar month in which the adjustment to any Long-Term Interest Rate Period occurs and the fifth day of the calendar month every six months after each such payment date thereafter until the end of such Long-Term Interest Rate Period, (iv) with respect to any Commercial Paper Term, the day next succeeding

the last day thereof, (v) with respect to each Interest Rate Period, the day next succeeding the last day thereof and (vi) the Maturity Date.

“Interest Rate Period” means any Daily Interest Rate Period, any Weekly Interest Rate Period, any Commercial Paper Interest Rate Period or any Long-Term Interest Rate Period.

“Long-Term Interest Rate” means, with respect to each Series 2019 Bond, a fixed, non-variable interest rate on such Series 2019 Bond established in accordance with the Indenture.

“Long-Term Interest Rate Period” means each period during which a Long-Term Interest Rate is in effect.

“Owner” means the person or entity in whose name any Series 2019 Bond is registered upon the registration books for the Series 2019 Bonds.

“Principal Office” of the Trustee, Tender Agent, Remarketing Agent or Registrar, means the address of such party listed under “Addresses of Certain Parties” in this Official Statement, or such other address as is established or designated as such pursuant to the Indenture.

“Record Date” means (a) with respect to any Interest Payment Date in respect of any Daily Interest Rate Period, the last Business Day of each calendar month or, in the case of the last Interest Payment Date in respect of a Daily Interest Rate Period, the Business Day immediately preceding such Interest Payment Date, (b) with respect to any Interest Payment Date in respect of any Weekly Interest Rate Period, the Business Day next preceding each Interest Payment Date, (c) with respect to any Interest Payment Date in respect of any Commercial Paper Term, the Business Day immediately preceding such Interest Payment Date, and (d) with respect to any Interest Payment Date in respect of any Long Term Interest Rate Period, the 15th day (whether or not a Business Day) immediately preceding such Interest Payment Date or, in the event that an Interest Payment Date shall occur less than 15 days after the first day of a Long Term Interest Rate Period, such first day.

“Trust Estate” means the property and rights assigned by the Issuer to the Trustee in the granting clauses of the Indenture.

“Weekly Interest Rate” means a variable interest rate on the Series 2019 Bonds established in accordance with the Indenture.

“Weekly Interest Rate Period” means each period during which a Weekly Interest Rate is in effect.

**\$45,000,000**  
**Development Authority of Monroe County (Georgia) Revenue Bonds**  
**(Gulf Power Company Project),**  
**Series 2019**

**INTRODUCTORY STATEMENT**

This Official Statement sets forth certain information with respect to the issuance by the Development Authority of Monroe County (the “Issuer”) of \$45,000,000 aggregate principal amount of Development Authority of Monroe County Revenue Bonds (Gulf Power Company Project), Series 2019 (the “Series 2019 Bonds”). The Issuer is a public body corporate and politic duly created and existing under the laws of the State of Georgia. The Series 2019 Bonds will bear interest and will be subject to prior redemption as set forth herein, will mature on the date set forth on the cover page hereof, shall be purchased at the option of their Owners or upon mandatory tender, and shall have such other terms as are described herein under the heading “THE SERIES 2019 BONDS.”

The proceeds of the Series 2019 Bonds will be used, together with funds provided by Gulf Power Company (the “Company”), to (i) finance or refinance, in whole or in part, the Company’s share of the cost of acquisition, construction, installation and equipping of additions, extensions and improvements to certain sewage or solid waste disposal facilities (the “Project”) at Unit 3 of the Plant Robert W. Scherer coal-fired steam electric generating facilities located in Monroe County, Georgia and common facilities associated therewith (collectively, the “Plant”); and (ii) pay certain costs of issuance of the Series 2019 Bonds, all as more specifically described in the Agreement (defined below).

Pursuant to a Loan Agreement, dated as of October 1, 2019 (the “Agreement”) by and between the Issuer and the Company, the Issuer will lend the net proceeds from the sale of the Series 2019 Bonds to the Company. The Company is obligated under the Agreement to pay to the Issuer amounts sufficient to pay amounts due on the Series 2019 Bonds when the same are due and payable.

The Series 2019 Bonds will be issued under a Trust Indenture, dated as of October 1, 2019 (the “Indenture”), by and between the Issuer and U.S. Bank National Association, as trustee (the “Trustee”), and under resolutions of the Issuer.

THE SERIES 2019 BONDS DO NOT CONSTITUTE AN INDEBTEDNESS OR OBLIGATION OF THE STATE OF GEORGIA OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING MONROE COUNTY, GEORGIA. THE SERIES 2019 BONDS ARE PAYABLE BY THE ISSUER, SOLELY FROM THE TRUST ESTATE PLEDGED TO THE PAYMENT THEREOF UNDER THE INDENTURE. NO OWNER OF THE SERIES 2019 BONDS SHALL EVER HAVE THE RIGHT TO COMPEL THE EXERCISE OF THE TAXING POWER OF THE STATE OF GEORGIA OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING MONROE COUNTY, GEORGIA, TO PAY THE SERIES 2019 BONDS OR THE INTEREST HEREON OR ANY OTHER COST RELATING HERETO OR TO ENFORCE PAYMENT HEREOF AGAINST ANY PROPERTY OF THE STATE OF

GEORGIA OR ANY POLITICAL SUBDIVISION THEREOF. NO RECOURSE SHALL BE HAD FOR THE PAYMENT OF THE PRINCIPAL OF, INTEREST ON, REDEMPTION PREMIUM OR PURCHASE PRICE OF THE SERIES 2019 BONDS AGAINST ANY OFFICER, DIRECTOR, MEMBER, AGENT OR EMPLOYEE OF THE ISSUER. THE ISSUER HAS NO TAXING POWER.

This Official Statement contains a brief description of the Series 2019 Bonds and summaries of certain provisions of the Agreement and the Indenture. Information with respect to the Company, including certain financial statements, are set forth in Appendices A and A-1 to this Official Statement and has been furnished by the Company and contains information concerning the Company. Appendix B to this Official Statement contains a summary of the terms of the Series 2019 Bonds. The descriptions and summaries of documents herein do not purport to be comprehensive or definitive, and reference is made to each such document for the complete terms and conditions. All statements herein are qualified in their entirety by reference to each such document and, with respect to the enforceability of certain rights and remedies, to laws and principles of equity relating to or affecting generally the enforcement of creditors' rights. Terms not defined herein shall have the meanings set forth in the respective documents. Copies of the Agreement and the Indenture are available for inspection at the offices of the Trustee.

#### **THE ISSUER**

The Issuer has been activated by resolution of the governing body of Monroe County pursuant to the provisions of the Development Authorities Law (O.C.G.A. Section 36-62-1, *et seq.*), as amended (the "Act"). The Issuer is a public body corporate and politic of the State of Georgia with power to perform acts in its corporate capacity and in its corporate name necessary and proper to carry out the purposes enumerated in the Act, including full power to authorize and to issue and deliver the Bonds and to perform all of its obligations under the Agreement and the Indenture.

**THE SERIES 2019 BONDS, TOGETHER WITH INTEREST AND PREMIUM, IF ANY, THEREON, SHALL CONSTITUTE LIMITED SPECIAL OBLIGATIONS OF THE ISSUER AND SHALL NEVER CONSTITUTE A DEBT OR A GENERAL OBLIGATION OF THE STATE OF GEORGIA OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING MONROE COUNTY, WITHIN THE MEANING OF ANY STATE CONSTITUTIONAL PROVISION OR STATUTORY LIMITATION AND SHALL NEVER CONSTITUTE OR GIVE RISE TO A PECUNIARY LIABILITY OF THE STATE OF GEORGIA OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING MONROE COUNTY, OR A CHARGE AGAINST THE GENERAL CREDIT OR THE TAXING POWER OF ANY OF THEM. THE ISSUER HAS NO TAXING POWER.**

## THE SERIES 2019 BONDS

### General

Interest on the Series 2019 Bonds will accrue from their date of delivery, and the Series 2019 Bonds will mature on the date specified on the cover page hereof, subject to redemption prior to maturity as hereinafter described.

Series 2019 Bonds may be registered as transferred or exchanged for other Series 2019 Bonds in authorized denominations at the Principal Office of U.S. Bank National Association in Atlanta, Georgia. During a Daily Interest Rate Period or a Weekly Interest Rate Period, the authorized denominations will be \$100,000 and any integral multiple of \$5,000 in excess thereof. During a Commercial Paper Interest Rate Period, the authorized denominations will be \$100,000 and any integral multiple of \$1,000 in excess of \$100,000. During a Long-Term Interest Rate Period, the authorized denominations will be \$5,000 and any integral multiple of \$5,000. Registrations of exchange and transfers shall be made without charge to the Owners, except for any applicable tax, fee or governmental charge required. Except in connection with the remarketing of Series 2019 Bonds, the Registrar shall not be obligated to make any such registration of exchange or transfer of Series 2019 Bonds, in the case of any proposed redemption of Bonds, during the 15 days immediately preceding the selection of Series 2019 Bonds for such redemption or after any such Series 2019 Bond or any portion thereof has been called for redemption.

Trustee. U.S. Bank National Association is the Trustee. As long as no event of default under the Indenture shall have occurred and be continuing, the Trustee may be removed or replaced by the Issuer at the direction of the Company.

Tender Agent, Paying Agent and Registrar. U.S. Bank National Association is the Tender Agent/Paying Agent/Registrar. The Tender Agent/Paying Agent/Registrar may be removed or replaced by the Company.

Remarketing Agent. Morgan Stanley & Co. LLC (“Morgan Stanley”) has been appointed initial Remarketing Agent with respect to the Series 2019 Bonds under the Indenture. The term of appointment of any Remarketing Agent shall expire, and the Company shall appoint a successor Remarketing Agent, upon the adjustment of the interest rate determination method for the Series 2019 Bonds; provided, however, that the Company may appoint the then current Remarketing Agent as the successor Remarketing Agent. In addition, the Company may from time to time remove and replace the Remarketing Agent.

### Book-Entry System

The Depository Trust Company (“DTC”), New York, New York, will act as securities depository for the Series 2019 Bonds. The Series 2019 Bonds will be issued as fully-registered securities registered in the name of Cede & Co. (DTC’s partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered certificate will be issued for the Series 2019 Bonds, in the aggregate principal amount of such Bonds, and will be deposited with the Trustee as custodian for DTC.

DTC is a limited-purpose trust company organized under the New York Banking Law, a “banking organization” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code, and a “clearing agency” registered pursuant to the provisions of Section 17A of the Exchange Act. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC’s participants (“Direct Participants”) deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants’ accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation (“DTCC”). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (“Indirect Participants”). DTC has a Standard & Poor’s rating of AA+. The DTC Rules applicable to its Participants are on file with the SEC. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com). The information contained on this Internet site is not incorporated herein by reference.

Purchases of the Series 2019 Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Series 2019 Bonds on DTC’s records. The ownership interest of each actual purchaser of each Bond (“Beneficial Owner”) is in turn to be recorded on the Direct and Indirect Participants’ records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Series 2019 Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Series 2019 Bonds, except in the event that use of the book-entry system for the Series 2019 Bonds is discontinued.

To facilitate subsequent transfers, all Series 2019 Bonds deposited by Direct Participants with DTC are registered in the name of DTC’s partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of Series 2019 Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not affect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Series 2019 Bonds; DTC’s records reflect only the identity of the Direct Participants to whose accounts such Series 2019 Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Series 2019 Bonds may wish to take certain steps to augment transmission to them of notices of significant events with respect to the Series 2019 Bonds, such as redemptions, tenders, defaults, and proposed amendments to the Series 2019 Bond documents. For example, Beneficial Owners of Series 2019 Bonds may wish to ascertain that the nominee holding the Series 2019 Bonds for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the Trustee and request that copies of notices be provided directly to them. The Issuer, the Company, the Remarketing Agent, the Underwriter and the Trustee will not have any responsibility or obligation to such Direct and Indirect Participants or the persons for whom they act as nominees with respect to the Series 2019 Bonds.

Redemption notices will be sent to DTC. If less than all of the Series 2019 Bonds within an issue are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to Series 2019 Bonds unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the Issuer as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts the Series 2019 Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Principal and interest payments on the Series 2019 Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from the Issuer or the Trustee, on payable dates in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, the Trustee, or the Issuer, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of principal and interest to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the Issuer or the Trustee, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

A Beneficial Owner will give notice to elect to have its Series 2019 Bonds purchased or tendered, through its Participant, to the Tender Agent, and will effect delivery of such Series 2019 Bonds by causing the Direct Participant to transfer the Participant's interest in the Series 2019 Bonds, on DTC's records, to the Tender Agent. The requirement for physical delivery of Series 2019 Bonds in connection with an optional tender or a mandatory purchase will be deemed satisfied when the ownership rights in the Series 2019 Bonds are transferred by Direct

Participants on DTC's records and followed by a book-entry credit of tendered Series 2019 Bonds to the Tender Agent's DTC account.

DTC may discontinue providing its services as securities depository with respect to the Series 2019 Bonds at any time by giving reasonable notice to the Issuer or the Trustee. In addition, the Company may decide to discontinue use of the system of book-entry transfers through DTC (or a successor securities depository). Under such circumstances, in the event that a successor securities depository is not obtained, Bond certificates are required to be printed and delivered.

The Issuer, the Trustee, the Company, the Remarketing Agent and the Underwriter shall not have any responsibility or obligation to any Direct or Indirect Participant, any Beneficial Owner or any other person claiming a beneficial ownership interest in the Series 2019 Bonds under or through DTC or any DTC Participant, or any other person which is not shown on the registration books of the Trustee as being a holder, with respect to the accuracy of any records maintained by DTC or any Direct or Indirect Participant; the payment by DTC or any Direct or Indirect Participant of any amount in respect of the principal of, purchase price, premium, if any, or interest on the Series 2019 Bonds; any notice which is permitted or required to be given to owners under the Indenture; the selection by DTC or any Direct or Indirect Participant of any person to receive payment in the event of a partial redemption of the Series 2019 Bonds; any consent given or other action taken by DTC as an owner; or any other procedures or obligations of DTC under the book-entry system.

So long as Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the registered owner of the Series 2019 Bonds, as nominee of DTC, references herein to the holders or owners or registered holders or registered owners of the Series 2019 Bonds means Cede & Co., as aforesaid, and does not mean the beneficial owners of the Series 2019 Bonds.

The foregoing description of the procedures and record keeping with respect to beneficial ownership interests in the Series 2019 Bonds, payment of principal, interest and other payments on the Series 2019 Bonds to Direct and Indirect Participants or Beneficial Owners, confirmation and transfer of beneficial ownership interest in such Series 2019 Bonds and other related transactions by and between DTC, the Direct and Indirect Participants and the Beneficial Owners is based solely on information provided by DTC. Accordingly, no representations can be made concerning these matters, and neither the Direct nor Indirect Participants nor the Beneficial Owners should rely on the foregoing information with respect to such matters, but should instead confirm the same with DTC.

None of the Issuer, the Company, the Underwriter or the Trustee will have any responsibility or liability for any aspect of the records relating to or payments made on account of beneficial interests in any Series 2019 Bond or for maintaining, supervising or reviewing any records relating to such beneficial interests.

## **Security for the Series 2019 Bonds**

The Series 2019 Bonds are payable from the Trust Estate pledged to the payment of the Series 2019 Bonds under the Indenture, which includes payments required to be made by the Company pursuant to the Agreement. All rights of the Issuer under the Agreement have been pledged and assigned by the Issuer to the Trustee, except certain rights to indemnification and reimbursement of expenses.

Any Series 2019 Bonds that bear interest at a Long-Term Interest Rate may, at the Company's discretion, also be secured by additional collateral or other credit enhancement as provided in the Agreement and the Indenture.

THE SERIES 2019 BONDS ARE SPECIAL LIMITED OBLIGATIONS OF THE ISSUER AND ARE PAYABLE FROM AND SECURED SOLELY BY THE TRUST ESTATE PLEDGED UNDER THE INDENTURE, WHICH INCLUDES A PLEDGE OF THE REVENUES DERIVED BY THE ISSUER UNDER THE AGREEMENT AND BY OTHER FUNDS PLEDGED UNDER THE INDENTURE. NEITHER THE STATE OF GEORGIA NOR ANY POLITICAL SUBDIVISION THEREOF WILL, IN ANY EVENT, BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL, REDEMPTION PREMIUM, IF ANY, PURCHASE PRICE, OR INTEREST ON THE SERIES 2019 BONDS, OR FOR THE PERFORMANCE OF ANY PLEDGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER THAT MAY BE UNDERTAKEN BY THE ISSUER, AND NONE OF THE SERIES 2019 BONDS OR THE ISSUER'S AGREEMENTS OR OBLIGATIONS WILL BE CONSTRUED TO CONSTITUTE A DEBT OR PLEDGE OF THE FAITH AND CREDIT OF THE STATE OF GEORGIA OR ANY POLITICAL SUBDIVISION THEREOF WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER. THE SERIES 2019 BONDS DO NOT, DIRECTLY, INDIRECTLY, OR CONTINGENTLY OBLIGATE THE STATE OF GEORGIA OR ANY POLITICAL SUBDIVISION THEREOF TO LEVY OR TO PLEDGE ANY FORM OF TAXATION WHATSOEVER THEREFOR OR TO MAKE ANY APPROPRIATION FOR THE PAYMENT THEREOF. THE ISSUER HAS NO TAXING POWER.

## **Interest Rate Periods**

The term of the Series 2019 Bonds will be divided into consecutive Interest Rate Periods at the direction of the Company. Each Interest Rate Period will be a Daily Interest Rate Period, Weekly Interest Rate Period, Commercial Paper Interest Rate Period or Long-Term Interest Rate Period.

The initial Interest Rate Period for the Series 2019 Bonds will be a Daily Interest Rate Period. The interest rate or rates applicable during each subsequent Interest Rate Period will be determined as described below.

## **Determination of Interest Rates**

General. During or with respect to each Interest Rate Period, the Remarketing Agent will determine the interest rate or rates applicable to the Series 2019 Bonds, which will be the minimum interest rate or rates which, if borne by the Series 2019 Bonds, would enable the

Remarketing Agent to sell the Series 2019 Bonds on the applicable date at a price (without regard to accrued interest) equal to the principal amount thereof. The Remarketing Agent will base that determination on its examination of tax-exempt obligations comparable to the Series 2019 Bonds known by the Remarketing Agent to have been priced or traded under then-prevailing market conditions. The Indenture sets forth certain fall-back rates if, for any reason, an interest rate or rates for the Series 2019 Bonds during any Interest Rate Period is not so determined by the Remarketing Agent. Except during a Long-Term Interest Rate Period ending on the day immediately preceding the Maturity Date, the Daily, Weekly, Commercial Paper or Long-Term Interest Rate shall not exceed 12% per annum.

Commencing on the first day of each Interest Rate Period and ending on the day preceding the effective date of the next Interest Rate Period, the Series 2019 Bonds will bear interest at a Daily Interest Rate, a Weekly Interest Rate, a Commercial Paper Term Rate or a Long-Term Interest Rate, all determined as set forth below:

Daily Interest Rate. The Daily Interest Rate will be determined by the Remarketing Agent on each Business Day for that Business Day. The Daily Interest Rate for any day that is not a Business Day will be the same as the Daily Interest Rate in effect for the preceding Business Day. If for any reason, the Daily Interest Rate cannot be determined for any Business Day by the Remarketing Agent, then (1) the Daily Interest Rate for such day shall be the same as the Daily Interest Rate for the immediately preceding day if the Daily Interest Rate for such preceding day was determined by the Remarketing Agent or (2) if no Daily Interest Rate for the immediately preceding day was determined by the Remarketing Agent or if the Daily Interest Rate determined by the Remarketing Agent shall be held to be invalid or unenforceable by a court of law, then in accordance with certain fall-back rates described in the Indenture.

Weekly Interest Rate. The Weekly Interest Rate will be determined by the Remarketing Agent no later than the Business Day preceding the first day of each Weekly Interest Rate Period and thereafter no later than the Business Day preceding Wednesday of each week during the Weekly Interest Rate Period. If, for any reason, the Weekly Interest Rate cannot be determined for any week by the Remarketing Agent, then (1) the Weekly Interest Rate for such week shall be the same as the Weekly Interest Rate for the immediately preceding week or (2) if no Weekly Interest Rate for the immediately preceding week was determined by the Remarketing Agent or if the Weekly Interest Rate determined by the Remarketing Agent shall be held to be invalid or unenforceable by a court of law, then in accordance with certain fall-back rates described in the Indenture.

Commercial Paper Terms and Commercial Paper Term Rate. During a Commercial Paper Interest Rate Period, each Series 2019 Bond will bear interest at the Commercial Paper Term Rate for that Series 2019 Bond through the day preceding the effective date of the next Commercial Paper Term for that Series 2019 Bond or the day preceding the next Interest Rate Period. Each Series 2019 Bond may have a different Commercial Paper Term and Commercial Paper Term Rate. Each Commercial Paper Term and Commercial Paper Term Rate for each Series 2019 Bond will be determined by the Remarketing Agent no later than the first day of the Commercial Paper Term.

Each Commercial Paper Term will be a period of not more than 270 days determined by the Remarketing Agent (taking into account certain factors set forth in the Indenture) to be the period which, together with all other Commercial Paper Terms for Series 2019 Bonds then outstanding, will result in the lowest overall interest expense on the Series 2019 Bonds over the next 270 days. However, the Commercial Paper Term must end on either a day which precedes a Business Day or the day preceding the Maturity Date of the Series 2019 Bonds. If for any reason a Commercial Paper Term for any Series 2019 Bond cannot be so determined by the Remarketing Agent, it will extend by one Business Day (or until the earlier stated maturity of the Series 2019 Bonds) automatically until the Remarketing Agent is able to set the rate and, if in that instance the Remarketing Agent fails for whatever reason to determine the interest rate for such Series 2019 Bond, then the interest rate for such Series 2019 Bond for that Commercial Paper Interest Rate Period shall be the interest rate in effect for the preceding Commercial Paper Interest Rate Period.

Long-Term Interest Rate. During each Long-Term Interest Rate Period, commencing and ending on the date or dates specified or determined as described below, and during each successive Long-Term Interest Rate Period, if any, so determined, the Long-Term Interest Rate will be determined by the Remarketing Agent on the effective date of the Long-Term Interest Rate Period or on a Business Day selected by the Remarketing Agent not more than 30 days prior to such effective date. In the event of an adjustment from a Commercial Paper Interest Rate Period which results in the commencement of the Long-Term Interest Rate Period on two or more dates, a separate Long-Term Interest Rate will be determined by the Remarketing Agent effective as of each such date with respect to the particular Series 2019 Bonds adjusting to the Long-Term Interest Rate Period on such date.

Payment of Principal and Interest. The principal of and premium, if any, on the Series 2019 Bonds shall be payable to the Owners of the Series 2019 Bonds upon presentation and surrender thereof at the Principal Office of the Trustee. Interest shall be payable by the Paying Agent by checks mailed to the Owners as of the Record Date in respect thereof or (except for interest in respect of a Long-Term Interest Rate Period) in immediately available funds by deposit to an account with the Paying Agent or by wire transfer to the accounts with commercial banks located within the United States of the Owners which shall have provided deposit or wire transfer instructions to the Paying Agent at least two Business Days prior to such Record Date, but, in the case of interest payable in respect of a Commercial Paper Term, only upon delivery of the Series 2019 Bond to the Tender Agent. So long as the Series 2019 Bonds are registered in the name of Cede & Co., payments of principal, premium, if any, and interest will be made as described above under “THE SERIES 2019 BONDS – Book-Entry System.”

Interest will be computed, in the case of a Long-Term Interest Rate Period, on the basis of a 360-day year consisting of twelve 30-day months and, in the case of any other Interest Rate Period, on the basis of a 365-or 366-day year, as appropriate, and the actual number of days elapsed.

Each Series 2019 Bond will bear interest from and including the Interest Accrual Date preceding the date of authentication thereof or, if that date of authentication is an Interest

Accrual Date to which interest on the Series 2019 Bonds has been paid in full or duly provided for or the date of initial authentication of the Series 2019 Bonds, from that date of authentication. During each Interest Rate Period, interest on the Series 2019 Bonds will accrue and be payable as follows:

Daily Interest Rate Period. Interest on the Series 2019 Bonds will accrue on a calendar month basis and will be payable on the fifth Business Day of each month.

Weekly Interest Rate Period. Interest on the Series 2019 Bonds will accrue on a monthly basis and will be payable on the first Wednesday of each month.

Commercial Paper Interest Rate Period. Interest on each Series 2019 Bond will accrue from the first day of each Commercial Paper Term for such Series 2019 Bond through and including the last day of the Commercial Paper Term for such Series 2019 Bond and will be payable on the day after the last day of such Commercial Paper Term.

Long-Term Interest Rate Period. Interest on the Series 2019 Bonds will accrue from the Interest Payment Date through and including the day preceding the next Interest Payment Date and will be payable semiannually on the fifth day of the calendar month that is six months after the calendar month in which the adjustment to any Long-Term Interest Rate Period occurs and the fifth day of the calendar month every six months after each such payment date thereafter until the end of such Long-Term Interest Rate Period.

#### **Adjustment of Interest Rate Period**

General. At any time, by written direction to the Trustee, the Registrar, the Tender Agent, the Remarketing Agent, the Company may elect to adjust the method of determining the interest rate with respect to the Series 2019 Bonds by adjusting to a different Interest Rate Period. That direction must specify the effective date of the new Interest Rate Period, which effective date must be a Business Day and may not be less than 15 days (unless the then current Interest Rate Period is a Long-Term Interest Rate Period and such Long-Term Interest Rate Period ends on a day prior to the day originally established as the last day thereof, in which case not less than 30 days) following the second Business Day after the receipt by the Trustee of the direction. A direction to adjust from an Interest Rate Period to another Interest Rate Period (other than one of a succession of Long-Term Interest Rate Periods of equal duration) must be accompanied by a Favorable Opinion. Commencing on the effective date of an adjustment to another Interest Rate Period, the Series 2019 Bonds will bear interest at the applicable interest rate as described above.

Adjustment to Long – Term Interest Rate Period. In connection with its election to adjust to a Long-Term Interest Rate Period, the Company must specify, among other things:

- (1) the effective date of the Long-Term Interest Rate Period; and
- (2) a date or dates on or prior to which Owners are required to deliver Series 2019 Bonds to be purchased (if other than the effective date).

The direction by the Company to adjust to a Long-Term Interest Rate Period also may specify that the initial Long-Term Interest Rate Period will be followed by one or more successive Long-Term Interest Rate Periods and the durations thereof.

If the Company designates successive Long-Term Interest Rate Periods, but does not, with respect to the second or any subsequent Long-Term Interest Rate Period, specify a date or dates on or prior to which Owners are required to deliver Series 2019 Bonds to be purchased, all as contemplated above, the Company may later specify any of such information not previously specified with respect to such Long-Term Interest Rate Period.

Adjustment From Long – Term Interest Rate Period. At any time during a Long-Term Interest Rate Period, the Company may elect that the Series 2019 Bonds no longer will bear interest at the Long-Term Interest Rate and instead will bear interest at a Daily Interest Rate, a Weekly Interest Rate, Commercial Paper Term Rates or a new Long-Term Interest Rate, as specified in such election. The effective date of an adjustment from a Long-Term Interest Rate Period must be the day after the last day of the Long-Term Interest Rate Period or a day on which the Series 2019 Bonds may be redeemed at the option of the Issuer, at the direction of the Company. The notice of such election must be given to the Owners not later than 30 days before the effective date of the new Interest Rate Period. Series 2019 Bonds will be subject to mandatory tender for purchase on such effective date at a purchase price equal to the optional redemption price which would have been applicable on that date.

If, by the Business Day preceding the fifteenth day (unless the then current Interest Rate Period shall be a Long-Term Interest Rate Period and such Long-Term Interest Rate Period shall end on a day prior to the day originally established as the last day thereof, in which case not less than 30 days) prior to the last day of any Long-Term Interest Rate Period, other than one of a succession of Long-Term Interest Rate Periods, the Company has not elected that the Series 2019 Bonds are to bear interest at a Daily Interest Rate, a Weekly Interest Rate, a Long-Term Interest Rate or Commercial Paper Term Rates, the next Interest Rate Period will be (a) if the Long-Term Interest Rate Period to expire is longer than one year in duration, a Weekly Interest Rate Period, so long as a Favorable Opinion of Bond Counsel shall be delivered or (b) if the Long-Term Interest Rate Period to expire is one year in duration, a Daily Interest Rate Period, so long as a Favorable Opinion of Bond Counsel shall be delivered.

Adjustment From Commercial Paper Interest Rate Period. At any time during a Commercial Paper Interest Rate Period, the Company may elect that Series 2019 Bonds no longer will bear interest at Commercial Paper Term Rates and will instead bear interest at a Daily Interest Rate, a Weekly Interest Rate or a Long-Term Interest Rate as specified in the election. That election also must specify whether the effective date of the new Interest Rate Period will be (1) a single day for all Series 2019 Bonds, in which case the effective date will be the day after the earliest date on which all Commercial Paper Terms shall end as determined by the Remarketing Agent, or (2) different for each Series 2019 Bond, in which case the effective date will be the day after the last day of the Commercial Paper Term then in effect (or to be in effect) with respect to such Series 2019 Bond.

Notice to Owners of Adjustment of Interest Rate Period. The Registrar will be required to give notice by first-class mail of an adjustment of the Interest Rate Period to the Owners of the

Series 2019 Bonds not less than 15 days (unless the then current Interest Rate Period is a Long-Term Interest Rate Period and such Long-Term Interest Rate Period ends on a day prior to the day originally established as the last day thereof, in which case not less than 30 days) prior to the effective date of the adjustment of the Interest Rate Period. That notice must state the following:

- (1) the effective date of the new Interest Rate Period; and
- (2) that the Series 2019 Bonds are subject to mandatory tender for purchase on the effective date, setting forth the applicable purchase price and the procedures of such purchase.

### **Determinations Binding**

The determination of the various interest rates and the bases therefor and the Commercial Paper Terms shall be conclusive and binding upon the Remarketing Agent, the Trustee, the Tender Agent, the Issuer, the Company and the Owners of the Series 2019 Bonds.

### **Purchase of Series 2019 Bonds**

The Series 2019 Bonds during any Daily or Weekly Interest Rate Period will be purchased on the demand of the Owners thereof, and will be subject to mandatory tender for purchase, at the times and subject to the conditions described below. Payment for Series 2019 Bonds purchased will be made by the close of business on the date specified for purchase, if the conditions for that purchase described below have been strictly complied with by the Owners thereof.

During any Daily or Weekly Interest Rate Period when the Series 2019 Bonds are registered in the name of Cede & Co., tenders of the Series 2019 Bonds will be effected by means of DTC's Delivery Order Procedures. See "THE SERIES 2019 BONDS — Book-Entry System." Notice of any such tender must be given to the Tender Agent in the form set forth in Appendix D to this Official Statement. If a beneficial owner of a Series 2019 Bond fails to cause its beneficial ownership of such Series 2019 Bond to be transferred to the DTC account of the Tender Agent by the deadlines specified below, such Series 2019 Bond shall not be purchased and the beneficial owner may be subject to damages as specified in such notice.

If the book entry system is discontinued, tendered Series 2019 Bonds must be accompanied by an instrument of transfer satisfactory to the Tender Agent, executed in blank by the Owner thereof or his duly authorized attorney, with such signature guaranteed by an "eligible guarantor institution" as defined by Rule 17Ad-15 promulgated under the Exchange Act. The Tender Agent may refuse to accept delivery of any Series 2019 Bond for which a proper instrument of transfer has not been provided. Notice of tender for purchase of Series 2019 Bonds by the Owners thereof will be irrevocable, once given to the Tender Agent as described below. In the event that any Owner of a Series 2019 Bond giving notice of tender for purchase fails to deliver its Series 2019 Bond to the Tender Agent at the place and on the applicable date and the time specified below, or fails to deliver the Series 2019 Bond properly endorsed and provided that funds in the amount of the purchase price thereof are available for payment to such Owner at the date and the time specified below, from and after the date and time of that required delivery, (i) such Series 2019 Bond shall no longer be deemed to be outstanding under the

Indenture, (ii) interest will no longer accrue thereon to such former Owner and (iii) funds in the amount of the purchase price of Series 2019 Bond, without interest, will be held by the Tender Agent for the benefit of such former Owner, to be paid on delivery (or proper endorsement) thereof to the Tender Agent

During Daily Interest Rate Period. During any Daily Interest Rate Period, any Series 2019 Bond or portion thereof in an authorized denomination will be purchased at the option of its Owner on any Business Day at a purchase price equal to the principal amount thereof, plus accrued interest from the Interest Accrual Date immediately preceding the date of purchase through the day immediately preceding the date of purchase, or, if the date of purchase is an Interest Accrual Date, at a purchase price equal to the principal amount thereof, payable in immediately available funds, upon delivery to the Tender Agent at its Principal Office, not later than 11:00 a.m., New York City time, on that Business Day, of an irrevocable written notice, or an irrevocable telephonic notice, promptly confirmed by telecopy or other writing, which states the principal amount of the Series 2019 Bond or such portion thereof and the date of purchase. For payment of such purchase price on the date specified in such notice, the Series 2019 Bond must be delivered, not later than 12:00 Noon, New York City time, on such Business Day (together with necessary endorsements) to the Tender Agent at its Principal Office.

During Weekly Interest Rate Period. During any Weekly Interest Rate Period, any Series 2019 Bond or portion thereof in an authorized denomination will be purchased at the option of its Owner on any Business Day at a purchase price equal to the principal amount thereof plus accrued interest, if any, from the Interest Accrual Date immediately preceding the date of purchase through the day immediately preceding the date of purchase, or, if the date of purchase is an Interest Accrual Date, at a purchase price equal to the principal amount thereof, payable in immediately available funds, upon the delivery to the Tender Agent at its Principal Office of an irrevocable written notice, or an irrevocable telephonic notice, promptly confirmed by telecopy or other writing, which states the principal amount of the Series 2019 Bond or such portion thereof and the date on which the Series 2019 Bond is to be purchased, which date must be a Business Day not prior to the seventh day after the date of the delivery of the notice to the Tender Agent. For payment of such purchase price on the date specified in such notice, the Series 2019 Bond must be delivered, not later than 12:00 Noon, New York City time, on the date specified in the notice (together with necessary endorsements) to the Tender Agent at its Principal Office.

During Commercial Paper Interest Rate Period – Mandatory Tender for Purchase on Day After the Last Day of Each Commercial Paper Term. On the Business Day after the last day of the Commercial Paper Term for a Series 2019 Bond, unless such day is the first day of a new Interest Rate Period (in which event such Series 2019 Bond will be subject to mandatory tender for purchase as described under “Mandatory Tender for Purchase on First Day of Each Interest Rate Period”), such Series 2019 Bond will be purchased, at a purchase price equal to the principal amount thereof, payable in immediately available funds. For payment of such purchase price on such day, such Series 2019 Bond must be delivered (together with necessary endorsements) at or prior to 12:30 P.M., New York City time on such day, to the Tender Agent at its Principal Office. During any Commercial Paper Term, with respect to a Series 2019 Bond, the Owner of that Series 2019 Bond will not have the right to demand the purchase thereof.

**Mandatory Tender for Purchase on First Day of Each Interest Rate Period.** The Series 2019 Bonds will be subject to mandatory tender for purchase, at a purchase price equal to 100% of the principal amount thereof (or, if applicable, upon adjustment from a Long-Term Interest Rate Period prior to the expiration of such Long-Term Interest Rate Period, at a purchase price equal to the applicable optional redemption price), payable in immediately available funds, on the first day of the succeeding Interest Rate Period.

### **Purchase and Remarketing of Series 2019 Bonds**

On the date on which Series 2019 Bonds are required to be purchased, the Tender Agent shall purchase such Series 2019 Bonds with funds provided from the remarketing of such Series 2019 Bonds or by the Company pursuant to the Agreement. The Issuer has no obligation to provide any moneys whatsoever for the payment of the purchase price for the Series 2019 Bonds.

On the day of purchase of Series 2019 Bonds by the Tender Agent, the Remarketing Agent shall use its best efforts to sell such Series 2019 Bonds in accordance with the Indenture.

### **Redemption**

**Optional Redemption During Daily or Weekly Interest Rate Period.** On any Business Day during a Daily Interest Rate Period or a Weekly Interest Rate Period, the Series 2019 Bonds shall be subject to optional redemption by the Issuer, at the direction of the Company, in whole or in part, at a redemption price equal to 100% of the principal amount thereof, plus accrued interest, if any, to the redemption date.

**Optional Redemption During Commercial Paper Interest Rate Period.** During any Commercial Paper Interest Rate Period, each Series 2019 Bond will be subject to optional redemption by the Issuer, at the direction of the Company, on the day after the last day of each Commercial Paper Term for that Series 2019 Bond, in whole or in part, at a redemption price equal to the principal amount thereof.

**Optional Redemption During Long-Term Interest Rate Period.** During any Long-Term Interest Rate Period, the Series 2019 Bonds are subject to optional redemption by the Issuer, at the direction of the Company (i) on the final Interest Payment Date for such Long-Term Interest Rate Period, at a redemption price equal to 100% of the principal amount thereof plus interest accrued, if any, to the redemption date, and (ii) prior to the end of the then current Long-Term Interest Rate Period, at any time during the redemption periods and at the redemption prices set forth below, plus interest accrued, if any, to the redemption date:

<u>Original Length of Current Long-Term Rate Period (Years)</u>	<u>Commencement of Redemption Period</u>	<u>Redemption Price as Percentage of Principal</u>
More than 10 years	Tenth anniversary of commencement of Long-Term Interest Rate Period	100%
Equal to or less than 10 years	Non-callable	Non-callable

If the Company has given notice of a change in the Long-Term Interest Rate Period or notice of an adjustment of the Interest Rate Period for the Series 2019 Bonds to the Long-Term Interest Rate Period and, at least one day prior to such change in the Long-Term Interest Rate Period or such adjustment the Company has provided (i) a certification of the Remarketing Agent to the Trustee that the foregoing schedule is not consistent with prevailing market conditions, (ii) evidence of approval by the Issuer of the revised redemption provisions described below, and (iii) a Favorable Opinion of Bond Counsel addressed to the Trustee that a change in the redemption provisions of the Series 2019 Bonds will not adversely affect the exclusion from gross income of interest on the Series 2019 Bonds for federal income tax purposes, the foregoing redemption periods and redemption prices may be revised, effective as of the date of such adjustment in the Long-Term Interest Rate Period or an adjustment to the Long-Term Interest Rate Period, as determined by the Remarketing Agent in its judgment, taking into account the then prevailing market conditions as set forth in such certification.

### **Extraordinary Optional Redemption**

During any Long-Term Interest Rate Period, the Series 2019 Bonds will be subject to redemption in whole, upon the optional prepayment by the Company of all the Loan Repayments (as defined below), at a redemption price of 100% of the principal amount thereof plus accrued interest to the date fixed for redemption, if:

- (a) the Company shall have determined that the continued operation of any portion of the Project, or the Plant of which the Project is a part, is impracticable, uneconomical or undesirable; or
- (b) all or substantially all of or any portion of the Project, or the Plant of which the Project is a part, shall have been condemned or taken by eminent domain; or
- (c) the operation by the Company of any portion of the Project, or the Plant of which the Project is a part, shall have been enjoined for a period of at least six consecutive months; or
- (d) as a result of any change in the Constitution of the State of Georgia or the Constitution of the United States of America, or as a result of any legislative or administrative action (whether state or federal) or by final decree, judgment or

order of any court or administrative body (whether state or federal) after any contest thereof by the Company in good faith, the Indenture, the Agreement or the Series 2019 Bonds shall become void or unenforceable or impossible of performance in accordance with the intent and purposes of the parties as expressed in the Agreement.

In addition, during any period during a Long-Term Interest Rate Period during which the Series 2019 Bonds are not subject to optional redemption by the Issuer at the direction of the Company as described under “REDEMPTION – Optional Redemption During Long-Term Interest Rate Period” above, the Series 2019 Bonds will be nonetheless subject to optional redemption by the Issuer, at the direction of the Company, in whole or in part, at any time, if the Company delivers to the Trustee a written certificate (i) to the effect that by reason of a change in use of the Project or any portion thereof, the Company has been unable, after reasonable effort, to obtain an opinion of nationally recognized bond counsel to the effect that a court, in a properly presented case, should decide that (a) Section 150 of the Internal Revenue Code of 1986, as amended (the “Code”) (or successor provision of similar import), does not prevent that portion of the Loan Repayments payable under the Agreement and attributable to interest on the Series 2019 Bonds from being deductible by the Company for federal income tax purposes and (b) Treasury Regulations Section 1.142-2 (or a successor provision of similar import) does not prevent interest on the Series 2019 Bonds from being excluded for federal income tax purposes from the gross income of the owners thereof (other than in the hands of an owner of a Series 2019 Bond who is a “substantial user” of the Project or a “related person” within the meaning of Section 147(a) of the Code), (ii) specifying that as a result of its inability to obtain such opinion of nationally recognized bond counsel, the Company has elected to prepay amounts due under the Agreement equal to the redemption price of the Series 2019 Bonds to be so redeemed and (iii) specifying the principal amount of the Series 2019 Bonds which the Company has determined to be the minimum necessary to be so redeemed in order for the Company to retain its rights to such interest deductions and for interest on the Series 2019 Bonds to retain such exclusion from gross income for federal income tax purposes (which principal amount of the Series 2019 Bonds will be so redeemed). The redemption price for the Series 2019 Bonds shall be equal to the outstanding principal amount thereof, plus accrued interest, if any, to the redemption date.

### **Extraordinary Mandatory Redemption**

The Series 2019 Bonds are subject to mandatory redemption by the Issuer, at the principal amount thereof plus accrued interest to the redemption date, on the 180th day (or such earlier date as may be designated by the Company) after a final determination by a court of competent jurisdiction or an administrative agency, or receipt by the Issuer and the Company of an opinion of a nationally recognized bond counsel obtained by the Company and rendered at the request of the Company, to the effect that (a) as a result of a failure by the Company to perform or observe any covenant or agreement in the Agreement, or the inaccuracy of any representation, the interest on the Series 2019 Bonds is included for federal income tax purposes in the gross income of the Bondholders thereof, or would be so included absent such redemption, or (b) such redemption is required under the terms of a closing agreement or other similar agreement with the Internal Revenue Service settling an issue raised in connection with an examination of the Series 2019 Bonds or in connection with a submission to the Internal Revenue Service Voluntary

Closing Agreement Program or similar program. No determination by any court or administrative agency will be considered final for such purpose unless the Company has had an opportunity to participate in the proceeding which resulted in such determination, either directly or through an owner of a Series 2019 Bond, to a degree it deems sufficient and until the conclusion of any court proceeding initiated after a final agency determination, and of any appellate review sought by any party to such agency or court proceeding or the expiration of the time for seeking such review. The Series 2019 Bonds will be redeemed either in whole or in part in such principal amount that the interest payable on the Series 2019 Bonds remaining outstanding after such redemption would not be included in the gross income of any owner thereof, other than an owner of a Series 2019 Bond who is a “substantial user” of the Project or a “related person” within the meaning of Section 147(a) of the Code.

### **Selection of Series 2019 Bonds to be Redeemed**

In the case of the redemption of less than all of the outstanding Series 2019 Bonds, the Series 2019 Bonds to be redeemed shall be selected by the Trustee, by lot or in such other manner as the Trustee in its discretion may determine to be fair and appropriate, in the principal amounts designated by the Company or otherwise as required by the Indenture; provided, however, that in connection with any redemption of Series 2019 Bonds, the Trustee shall first select for redemption any Series 2019 Bond held by the Tender Agent for the account of the Company, and that if the Company shall have offered to purchase all Series 2019 Bonds then outstanding and less than all of such Series 2019 Bonds have been tendered to the Company for such purchase, the Trustee, at the direction of the Company, shall select for redemption all such Series 2019 Bonds which have not been so tendered; and provided further that the portion of any Series 2019 Bond to be redeemed shall be in a principal amount constituting an authorized denomination of such Series 2019 Bond and that, in selecting Series 2019 Bonds for redemption, the Trustee shall treat each Series 2019 Bond as representing that number of Series 2019 Bonds which is obtained by dividing the principal amount of such Series 2019 Bond by the minimum authorized denomination of such Series 2019 Bond. See “THE SERIES 2019 BONDS – Book-Entry System.”

### **Notice and Effect of Redemption**

A notice of redemption will be mailed, at least 30 days before the redemption date of any Series 2019 Bonds, to all owners of Series 2019 Bonds to be redeemed in whole or in part, but failure to mail any such notice to the owner of a Series 2019 Bond shall not affect the validity of the proceedings for the redemption of any other Series 2019 Bonds.

Any notice of redemption, except a notice of extraordinary mandatory redemption, shall, unless at the time such notice is given the Series 2019 Bonds to be redeemed are deemed to have been paid in accordance with the terms of the Indenture (see “THE INDENTURE – Defeasance”), state any conditions to the redemption. Such notice shall be of no effect unless the conditions, if any, set forth in the notice have been satisfied. In the event that such notice contains conditions and the conditions have not been satisfied on or prior to the redemption date, the redemption shall not be made, and the Trustee shall within a reasonable time thereafter give notice, in the manner in which the notice of redemption was given, that such conditions have not been satisfied.

If a notice of redemption shall be unconditional, or if the conditions of a conditional notice of redemption shall have been satisfied, the Series 2019 Bonds so called for redemption shall become and be due and payable on the date fixed for redemption, and upon the presentation and surrender of such Series 2019 Bonds at the place or places specified such Series 2019 Bonds shall be redeemed.

Any Series 2019 Bonds selected for redemption which are deemed to have been paid under the terms of the Indenture will cease to bear interest on the date fixed for redemption.

## **SPECIAL CONSIDERATIONS RELATING TO THE SERIES 2019 BONDS**

### **The Remarketing Agent is Paid by the Company**

The Remarketing Agent's responsibilities include determining the interest rate from time to time and remarketing the Series 2019 Bonds that are optionally or mandatorily tendered by the owners thereof (subject, in each case, to the terms of the Indenture and the Remarketing Agreement), all as further described in this Official Statement. The Remarketing Agent is appointed by the Company and is paid by the Company for its services. As a result, the interests of the Remarketing Agent may differ from those of existing holders and potential purchasers of the Series 2019 Bonds.

### **The Remarketing Agent Routinely Purchases Bonds for its Own Account**

The Remarketing Agent acts as remarketing agent for a variety of variable rate demand obligations and, in its sole discretion, routinely purchases such obligations for its own account. The Remarketing Agent is permitted, but not obligated, to purchase tendered Series 2019 Bonds for its own account and, in its sole discretion, may routinely acquire such tendered Series 2019 Bonds in order to achieve a successful remarketing of the Series 2019 Bonds (i.e., because there otherwise are not enough buyers to purchase the Series 2019 Bonds) or for other reasons. However, the Remarketing Agent is not obligated to purchase Bonds, and may cease doing so at any time without notice. The Remarketing Agent also may make a market in the Series 2019 Bonds by routinely purchasing and selling Series 2019 Bonds other than in connection with an optional or mandatory tender and remarketing. Such purchases and sales may be at or below par. However, the Remarketing Agent is not required to make a market in the Series 2019 Bonds. The Remarketing Agent also may sell any Series 2019 Bonds it has purchased to one or more affiliated investment vehicles for collective ownership or enter into derivative arrangements with affiliates or others in order to reduce its exposure to the Series 2019 Bonds. The purchase of Series 2019 Bonds by the Remarketing Agent may create the appearance that there is greater third party demand for the Series 2019 Bonds in the market than is actually the case. The practices described above also may result in fewer Series 2019 Bonds being tendered in a remarketing.

### **Series 2019 Bonds May be Offered at Different Prices on Any Date Including an Interest Rate Determination Date**

Pursuant to the Indenture and the Remarketing Agreement, the Remarketing Agent is required to determine the applicable rate of interest that, in its judgment, is the lowest rate that would permit the sale of the Series 2019 Bonds bearing interest at the applicable interest rate at

par plus accrued interest, if any, on and as of the applicable interest rate determination date. The interest rate will reflect, among other factors, the level of market demand for the Series 2019 Bonds (including whether the Remarketing Agent is willing to purchase Series 2019 Bonds for its own account). There may or may not be Series 2019 Bonds tendered and remarketed on an interest rate determination date, the Remarketing Agent may or may not be able to remarket any Series 2019 Bonds tendered for purchase on such date at par and the Remarketing Agent may sell Series 2019 Bonds at varying prices to different investors on such date or any other date. The Remarketing Agent is not obligated to advise purchasers in a remarketing if it does not have third party buyers for all of the Series 2019 Bonds at the remarketing price. In the event the Remarketing Agent owns any Series 2019 Bonds for its own account, it may, in its sole discretion in a secondary market transaction outside the tender process, offer such Series 2019 Bonds on any date, including the interest rate determination date, at a discount to par to some investors.

#### The Ability to Sell the Series 2019 Bonds Other Than Through the Tender Process May Be Limited

The Remarketing Agent may buy and sell Series 2019 Bonds other than through the tender process. However, it is not obligated to do so and may cease doing so at any time without notice and may require holders that wish to tender their Series 2019 Bonds to do so through the Tender Agent with appropriate notice. Thus, investors who purchase the Series 2019 Bonds, whether in a remarketing or otherwise, should not assume that they will be able to sell their Series 2019 Bonds other than by tendering the Series 2019 Bonds in accordance with the tender process.

#### Under Certain Circumstances, the Remarketing Agent May Be Removed, Resign or Cease Remarketing the Series 2019 Bonds, Without a Successor Being Named

Under certain circumstances, the Remarketing Agent may be removed or have the ability to resign or cease its remarketing efforts, without a successor having been named, subject to the terms of the Indenture and the Remarketing Agreement.

## **THE AGREEMENT**

### **Loan Repayments**

The Company has agreed to pay to the Trustee for the account of the Issuer an amount equal to the principal amount of the Series 2019 Bonds and an amount equal to the aggregate of the premium, if any, and interest on the Series 2019 Bonds (the “Loan Repayments”) at such times and in such amounts and in the manner provided in the Indenture for the Issuer to cause payments to be made to the Owners of the Series 2019 Bonds of the principal of and premium, if any, and interest on the Series 2019 Bonds.

### **Agreement to Acquire and Construct the Project**

The Company is obligated in the Agreement to use commercially reasonable efforts to cause the acquisition, construction and installation of the Project to be performed with reasonable dispatch in accordance with the plans and specifications therefor, delays by reason of “force

majeure” beyond the reasonable control of the Company excepted, but if for any reason such acquisition, construction and installation is not completed there shall be no diminution in the Loan Repayments and other amounts required to be paid by the Company under the Agreement.

### **The Company Obligations Unconditional**

Until such time as the principal of and premium, if any, and interest on the Series 2019 Bonds shall have been fully paid or deemed paid in accordance with the Indenture, the Company’s obligations under the Agreement are absolute and unconditional and the Company has agreed that it (a) will not suspend or discontinue payment of any amounts required to be paid by it under the Agreement, (b) will perform and observe all of its other agreements contained in the Agreement, and (c) except as permitted by the Agreement, will not terminate the Agreement for any cause.

### **Payments for Series 2019 Bonds Delivered for Purchase**

The Company will agree to deposit, on or prior to the purchase date of the Series 2019 Bonds to be purchased from the Owners thereof as described under the heading “THE SERIES 2019 BONDS – Purchase of Series 2019 Bonds,” an amount of money which, together with other moneys available for such purpose, will be sufficient to effect the purchase of such Series 2019 Bonds.

### **Merger, Sale or Consolidation**

The Company has agreed that, so long as any Series 2019 Bonds are outstanding, it will maintain its legal existence, will not dissolve or otherwise dispose of all or substantially all of its assets and will not consolidate with or merge into one or more other entities or permit one or more other entities to consolidate with or merge into it; provided, that the Company may consolidate with or merge into one or more other entities, or permit one or more other entities to consolidate with or merge into it, or sell or otherwise transfer to one or more other entities all or substantially all of its assets as an entirety and thereafter dissolve, provided the surviving, resulting or transferee entity or entities, as the case may be (if other than the Company), assumes or assume in writing all of the obligations of the Company in the Agreement, and, if not organized under the laws of the State of Georgia, is qualified to do business in the State of Georgia.

### **Events of Default**

The occurrence of any one or more of the following is an event of default under the Agreement: (a) failure by the Company to pay or cause to be paid when due the Loan Repayments in the amounts and at the times specified in the Agreement or the amounts necessary to enable the Tender Agent to pay the Purchase Price of Series 2019 Bonds delivered to it for purchase, which failure shall have resulted in an event of default described in clause (a), (b) or (c) under “THE INDENTURE – Events of Default;” (b) failure by the Company to observe or to perform any other covenant, condition, representation or agreement in the Agreement on its part to be observed or performed for a period of 90 days after written notice thereof to the Company by the Issuer or the Trustee, which may, and upon the written request of the Owners of not less than a majority in aggregate principal amount of the Series 2019 Bonds

then outstanding shall, give such notice, unless such period is extended by the Issuer and the Trustee or the Issuer, the Trustee and the Owners of Series 2019 Bonds, as provided in the Agreement (provided, however, that the Issuer and the Trustee or the Issuer, the Trustee and the Owners of the Series 2019 Bonds, as provided in the Agreement, as the case may be, will be deemed to have agreed to an extension of such period if corrective action is initiated by the Company within such period and is being diligently pursued), or unless such obligations are suspended by reason of force majeure, as defined in the Agreement; (c) 90 days after certain events of bankruptcy, liquidation or reorganization or (d) certain events of bankruptcy, dissolution, liquidation or reorganization by the Company.

## **Remedies**

### **Acceleration and Limitations Thereon**

Upon the occurrence and continuance of an event of default described in clause (a), (c) or (d) in “Events of Default,” and further upon the condition that all Series 2019 Bonds outstanding under the Indenture shall have become immediately due and payable, the Loan Repayments shall, without further action, become immediately due and payable.

Any waiver of an event of default under the Indenture and a rescission and annulment of its consequences shall constitute a waiver of the corresponding event of default under the Agreement and a rescission and annulment of the consequences thereof.

### **Other Remedies**

Upon the occurrence and continuance of any event of default, the Trustee as the Issuer’s assignee may take whatever action at law or in equity may appear necessary or desirable to collect the Loan Repayments then due and thereafter to become due or to enforce performance and observance of any obligation, agreement or covenant of the Company under the Agreement.

## **Amendment**

As provided in the Indenture, the Issuer and the Company may enter into, and the Trustee may consent to, without the consent of the Owners of the Series 2019 Bonds, such agreements supplemental to the Agreement as shall not be inconsistent with the terms and provisions of the Agreement, and shall not be, in the opinion of Bond Counsel, detrimental to the interests of the Owners of the Series 2019 Bonds: (a) to cure any ambiguity or defect or omission in the Agreement or in any supplemental agreement, (b) to grant to or confer upon the Issuer or the Trustee for the benefit of the Owners of the Series 2019 Bonds any additional rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon the Issuer or the Owners of the Series 2019 Bonds or the Trustee, (c) to correct any description of, or to reflect changes in, any properties comprising the Project, (d) in connection with any other changes which, in the judgment of the Trustee, will not restrict, limit or reduce the obligation of the Company to make the Loan Repayments or otherwise materially impair the security of the Owners of the Series 2019 Bonds under the Indenture, or (e) in connection with the issuance of Completion Bonds. Any other amendment of the Agreement requires the consent of the Owners of a majority in aggregate principal amount of all Series 2019 Bonds then outstanding.

## **THE INDENTURE**

### **Assignment of Issuer's Interest**

Under the Indenture, the Issuer has pledged and assigned to the Trustee the Issuer's rights under the Agreement, including the Loan Repayments, except for certain rights to indemnification and reimbursement of expenses.

### **Creation of Construction Fund**

The Indenture creates a Construction Fund. The Trustee will deposit the proceeds of the sale of the Series 2019 Bonds into the Construction Fund, less the Underwriter's discount. The moneys in the Construction Fund shall be held by the Trustee in trust and, subject to the terms of the Indenture, will be applied to the payment of the Cost of the Project (as described in the Indenture) and, pending such application, shall be subject to the lien of the Indenture.

### **Creation of Bond Fund**

The Indenture creates a Bond Fund. Moneys deposited in the Bond Fund are to be held in trust by the Trustee and, pending application in accordance with the Indenture, are subject to a lien and charge in favor of the Owners of the Series 2019 Bonds outstanding under the Indenture and to the prior lien of the Trustee for payment of its fees and expenses.

There shall be deposited to the credit of the Bond Fund (a) the accrued interest, if any, received on the sale of the Series 2019 Bonds, (b) all Loan Repayments, and (c) all other moneys received by the Trustee under and pursuant to any of the provisions of the Agreement or otherwise which are required or are accompanied by directions from the Company or the Issuer that such moneys are to be paid into the Bond Fund. In the event of an acceleration of the Series 2019 Bonds in accordance with terms of the Indenture, the Trustee without further direction shall immediately transfer all of the moneys in the Construction Fund to the Bond Fund.

Moneys in the Bond Fund shall be used for the payment of the principal of and premium, if any, and interest on the Series 2019 Bonds or for the redemption or purchase of Series 2019 Bonds in accordance with the terms of the Indenture.

### **Creation of a Purchase Fund**

The Indenture creates a Purchase Fund. Moneys deposited in the Purchase Fund are to be held by the Tender Agent for the purchase of Series 2019 Bonds pursuant to the Indenture and are not pledged to pay principal of or interest or any premium on the Series 2019 Bonds.

### **Investment of Funds**

The Trustee shall, at the request of the Company, invest moneys held in the Construction Fund and Bond Fund in the investments or securities specified in the Indenture. Gains or losses resulting from the investment of moneys in the Construction Fund or Bond Fund will be credited or charged to such Fund.

## **Completion Bonds**

At the direction of the Company, and upon satisfaction of the conditions set forth in the Indenture, the Issuer may issue up to \$55,000,000 aggregate principal amount of completion bonds in one or more series to complete the Project (“Completion Bonds”). Each issue of Completion Bonds will be on a parity and equally and ratably secured under the Indenture with the Series 2019 Bonds and any other Completion Bonds previously issued, without preference, priority, or distinction of any Series 2019 Bonds or Completion Bonds over any other Series 2019 Bonds or Completion Bonds. In the event Completion Bonds are to be issued it is expected that the Indenture and the Agreement will be supplemented to take into account the issuance of such Completion Bonds and a supplement to this Official Statement will be prepared.

## **Defeasance**

If there is paid to the Owners of all of the Series 2019 Bonds the principal of and premium, if any, and interest on the Series 2019 Bonds due and thereafter to become due, together with all other sums payable under the Indenture, then the rights, title and interest of the Trustee in the estate pledged and assigned to it under the Indenture shall cease, and the Series 2019 Bonds shall cease to be entitled to the lien of the Indenture. The Trustee shall thereupon turn over to the Company any surplus in the Bond Fund and any other fund created under the Indenture. If the principal of and premium, if any, and interest due and thereafter to become due is paid on less than all the Series 2019 Bonds then outstanding, such Series 2019 Bonds shall cease to be entitled to the lien, benefit or security under the Indenture.

Any or all Series 2019 Bonds then bearing interest at a Long-Term Interest Rate during a Long-Term Interest Rate Period ending on or after the redemption date or on the day immediately preceding the maturity date, as the case may be, or at Commercial Paper Term Rates for Commercial Paper Terms which end on the redemption date or the day immediately preceding the maturity date, as the case may be, shall be deemed to have been paid when (a) in the case of Series 2019 Bonds to be redeemed, the Company shall have given to the Trustee irrevocable instructions to mail the notice of redemption therefor, (b) there shall have been deposited with the Trustee either moneys in an amount which shall be sufficient, or obligations issued or unconditionally guaranteed by the United States of America, or certain securities which represent interests in such obligations, the principal of and interest on which, when due, will provide moneys which, together with any moneys also deposited with or held by the Trustee, shall be sufficient to pay when due the principal of and premium, if any, and interest due or to become due on such Series 2019 Bonds, and (c) in the event such Series 2019 Bonds do not mature and are not to be redeemed within the next succeeding 60 days, the Company (i) shall have given the Trustee irrevocable instructions to mail, as soon as permitted by the Indenture, a notice to the Owners of such Series 2019 Bonds stating that the above deposit has been made with the Trustee and that such Series 2019 Bonds are deemed to have been paid and stating the maturity or redemption date upon which moneys are to be available to pay the principal of and premium, if any, and interest on such Series 2019 Bonds and (ii) shall cause to be delivered to the Trustee or escrow agent, as the case may be, a verification report of any independent, nationally recognized, certified public accountant showing the sufficiency of such deposit. The provisions of the Indenture relating to the rights of the Owners of the Series 2019 Bonds to payment, registration of transfer and exchange shall remain in full force and effect with respect

to all Series 2019 Bonds until the maturity date of the Series 2019 Bonds or the last date fixed for redemption of all Series 2019 Bonds prior to maturity notwithstanding that the Series 2019 Bonds are deemed to be paid as described above. If less than all Series 2019 Bonds are to be defeased, the Trustee shall select such Series 2019 Bonds in the manner described under “THE SERIES 2019 BONDS – Selection of Series 2019 Bonds to be Redeemed.”

### **Events of Default**

The occurrence of any one or more of the following shall be an event of default under the Indenture: (a) failure to pay the principal of or premium, if any, on the Series 2019 Bonds when the same shall become due and payable, whether at maturity, through unconditional proceedings for redemption or otherwise; (b) failure to pay interest on any of the Series 2019 Bonds when the same shall become due and payable and the continuation of such failure for one Business Day; (c) a failure to pay amounts due to Owners of the Series 2019 Bonds for purchase thereof after such payment has become due and payable and the continuation of such failure for one Business Day; (d) failure to perform any other covenant, condition, agreement or provision contained in the Series 2019 Bonds or in the Indenture on the part of the Issuer to be performed for a period of 90 days after written notice thereof to the Issuer which may, and upon the written request of the Owners of not less than a majority in aggregate principal amount of the Series 2019 Bonds then outstanding shall, be given by the Trustee, unless such period is extended by the Trustee, or the Trustee and the Owners of the Series 2019 Bonds, as the case may be; provided, however, that the Trustee, or the Trustee and the Owners of the Series 2019 Bonds, as the case may be, will be deemed to have agreed to an extension of such period if corrective action is instituted by the Issuer or the Company within such period and is being diligently pursued; or (e) an event of default as defined in the Agreement.

### **Remedies**

#### **Acceleration and Limitations Thereon**

Upon the occurrence and continuance of an event of default described in clause (a), (b), or (c) above in “Events of Default,” or an event of default described in clauses (c) or (d) above under “THE AGREEMENT – Events of Default,” the Trustee may, and upon the written request of the Owners of not less than a majority in aggregate principal amount of the Series 2019 Bonds then outstanding shall, by notice in writing to the Issuer and the Company, declare the principal of the Series 2019 Bonds then outstanding (if not then due and payable) to be immediately due and payable.

The provisions described in the preceding paragraph, however, are subject to the condition that, if, after the principal of the Series 2019 Bonds has been declared to be due and payable, and before any judgment or decree for the payment of the moneys due has been obtained or entered, the Company, pursuant to the Agreement, shall deposit with the Trustee an amount sufficient to pay all matured installments of interest upon the Series 2019 Bonds and the principal of the Series 2019 Bonds which have become due otherwise than by reason of such declaration (with interest upon such principal and, to the extent permissible by law, on overdue installments of interest, at the rate per annum borne by the Series 2019 Bonds on the date of such declaration) and such amounts as are sufficient to cover reasonable compensation and

reimbursement of expenses payable to the Trustee, and all events of default under the Indenture other than nonpayment of the principal of Series 2019 Bonds which shall have become due by such declaration have been remedied, then, such event of default will be deemed waived and such declaration and its consequences rescinded and annulled. The Trustee will promptly give written notice of such waiver, rescission and annulment to the Issuer, the Company, the Tender Agent, the Remarketing Agent, and, if notice of the acceleration of the Series 2019 Bonds has been given to the Owners, notice shall be given to the Owners. No such waiver, rescission and annulment shall extend to or affect any subsequent event of default or impair any right or remedy consequent thereon.

Notwithstanding anything contained in the Indenture to the contrary, the Trustee, upon the written request of the holders of not less than a majority in aggregate principal amount of the Series 2019 Bonds then outstanding, shall waive any event of default under the Indenture and its consequences; provided, however, that, except under certain circumstances described in the Indenture, an event of default under clauses (a), (b) or (c) above in “Events of Default” with respect to any Bonds may not be waived without the written consent of the holders of all such Bonds.

#### **Other Remedies**

Upon the occurrence and continuance of any event of default, the Trustee may, and upon the written request of the Owners of not less than a majority in aggregate principal amount of the Series 2019 Bonds then outstanding shall, upon receipt of indemnity to its satisfaction, proceed to protect and enforce its rights and the rights of the Owners of the Series 2019 Bonds under the laws of the State of Georgia, the Indenture and the Agreement by the exercise of any proper legal or equitable remedy as the Trustee, being advised by counsel, shall deem most effectual to protect and enforce such rights.

#### **Owners’ Right to Direct Proceedings**

The Owners of a majority in principal amount of the Series 2019 Bonds then outstanding shall have the right, upon receipt by the Trustee of indemnity to its satisfaction, to direct the method and place of conducting all remedial proceedings to be taken by the Trustee. No Owner of any of the Series 2019 Bonds shall have any right to institute any suit, action or proceeding in equity or at law on any Series 2019 Bond or for the execution of any trust under the Indenture or for any other remedy thereunder except as provided in the Indenture, but nothing in the Indenture shall affect or impair the right of any Owner of a Series 2019 Bond to enforce the payment of the principal of and premium, if any, and interest on such Series 2019 Bond to the Owner thereof at the time and place stated in such Series 2019 Bond.

#### **Amendment**

The Issuer and the Trustee may, with the consent of the Company but without the consent of the Owners of the Series 2019 Bonds, enter into such supplemental indentures as shall not be inconsistent with the terms and provisions of the Indenture and shall not be, in the opinion of Bond Counsel, detrimental to the interests of the Owners of the Series 2019 Bonds (except to the extent permitted under (k) below): (a) to cure any ambiguity or defect or omission in the

Indenture or in any supplemental indenture, (b) to grant to or confer upon the Trustee for the benefit of the Owners of the Series 2019 Bonds any additional rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon the Owners of the Series 2019 Bonds or the Trustee, (c) to confirm the lien of the Indenture or to subject to the Indenture additional revenues, properties or collateral, (d) to correct any description of, or to reflect changes in, any properties comprising the Project, (e) to authorize a different denomination or denominations of the Series 2019 Bonds and to make correlative amendments to the Indenture, (f) to increase or decrease the number of days prior to an adjustment of the interest rate that notice need be given by the Company to the Trustee and by the Trustee to the Owners of the Series 2019 Bonds, provided that no decrease in any such number of days shall become effective except during a Daily or a Weekly Interest Rate Period and until 30 days after the Trustee shall have given notice thereof to the Owners of the Series 2019 Bonds affected thereby; (g) in connection with any other change which, in the judgment of the Trustee, will not restrict, limit or reduce the obligation of the Issuer to pay the principal of, and interest on the Series 2019 Bonds or otherwise impair the security of the Owners of the Series 2019 Bonds under the Indenture, (h) to modify, amend or supplement the Indenture or any supplemental indenture in such manner as to permit the qualification thereof under the Trust Indenture Act of 1939, as amended, or any similar federal statute or to permit the qualification of the Series 2019 Bonds for sale under the securities laws of any of the states of the United States of America, (i) to make amendments to the provisions of the Indenture relating to matters under Section 148(f) of the Code, provided that an opinion of Bond Counsel as to the validity of the Series 2019 Bonds and as to the exclusion of interest on the Series 2019 Bonds for federal income tax purposes in customary form; (j) to make any amendments necessary or appropriate to provide for the delivery of any additional collateral or insurance policy, irrevocable transferable letter of credit or other security device delivered to the Trustee; (k) on any date on which all Series 2019 Bonds are subject to mandatory purchase to modify the Indenture in any respect (even if to the adverse interest of Owners) provided that such supplement will not be effective until after such mandatory purchase and the payment of the purchase price in connection therewith; (l) on any date on which all of the Series 2019 Bonds are subject to mandatory purchase, to modify the Indenture to specify redemption prices greater or lesser, and after periods longer or shorter than as set forth in the Indenture; or (m) to make amendments in connection with the issuance of Completion Bonds.

The Company and the Owners of not less than a majority in aggregate principal amount of the Series 2019 Bonds then outstanding shall have the right to consent to the execution by the Issuer and the Trustee of such other supplemental indentures as shall be deemed necessary or desirable by the Issuer for the purpose of modifying, altering, amending, adding to or rescinding, in any particular way, any of the terms or provisions contained in the Indenture or in any supplemental indenture; provided, however, that, unless approved by all of the Owners of the Series 2019 Bonds then outstanding and the Company, nothing contained in the Indenture shall permit, or be construed as permitting, (a) an extension of the maturity of the principal of or the interest on the Series 2019 Bonds, or (b) a reduction in the principal amount of the Series 2019 Bonds or the redemption premium or the rate of interest thereon, or (c) the creation of a lien upon or a pledge of the Trust Estate, including the Loan Repayments, other than the lien and pledge created by the Indenture, or (d) a preference or priority of any Series 2019 Bond over any other Series 2019 Bond, or (e) a reduction in the aggregate principal amount of the Series 2019 Bonds required for consent to such supplemental indenture.

Any supplemental indenture that affects any right, power, obligation or authority of the Company under the Agreement or requires a revision of the Agreement shall not become effective without the consent of the Company.

## **TAX MATTERS**

In the opinion of King & Spalding LLP, Bond Counsel, under existing statutes, rulings and court decisions and under applicable regulations, interest on the Series 2019 Bonds is not includable in gross income for federal income tax purposes except interest on any Series 2019 Bond for any period during which it is held by a “substantial user” of the Project or a “related person,” as those terms are used in Section 147(a) of the Code; however, such interest is an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals. No opinion will be expressed with respect to any other federal tax consequences relating to the receipt or accrual of interest on, or ownership of, the Series 2019 Bonds. Such opinion as to the Series 2019 Bonds will be in substantially the form attached hereto as part of Appendix C.

In concluding the interest on the Series 2019 Bonds is not includable in gross income for federal income tax purposes, Bond Counsel will (i) rely as to certain factual matters upon representations of the Issuer and the Company with respect to, among other things, the use of the proceeds of the Series 2019 Bonds, the design, scope, function, cost and reasonably expected economic useful life of the Project, without undertaking to verify the same by independent investigation, and (ii) assume the continued compliance by the Issuer and the Company with their respective covenants relating to the use of the proceeds of the Series 2019 Bonds and compliance with other requirements of the Code. The inaccuracy of any such representations or noncompliance with such covenants may cause interest on the Series 2019 Bonds to become includable in gross income for federal income tax purposes retroactive to the date of issuance of the Series 2019 Bonds.

Ownership of the Series 2019 Bonds may result in collateral federal income tax consequences to certain taxpayers, including, without limitation, banks, thrift institutions, and other financial institutions, foreign corporations which conduct a trade or business in the United States, property and casualty insurance corporations, S corporations, individual recipients of social security or railroad retirement benefits, and taxpayers who may be deemed to have incurred or continued indebtedness to purchase or carry the Series 2019 Bonds. Purchasers of the Series 2019 Bonds should consult their tax advisors as to the applicability of such collateral federal tax consequences.

From time to time, there are legislative proposals in Congress that, if enacted, could cause interest on the Series 2019 Bonds to be subject, directly or indirectly, to federal income taxation, adversely affect the market value of the Series 2019 Bonds or otherwise prevent owners of the Series 2019 Bonds from realizing the full current benefit of the tax-exempt status of such interest. It cannot be predicted whether or in what form any such proposal might be enacted or whether if enacted, such legislation would apply to the Series 2019 Bonds issued prior to enactment. Purchasers of the Series 2019 Bonds should consult their tax advisors regarding the effect of any such legislation. The opinions expressed by Bond Counsel are based upon existing legislation and regulations as interpreted by relevant judicial and regulatory authorities as of the date of issuance and delivery of the Series 2019 Bonds, and Bond Counsel has expressed no

opinion with respect to any proposed legislation or as to the tax treatment of interest the Series 2019 Bonds, or as to the consequences of owning or receiving interest on the Series 2019 Bonds, as of any future date. Bond Counsel has not agreed to notify the Issuer, the Company or the owners of the Series 2019 Bonds as to any event subsequent to the issuance of the Series 2019 Bonds that might affect the tax treatment of interest on the Series 2019 Bonds, the market value of the Series 2019 Bonds or the consequences of owning or receiving interest on the Series 2019 Bonds.

In the opinion of Bond Counsel, under existing statutes, interest on the Series 2019 Bonds is exempt from all present State of Georgia income taxation. Interest on the Series 2019 Bonds may or may not be subject to state or local income taxation in jurisdictions other than Georgia under applicable state or local laws. Purchasers of the Series 2019 Bonds should consult their tax advisors as to the taxable status of the Series 2019 Bonds in a particular state or local jurisdiction other than Georgia.

### **CONTINUING DISCLOSURE**

Solely for the purpose of enabling the Underwriter to comply with the requirements of Rule 15c2-12(b)(5) (the “Rule”), the Company has undertaken (but only to the extent required for compliance with valid and effective provisions of the Rule) pursuant to a 15c2-12 Undertaking attached hereto as Appendix E, for the benefit of the Bondholders, to provide to the Municipal Securities Rulemaking Board under its Electronic Municipal Market Access System (“EMMA”) either a copy, or notice of the filing of the following with the Commission of: (i) not later than 120 days after the end of each fiscal year of the Company, the audited annual financial statements of the Company of the type included in Appendix A-1 to this Official Statement, or, if the Company has filed an annual report with the Commission on Form 10-K (or any successor form), the Form 10-K; and (ii) in a timely manner, notice of the occurrence of certain events enumerated in the Rule (the “Company’s Undertaking”).

Neither the Issuer nor its members, officers or employees have any responsibility or liability for the sufficiency, performance or enforcement of the Company’s Undertaking. The Company and its directors, officers, employees and shareholders shall have no liability under the Company’s Undertaking for any act or failure to act; a failure to perform the Company’s Undertaking shall not constitute an Event of Default under the Agreement, an event of default under the Indenture or a default under the Note or any Bond; and the sole remedy shall be specific enforcement of the Company’s Undertaking by the Trustee or by such persons, if any, as the Rule may require to be entitled to enforce the same. The Company reserves the right to (a) contest the validity of the Rule and (b) modify its performance of the Company’s Undertaking, to the extent not inconsistent with valid and effective provisions of the Rule.

### **UNDERWRITING**

Morgan Stanley & Co. LLC (the “Underwriter”) will agree to purchase the Series 2019 Bonds and, pursuant to a separate Bond Purchase Agreement, at a price equal to the principal amount thereof minus the Underwriter’s discount of \$28,125 and certain out-of-pocket expenses. The Company will agree to indemnify the Underwriter against certain liabilities, including certain liabilities under the federal securities laws.

With respect to the Series 2019 Bonds, the Underwriter's obligation to purchase the Series 2019 Bonds is subject to certain conditions precedent. The Underwriter does not have the right to purchase less than all of the Series 2019 Bonds if any Series 2019 Bonds are purchased. The offering price of the Series 2019 Bonds may be changed from that set forth on the cover page hereof from time to time by the Underwriter. The Underwriter may offer and sell the Series 2019 Bonds to certain dealers (including dealers depositing Series 2019 Bonds into investment trusts, accounts or funds) and others at prices lower than the public offering prices set forth on the cover page hereof.

Morgan Stanley, parent company of Morgan Stanley & Co. LLC, has entered into a retail distribution arrangement with its affiliate Morgan Stanley Smith Barney LLC. As part of the distribution arrangement, Morgan Stanley & Co. LLC may distribute municipal securities to retail investors through the financial advisor network of Morgan Stanley Smith Barney LLC. As part of this arrangement, Morgan Stanley & Co. LLC may compensate Morgan Stanley Smith Barney LLC for its selling efforts with respect to the Series 2019 Bonds.

### **LEGALITY**

Legal matters incident to the issuance of the Series 2019 Bonds are subject to the legal opinion of King & Spalding LLP, as Bond Counsel. The signed legal opinion for the Series 2019 Bonds, dated and premised on law in effect as of the date of original delivery of the Series 2019 Bonds, will be delivered to the Underwriter at the time of original delivery of the Series 2019 Bonds. The proposed form of such legal opinion is set forth in Appendix C hereto.

Morgan, Lewis & Bockius LLP, Liebler, Gonzalez, & Portuondo and McDaniel & Scott, P.C., as Counsel for the Company, will also render opinions relating to certain matters pertaining to the Company and its obligations under the Agreement. Haygood, Lynch, Harris, Melton & Watson, LLP will pass upon certain legal matters for the Issuer. Certain legal matters will be passed upon for the Underwriter by Ballard Spahr LLP, Philadelphia, Pennsylvania, counsel to the Underwriter.

### **VALIDATION AND LITIGATION**

In accordance with the procedures set forth in the Revenue Bond Law (O.C.G.A. § 36-82-60 *et seq.*), as amended (the "Revenue Bond Law"), the Issuer instituted proceedings in the Superior Court of Monroe County to validate the Series 2019 Bonds and the Agreement and the payments made thereunder as security for the payment of the Series 2019 Bonds. A final, nonappealable validation order was received from the Superior Court of Monroe County on September 30, 2019.

There is no controversy or litigation of any nature now pending against the Issuer for which service has been perfected restraining or enjoining the issuance or delivery of the Series 2019 Bonds or questioning or affecting the validity of the Series 2019 Bonds or the proceedings and authority under which they are being issued nor, to the knowledge of the Issuer, is any such litigation threatened. There is no litigation pending for which service has been perfected which in any manner questions the power of the Issuer to issue the Series 2019 Bonds and to secure the Series 2019 Bonds in accordance with the provisions of the Indenture, nor is there now pending any litigation which in any manner questions the powers of the Issuer nor, to the knowledge of the Issuer, is any such litigation threatened.

**THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK**

## **APPENDIX A**

### **GULF POWER COMPANY**

Gulf Power Company (the “Company”) is a rate-regulated electric utility under the jurisdiction of the Florida Public Service Commission engaged in the generation, transmission, distribution and sale of electric energy in northwest Florida. As of January 1, 2019, the Company served more than 460,000 customers in eight counties throughout northwest Florida and had approximately 2,300 MW of fossil-fueled electric generating capacity and 9,400 miles of transmission and distribution lines located in Florida, Mississippi and Georgia.

On January 1, 2019, NextEra Energy, Inc. (“NextEra”) acquired all of the outstanding common shares of the Company from The Southern Company, which resulted in the Company becoming a wholly-owned subsidiary of NextEra. The Company was incorporated under the laws of Maine in 1925, and became a Florida corporation after being domesticated under the laws of Florida in 2005. The principal executive offices of the Company are located at 500 Bayfront Parkway, Pensacola, Florida 32501, and the telephone number is (850) 444-6111.

The Company is not currently subject to the informational requirements of the Securities Exchange Act of 1934, as amended. Nevertheless, the Company has undertaken to provide certain information to Electronic Municipal Market Access System as described in the 15c2-12 Undertaking described in the Official Statement.

#### **Recent Developments**

On September 30, 2019, the Company entered into a \$300 million term loan with a commercial bank (the “Term Loan Agreement”) and borrowed the entire amount under the agreement. Proceeds from the borrowing under the Term Loan Agreement provide funding for the Company’s general corporate purposes. The borrowing under the Term Loan Agreement has a maturity date of September 30, 2021.

**THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK**

**APPENDIX A-1**  
**COMPANY FINANCIAL STATEMENTS**

**THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK**



## **INDEPENDENT AUDITORS' REPORT**

Gulf Power Company

We have audited the accompanying financial statements of Gulf Power Company (the Company), which comprise the balance sheets and statements of capitalization as of December 31, 2018 and 2017, and the related statements of income, comprehensive income, common stockholder's equity, and cash flows for the years then ended, and the related notes to the financial statements (collectively referred to as the "financial statements"), in conformity with accounting principles generally accepted in the United States of America.

### **Management's Responsibility for the Financial Statements**

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

### **Auditors' Responsibility**

Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Company's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

### **Opinion**

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Gulf Power Company as of December 31, 2018 and 2017, and the results of its operations and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

*Deloitte + Touche LLP*

Atlanta, Georgia  
April 1, 2019

**STATEMENTS OF INCOME**  
**For the Years Ended December 31, 2018 and 2017**  
**Gulf Power Company Financial Statements and Notes**

	2018	2017
	<i>(in millions)</i>	
<b>Operating Revenues:</b>		
Retail revenues	\$ 1,213	\$ 1,281
Wholesale revenues, non-affiliates	54	57
Wholesale revenues, affiliates	132	108
Other revenues	66	70
<b>Total operating revenues</b>	<b>1,465</b>	<b>1,516</b>
<b>Operating Expenses:</b>		
Fuel	421	427
Purchased power	177	155
Other operations and maintenance	356	369
Depreciation and amortization	191	137
Taxes other than income taxes	118	116
Loss on Plant Scherer Unit 3	—	33
<b>Total operating expenses</b>	<b>1,263</b>	<b>1,237</b>
<b>Operating Income</b>	<b>202</b>	<b>279</b>
<b>Other Income and (Expense):</b>		
Interest expense, net of amounts capitalized	(53)	(50)
Other income (expense), net	(9)	—
<b>Total other income and (expense)</b>	<b>(62)</b>	<b>(50)</b>
<b>Earnings Before Income Taxes</b>	<b>140</b>	<b>229</b>
Income taxes (benefit)	(20)	90
<b>Net Income</b>	<b>160</b>	<b>139</b>
<b>Dividends on Preference Stock</b>	<b>—</b>	<b>4</b>
<b>Net Income After Dividends on Preference Stock</b>	<b>\$ 160</b>	<b>\$ 135</b>

The accompanying notes are an integral part of these financial statements.

**STATEMENTS OF COMPREHENSIVE INCOME**  
**For the Years Ended December 31, 2018 and 2017**  
**Gulf Power Company Financial Statements and Notes**

	<b>2018</b>	<b>2017</b>
	<i>(in millions)</i>	
<b>Net Income</b>	<b>\$ 160</b>	<b>\$ 139</b>
Other comprehensive income (loss):		
Qualifying hedges:		
Changes in fair value, net of tax of \$- and \$(1), respectively	—	(1)
<b>Total other comprehensive income (loss)</b>	<b>—</b>	<b>(1)</b>
<b>Comprehensive Income</b>	<b>\$ 160</b>	<b>\$ 138</b>

The accompanying notes are an integral part of these financial statements.

**STATEMENTS OF CASH FLOWS**  
**For the Years Ended December 31, 2018 and 2017**  
**Gulf Power Company Financial Statements and Notes**

	2018	2017
	<i>(in millions)</i>	
<b>Operating Activities:</b>		
Net income	\$ 160	\$ 139
Adjustments to reconcile net income to net cash provided from operating activities —		
Depreciation and amortization, total	197	149
Deferred income taxes	3	72
Loss on Plant Scherer Unit 3	—	33
Other, net	(4)	(2)
Changes in certain current assets and liabilities —		
-Receivables	29	(43)
-Other current assets	—	13
-Accounts payable	(103)	20
-Over recovered regulatory clause revenues	36	(12)
-Other current liabilities	(5)	(13)
<b>Net cash provided from operating activities</b>	<b>313</b>	<b>356</b>
<b>Investing Activities:</b>		
Property additions	(346)	(202)
Cost of removal, net of salvage	(34)	(21)
Other investing activities	(20)	(11)
<b>Net cash used for investing activities</b>	<b>(400)</b>	<b>(234)</b>
<b>Financing Activities:</b>		
Increase (decrease) in notes payable, net	(45)	(223)
Proceeds —		
Common stock issued to parent	—	175
Capital contributions from parent company	267	2
Senior notes	—	300
Redemptions —		
Preference stock	—	(150)
Senior notes	—	(85)
Payment of common stock dividends	(153)	(165)
Other financing activities	(1)	(4)
<b>Net cash provided from (used for) financing activities</b>	<b>68</b>	<b>(150)</b>
<b>Net Change in Cash, Cash Equivalents, and Restricted Cash</b>	<b>(19)</b>	<b>(28)</b>
<b>Cash, Cash Equivalents, and Restricted Cash at Beginning of Year</b>	<b>28</b>	<b>56</b>
<b>Cash, Cash Equivalents, and Restricted Cash at End of Year</b>	<b>\$ 9</b>	<b>\$ 28</b>
<b>Supplemental Cash Flow Information:</b>		
Cash paid (received) during the period for —		
Interest (net of \$- and \$- capitalized, respectively)	\$ 50	\$ 46
Income taxes (net of refunds)	(29)	12
Noncash transactions —		
Accrued property additions at year-end	26	31
Other financing activities related to energy services	—	(7)
Receivables related to energy services	—	7

The accompanying notes are an integral part of these financial statements.

**BALANCE SHEETS**  
**At December 31, 2018 and 2017**  
**Gulf Power Company Financial Statements and Notes**

<b>Assets</b>	<b>2018</b>	<b>2017</b>
	<i>(in millions)</i>	
<b>Current Assets:</b>		
Cash and cash equivalents	\$ 9	\$ 28
Receivables —		
Customer accounts receivable	77	76
Unbilled revenues	57	67
Under recovered regulatory clause revenues	—	27
Affiliated	—	14
Other accounts and notes receivable	8	7
Accumulated provision for uncollectible accounts	(1)	(1)
Fossil fuel stock	62	63
Materials and supplies	66	57
Other regulatory assets, current	45	56
Property damage reserve	34	—
Other current assets	11	21
<b>Total current assets</b>	<b>368</b>	<b>415</b>
<b>Property, Plant, and Equipment:</b>		
In service	5,391	5,196
Less: Accumulated provision for depreciation	1,543	1,461
Plant in service, net of depreciation	3,848	3,735
Construction work in progress	199	91
<b>Total property, plant, and equipment</b>	<b>4,047</b>	<b>3,826</b>
<b>Deferred Charges and Other Assets:</b>		
Deferred charges related to income taxes	29	31
Other regulatory assets, deferred	703	502
Other deferred charges and assets	41	23
<b>Total deferred charges and other assets</b>	<b>773</b>	<b>556</b>
<b>Total Assets</b>	<b>\$ 5,188</b>	<b>\$ 4,797</b>

The accompanying notes are an integral part of these financial statements.

**BALANCE SHEETS**  
**At December 31, 2018 and 2017**  
**Gulf Power Company Financial Statements and Notes**

<b>Liabilities and Stockholder's Equity</b>	<b>2018</b>	<b>2017</b>
	<i>(in millions)</i>	
<b>Current Liabilities:</b>		
Notes payable	\$ —	\$ 45
Accounts payable —		
Affiliated	—	52
Other	222	75
Customer deposits	34	35
Accrued taxes	17	10
Accrued interest	9	9
Accrued compensation	10	39
Deferred capacity expense, current	22	22
Asset retirement obligations, current	46	37
Other regulatory liabilities, current	50	—
Other current liabilities	17	27
<b>Total current liabilities</b>	<b>427</b>	<b>351</b>
<b>Long-Term Debt (See accompanying statements)</b>	<b>1,286</b>	<b>1,285</b>
<b>Deferred Credits and Other Liabilities:</b>		
Accumulated deferred income taxes	622	537
Deferred credits related to income taxes	374	458
Employee benefit obligations	87	102
Deferred capacity expense	75	97
Asset retirement obligations	123	105
Other cost of removal obligations	211	221
Other regulatory liabilities, deferred	4	43
Other deferred credits and liabilities	59	67
<b>Total deferred credits and other liabilities</b>	<b>1,555</b>	<b>1,630</b>
<b>Total Liabilities</b>	<b>3,268</b>	<b>3,266</b>
<b>Common Stockholder's Equity (See accompanying statements)</b>	<b>1,920</b>	<b>1,531</b>
<b>Total Liabilities and Stockholder's Equity</b>	<b>\$ 5,188</b>	<b>\$ 4,797</b>
<b>Commitments and Contingent Matters (See notes)</b>		

The accompanying notes are an integral part of these financial statements.

**STATEMENTS OF CAPITALIZATION**  
**At December 31, 2018 and 2017**  
**Gulf Power Company Financial Statements and Notes**

	2018	2017	2018	2017
	<i>(in millions)</i>		<i>(percent of total)</i>	
<b>Long-Term Debt:</b>				
Long-term notes payable —				
4.75% due 2020	\$ 175	\$ 175		
3.10% due 2022	100	100		
3.30% to 5.10% due 2027-2044	715	715		
<b>Total long-term notes payable</b>	<b>990</b>	<b>990</b>		
Other long-term debt —				
Pollution control revenue bonds —				
2.10% due 2022	37	37		
2.60% due 2023	33	33		
1.40% to 4.45% due 2037-2049	157	157		
Variable rate (1.76% at 12/31/18) due 2022	4	4		
Variable rates (1.79% to 1.85% at 12/31/18) due 2039-2042	78	78		
<b>Total other long-term debt</b>	<b>309</b>	<b>309</b>		
Unamortized debt discount	(4)	(5)		
Unamortized debt issuance expense	(9)	(9)		
<b>Total long-term debt (annual interest requirement — \$48 million)</b>	<b>1,286</b>	<b>1,285</b>	<b>40.1%</b>	<b>45.6%</b>
<b>Common Stockholder's Equity:</b>				
Common stock, without par value —				
Authorized — 20,000,000 shares				
Outstanding — 7,392,717 shares	678	678		
Paid-in capital	978	594		
Retained earnings	265	259		
Accumulated other comprehensive income	(1)	—		
<b>Total common stockholder's equity</b>	<b>1,920</b>	<b>1,531</b>	<b>59.9</b>	<b>54.4</b>
<b>Total Capitalization</b>	<b>\$ 3,206</b>	<b>\$ 2,816</b>	<b>100.0%</b>	<b>100.0%</b>

The accompanying notes are an integral part of these financial statements.



**NOTES TO FINANCIAL STATEMENTS**  
**Gulf Power Company Financial Statements and Notes**

**Index to the Notes to Financial Statements**

<b><u>Note</u></b>		<b><u>Page</u></b>
1	<b><u>Summary of Significant Accounting Policies</u></b> .....	<b><u>11</u></b>
2	<b><u>Retirement Benefits</u></b> .....	<b><u>18</u></b>
3	<b><u>Contingencies and Regulatory Matters</u></b> .....	<b><u>27</u></b>
4	<b><u>Joint Ownership Agreements</u></b> .....	<b><u>30</u></b>
5	<b><u>Income Taxes</u></b> .....	<b><u>30</u></b>
6	<b><u>Financing</u></b> .....	<b><u>33</u></b>
7	<b><u>Commitments</u></b> .....	<b><u>34</u></b>
8	<b><u>Stock-Based Compensation</u></b> .....	<b><u>35</u></b>
9	<b><u>Fair Value Measurements</u></b> .....	<b><u>36</u></b>
10	<b><u>Derivatives</u></b> .....	<b><u>37</u></b>
11	<b><u>Revenue from Contracts with Customers</u></b> .....	<b><u>39</u></b>

**NOTES (continued)**  
**Gulf Power Company Financial Statements and Notes**

**1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

**General**

Gulf Power Company (the Company) is a wholly-owned subsidiary of The Southern Company (Southern Company), which is the parent company of the Company (through December 31, 2018), Alabama Power Company (Alabama Power), Georgia Power Company (Georgia Power), and Mississippi Power Company (Mississippi Power) (collectively, the traditional electric operating companies), as well as Southern Power Company and its subsidiaries (Southern Power), Southern Company Gas and its subsidiaries (Southern Company Gas), Southern Company Services, Inc. (SCS), Southern Communications Services, Inc. (Southern Linc), Southern Company Holdings, Inc., Southern Nuclear Operating Company, Inc., PowerSecure, Inc., and other direct and indirect subsidiaries (collectively, the Southern Company system). The traditional electric operating companies are vertically integrated utilities providing electric service in four Southeastern states. The Company provides electric service to retail customers in northwest Florida and to wholesale customers in the Southeast.

The Company is subject to regulation by the Federal Energy Regulatory Commission (FERC) and the Florida Public Service Commission (PSC). As such, the Company's financial statements reflect the effects of rate regulation in accordance with U.S. generally accepted accounting principles (GAAP) and comply with the accounting policies and practices prescribed by its regulatory commissions. The preparation of financial statements in conformity with GAAP requires the use of estimates, and the actual results may differ from those estimates. Certain prior years' data presented in the financial statements have been reclassified to conform to the current year presentation.

On January 1, 2019, Southern Company completed the sale of all of the capital stock of the Company to 700 Universe, LLC, a wholly-owned subsidiary of NextEra Energy, Inc. (NextEra Energy) for an aggregate cash purchase price of approximately \$5.8 billion (less \$1.3 billion of indebtedness assumed), subject to customary working capital adjustments. Upon completion of the sale, the Company is no longer a subsidiary of Southern Company.

**Recently Issued Accounting Standards**

**Revenue**

In 2014, the Financial Accounting Standards Board (FASB) issued Accounting Standards Codification 606, *Revenue from Contracts with Customers* (ASC 606), replacing the existing accounting standard and industry-specific guidance for revenue recognition with a five-step model for recognizing and measuring revenue from contracts with customers. The underlying principle of the standard is to recognize revenue to depict the transfer of goods or services to customers at the amount expected to be collected. ASC 606 became effective on January 1, 2018 and the Company adopted it using the modified retrospective method applied to open contracts and only to the version of contracts in effect as of January 1, 2018. In accordance with the modified retrospective method, the Company's previously issued financial statements have not been restated to comply with ASC 606 and the Company did not have a cumulative-effect adjustment to retained earnings. The adoption of ASC 606 had no significant impact on the timing of revenue recognition compared to previously reported results; however, it requires enhanced disclosures regarding the nature, amount, timing, and uncertainty of revenue and the related cash flows arising from contracts with customers, which are included herein and in Note 11.

**Other**

In March 2017, the FASB issued Accounting Standards Update No. 2017-07, *Compensation – Retirement Benefits (Topic 715): Improving the Presentation of Net Periodic Pension Cost and Net Periodic Postretirement Benefit Cost* (ASU 2017-07). ASU 2017-07 requires that an employer report the service cost component in the same line item or items as other compensation costs and requires the other components of net periodic pension and postretirement benefit costs to be separately presented in the statements of income outside of income from operations. Additionally, only the service cost component is eligible for capitalization, when applicable. The Company adopted ASU 2017-07 effective January 1, 2018 with no material impact on its financial statements. ASU 2017-07 has been applied retrospectively, with the service cost component of net periodic benefit costs included in operations and maintenance expenses and all other components of net periodic benefit costs included in other income (expense), net in the statements of income for all periods presented. The Company used the practical expedient provided by ASU 2017-07, which permits an employer to use the amounts disclosed in its retirement benefits note for prior comparative periods as the estimation basis for applying the retrospective presentation requirements to those periods. The amounts of the other components of net periodic benefit costs reclassified for the prior periods are presented in Note 2. The presentation changes resulted in a decrease in operating income and an increase in other income for the year ended December 31, 2017. The requirement to limit capitalization to the service cost component of net periodic benefit costs has been applied on a prospective basis from the date of adoption.

**NOTES (continued)**  
**Gulf Power Company Financial Statements and Notes**

In August 2017, the FASB issued Accounting Standards Update No. 2017-12, *Derivatives and Hedging (Topic 815): Targeted Improvements to Accounting for Hedging Activities* (ASU 2017-12). ASU 2017-12 makes more financial and non-financial hedging strategies eligible for hedge accounting, amends the related presentation and disclosure requirements, and simplifies hedge effectiveness assessment requirements. ASU 2017-12 is effective for fiscal years beginning after December 15, 2018, with early adoption permitted. The Company adopted ASU 2017-12 effective January 1, 2018 with no material impact on its financial statements. See Note 10 for disclosures required by ASU 2017-12.

On February 14, 2018, the FASB issued Accounting Standards Update No. 2018-02, *Income Statement – Reporting Comprehensive Income (Topic 220): Reclassification of Certain Tax Effects from Accumulated Other Comprehensive Income* (ASU 2018-02) to address the application of Accounting Standards Codification 740, *Income Taxes* (ASC 740) to certain provisions of The Tax Cuts and Jobs Act, which became effective on January 1, 2018 (Tax Reform Legislation). ASU 2018-02 specifically addresses the ASC 740 requirement that the effect of a change in tax laws or rates on deferred tax assets and liabilities be included in income from continuing operations, even when the tax effects were initially recognized directly in other comprehensive income (OCI) at the previous rate, which strands the income tax rate differential in accumulated OCI (AOCI). The amendments in ASU 2018-02 allow a reclassification from accumulated OCI to retained earnings for stranded tax effects resulting from the Tax Reform Legislation. The Company adopted ASU 2018-02 effective January 1, 2018 with no material impact on its financial statements.

**Affiliate Transactions**

The Company has an agreement with SCS under which the following services are rendered to the Company at direct or allocated cost: general and design engineering, operations, purchasing, accounting, finance, treasury, tax, information technology, marketing, auditing, insurance and pension administration, human resources, systems and procedures, digital wireless communications, and other services with respect to business and operations, construction management, and transactions under the operating arrangement whereby the integrated generating resources of the traditional electric operating companies and Southern Power (excluding subsidiaries) are subject to joint commitment and dispatch in order to serve their combined load obligations (power pool). Costs for these services amounted to \$94 million and \$81 million during 2018 and 2017, respectively. Cost allocation methodologies used by SCS prior to the repeal of the Public Utility Holding Company Act of 1935, as amended, were approved by the U.S. Securities and Exchange Commission (SEC). Subsequently, additional cost allocation methodologies have been reported to the FERC and management believes they are reasonable. The FERC permits services to be rendered at cost by system service companies. See Note 7 under "Operating Leases" for information on leases of cellular tower space for the Company's digital wireless communications equipment.

The Company has operating agreements with Georgia Power and Mississippi Power under which the Company owns a portion of Plant Scherer and Plant Daniel, respectively. Georgia Power operates Plant Scherer and Mississippi Power operates Plant Daniel. The Company reimbursed Georgia Power \$8 million and \$11 million in 2018 and 2017, respectively, and Mississippi Power \$31 million in each of 2018 and 2017 for its proportionate share of related expenses. See Note 4 and Note 7 under "Operating Leases" for additional information.

Total power purchased from affiliates through the power pool, included in purchased power in the statements of income, totaled \$17 million and \$15 million in 2018 and 2017, respectively.

The Company has an agreement with Alabama Power under which Alabama Power made transmission system upgrades to ensure firm delivery of energy under a non-affiliate power purchase agreement (PPA) from a combined cycle plant located in Alabama. Payments by the Company to Alabama Power for the improvements were \$11 million in each of 2018 and 2017 and are expected to be approximately \$10 million annually for 2019 through 2023, when the PPA expires. These costs have been approved for recovery by the Florida PSC through the Company's purchased power capacity cost recovery clause and by the FERC in the transmission facilities cost allocation tariff.

The Company provides incidental services to and receives such services from other Southern Company subsidiaries which are generally minor in duration and amount. However, the Company received storm restoration assistance from other Southern Company subsidiaries totaling \$44 million in 2018. See Note 3 under "Retail Regulatory Matters – Storm Damage Cost Recovery" for additional information on Hurricane Michael impacts.

The traditional electric operating companies, including the Company, and Southern Power, may jointly enter into various types of wholesale energy, natural gas, and certain other contracts, either directly or through SCS, as agent. Each participating company may be jointly and severally liable for the obligations incurred under these agreements. See Note 7 under "Fuel and Purchased Power Agreements" for additional information.

**NOTES (continued)**  
**Gulf Power Company Financial Statements and Notes**

**Regulatory Assets and Liabilities**

The Company is subject to accounting requirements for the effects of rate regulation. Regulatory assets represent probable future revenues associated with certain costs that are expected to be recovered from customers through the ratemaking process. Regulatory liabilities represent probable future reductions in revenues associated with amounts that are expected to be credited to customers through the ratemaking process.

Regulatory assets and (liabilities) reflected in the balance sheets at December 31 relate to:

	2018	2017	Note
	<i>(in millions)</i>		
Property damage reserve	\$ 255	\$ (40)	(a)
Retiree benefit plans, net	160	166	(b,c)
PPA charges	97	119	(d,c)
Closure of ash ponds	91	80	(e,c)
Remaining book value of retired assets	60	65	(f)
Environmental remediation	48	52	(e,c)
Deferred income tax charges	30	31	(g)
Deferred return on transmission upgrades	25	25	(f)
Loss on reacquired debt	15	17	(h)
Asset retirement obligations, net	18	13	(g,c)
Other regulatory assets, net	9	36	(i)
Fuel-hedging assets, net	6	21	(j,c)
Deferred income tax credits	(382)	(458)	(k)
Other cost of removal obligations	(211)	(221)	(g)
Over recovered regulatory clause revenues	(48)	(11)	(l)
<b>Total regulatory assets (liabilities), net</b>	<b>\$ 173</b>	<b>\$ (105)</b>	

Note: The recovery and amortization periods for these regulatory assets and (liabilities) are as follows:

- (a) Recovery is expected to be determined by the Florida PSC in connection with a petition filed on February 26, 2019. See "Property Damage Reserve" herein and Note 3 for additional information.
- (b) Recovered and amortized over the average remaining service period, which may range up to 14 years. See Note 2 for additional information.
- (c) Not earning a return as offset in rate base by a corresponding asset or liability.
- (d) Recovered over the life of the PPA for periods up to five years.
- (e) Recovered through the environmental cost recovery clause when the remediation or the work is performed.
- (f) Recorded and recovered or amortized as approved by the Florida PSC with remaining periods up to 39 years.
- (g) Asset retirement and removal assets and liabilities are recorded, and deferred income tax assets are recorded, recovered, and amortized, over the remaining property lives, which may range up to 47 years. Asset retirement and removal assets and liabilities will be settled and trued up following completion of the related activities.
- (h) Recovered over either the remaining life of the original issue or, if refinanced, over the life of the new issue, which may range up to 40 years.
- (i) Comprised primarily of vacation pay and under recovered regulatory clause revenues. Other regulatory assets costs, with the exception of vacation pay, are recorded and recovered or amortized as approved by the Florida PSC. Vacation pay, including banked holiday pay, does not earn a return as offset in rate base by a corresponding liability; it is recorded as earned by employees and recovered as paid, generally within one year.
- (j) Fuel-hedging assets and liabilities are recorded over the life of the underlying hedged purchase contracts, which currently do not exceed two years. Upon final settlement, actual costs incurred are recovered through the fuel cost recovery clause.
- (k) Deferred income tax liabilities are amortized over the remaining property lives, which may range up to 47 years. Includes the deferred tax liabilities as a result of the Tax Reform Legislation. See Notes 3 and 5 for additional information.
- (l) Recorded and recovered or amortized as approved by the Florida PSC, generally within one year.

In the event that a portion of the Company's operations is no longer subject to applicable accounting rules for rate regulation, the Company would be required to write off to income or reclassify to accumulated OCI related regulatory assets and liabilities that are not specifically recoverable through regulated rates. In addition, the Company would be required to determine if any impairment to other assets, including plant, exists and write down the assets, if impaired, to their fair values. All regulatory assets and liabilities are to be reflected in rates. See Note 3 under "Retail Regulatory Matters" for additional information.

**NOTES (continued)**  
**Gulf Power Company Financial Statements and Notes**

**Revenues**

The Company generates revenues from a variety of sources which are accounted for under various revenue accounting guidance, including ASC 606, lease, derivative, and regulatory accounting. The Company has a diversified base of customers. No single customer or industry comprises 10% or more of revenues. The adoption of ASC 606 had no impact on the timing or amount of revenue recognized under previous guidance. See "Recently Adopted Accounting Standards – Revenue" herein and Note 11 for information regarding the Company's adoption of ASC 606 and related disclosures.

The majority of the revenues of the Company are generated from contracts with retail electric customers. Retail revenues recognized under ASC 606 are consistent with prior revenue recognition policies. These revenues, generated from the integrated service to deliver electricity when and if called upon by the customer, are recognized as a single performance obligation satisfied over time, at a tariff rate, and as electricity is delivered to the customer during the month. Unbilled revenues related to retail sales are accrued at the end of each fiscal period. Retail rates may include provisions to adjust billings for fluctuations in fuel costs, the energy component of purchased power costs, and certain other costs. The Company continuously monitors the over or under recovered fuel cost balance in light of the inherent variability in fuel costs. The Company is required to notify the Florida PSC if the projected fuel cost over or under recovery is expected to exceed 10% of the projected fuel revenue applicable for the period and indicate if an adjustment to the fuel cost recovery factor is being requested. The Company has similar retail cost recovery clauses for energy conservation costs, purchased power capacity costs, and environmental compliance costs. Revenues are adjusted for differences between these actual costs and amounts billed in current regulated rates. Under or over recovered regulatory clause revenues are recorded in the balance sheets and are recovered from or returned to customers, respectively, through adjustments to the billing factors. Annually, the Company petitions for recovery of projected costs including any true-up amounts from prior periods, and approved rates are implemented each January. See Note 3 for additional information regarding regulatory matters of the Company.

Wholesale capacity revenues from PPAs are recognized either on a levelized basis over the appropriate contract period or the amount billable under the contract terms. Energy and other revenues are generally recognized as services are provided. The accounting for these revenues under ASC 606 is consistent with prior revenue recognition policies. The contracts for capacity and energy in a wholesale PPA have multiple performance obligations where the contract's total transaction price is allocated to each performance obligation based on the standalone selling price. The standalone selling price is primarily determined by the price charged to customers for the specific goods or services transferred with the performance obligations. The Company recognizes revenue as the performance obligations are satisfied over time, as electricity is delivered to the customer, or as generation capacity is available to the customer.

For both retail and wholesale revenues, the Company generally has a right to consideration in an amount that corresponds directly with the value to the customer of the entity's performance completed to date and may recognize revenue in the amount to which the entity has a right to invoice and has elected to recognize revenue for its sales of electricity and capacity using the invoice practical expedient. In addition, payment for goods and services rendered is typically due in the subsequent month following satisfaction of the Company's performance obligation.

**Fuel Costs**

Fuel costs are expensed as the fuel is used. Fuel expense generally includes fuel transportation costs and the cost of purchased emissions allowances as they are used. Fuel expense and emissions allowance costs are recovered by the Company through the fuel cost recovery and environmental cost recovery rates, respectively, approved annually by the Florida PSC.

**Income Taxes**

The Company uses the liability method of accounting for deferred income taxes and provides deferred income taxes for all significant income tax temporary differences. Federal investment tax credits (ITC) utilized are deferred and amortized to income over the average life of the related property and state ITCs are recognized in the period in which the credit is claimed on the state income tax return.

The Company recognizes tax positions that are "more likely than not" of being sustained upon examination by the appropriate taxing authorities. See Note 5 under "Unrecognized Tax Benefits" for additional information.

**Other Taxes**

Taxes imposed on and collected from customers on behalf of governmental agencies are presented net on the Company's statements of income and are excluded from the transaction price in determining the revenue related to contracts with a customer accounted for under ASC 606.

**NOTES (continued)**  
**Gulf Power Company Financial Statements and Notes**

**Property, Plant, and Equipment**

Property, plant, and equipment is stated at original cost less any regulatory disallowances and impairments. Original cost includes: materials; labor; minor items of property; appropriate administrative and general costs; payroll-related costs such as taxes, pensions, and other benefits; and the interest capitalized and cost of equity funds used during construction.

The Company's property, plant, and equipment in service consisted of the following at December 31:

	2018	2017
	<i>(in millions)</i>	
Generation	\$ 3,064	\$ 3,005
Transmission	737	720
Distribution	1,385	1,282
General	204	188
Plant acquisition adjustment	1	1
<b>Total plant in service</b>	<b>\$ 5,391</b>	<b>\$ 5,196</b>

The cost of replacements of property, exclusive of minor items of property, is capitalized. The cost of maintenance, repairs, and replacement of minor items of property is charged to other operations and maintenance expenses as incurred or performed.

**Depreciation and Amortization**

Depreciation of the original cost of utility plant in service is provided primarily by using composite straight-line rates, which approximated 3.7% for all years presented. Depreciation studies are conducted periodically to update the composite rates. These studies are approved by the Florida PSC and the FERC. When property, plant, and equipment subject to composite depreciation is retired or otherwise disposed of in the normal course of business, its original cost, together with the cost of removal, less salvage, is charged to accumulated depreciation. For other property dispositions, the applicable cost and accumulated depreciation are removed from the balance sheet accounts, and a gain or loss is recognized. Minor items of property included in the original cost of the asset are retired when the related property unit is retired. As authorized in a settlement agreement approved by the Florida PSC in 2013, the Company reduced depreciation and recorded a regulatory asset totaling \$62.5 million between January 2014 and June 2017. See Note 3 under "Retail Regulatory Matters – Retail Base Rate Cases" for additional information.

**Asset Retirement Obligations and Other Costs of Removal**

Asset retirement obligations (AROs) are computed as the present value of the estimated costs for an asset's future retirement and are recorded in the period in which the liability is incurred. The estimated costs are capitalized as part of the related long-lived asset and depreciated over the asset's useful life. In the absence of quoted market prices, AROs are estimated using present value techniques in which estimates of future cash outlays associated with the asset retirements are discounted using a credit-adjusted risk-free rate. Estimates of the timing and amounts of future cash outlays are based on projections of when and how the assets will be retired and the cost of future removal activities. The Company has received an order from the Florida PSC allowing the continued accrual of other future retirement costs for long-lived assets that the Company does not have a legal obligation to retire. Accordingly, the accumulated removal costs for these obligations are reflected in the balance sheets as a regulatory liability.

The liability for AROs primarily relates to facilities that are subject to the Disposal of Coal Combustion Residuals from Electric Utilities final rule published by the U.S. Environmental Protection Agency (EPA) in 2015 (CCR Rule), principally ash ponds, and to the closure of an ash pond at Plant Scholz. In addition, the Company has retirement obligations related to combustion turbines at its Pea Ridge facility, various landfill sites, a barge unloading dock, asbestos removal, and disposal of polychlorinated biphenyls in certain transformers.

The Company also has identified retirement obligations related to certain transmission and distribution facilities, certain wireless communication towers, and certain structures authorized by the U.S. Army Corps of Engineers. However, liabilities for the removal of these assets have not been recorded because the settlement timing for the retirement obligations related to these assets is indeterminable and, therefore, the fair value of the retirement obligations cannot be reasonably estimated. A liability for these retirement obligations will be recognized when sufficient information becomes available to support a reasonable estimation of the ARO.

The Company will continue to recognize in the statements of income allowed removal costs in accordance with its regulatory treatment. Any differences between costs recognized in accordance with accounting standards related to asset retirement and

**NOTES (continued)**  
**Gulf Power Company Financial Statements and Notes**

environmental obligations and those reflected in rates are recognized as either a regulatory asset or liability, as ordered by the Florida PSC, and are reflected in the balance sheets.

Details of the AROs included on the balance sheets are as follows:

	2018	2017
	<i>(in millions)</i>	
Balance at beginning of year	\$ 142	\$ 136
Liabilities settled	(32)	(8)
Accretion	2	2
Cash flow revisions	57	12
<b>Balance at end of year</b>	<b>\$ 169</b>	<b>\$ 142</b>

In 2018, the Company recorded an increase of approximately \$57 million primarily related to its AROs subject to the CCR Rule, including an increase of approximately \$46 million related to closure of an ash pond at Plant Smith. The revised cost estimates were based on detailed design quantities and costs and reflect the estimated amount of ash to be excavated and water management requirements necessary to support closure. These factors also impact the timing of future cash outlays.

In December 2018, the Company also recorded an increase of approximately \$15 million related to Plant Scherer Unit 3. During the second half of 2018, Georgia Power completed a strategic assessment related to its plans to close the ash ponds at all its generating plants, including Plant Scherer Unit 3, which is jointly owned with the Company, in compliance with the CCR Rule and the related state of Georgia rule. This assessment included engineering and constructability studies related to design assumptions for ash pond closures and advanced engineering methods. The results indicated that additional closure costs will be required to close these ash ponds primarily due to changes in closure strategies, the estimated amount of ash to be excavated, and additional water management requirements to support closure strategies. These factors also impact the timing of future cash outlays.

These increases were partially offset by a decrease of approximately \$4 million primarily related to the closure of an ash pond at Plant Scholz.

The cost estimates for AROs related to coal combustion residuals are based on information as of December 31, 2018 using various assumptions related to closure and post-closure costs, timing of future cash outlays, inflation and discount rates, and the potential methods for complying with the CCR Rule requirements for closure for those facilities impacted by the CCR Rule. The Company expects to continue to periodically update these cost estimates, which could increase further, as additional information becomes available. Absent continued recovery of ARO costs through regulated rates, the Company's results of operations, cash flows, and financial condition could be materially impacted. The ultimate outcome of this matter cannot be determined at this time.

**Allowance for Funds Used During Construction**

The Company records allowance for funds used during construction (AFUDC), which represents the estimated debt and equity costs of capital funds that are necessary to finance the construction of new regulated facilities. While cash is not realized currently, AFUDC increases the revenue requirement and is recovered over the service life of the asset through a higher rate base and higher depreciation. The equity component of AFUDC is not taxable.

**Impairment of Long-Lived Assets and Intangibles**

The Company evaluates long-lived assets for impairment when events or changes in circumstances indicate that the carrying value of such assets may not be recoverable. The determination of whether an impairment has occurred is based on either a specific regulatory disallowance or an estimate of undiscounted future cash flows attributable to the assets, as compared with the carrying value of the assets. If an impairment has occurred, the amount of the impairment recognized is determined by either the amount of regulatory disallowance or by estimating the fair value of the assets and recording a loss if the carrying value is greater than the fair value. For assets identified as held for sale, the carrying value is compared to the estimated fair value less the cost to sell in order to determine if an impairment loss is required. Until the assets are disposed of, their estimated fair value is re-evaluated when circumstances or events change.

See Note 3 under "Retail Regulatory Matters – Retail Base Rate Cases" for information regarding a regulatory disallowance recorded in 2017.

**NOTES (continued)**  
**Gulf Power Company Financial Statements and Notes**

**Property Damage Reserve**

The Company accrues for the cost of repairing damages from major storms and other uninsured property damages, including uninsured damages to transmission and distribution facilities, generation facilities, and other property. The costs of such damage are charged to the reserve. The Florida PSC approved annual accrual to the property damage reserve is \$3.5 million, with a target level for the reserve between \$48 million and \$55 million. In accordance with a settlement agreement approved by the Florida PSC on April 4, 2017 (2017 Rate Case Settlement Agreement), the Company suspended further property damage reserve accruals effective April 2017. The Company may make discretionary accruals and is required to resume accruals of \$3.5 million annually if the reserve falls below zero. The Company accrued total expenses of \$28.2 million in 2018 and \$3.5 million in 2017. As of December 31, 2018, the Company's property damage reserve had a deficit balance of approximately \$255 million, of which \$34 million and \$221 million are included in property damage reserve and other regulatory assets, deferred on the balance sheet, respectively. As of December 31, 2017, the balance in the Company's property damage reserve totaled approximately \$40 million, which is included in other regulatory liabilities, deferred on the balance sheet.

When the property damage reserve is inadequate to cover the cost of major storms, the Florida PSC can authorize a storm cost recovery surcharge to be applied to customer bills. As authorized in the 2017 Rate Case Settlement Agreement, the Company may initiate a storm surcharge to recover costs associated with any tropical systems named by the National Hurricane Center or other catastrophic storm events that reduce the property damage reserve in the aggregate by approximately \$31 million (75% of the April 1, 2017 balance) or more. The storm surcharge would begin, on an interim basis, 60 days following the filing of a cost recovery petition, would be limited to \$4.00/month for a 1,000 kilowatt-hour residential customer unless the Company incurs in excess of \$100 million in qualified storm recovery costs in a calendar year, and would replenish the property damage reserve to approximately \$40 million. See Note 3 under "Retail Regulatory Matters – Retail Base Rate Cases" for information on a storm surcharge request related to Hurricane Michael.

**Injuries and Damages Reserve**

The Company is subject to claims and lawsuits arising in the ordinary course of business. As permitted by the Florida PSC, the Company accrues \$1.6 million annually for the uninsured costs of injuries and damages. The Florida PSC has also given the Company the flexibility to increase its annual accrual above \$1.6 million to the extent the balance in the reserve does not exceed \$2 million and to defer expense recognition of liabilities greater than the balance in the reserve. The cost of settling claims is charged to the reserve. The injuries and damages reserve totaled \$2.8 million and \$2.1 million at December 31, 2018 and 2017, respectively, of which \$1.6 million is included in other current liabilities each year. There were no liabilities in excess of the reserve balance at December 31, 2018 or 2017.

**Long-Term Service Agreement**

The Company has entered into a long-term service agreement (LTSA) for the purpose of securing maintenance support for a combined cycle generating unit at Plant Smith. The LTSA covers all planned inspections on the covered equipment, which generally includes the cost of all labor and materials. The LTSA also obligates the counterparty to cover the costs of unplanned maintenance on the covered equipment subject to limits and scope specified in the contract.

Payments made under the LTSA for the performance of any planned inspections or unplanned capital maintenance are recorded in the statements of cash flows as investing activities. Receipts of major parts into materials and supplies inventory prior to planned inspections are treated as noncash transactions in the statements of cash flows. Any payment made prior to the work being performed are recorded as prepayments in noncurrent assets on the balance sheets. At the time work is performed, an appropriate amount is transferred from the prepayment and recorded as property, plant, and equipment or expensed.

**Cash and Cash Equivalents**

For purposes of the financial statements, temporary cash investments are considered cash equivalents. Temporary cash investments are securities with original maturities of 90 or less.

**Materials and Supplies**

Materials and supplies generally includes the average cost of transmission, distribution, and generating plant materials. Materials are recorded to inventory when purchased and then expensed or capitalized to plant, as appropriate, at weighted average cost when installed.

**Fuel Inventory**

Fuel inventory includes the average cost of oil, natural gas, coal, transportation, and emissions allowances. Fuel is recorded to inventory when purchased and then expensed, at weighted average cost, as used. Fuel expense and emissions allowance costs are

**NOTES (continued)**  
**Gulf Power Company Financial Statements and Notes**

recovered by the Company through the fuel cost recovery and environmental cost recovery rates, respectively, approved annually by the Florida PSC. Emissions allowances granted by the EPA are included in inventory at zero cost.

**Financial Instruments**

The Company uses derivative financial instruments to limit exposure to fluctuations in interest rates, the prices of certain fuel purchases, and electricity purchases and sales. All derivative financial instruments are recognized as either assets or liabilities on the balance sheets (included in "Other" or shown separately as "Risk Management Activities") and are measured at fair value. See Note 9 for additional information regarding fair value. Substantially all of the Company's bulk energy purchases and sales contracts that meet the definition of a derivative are excluded from fair value accounting requirements because they qualify for the "normal" scope exception, and are accounted for under the accrual method. Derivative contracts that qualify as cash flow hedges of anticipated transactions or are recoverable through the Florida PSC approved fuel-hedging program result in the deferral of related gains and losses in AOCI or regulatory assets and liabilities, respectively, until the hedged transactions occur. Any ineffectiveness arising from cash flow hedges is recognized currently in net income. Other derivative contracts that qualify as fair value hedges are marked to market through current period income and are recorded on a net basis in the statements of income. Cash flows from derivatives are classified on the statement of cash flows in the same category as the hedged item. The Florida PSC extended the moratorium on the Company's fuel-hedging program until January 1, 2021 in connection with the 2017 Rate Case Settlement Agreement. The moratorium does not have an impact on the recovery of existing hedges entered into under the previously-approved hedging program. See Note 10 for additional information regarding derivatives.

The Company offsets fair value amounts recognized for multiple derivative instruments executed with the same counterparty under a netting arrangement. The Company had no outstanding collateral repayment obligations or rights to reclaim collateral arising from derivative instruments recognized at December 31, 2018.

The Company is exposed to potential losses related to financial instruments in the event of counterparties' nonperformance. The Company has established risk management policies and controls to determine and monitor the creditworthiness of counterparties in order to mitigate the Company's exposure to counterparty credit risk.

**Provision for Uncollectible Accounts**

All customers of the Company are billed monthly. For the majority of receivables, a provision for uncollectible accounts is established based on historical collection experience and other factors. For the remaining receivables, if the Company is aware of a specific customer's inability to pay, a provision for uncollectible accounts is recorded to reduce the receivable balance to the amount reasonably expected to be collected. If circumstances change, the estimate of the recoverability of accounts receivable could change as well. Circumstances that could affect this estimate include, but are not limited to, customer credit issues, customer deposits, and general economic conditions. Customers' accounts are written off once they are deemed to be uncollectible. For all periods presented, uncollectible accounts averaged less than 1% of revenues.

**Comprehensive Income**

The objective of comprehensive income is to report a measure of all changes in common stock equity of an enterprise that result from transactions and other economic events of the period other than transactions with owners. Comprehensive income consists of net income, changes in the fair value of qualifying cash flow hedges, and reclassifications for amounts included in net income.

**2. RETIREMENT BENEFITS**

The Company has a qualified defined benefit, trusteed, pension plan covering substantially all employees. This qualified defined benefit pension plan is funded in accordance with requirements of the Employee Retirement Income Security Act of 1974, as amended (ERISA). No contributions to the qualified pension plan were made for the year ended December 31, 2018 and no mandatory contributions to the qualified pension plan are anticipated for the year ending December 31, 2019. The Company also provides certain non-qualified defined benefits for a select group of management and highly compensated employees, which are funded on a cash basis. In addition, the Company provides certain medical care and life insurance benefits for retired employees through other postretirement benefit plans. The Company funds its other postretirement trusts to the extent required by the FERC. For the year ending December 31, 2019, no other postretirement trust contributions are expected.

**Actuarial Assumptions**

The weighted average rates assumed in the actuarial calculations used to determine both the net periodic costs for the pension and other postretirement benefit plans for the following year and the benefit obligations as of the measurement date are presented below.

**NOTES (continued)**  
**Gulf Power Company Financial Statements and Notes**

<b>Assumptions used to determine net periodic costs:</b>	<b>2018</b>	<b>2017</b>
<b>Pension plans</b>		
Discount rate – benefit obligations	3.82%	4.46%
Discount rate – interest costs	3.48	3.82
Discount rate – service costs	3.98	4.81
Expected long-term return on plan assets	7.95	7.95
Annual salary increase	4.46	4.46
<b>Other postretirement benefit plans</b>		
Discount rate – benefit obligations	3.69%	4.25%
Discount rate – interest costs	3.30	3.56
Discount rate – service costs	3.90	4.62
Expected long-term return on plan assets	7.81	7.81
Annual salary increase	4.46	4.46

<b>Assumptions used to determine benefit obligations:</b>	<b>2018</b>	<b>2017</b>
<b>Pension plans</b>		
Discount rate	4.51%	3.82%
Annual salary increase	4.46	4.46
<b>Other postretirement benefit plans</b>		
Discount rate	4.37%	3.69%
Annual salary increase	4.46	4.46

The Company estimates the expected rate of return on pension plan and other postretirement benefit plan assets using a financial model to project the expected return on each current investment portfolio. The analysis projects an expected rate of return on each of the different asset classes in order to arrive at the expected return on the entire portfolio relying on each trust's target asset allocation and reasonable capital market assumptions. The financial model is based on four key inputs: anticipated returns by asset class (based in part on historical returns), each trust's target asset allocation, an anticipated inflation rate, and the projected impact of a periodic rebalancing of each trust's portfolio.

An additional assumption used in measuring the accumulated other postretirement benefit obligations (APBO) was a weighted average medical care cost trend rate. The weighted average medical care cost trend rates used in measuring the APBO as of December 31, 2018 were as follows:

	<b>Initial Cost Trend Rate</b>	<b>Ultimate Cost Trend Rate</b>	<b>Year That Ultimate Rate is Reached</b>
Pre-65	6.50%	4.50%	2028
Post-65 medical	5.00	4.50	2028
Post-65 prescription	8.00	4.50	2028

An annual increase or decrease in the assumed medical care cost trend rate of 1% would affect the APBO and the service and interest cost components at December 31, 2018 as follows:

	<b>1 Percent Increase</b>	<b>1 Percent Decrease</b>
	<i>(in millions)</i>	
Benefit obligation	\$ 2	\$ 2
Service and interest costs	—	—

**NOTES (continued)**  
**Gulf Power Company Financial Statements and Notes**

**Pension Plans**

The total accumulated benefit obligation for the pension plans was \$481 million at December 31, 2018 and \$524 million at December 31, 2017. Changes in the projected benefit obligations and the fair value of plan assets during the plan years ended December 31, 2018 and 2017 were as follows:

	2018	2017
	<i>(in millions)</i>	
<b>Change in benefit obligation</b>		
Benefit obligation at beginning of year	\$ 587	\$ 517
Service cost	16	13
Interest cost	20	19
Benefits paid	(30)	(20)
Actuarial (gain) loss	(67)	58
Balance at end of year	526	587
<b>Change in plan assets</b>		
Fair value of plan assets at beginning of year	553	491
Actual return (loss) on plan assets	(40)	81
Employer contributions	9	1
Benefits paid	(30)	(20)
Fair value of plan assets at end of year	492	553
Accrued liability	\$ (34)	\$ (34)

At December 31, 2018, the projected benefit obligations for the qualified and non-qualified pension plans were \$515 million and \$11 million, respectively. All pension plan assets are related to the qualified pension plan.

Amounts recognized in the balance sheets at December 31, 2018 and 2017 related to the Company's pension plans consist of the following:

	2018	2017
	<i>(in millions)</i>	
Other regulatory assets, deferred	\$ 164	\$ 160
Other current liabilities	(1)	(1)
Employee benefit obligations	(33)	(33)

Presented below are the amounts included in regulatory assets at December 31, 2018 and 2017 related to the defined benefit pension plans that had not yet been recognized in net periodic pension cost along with the estimated amortization of such amounts for 2019.

	2018	2017	Estimated Amortization in 2019
	<i>(in millions)</i>		
Prior service cost	\$ 2	\$ 2	\$ —
Net (gain) loss	162	158	5
Regulatory assets	\$ 164	\$ 160	

**NOTES (continued)**  
**Gulf Power Company Financial Statements and Notes**

The changes in the balance of regulatory assets related to the defined benefit pension plans for the years ended December 31, 2018 and 2017 are presented in the following table:

	2018	2017
	<i>(in millions)</i>	
<b>Regulatory assets:</b>		
Beginning balance	\$ 160	\$ 153
Net (gain) loss	14	15
Reclassification adjustments:		
Amortization of prior service costs	—	(1)
Amortization of net gain (loss)	(10)	(7)
Total reclassification adjustments	(10)	(8)
Total change	4	7
Ending balance	\$ 164	\$ 160

Components of net periodic pension cost were as follows:

	2018	2017
	<i>(in millions)</i>	
Service cost	\$ 16	\$ 13
Interest cost	20	19
Expected return on plan assets	(40)	(38)
Recognized net (gain) loss	10	7
Net amortization	—	1
Net periodic pension cost	\$ 6	\$ 2

Net periodic pension cost is the sum of service cost, interest cost, and other costs netted against the expected return on plan assets. The expected return on plan assets is determined by multiplying the expected rate of return on plan assets and the market-related value of plan assets. In determining the market-related value of plan assets, the Company has elected to amortize changes in the market value of all plan assets over five years rather than recognize the changes immediately. As a result, the accounting value of plan assets that is used to calculate the expected return on plan assets differs from the current fair value of the plan assets.

Future benefit payments reflect expected future service and are estimated based on assumptions used to measure the projected benefit obligation for the pension plans. At December 31, 2018, estimated benefit payments were as follows:

	<b>Benefit Payments</b>
	<i>(in millions)</i>
2019	\$ 26
2020	26
2021	26
2022	27
2023	28
2024 to 2028	151

**NOTES (continued)**  
**Gulf Power Company Financial Statements and Notes**

**Other Postretirement Benefits**

Changes in the APBO and in the fair value of plan assets during the plan years ended December 31, 2018 and 2017 were as follows:

	2018	2017
	<i>(in millions)</i>	
<b>Change in benefit obligation</b>		
Benefit obligation at beginning of year	\$ 83	\$ 83
Service cost	1	1
Interest cost	3	3
Benefits paid	(4)	(5)
Actuarial (gain) loss	(14)	1
Balance at end of year	69	83
<b>Change in plan assets</b>		
Fair value of plan assets at beginning of year	20	18
Actual return (loss) on plan assets	(1)	3
Employer contributions	2	4
Benefits paid	(4)	(5)
Fair value of plan assets at end of year	17	20
Accrued liability	\$ (52)	\$ (63)

Amounts recognized in the balance sheets at December 31, 2018 and 2017 related to the Company's other postretirement benefit plans consist of the following:

	2018	2017
	<i>(in millions)</i>	
Other regulatory assets, deferred	\$ —	\$ 8
Other current liabilities	(1)	(1)
Other regulatory liabilities, deferred	(4)	(2)
Employee benefit obligations	(51)	(62)

Approximately \$(4) million and \$6 million was included in net regulatory (liabilities) assets at December 31, 2018 and 2017, respectively, related to the net loss for the other postretirement benefit plans that had not yet been recognized in net periodic other postretirement benefit cost. The estimated amortization of such amounts for 2019 is immaterial.

The changes in the balance of net regulatory assets (liabilities) related to the other postretirement benefit plans for the plan years ended December 31, 2018 and 2017 are presented in the following table:

	2018	2017
	<i>(in millions)</i>	
<b>Net regulatory assets (liabilities):</b>		
Beginning balance	\$ 6	\$ 7
Net (gain) loss	(10)	(1)
Ending balance	\$ (4)	\$ 6

**NOTES (continued)**  
**Gulf Power Company Financial Statements and Notes**

Components of the other postretirement benefit plans' net periodic cost were as follows:

	2018	<i>(in millions)</i>		2017
Service cost	\$	1	\$	1
Interest cost		3		3
Expected return on plan assets		(2)		(1)
<b>Net periodic postretirement benefit cost</b>	<b>\$</b>	<b>2</b>	<b>\$</b>	<b>3</b>

Future benefit payments, including prescription drug benefits, reflect expected future service and are estimated based on assumptions used to measure the APBO for the other postretirement benefit plans. Estimated benefit payments are reduced by drug subsidy receipts expected as a result of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 as follows:

	Benefit Payments	Subsidy Receipts	Total
		<i>(in millions)</i>	
2019	\$ 6	\$ —	\$ 6
2020	5	—	5
2021	5	—	5
2022	5	—	5
2023	5	(1)	4
2024 to 2028	25	(2)	23

**Benefit Plan Assets**

Pension plan and other postretirement benefit plan assets are managed and invested in accordance with all applicable requirements, including ERISA and the Internal Revenue Code of 1986, as amended. The Company's investment policies for both the pension plan and the other postretirement benefit plans cover a diversified mix of assets, as described below. Derivative instruments may be used to gain efficient exposure to the various asset classes and as hedging tools. The Company minimizes the risk of large losses primarily through diversification but also monitors and manages other aspects of risk.

**NOTES (continued)**  
**Gulf Power Company Financial Statements and Notes**

The composition of the Company's pension plan and other postretirement benefit plan assets as of December 31, 2018 and 2017, along with the targeted mix of assets for each plan, is presented below:

	Target	2018	2017
<b>Pension plan assets:</b>			
Domestic equity	26%	28%	31%
International equity	25	25	25
Fixed income	23	24	24
Special situations	3	1	1
Real estate investments	14	15	13
Private equity	9	7	6
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>
<b>Other postretirement benefit plan assets:</b>			
Domestic equity	25%	27%	30%
International equity	24	24	24
Domestic fixed income	25	26	26
Special situations	3	1	1
Real estate investments	14	15	13
Private equity	9	7	6
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

The investment strategy for plan assets related to the Company's qualified pension plan is to be broadly diversified across major asset classes. The asset allocation is established after consideration of various factors that affect the assets and liabilities of the pension plan including, but not limited to, historical and expected returns and interest rates, volatility, correlations of asset classes, the current level of assets and liabilities, and the assumed growth in assets and liabilities. Because a significant portion of the liability of the pension plan is long-term in nature, the assets are invested consistent with long-term investment expectations for return and risk. To manage the actual asset class exposures relative to the target asset allocation, the Company employs a formal rebalancing program. As additional risk management, external investment managers and service providers are subject to written guidelines to ensure appropriate and prudent investment practices. Management believes the portfolio is well-diversified with no significant concentrations of risk.

**Investment Strategies**

Detailed below is a description of the investment strategies for each major asset category for the pension and other postretirement benefit plans disclosed above:

- **Domestic equity.** A mix of large and small capitalization stocks with generally an equal distribution of value and growth attributes, managed both actively and through passive index approaches.
- **International equity.** A mix of growth stocks and value stocks with both developed and emerging market exposure, managed both actively and through passive index approaches.
- **Fixed income.** A mix of domestic and international bonds.
- **Special situations.** Investments in opportunistic strategies with the objective of diversifying and enhancing returns and exploiting short-term inefficiencies as well as investments in promising new strategies of a longer-term nature.
- **Real estate.** Investments in traditional private market, equity-oriented investments in real properties (indirectly through pooled funds or partnerships) and in publicly traded real estate securities.
- **Private equity.** Investments in private partnerships that invest in private or public securities typically through privately-negotiated and/or structured transactions, including leveraged buyouts, venture capital, and distressed debt.

**Benefit Plan Asset Fair Values**

Following are the fair value measurements for the pension plan and the other postretirement benefit plan assets as of December 31, 2018 and 2017. The fair values presented are prepared in accordance with GAAP. For purposes of determining the fair value of the pension plan and other postretirement benefit plan assets and the appropriate level designation, management

**NOTES (continued)**  
**Gulf Power Company Financial Statements and Notes**

relies on information provided by the plan's trustee. This information is reviewed and evaluated by management with changes made to the trustee information as appropriate.

Valuation methods of the primary fair value measurements disclosed in the following tables are as follows:

- **Domestic and international equity.** Investments in equity securities such as common stocks, American depositary receipts, and real estate investment trusts that trade on a public exchange are classified as Level 1 investments and are valued at the closing price in the active market. Equity funds with unpublished prices (i.e. pooled funds) are valued as Level 2, when the underlying holdings are comprised of Level 1 or Level 2 equity securities.
- **Fixed income.** Investments in fixed income securities are generally classified as Level 2 investments and are valued based on prices reported in the market place. Additionally, the value of fixed income securities takes into consideration certain items such as broker quotes, spreads, yield curves, interest rates, and discount rates that apply to the term of a specific instrument.
- **Real estate, private equity, and special situations.** Investments in real estate, private equity, and special situations are generally classified as Net Asset Value as a Practical Expedient, since the underlying assets typically do not have publicly available observable inputs. The fund manager values the assets using various inputs and techniques depending on the nature of the underlying investments. Techniques may include purchase multiples for comparable transactions, comparable public company trading multiples, discounted cash flow analysis, prevailing market capitalization rates, recent sales of comparable investments, and independent third-party appraisals. The fair value of partnerships is determined by aggregating the value of the underlying assets less liabilities.

The fair values of pension plan assets as of December 31, 2018 and 2017 are presented below. These fair values exclude cash, receivables related to investment income and pending investments sales, and payables related to pending investment purchases. The Company did not have any investments classified as Level 3 at December 31, 2018 or 2017.

	Fair Value Measurements Using			Total
	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Net Asset Value as a Practical Expedient (NAV)	
<b>At December 31, 2018:</b>				
	<i>(in millions)</i>			
Assets:				
Domestic equity <sup>(*)</sup>	\$ 89	\$ 44	\$ —	\$ 133
International equity <sup>(*)</sup>	57	56	—	113
Fixed income:				
U.S. Treasury, government, and agency bonds	—	39	—	39
Corporate bonds	—	51	—	51
Pooled funds	—	28	—	28
Cash equivalents and other	11	—	—	11
Real estate investments	18	—	58	76
Special situations	—	—	7	7
Private equity	—	—	35	35
<b>Total</b>	<b>\$ 175</b>	<b>\$ 218</b>	<b>\$ 100</b>	<b>\$ 493</b>

(\*) Level 1 securities consist of actively traded stocks while Level 2 securities consist of pooled funds.

**NOTES (continued)**  
**Gulf Power Company Financial Statements and Notes**

	Fair Value Measurements Using			Total
	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Net Asset Value as a Practical Expedient (NAV)	
<b>At December 31, 2017:</b>				
	<i>(in millions)</i>			
Assets:				
Domestic equity <sup>(*)</sup>	\$ 112	\$ 54	\$ —	\$ 166
International equity <sup>(*)</sup>	72	65	—	137
Fixed income:				
U.S. Treasury, government, and agency bonds	—	39	—	39
Corporate bonds	—	57	—	57
Pooled funds	—	30	—	30
Cash equivalents and other	10	—	—	10
Real estate investments	22	—	55	77
Special situations	—	—	8	8
Private equity	—	—	31	31
<b>Total</b>	<b>\$ 216</b>	<b>\$ 245</b>	<b>\$ 94</b>	<b>\$ 555</b>

(\*) Level 1 securities consist of actively traded stocks while Level 2 securities consist of pooled funds.

The fair values of other postretirement benefit plan assets as of December 31, 2018 and 2017 are presented below. These fair value measurements exclude cash, receivables related to investment income and pending investments sales, and payables related to pending investment purchases. The Company did not have any investments classified as Level 3 at December 31, 2018 or 2017.

	Fair Value Measurements Using			Total
	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Net Asset Value as a Practical Expedient (NAV)	
<b>At December 31, 2018:</b>				
	<i>(in millions)</i>			
Assets:				
Domestic equity <sup>(*)</sup>	\$ 3	\$ 2	\$ —	\$ 5
International equity <sup>(*)</sup>	2	2	—	4
Fixed income:				
U.S. Treasury, government, and agency bonds	—	1	—	1
Corporate bonds	—	2	—	2
Pooled funds	—	1	—	1
Cash equivalents and other	1	—	—	1
Real estate investments	1	—	2	3
Private equity	—	—	1	1
<b>Total</b>	<b>\$ 7</b>	<b>\$ 8</b>	<b>\$ 3</b>	<b>\$ 18</b>

(\*) Level 1 securities consist of actively traded stocks while Level 2 securities consist of pooled funds.

**NOTES (continued)**  
**Gulf Power Company Financial Statements and Notes**

At December 31, 2017:	Fair Value Measurements Using			Total
	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Net Asset Value as a Practical Expedient (NAV)	
<i>(in millions)</i>				
Assets:				
Domestic equity <sup>(*)</sup>	\$ 4	\$ 2	\$ —	\$ 6
International equity <sup>(*)</sup>	2	2	—	4
Fixed income:				
U.S. Treasury, government, and agency bonds	—	1	—	1
Corporate bonds	—	2	—	2
Pooled funds	—	1	—	1
Cash equivalents and other	1	—	—	1
Real estate investments	1	—	2	3
Private equity	—	—	1	1
<b>Total</b>	<b>\$ 8</b>	<b>\$ 8</b>	<b>\$ 3</b>	<b>\$ 19</b>

(\*) Level 1 securities consist of actively traded stocks while Level 2 securities consist of pooled funds.

**Employee Savings Plan**

The Company also sponsors a 401(k) defined contribution plan covering substantially all employees and provides matching contributions up to specified percentages of an employee's eligible pay. Total matching contributions made to the plan for 2018 and 2017 were \$5 million each year.

**3. CONTINGENCIES AND REGULATORY MATTERS**

**General Litigation Matters**

The Company is subject to certain claims and legal actions arising in the ordinary course of business. In addition, the Company's business activities are subject to extensive governmental regulation related to public health and the environment, such as laws and regulations governing air, water, land, and protection of other natural resources. Litigation over environmental issues and claims of various types, including property damage, personal injury, common law nuisance, and citizen enforcement of environmental laws and regulations has occurred throughout the U.S. This litigation has included claims for damages alleged to have been caused by carbon dioxide and other emissions, CCR, and alleged exposure to hazardous materials, and/or requests for injunctive relief in connection with such matters.

The ultimate outcome of such pending or potential litigation against the Company cannot be predicted at this time; however, for current proceedings not specifically reported herein, management does not anticipate that the ultimate liabilities, if any, arising from such current proceedings would have a material effect on the Company's financial statements.

**Environmental Matters**

**Environmental Remediation**

The Company must comply with environmental laws and regulations governing the handling and disposal of waste and releases of hazardous substances. Under these various laws and regulations, the Company could incur substantial costs to clean up affected sites. The Company received authority from the Florida PSC to recover approved environmental compliance costs through the environmental cost recovery clause. The Florida PSC reviews costs and adjusts rates up or down annually.

The Company recognizes a liability for environmental remediation costs only when it determines a loss is probable and reasonably estimable. At December 31, 2018, the Company's environmental remediation liability included estimated costs of environmental remediation projects of approximately \$48 million, of which approximately \$4 million is included in other regulatory liabilities, current and other current liabilities and approximately \$44 million is included in other regulatory assets, deferred and other deferred credits and liabilities. At December 31, 2017, the environmental remediation liability included

## **NOTES (continued)**

### **Gulf Power Company Financial Statements and Notes**

estimated costs of approximately \$52 million, of which approximately \$5 million is included in under recovered regulatory clause revenues and other current liabilities and approximately \$47 million is included in other regulatory assets, deferred and other deferred credits and liabilities.

These estimated costs primarily relate to site closure criteria by the Florida Department of Environmental Protection (FDEP) for potential impacts to soil and groundwater from herbicide applications at the Company's substations. The schedule for completion of the remediation projects is subject to FDEP approval. The projects have been approved by the Florida PSC for recovery through the Company's environmental cost recovery clause; therefore, these liabilities have no impact on net income.

The ultimate outcome of these matters cannot be determined at this time; however, as a result of the regulatory treatment for environmental remediation expenses described above, the final disposition of these matters is not expected to have a material impact on the Company's financial statements.

### **FERC Matters**

#### ***Open Access Transmission Tariff***

On May 10, 2018, Alabama Municipal Electric Authority and Cooperative Energy filed with the FERC a complaint against SCS and the traditional electric operating companies (including the Company) claiming that the current 11.25% base return on equity (ROE) used in calculating the annual transmission revenue requirements of the traditional electric operating companies' (including the Company's) open access transmission tariff is unjust and unreasonable as measured by the applicable FERC standards. The complaint requested that the base ROE be set no higher than 8.65% and that the FERC order refunds for the difference in revenue requirements that results from applying a just and reasonable ROE established in this proceeding upon determining the current ROE is unjust and unreasonable. On June 18, 2018, SCS and the traditional electric operating companies (including the Company) filed their response challenging the adequacy of the showing presented by the complainants and offering support for the current ROE. On September 6, 2018, the FERC issued an order establishing a refund effective date of May 10, 2018 in the event a refund is due and initiating an investigation and settlement procedures regarding the current base ROE. Through December 31, 2018, the estimated maximum potential refund is not expected to be material to the Company's results of operations or cash flows. The ultimate outcome of this matter cannot be determined at this time.

### **Retail Regulatory Matters**

The Company's rates and charges for service to retail customers are subject to the regulatory oversight of the Florida PSC. The Company's rates are a combination of base rates and several separate cost recovery clauses for specific categories of costs. These separate cost recovery clauses address such items as fuel and purchased energy costs, purchased power capacity costs, energy conservation and demand side management programs, and the costs of compliance with environmental laws and regulations. Costs not addressed through one of the specific cost recovery clauses are recovered through the Company's base rates.

#### ***Storm Damage Cost Recovery***

See Note 1 under "Property Damage Reserve" for information on how the Company maintains a reserve for property damage to cover the cost of damages from major storms to its transmission and distribution lines and the cost of uninsured damages to its generating facilities and other property.

On October 10, 2018, Hurricane Michael made landfall on the Gulf Coast of Florida causing substantial damage in the Company's service territory. The Company estimates the cost of repairing the damages to its transmission and distribution lines and uninsured facilities will total approximately \$425 million to \$450 million, which primarily will be charged to the Company's property damage reserve or capitalized. As a result, the accumulated reserve had a deficit balance of approximately \$255 million at December 31, 2018.

As authorized in the 2017 Rate Case Settlement Agreement, on February 6, 2019, the Company filed a petition with the Florida PSC requesting to recover approximately \$342 million from its retail customers through a storm surcharge, which would also replenish the property damage reserve to approximately \$40 million. The ultimate outcome of this matter cannot be determined at this time.

#### ***Retail Base Rate Cases***

On April 4, 2017, the Florida PSC approved the 2017 Rate Case Settlement Agreement among the Company and three intervenors with respect to the Company's request in 2016 to increase retail base rates. Among the terms of the 2017 Rate Case Settlement Agreement, the Company increased rates effective with the first billing cycle in July 2017 to provide an annual overall net customer impact of approximately \$54.3 million. The net customer impact consisted of a \$62.0 million increase in annual base revenues, less an annual purchased power capacity cost recovery clause credit for certain wholesale revenues of approximately \$8

**NOTES (continued)**  
**Gulf Power Company Financial Statements and Notes**

million through December 2019. In addition, the Company continued its authorized retail ROE midpoint (10.25%) and range (9.25% to 11.25%), is deemed to have a maximum equity ratio of 52.5% for all retail regulatory purposes, and implemented new dismantlement accruals effective July 1, 2017. The Company also began amortizing the regulatory asset associated with the investment balances remaining after the retirement of Plant Smith Units 1 and 2 (357 megawatts) over 15 years effective January 1, 2018 and implemented new depreciation rates effective January 1, 2018. The 2017 Rate Case Settlement Agreement also resulted in a \$32.5 million write-down of the Company's ownership of Plant Scherer Unit 3 (205 megawatts), which was recorded in the first quarter 2017.

As a continuation of the 2017 Rate Case Settlement Agreement, on March 26, 2018, the Florida PSC approved a stipulation and settlement agreement among the Company and three intervenors addressing the retail revenue requirement effects of the Tax Reform Legislation (Tax Reform Settlement Agreement). The Tax Reform Settlement Agreement resulted in an annual reduction to the Company's revenues of \$18.2 million from base rates and \$15.6 million from environmental cost recovery rates beginning April 1, 2018 and also provided for a one-time refund of \$69.4 million for the retail portion of unprotected (not subject to normalization) deferred tax liabilities through a reduced fuel cost recovery rate over the remainder of 2018. As a result of the Tax Reform Settlement Agreement, the Florida PSC also approved an increase in the Company's maximum equity ratio from 52.5% to 53.5% for all retail regulatory purposes.

On October 30, 2018, the Florida PSC approved a \$9.6 million annual reduction in base rate revenues effective January 2019 following a limited scope proceeding in connection with the Tax Reform Settlement Agreement to address protected deferred tax liabilities consistent with Internal Revenue Service (IRS) normalization principles. At December 31, 2018, the Company had deferred \$8 million of related 2018 tax benefits as a regulatory liability to be refunded to retail customers in 2019 through the Company's fuel cost recovery rate.

***Cost Recovery Clauses***

On November 5, 2018, the Florida PSC approved the Company's annual clause rate request for its fuel, purchased power capacity, environmental, and energy conservation cost recovery factors for 2019. The net effect of the approved changes is a \$38 million decrease in annual revenues effective in January 2019, the majority of which will be offset by related expense decreases.

Revenues for all cost recovery clauses, as recorded on the financial statements, are adjusted for differences in actual recoverable costs and amounts billed in current regulated rates. Accordingly, changes in the billing factor for fuel and purchased power will have no significant effect on the Company's revenues or net income, but will affect annual cash flow. The recovery provisions for environmental compliance and energy conservation include related expenses and a return on net average investment.

***Retail Fuel Cost Recovery***

The Company has established fuel cost recovery rates as approved by the Florida PSC. If, at any time during the year, the projected year-end fuel cost over or under recovery balance exceeds 10% of the projected fuel revenue applicable for the period, the Company is required to notify the Florida PSC and indicate if an adjustment to the fuel cost recovery factor is being requested.

At December 31, 2018, the over recovered fuel balance was approximately \$28 million, which is included in other regulatory liabilities, current on the balance sheet. At December 31, 2017, the under recovered fuel balance was approximately \$22 million, which is included in under recovered regulatory clause revenues on the balance sheet.

***Purchased Power Capacity Recovery***

The Company has established purchased power capacity cost recovery rates as approved by the Florida PSC. If the projected year-end purchased power capacity cost over or under recovery balance exceeds 10% of the projected purchased power capacity revenue applicable for the period, the Company is required to notify the Florida PSC and indicate if an adjustment to the purchased power capacity cost recovery factor is being requested.

At December 31, 2018, the over recovered purchased power capacity balance was \$2 million, which is included in other regulatory liabilities, current on the balance sheet. At December 31, 2017, the under recovered purchased power capacity balance was approximately \$2 million, which is included in under recovered regulatory clause revenues on the balance sheet.

***Environmental Cost Recovery***

The Florida Legislature adopted legislation for an environmental cost recovery clause, which allows an electric utility to petition the Florida PSC for recovery of prudent environmental compliance costs that are not being recovered through base rates or any other recovery mechanism. Such environmental costs include operations and maintenance expenses, emissions allowance expense, depreciation, and a return on net average investment. This legislation also allows recovery of costs incurred as a result of

## NOTES (continued)

### Gulf Power Company Financial Statements and Notes

an agreement between the Company and the FDEP for the purpose of ensuring compliance with ozone ambient air quality standards adopted by the EPA.

Annually, the Company seeks recovery of projected costs including any true-up amounts from prior periods. At December 31, 2018, the over recovered environmental balance of approximately \$15 million, along with the current portion of projected environmental expenditures, is included in other regulatory liabilities, current on the balance sheet.

At December 31, 2017, the over recovered environmental balance of approximately \$11 million, along with the current portion of projected environmental expenditures of approximately \$14 million, was included in under recovered regulatory clause revenues on the balance sheet.

#### *Energy Conservation Cost Recovery*

Every five years, the Florida PSC establishes new numeric conservation goals covering a 10-year period for utilities to reduce annual energy and seasonal peak demand using demand-side management programs. After the goals are established, utilities develop plans and programs to meet the approved goals. The costs for these programs are recovered through rates established annually in the energy conservation cost recovery (ECCR) clause.

At December 31, 2018, the over recovered ECCR balance was immaterial. At December 31, 2017, the under recovered ECCR balance was immaterial.

#### 4. JOINT OWNERSHIP AGREEMENTS

The Company and Mississippi Power jointly own Plant Daniel Units 1 and 2, which together represent capacity of 1,000 megawatts. Plant Daniel is a generating plant located in Jackson County, Mississippi. In accordance with the operating agreement, Mississippi Power acts as the Company's agent with respect to the construction, operation, and maintenance of these units.

The Company and Georgia Power jointly own the 818-megawatt capacity Plant Scherer Unit 3. Plant Scherer is a generating plant located near Forsyth, Georgia. In accordance with the operating agreement, Georgia Power acts as the Company's agent with respect to the construction, operation, and maintenance of the unit.

At December 31, 2018, the Company's percentage ownership and investment in these jointly-owned facilities were as follows:

	Plant Scherer Unit 3 (coal)	Plant Daniel Units 1 & 2 (coal)
	<i>(in millions)</i>	
Plant in service	\$ 392	\$ 705
Accumulated depreciation	156	243
Construction work in progress	21	6
Company ownership	25%	50%

The Company's proportionate share of its plant operating expenses is included in the corresponding operating expenses in the statements of income and the Company is responsible for providing its own financing.

In conjunction with Southern Company's sale of the Company, Mississippi Power and the Company have committed to seek a restructuring of their 50% undivided ownership interests in Plant Daniel such that each of them would, after the restructuring, own 100% of a generating unit. On January 15, 2019, the Company provided notice to Mississippi Power that the Company will retire its share of the generating capacity of Plant Daniel on January 15, 2024. Mississippi Power has the option to purchase the Company's ownership interest for \$1 on January 15, 2024, provided that Mississippi Power exercises the option no later than 120 days prior to that date. The ultimate outcome of these matters remains subject to Mississippi Power's decision with respect to its purchase option and applicable regulatory approvals, including the FERC and the Mississippi PSC, and cannot now be determined. See Note 1 under "General" for information regarding the sale of the Company.

#### 5. INCOME TAXES

On behalf of the Company, Southern Company files a consolidated federal income tax return and various combined and separate state income tax returns. Under a joint consolidated income tax allocation agreement, each Southern Company subsidiary's current and deferred tax expense is computed on a stand-alone basis and no subsidiary is allocated more current expense than would be paid if it filed a separate income tax return. In accordance with IRS regulations, each company is jointly and severally liable for the federal tax liability.

**NOTES (continued)**  
**Gulf Power Company Financial Statements and Notes**

**Federal Tax Reform Legislation**

Following the enactment of the Tax Reform Legislation, the SEC staff issued Staff Accounting Bulletin 118 – "Income Tax Accounting Implications of the Tax Cuts and Jobs Act" (SAB 118), which provided for a measurement period of up to one year from the enactment date to complete accounting under GAAP for the tax effects of the legislation. Due to the complex and comprehensive nature of the enacted tax law changes and their application under GAAP, the Company considered all amounts recorded in the financial statements as a result of the Tax Reform Legislation "provisional" as discussed in SAB 118 and subject to revision prior to filing its 2017 tax return in the fourth quarter 2018. As of December 31, 2018, the Company considered the measurement of impacts from the Tax Reform Legislation on deferred income tax assets and liabilities, primarily due to the impact of the reduction of the corporate income tax rate, to be complete.

However, the IRS continues to issue regulations that provide further interpretation and guidance on the law and each state's adoption of the provisions contained in the Tax Reform Legislation remains uncertain. The regulatory treatment of certain impacts of the Tax Reform Legislation is subject to the discretion of the FERC. The ultimate impact of this matter cannot be determined at this time. See Note 3 for additional information.

**Current and Deferred Income Taxes**

Details of income tax provisions are as follows:

	2018	2017
	<i>(in millions)</i>	
Federal -		
Current	\$ (26)	\$ 19
Deferred	(2)	58
	(28)	77
State -		
Current	(1)	(1)
Deferred	9	14
	8	13
<b>Total</b>	<b>\$ (20)</b>	<b>\$ 90</b>

**NOTES (continued)**  
**Gulf Power Company Financial Statements and Notes**

The tax effects of temporary differences between the carrying amounts of assets and liabilities in the financial statements and their respective tax bases, which give rise to deferred tax assets and liabilities, are as follows:

	2018	2017
	<i>(in millions)</i>	
<b>Deferred tax liabilities-</b>		
Accelerated depreciation	\$ 557	\$ 552
Property basis differences	119	105
Employee benefit obligations	37	38
Regulatory assets associated with employee benefit obligations	42	44
Regulatory assets associated with asset retirement obligations	45	38
Property damage reserve	65	—
Other	26	35
<b>Total deferred income tax liabilities</b>	<b>891</b>	<b>812</b>
<b>Deferred tax assets-</b>		
Federal effect of state deferred taxes	41	25
Employee benefit obligations	61	66
Other property differences	81	98
Asset retirement obligations	45	38
Deferred state tax assets	12	—
Other	29	48
<b>Total deferred income tax assets</b>	<b>269</b>	<b>275</b>
<b>Net deferred income tax liabilities</b>	<b>\$ 622</b>	<b>\$ 537</b>

The implementation of the Tax Reform Legislation significantly reduced accumulated deferred income taxes in 2017, partially offset by bonus depreciation provisions in the Protecting Americans from Tax Hikes Act. The Tax Reform Legislation also significantly reduced tax-related regulatory assets and increased tax-related regulatory liabilities.

The Company has tax-related regulatory assets (deferred income tax charges) and regulatory liabilities (deferred income tax credits). The regulatory assets are primarily attributable to tax benefits flowed through to customers in prior years, deferred taxes previously recognized at rates lower than the current enacted tax law, and taxes applicable to capitalized interest. The regulatory liabilities are primarily attributed to deferred taxes previously recognized at rates higher than the current enacted tax law. See Note 1 for the Company's related balances at December 31, 2018 and 2017.

At December 31, 2018, the Company had state of Florida net operating loss (NOL) carryforwards totaling approximately \$224 million, resulting in a net deferred tax asset of approximately \$10 million. The NOLs will begin expiring in 2036. The ultimate outcome of this matter cannot be determined at this time.

**Effective Tax Rate**

A reconciliation of the federal statutory income tax rate to the effective income tax rate is as follows:

	2018	2017
Federal statutory rate	21.0%	35.0%
State income tax, net of federal deduction	4.4	3.7
Non-deductible book depreciation	0.5	0.2
Flowback of excess deferred income taxes	(39.4)	—
Other	(0.6)	0.5
<b>Effective income tax (benefit) rate</b>	<b>(14.1)%</b>	<b>39.4%</b>

The Company's effective tax rate for 2018 varied significantly as compared to 2017 due to the 14% lower 2018 federal tax rate resulting from the Tax Reform Legislation and the flowback of excess deferred income taxes.

**NOTES (continued)**  
**Gulf Power Company Financial Statements and Notes**

**Unrecognized Tax Benefits**

The Company has no material unrecognized tax benefits for the periods presented. The Company classifies interest on tax uncertainties as interest expense. Accrued interest for unrecognized tax benefits was immaterial and the Company did not accrue any penalties on uncertain tax positions.

It is reasonably possible that the amount of the unrecognized tax benefits could change within 12 months. New audit findings or settlements associated with ongoing audits could result in significant unrecognized tax benefits. At this time, a range of reasonably possible outcomes cannot be determined.

The IRS has finalized its audits of Southern Company's consolidated federal income tax returns through 2017. Southern Company is a participant in the Compliance Assurance Process of the IRS. The audits for the Company's state income tax returns have either been concluded, or the statute of limitations has expired, for years prior to 2015.

**6. FINANCING**

**Securities Due Within One Year**

At December 31, 2018 and 2017, the Company had no long-term debt due within one year.

Maturities through 2023 applicable to total long-term debt include \$175 million in 2020, \$141 million in 2022, and \$33 million in 2023. There are no scheduled maturities in 2019 or 2021.

**Senior Notes**

At December 31, 2018 and 2017, the Company had a total of \$990 million of senior notes outstanding. These senior notes are effectively subordinate to all secured debt of the Company, which totaled approximately \$41 million at both December 31, 2018 and 2017.

**Pollution Control Revenue Bonds**

Pollution control revenue bond obligations represent loans to the Company from public authorities of funds derived from sales by such authorities of revenue bonds issued to finance pollution control and solid waste disposal facilities. The Company is required to make payments sufficient for the authorities to meet principal and interest requirements of such bonds. The amount of tax-exempt pollution control revenue bond obligations outstanding at December 31, 2018 and 2017 was \$309 million.

**Outstanding Classes of Capital Stock**

The Company has preferred stock, Class A preferred stock, preference stock, and common stock authorized. The Company's preferred stock and Class A preferred stock, without preference between classes, would rank senior to the Company's preference stock and common stock with respect to payment of dividends and voluntary or involuntary dissolution. No shares of preferred stock or Class A preferred stock were outstanding at December 31, 2018. The Company's preference stock would rank senior to the common stock with respect to the payment of dividends and voluntary or involuntary dissolution. No shares of preference stock were outstanding at December 31, 2018.

**Dividend Restrictions**

The Company can only pay dividends out of retained earnings or paid-in-capital.

**Assets Subject to Lien**

The Company has granted a lien on its property at Plant Daniel in connection with the issuance of two series of pollution control revenue bonds with an aggregate outstanding principal amount of \$41 million as of December 31, 2018. There are no agreements or other arrangements among the Southern Company system companies under which the assets of one company have been pledged or otherwise made available to satisfy obligations of Southern Company or any of its subsidiaries.

**NOTES (continued)**  
**Gulf Power Company Financial Statements and Notes**

**Bank Credit Arrangements**

At December 31, 2018, committed credit arrangements with banks were as follows:

Expires			Total	Unused	Executable Term Loans		Expires Within One Year	
2019	2020	2021			One Year	Two Years	Term Out	No Term Out
<i>(in millions)</i>			<i>(in millions)</i>		<i>(in millions)</i>		<i>(in millions)</i>	
\$ 45	\$ 235	\$ —	\$ 280	\$ 280	\$ 45	\$ —	\$ 45	\$ —

In November 2018, the Company amended \$20 million of its multi-year credit arrangements to extend the maturity dates from 2018 to 2019.

Most of the bank credit arrangements require payment of commitment fees based on the unused portion of the commitments. Commitment fees average less than  $\frac{1}{4}$  of 1% for the Company.

Subject to applicable market conditions, the Company expects to renew or replace its bank credit arrangements as needed, prior to expiration. In connection therewith, the Company may extend the maturity dates and/or increase or decrease the lending commitments thereunder.

Most of these bank credit arrangements contain covenants that limit the Company's debt level to 65% of total capitalization, as defined in the arrangements. For purposes of these definitions, debt excludes certain hybrid securities. At December 31, 2018, the Company was in compliance with these covenants.

Most of the \$280 million of unused credit arrangements with banks provide liquidity support to the Company's pollution control revenue bonds and commercial paper program. The amount of variable rate pollution control revenue bonds outstanding requiring liquidity support as of December 31, 2018 was approximately \$82 million. In addition, at December 31, 2018, the Company had \$58 million of fixed rate pollution control revenue bonds outstanding that were required to be remarketed within the next 12 months.

For short-term cash needs, the Company borrows primarily through a commercial paper program that has the liquidity support of the Company's committed bank credit arrangements described above. The Company may also borrow through various other arrangements with banks. Commercial paper and short-term bank loans are included in notes payable on the balance sheets. The Company had no short-term borrowings outstanding at December 31, 2018. At December 31, 2017 the Company had \$45 million of commercial paper outstanding at a weighted average interest rate of 2.0%.

**7. COMMITMENTS**

**Fuel and Purchased Power Agreements**

To supply a portion of the fuel requirements of its generating plants, the Company has entered into various long-term commitments for the procurement and delivery of fossil fuel not recognized on the balance sheets. In 2018 and 2017, the Company incurred fuel expense of \$421 million and \$427 million, respectively, the majority of which was purchased under long-term commitments. The Company expects that a substantial amount of its future fuel needs will continue to be purchased under long-term commitments.

In addition, the Company has entered into various long-term commitments for the purchase of capacity, energy, and transmission, some of which are accounted for as operating leases. The energy-related costs associated with PPAs are recovered through the fuel cost recovery clause. The capacity and transmission-related costs associated with PPAs are recovered through the purchased power capacity cost recovery clause. Capacity expense under a PPA accounted for as an operating lease was \$74 million for 2018 and \$75 million for 2017.

**NOTES (continued)**  
**Gulf Power Company Financial Statements and Notes**

Estimated total obligations under non-affiliate PPAs accounted for as operating leases at December 31, 2018 were as follows:

	<i>(in millions)</i>
2019	\$ 79
2020	79
2021	79
2022	79
2023 and thereafter	33
<b>Total</b>	<b>\$ 349</b>

SCS may enter into various types of wholesale energy and natural gas contracts acting as an agent for the Company and all of the other traditional electric operating companies and Southern Power. Under these agreements, each of the traditional electric operating companies and Southern Power may be jointly and severally liable. Accordingly, Southern Company has entered into keep-well agreements with the Company and each of the other traditional electric operating companies to ensure the Company will not subsidize or be responsible for any costs, losses, liabilities, or damages resulting from the inclusion of Southern Power as a contracting party under these agreements.

**Operating Leases**

In addition to the operating lease PPAs discussed above, the Company has entered into operating leases with Southern Linc and other third parties for the use of cellular tower space. These agreements have initial terms ranging from five to 10 years and renewal options of up to five years. The Company also has other operating lease agreements with various terms and expiration dates. Total lease payments were \$10 million for each of 2018 and 2017. The Company excludes contingent rent but includes any step rents, fixed escalations, lease concessions, and lease extension to cover the expected life of the facility in the computation of minimum lease payments.

At December 31, 2018, estimated minimum lease payments under operating leases were as follows:

	<b>Minimum Lease Payments</b>		
	<b>Affiliate Operating Leases<sup>(a)</sup></b>	<b>Non-Affiliate Operating Leases<sup>(b)</sup></b>	<b>Total</b>
	<i>(in millions)</i>		
2019	\$ 2	\$ 2	\$ 4
2020	2	1	3
2021	2	—	2
2022	2	—	2
2023	—	—	—
2024 and thereafter	4	—	4
<b>Total</b>	<b>\$ 12</b>	<b>\$ 3</b>	<b>\$ 15</b>

(a) Includes operating leases for cellular tower space.

(b) Includes operating leases for barges, facilities, and other equipment.

The Company also has operating lease agreements for railcars, barges, and towboats for the transport of coal. The Company has the option to renew the leases at the end of the lease term. The Company's lease costs, charged to fuel inventory and recovered through the retail fuel cost recovery clause, were \$6 million in 2018 and \$7 million in 2017. The Company's annual barge and towboat payments for 2019 are expected to be approximately \$1 million.

**8. STOCK-BASED COMPENSATION**

Stock-based compensation primarily in the form of Southern Company performance share units (PSU) and restricted stock units (RSU) may be granted through the Omnibus Incentive Compensation Plan to the Company's management employees. At December 31, 2018, there were 131 current and former employees participating in stock-based compensation programs.

Employees immediately vest in PSUs and RSUs upon retirement. As a result, compensation expense for employees that are retirement eligible at the grant date is recognized immediately, while compensation expense for employees that become retirement eligible during the vesting period is recognized over the period from grant date to the date of retirement eligibility. The

**NOTES (continued)**  
**Gulf Power Company Financial Statements and Notes**

compensation cost related to the grant of Southern Company stock-based compensation to the Company's employees is recognized in the Company's financial statements with a corresponding credit to equity, representing a capital contribution from Southern Company. In addition, the Company recognizes forfeitures as they occur. The financial statement impact of the Company's stock-based compensation awards was immaterial for all periods presented. As of December 31, 2018, the unrecognized compensation cost of stock-based compensation awards was immaterial.

All unvested stock-based awards vest immediately upon a change in control where Southern Company is not the surviving corporation or in the event of a subsidiary change in control. In accordance with the change in control provisions of the Omnibus Incentive Compensation Plan, at the effective time of the sale of the Company on January 1, 2019, all active Company employees' unvested 2017 and 2018 granted stock-based awards vested at 100% of the target number of share units granted. In the first quarter 2019, all vested performance share and restricted stock units were paid in cash. Unexercised stock options of active Company employees at the time of sale will be exercisable through their original 10-year exercise period.

**9. FAIR VALUE MEASUREMENTS**

Fair value measurements are based on inputs of observable and unobservable market data that a market participant would use in pricing the asset or liability. The use of observable inputs is maximized where available and the use of unobservable inputs is minimized for fair value measurement and reflects a three-tier fair value hierarchy that prioritizes inputs to valuation techniques used for fair value measurement.

- Level 1 consists of observable market data in an active market for identical assets or liabilities.
- Level 2 consists of observable market data, other than that included in Level 1, that is either directly or indirectly observable.
- Level 3 consists of unobservable market data. The input may reflect the assumptions of the Company of what a market participant would use in pricing an asset or liability. If there is little available market data, then the Company's own assumptions are the best available information.

In the case of multiple inputs being used in a fair value measurement, the lowest level input that is significant to the fair value measurement represents the level in the fair value hierarchy in which the fair value measurement is reported.

At December 31, 2018 and 2017, assets and liabilities measured at fair value on a recurring basis during the period, together with their associated level of the fair value hierarchy, were as follows:

	Fair Value Measurements Using			Total
	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)	
<b>At December 31, 2018:</b>				
	<i>(in millions)</i>			
Liabilities:				
Energy-related derivatives	\$ —	\$ 6	\$ —	\$ 6

	Fair Value Measurements Using			Total
	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)	
<b>At December 31, 2017:</b>				
	<i>(in millions)</i>			
Assets:				
Cash equivalents	21	—	—	21
Liabilities:				
Energy-related derivatives	\$ —	\$ 21	\$ —	\$ 21

**Valuation Methodologies**

The energy-related derivatives primarily consist of exchange-traded and over-the-counter financial products for natural gas and physical power products, including, from time to time, basis swaps. These are standard products used within the energy industry

**NOTES (continued)**  
**Gulf Power Company Financial Statements and Notes**

and are valued using the market approach. The inputs used are mainly from observable market sources, such as forward natural gas prices, power prices, implied volatility, and overnight index swap interest rates. Interest rate derivatives are also standard over-the-counter products that are valued using observable market data and assumptions commonly used by market participants. The fair value of interest rate derivatives reflects the net present value of expected payments and receipts under the swap agreement based on the market's expectation of future interest rates. Additional inputs to the net present value calculation may include the contract terms, counterparty credit risk, and occasionally, implied volatility of interest rate options. The interest rate derivatives are categorized as Level 2 under Fair Value Measurements as these inputs are based on observable data and valuations of similar instruments. See Note 10 for additional information on how these derivatives are used.

As of December 31, 2018 and 2017, other financial instruments for which the carrying amount did not equal fair value were as follows:

	Carrying Amount	Fair Value
	<i>(in millions)</i>	
Long-term debt:		
<b>2018</b>	<b>\$ 1,286</b>	<b>\$ 1,309</b>
2017	\$ 1,285	\$ 1,334

The fair values are determined using Level 2 measurements and are based on quoted market prices for the same or similar issues or on the current rates available to the Company.

## 10. DERIVATIVES

The Company is exposed to market risks, primarily commodity price risk and interest rate risk. To manage the volatility attributable to these exposures, the Company nets its exposures, where possible, to take advantage of natural offsets and may enter into various derivative transactions for the remaining exposures pursuant to the Company's policies in areas such as counterparty exposure and risk management practices. The Company's policy is that derivatives are to be used primarily for hedging purposes and mandates strict adherence to all applicable risk management policies. Derivative positions are monitored using techniques including, but not limited to, market valuation, value at risk, stress testing, and sensitivity analysis. Derivative instruments are recognized at fair value in the balance sheets as either assets or liabilities and are presented on a net basis. See Note 9 for additional information. In the statements of cash flows, any cash impacts of settled energy-related and interest rate derivatives are recorded as operating activities.

The Company adopted ASU 2017-12 as of January 1, 2018. See Note 1 under "Recently Adopted Accounting Standards – Other" for additional information.

### Energy-Related Derivatives

The Company enters into energy-related derivatives to hedge exposures to electricity, natural gas, and other fuel price changes. However, due to cost-based rate regulations and other various cost recovery mechanisms, the Company has limited exposure to market volatility in energy-related commodity prices. The Company manages fuel-hedging programs, implemented per the guidelines of the Florida PSC, through the use of financial derivative contracts, which are expected to continue to mitigate price volatility. With respect to wholesale generating capacity, the Company has limited exposure to market volatility in energy-related commodity prices because long-term sales contracts shift substantially all fuel cost responsibility to the purchaser. However, the Company may be exposed to market volatility in energy-related commodity prices to the extent any uncontracted capacity is used to sell electricity. The Florida PSC approved a stipulation and agreement that prospectively imposed a moratorium on the Company's fuel-hedging program in October 2016 through December 31, 2017. In connection with the 2017 Rate Case Settlement Agreement, the Florida PSC extended the moratorium on the Company's fuel-hedging program until January 1, 2021. The moratorium does not have an impact on the recovery of existing hedges entered into under the previously-approved hedging program.

Energy-related derivative contracts are accounted for under one of three methods:

- *Regulatory Hedges* — Energy-related derivative contracts which are designated as regulatory hedges relate primarily to the Company's fuel-hedging programs, where gains and losses are initially recorded as regulatory liabilities and assets, respectively, and then are included in fuel expense as the underlying fuel is used in operations and ultimately recovered through the fuel cost recovery clause.

**NOTES (continued)****Gulf Power Company Financial Statements and Notes**

- *Cash Flow Hedges* — Gains and losses on energy-related derivatives designated as cash flow hedges (which are mainly used to hedge anticipated purchases and sales) are initially deferred in AOCI before being recognized in the statements of income in the same period and in the same income statement line item as the earnings effect of the hedged transactions.
- *Not Designated* — Gains and losses on energy-related derivative contracts that are not designated or fail to qualify as hedges are recognized in the statements of income as incurred.

Some energy-related derivative contracts require physical delivery as opposed to financial settlement, and this type of derivative is both common and prevalent within the electric industry. When an energy-related derivative contract is settled physically, any cumulative unrealized gain or loss is reversed and the contract price is recognized in the respective line item representing the actual price of the underlying goods being delivered.

At December 31, 2018, the net volume of energy-related derivative contracts for natural gas positions totaled 6 million mmBtu (million British thermal units) for the Company, with the longest hedge date of 2020 over which it is hedging its exposure to the variability in future cash flows for forecasted transactions.

In addition to the volume discussed above, the Company enters into physical natural gas supply contracts that provide the option to sell back excess gas due to operational constraints. The maximum expected volume of natural gas subject to such a feature is 2 million mmBtu for the Company.

**Interest Rate Derivatives**

The Company may also enter into interest rate derivatives to hedge exposure to changes in interest rates. The derivatives employed as hedging instruments are structured to minimize ineffectiveness. Derivatives related to existing variable rate securities or forecasted transactions are accounted for as cash flow hedges where the derivatives' fair value gains or losses are recorded in OCI and are reclassified into earnings at the same time and presented in the same income statement line item as the earnings effect of the hedged transactions.

At December 31, 2018, there were no interest rate derivatives outstanding.

The estimated pre-tax gains related to interest rate derivatives that will be reclassified from accumulated OCI to interest expense for the 12-month period ending December 31, 2019 are immaterial. Deferred gains and losses related to interest rate derivatives are expected to be amortized into earnings through 2027.

**Derivative Financial Statement Presentation and Amounts**

The Company enters into derivative contracts that may contain certain provisions that permit intra-contract netting of derivative receivables and payables for routine billing and offsets related to events of default and settlements. The fair value amounts of derivative assets and liabilities in the balance sheets are presented net to the extent that there are netting arrangements or similar agreements with the counterparties.

At December 31, 2018 and 2017, all energy-related derivatives were designated as hedging instruments for regulatory purposes. The related fair values totaled \$6 million and \$21 million, respectively, at December 31, 2018 and 2017 and were reflected in the balance sheets as other current liabilities and other deferred credits and liabilities as follows:

	Other Current Liabilities	Other Deferred Credits and Liabilities	Total
	<i>(in millions)</i>		
<b>December 31, 2018</b>	\$ 6	— \$	6
<b>December 31, 2017</b>	\$ 14	\$ 7	21

Energy-related derivatives not designated as hedging instruments were immaterial at December 31, 2018 and 2017.

**NOTES (continued)**  
**Gulf Power Company Financial Statements and Notes**

At December 31, 2018 and 2017, the pre-tax effects of unrealized derivative losses arising from energy-related derivative instruments designated as regulatory hedging instruments and deferred were as follows:

Balance Sheet Location	Unrealized Losses	
	2018	2017
	<i>(in millions)</i>	
Other regulatory assets, current	\$ (6)	\$ (14)
Other regulatory assets, deferred	—	(7)
<b>Total energy-related derivative losses</b>	<b>\$ (6)</b>	<b>\$ (21)</b>

For the years ended December 31, 2018 and 2017, the pre-tax effects of energy-related derivatives and interest rate derivatives designated as cash flow hedging instruments and energy-related derivatives not designated as hedging instruments on the statements of income were immaterial. Also, there was no material ineffectiveness recorded in earnings for any period presented.

Upon the adoption of ASU 2017-12, beginning in 2018, ineffectiveness was no longer separately measured and recorded in earnings. See Note 1 for additional information.

**Contingent Features**

The Company does not have any credit arrangements that would require material changes in payment schedules or terminations as a result of a credit rating downgrade. There are certain derivatives that could require collateral, but not accelerated payment, in the event of various credit rating changes of certain affiliated companies. At December 31, 2018, the Company had no collateral posted with derivative counterparties to satisfy these arrangements.

At December 31, 2018, the fair value of derivative liabilities with contingent features was immaterial. However, because of joint and several liability features underlying these derivatives, the maximum potential collateral requirements arising from the credit-risk related contingent features, at a rating below BBB- and /or Baa3, were \$3 million, and include certain agreements that could require collateral in the event that one or more Southern Company power pool participants has a credit rating change to below investment grade. Following the sale of the Company to NextEra Energy, the Company is continuing to participate in the Southern Company power pool for a defined transition period that, subject to certain potential adjustments, is scheduled to end on January 1, 2024.

Generally, collateral may be provided by a Southern Company guaranty, letter of credit, or cash. If collateral is required, fair value amounts recognized for the right to reclaim cash collateral or the obligation to return cash collateral are not offset against fair value amounts recognized for derivatives executed with the same counterparty.

The Company is exposed to losses related to financial instruments in the event of counterparties' nonperformance. The Company only enters into agreements and material transactions with counterparties that have investment grade credit ratings by Moody's Investors Service, Inc. and S&P Global Ratings, a division of S&P Global Inc., or with counterparties who have posted collateral to cover potential credit exposure. The Company has also established risk management policies and controls to determine and monitor the creditworthiness of counterparties in order to mitigate the Company's exposure to counterparty credit risk.

The Company does not anticipate a material adverse effect on the financial statements as a result of counterparty nonperformance.

**11. REVENUE FROM CONTRACTS WITH CUSTOMERS**

The Company generates revenues from a variety of sources, some of which are excluded from the scope of ASC 606, such as leases, derivatives, and certain cost recovery mechanisms. See Note 1 under "Recently Adopted Accounting Standards – Revenue" for additional information on the adoption of ASC 606 for revenue from contracts with customers and under "Revenues" and "Other Taxes" for additional information on the revenue policies of the Company.

**NOTES (continued)**  
**Gulf Power Company Financial Statements and Notes**

The following table disaggregates revenue sources for the year ended December 31, 2018:

	<b>2018</b>
<b><i>Operating revenues</i></b>	
Retail revenues <sup>(a)</sup>	
Residential	\$ 698
Commercial	379
Industrial	131
Other	5
<b><i>Total retail electric revenues</i></b>	<b>\$ 1,213</b>
Wholesale energy revenues <sup>(b)</sup>	160
Wholesale capacity revenues	26
Other revenues <sup>(c)</sup>	66
<b><i>Total operating revenues</i></b>	<b>\$ 1,465</b>

- (a) Retail revenues include a net reduction of \$60 million related to certain cost recovery mechanisms that are not accounted for as revenue under ASC 606. See Note 3 for additional information on cost recovery mechanisms.
- (b) Wholesale revenues include \$4 million accounted for as derivatives primarily related to physical energy sales in the wholesale electricity market. See Note 10 for additional information on energy-related derivative contracts.
- (c) Other revenues includes \$6 million of revenues not accounted for under ASC 606.

**Remaining Performance Obligations**

The Company has long-term contracts with customers in which revenues are recognized as performance obligations are satisfied over the contract term primarily related to PPAs whereby the Company provides electricity and generation capacity to a customer. The revenue recognized for the delivery of electricity is variable; however, certain PPAs include a fixed payment for fixed generation capacity over the term of the contract. At December 31, 2018, revenues from contracts with customers related to these remaining performance obligations totaling \$22 million are expected to be recognized in 2019.

**[THIS PAGE INTENTIONALLY LEFT BLANK]**

**Gulf Power Company  
Financial Statements as of  
and for the Quarterly Periods Ended June 30, 2019 and 2018  
(Unaudited)**

## DEFINITIONS

<u>Term</u>	<u>Meaning</u>
ASU	Accounting Standards Update
CCR	Coal combustion residuals
CO <sub>2</sub>	Carbon dioxide
FASB	Financial Accounting Standards Board
FERC	Federal Energy Regulatory Commission
FPL	Florida Power & Light Company
FPSC	Florida Public Service Commission
Gulf Power	Gulf Power Company
IRS	Internal Revenue Service
mmBtu	Million British thermal units
NextEra Energy power pool	NextEra Energy Inc. The operating arrangement whereby the integrated generating resources of the traditional electric operating companies and Southern Power (excluding subsidiaries) are subject to joint commitment and dispatch in order to serve their combined load obligations
SCS	Southern Company Services, Inc. (the Southern Company system service company)
SEC	U.S. Securities and Exchange Commission
Southern Company	The Southern Company
Southern Company system	Southern Company, the traditional electric operating companies, Southern Power Company and its subsidiaries, Southern Company Gas and its subsidiaries, SEGCO, Southern Nuclear Operating Company, Inc., SCS, Southern Communications Services, Inc.,
traditional electric operating companies	Alabama Power Company, Georgia Power Company, Gulf Power and Mississippi Power Company

**GULF POWER COMPANY  
STATEMENTS OF INCOME**

	Three Months Ended June 30,		Six Months Ended June 30,	
	2019	2018	2019	2018
	(millions)			
Operating Revenues	\$ 366	\$ 344	\$ 694	\$ 692
Operating Expenses:				
Fuel, purchased power and interchange	137	135	260	263
Other operations and maintenance	61	81	130	157
Acquisition-related	18	—	18	—
Depreciation and amortization	56	57	106	104
Taxes other than income taxes and other - net	26	28	55	58
Total operating expenses	298	301	569	582
Operating Income	68	43	125	110
Other Income (Expense):				
Interest expense, net of amounts capitalized	(14)	(13)	(27)	(26)
Other income (expense) - net	1	1	—	3
Total other income (expense) - net	(13)	(12)	(27)	(23)
Income Before Income Taxes	55	31	98	87
Income taxes	10	(11)	17	3
Net Income	\$ 45	\$ 42	\$ 81	\$ 84

The accompanying notes are an integral part of these financial statements.

**GULF POWER COMPANY  
BALANCE SHEETS**

	<u>June 30, 2019</u>	<u>December 31, 2018</u>	
(millions)			
<b>PROPERTY, PLANT and EQUIPMENT</b>			
Electric plant in service and other property	\$ 5,511	\$ 5,391	
Construction work in progress	307	199	
Accumulated depreciation and amortization	(1,619)	(1,543)	
Total property, plant and equipment - net	4,199	4,047	
<b>CURRENT ASSETS</b>			
Cash and cash equivalents	12	9	
Customer receivables, net of allowances of \$1 and \$1, respectively	168	133	
Other receivables	5	8	
Materials, supplies and fossil fuel inventory	141	128	
Regulatory assets	118	79	
Other	19	11	
Total current assets	463	368	
<b>OTHER ASSETS</b>			
Regulatory assets	509	732	
Other assets	234	41	
Total other assets	743	773	
<b>TOTAL ASSETS</b>	<b>\$ 5,405</b>	<b>\$ 5,188</b>	
<b>CAPITALIZATION</b>			
Common stock (authorized shares - 10,000,000, \$0.01 par value and 20,000,000, no par value, respectively; outstanding shares - 7,392,717)	\$ 678	\$ 678	
Additional paid-in capital	1,014	978	
Retained earnings	347	265	
Accumulated other comprehensive loss	(1)	(1)	
Long-term debt	1,111	1,286	
Total capitalization	3,149	3,206	
<b>CURRENT LIABILITIES</b>			
Commercial Paper	100	—	
Current portion of long-term debt	175	—	
Accounts payable	106	222	
Customer deposits	34	34	
Accrued interest and taxes	38	26	
Regulatory liabilities	19	50	
Other	209	95	
Total current liabilities	681	427	
<b>OTHER LIABILITIES AND DEFERRED CREDITS</b>			
Asset retirement obligations	117	123	
Deferred income taxes	629	622	
Regulatory liabilities	570	589	
Other	259	221	
Total other liabilities and deferred credits	1,575	1,555	
<b>COMMITMENTS AND CONTINGENCIES</b>			
<b>TOTAL CAPITALIZATION AND LIABILITIES</b>	<b>\$ 5,405</b>	<b>\$ 5,188</b>	

The accompanying notes are an integral part of these financial statements.

**GULF POWER COMPANY  
STATEMENTS OF CASH FLOWS**

	Six months ended June 30,	
	2019	2018
	(millions)	
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>		
Net income	\$ 81	\$ 84
Adjustments to reconcile net income to net cash provided by (used in) operating activities:		
Depreciation and amortization	106	104
Other amortization	29	4
Deferred income taxes	13	(21)
Cost recovery clauses and franchise fees	(31)	28
Other - net	(15)	(12)
Changes in operating assets and liabilities:		
Current assets	(53)	(16)
Noncurrent assets	(29)	(3)
Current liabilities	(62)	(12)
Noncurrent liabilities	15	1
Net cash provided by operating activities	54	157
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>		
Capital expenditures	(248)	(158)
Net cash used in investing activities	(248)	(158)
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>		
Issuances of long-term debt	105	—
Retirements of long-term debt	(105)	—
Capital contributions from parent company	100	37
Net change in commercial paper	100	45
Dividends on common stock	—	(77)
Other - net	—	(1)
Net cash provided by financing activities	200	4
Net increase in cash, cash equivalents and restricted cash	6	3
Cash, cash equivalents, and restricted cash at beginning of period	9	28
Cash, cash equivalents, and restricted cash at end of period	\$ 15	\$ 31
Supplemental Cash Flow Information:		
Noncash transactions:		
Accrued property additions at quarter-end	\$ 37	\$ 22

The accompanying notes are an integral part of these financial statements.

**GULF POWER COMPANY  
NOTES TO FINANCIAL STATEMENTS**

The accompanying financial statements should be read in conjunction with the 2018 Annual Financial Statements of Gulf Power. In the opinion of Gulf Power management, all adjustments (consisting of normal recurring accruals) considered necessary for fair financial statement presentation have been made. Certain amounts included in the prior year's financial statements have been reclassified to conform to the current year's presentation. The results of operations for an interim period generally will not give a true indication of results for the year.

**1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

**Leases**

In February 2016, the FASB issued ASU No. 2016-02, Leases (Topic 842) (ASU 2016-02). ASU 2016-02 requires lessees to recognize on the balance sheet a lease liability and a right-of-use asset for all leases. ASU 2016-02 also changes the recognition, measurement, and presentation of expense associated with leases and provides clarification regarding the identification of certain components of contracts that would represent a lease. Gulf Power has adopted the new standard effective January 1, 2019 on a prospective basis. As permitted by the new lease standard, Gulf Power elected (i) not to reassess whether any expired or existing contracts are/or contain leases, (ii) not to reassess the lease classification for any expired or existing leases, (iii) not to reassess initial direct costs for any existing leases, (iv) not to reevaluate land easements if they were not previously accounted for as leases, (v) not to apply hindsight when assessing lease term and impairment of the right-of-use (ROU) asset, (vi) not to apply the recognition requirements for short-term leases, (vii) not to separate non-lease components from associated lease components for substantially all classes of underlying assets, and (viii) to apply transition requirements at adoption date and not apply the new requirements to comparative periods, including disclosures.

Upon adoption of the new lease standard, ROU assets and lease liabilities in connection with operating leases at Gulf Power were recorded. ROU assets are included in noncurrent other assets, lease liabilities are included in current and noncurrent other liabilities on Gulf Power's balance sheet. The ROU assets were netted against the deferred capacity expense of \$82 million that were included within other current and other non-current liabilities on the balance sheet at January 1, 2019. Operating lease expense is included in other operations and maintenance expenses and amortization expense is included in depreciation and amortization expense on Gulf Power's statement of income.

Operating right-of-use assets and lease liabilities were recorded primarily related to a purchased power agreement; such amounts totaled approximately \$234 million at June 30, 2019. Gulf Power's lease liabilities at June 30, 2019 were calculated using a weighted-average incremental borrowing rate at the lease inception of 3.39% and a weighted average remaining lease term of 3.91 years. Gulf Power's operating lease expense for the three and six months ended June 30, 2019 was \$14 million and \$28 million respectively. Rental expense for operating leases, as included within operations as reported under the previous lease standard, for the year ended December 31, 2018 was \$85 million and included within other operations and maintenance expense.

For the six months ended June 30, 2019, cash paid for amounts included in the measurement of lease liabilities was \$28 million and included within operating cash flows on the statement of cash flow.

Operating leases primarily have fixed payments with expiration dates ranging from 2019 to 2023. At June 30, 2019, expected lease payments over the remaining terms of the operating leases for each of the following calendar years (in millions):

2019	\$	32
2020	\$	64
2021	\$	64
2022	\$	64
2023	\$	26
Total lease payments	\$	250
Less: imputed interest	\$	(16)
Total lease obligation	\$	<u>234</u>

**GULF POWER COMPANY**  
**NOTES TO FINANCIAL STATEMENTS (Continued)**

The following table presents future estimated minimum lease payments under operating leases as reported under the previous lease standard for each of the following calendar years as of December 31, 2018 (in millions):

2019	\$	83
2020	\$	82
2021	\$	81
2022	\$	81
2023	\$	33
2024 and thereafter	\$	4
Total lease payments	<u>\$</u>	<u>364</u>

**Affiliate Transactions**

During the first quarter of 2019, certain services were provided to Gulf Power by FPL at direct or allocated fully loaded cost. FPL has long been the primary operating entity of NextEra Energy and as such, has operated as the embedded shared services company for NextEra Energy and affiliates within the NextEra Energy organization. Corporate support services provided by FPL primarily include corporate governance, accounting, financial, consulting, human resources systems and programs, education and training, legal, payroll, management and administrative, computer services, software maintenance and license fees. Other services provided by FPL include business operations, engineering and construction, development, customer service, and information technology. Charges for these services are billed to Gulf Power in accordance with FPL's Cost Allocation Manual and amounted to \$33 million for the six months ended June 30, 2019.

In 2018, Gulf Power had an agreement with SCS under which the following services were rendered to Gulf Power at direct or allocated cost: general and design engineering, operations, purchasing, accounting, finance and treasury, tax, information technology, marketing, auditing, insurance and pension administration, human resources, systems and procedures, digital wireless communications, and other services with respect to business and operations, construction management, and power pool transactions. Costs for these services amounted to \$37 million, for the six months ended June 30, 2018. Cost allocation methodologies used by SCS prior to the repeal of the Public Utility Holding Company Act of 1935, as amended, were approved by the SEC. Subsequently, additional cost allocation methodologies have been reported to the FERC and management believes they are reasonable. The FERC permits services to be rendered at cost by system service companies.

**Restricted Cash**

At June 30, 2019, Gulf Power had approximately \$3 million of restricted cash which is included in current other assets on the consolidated balance sheets. Restricted cash is related to funds for property insurance.

**2. RETIREMENT BENEFITS**

On January 1, 2019, Gulf Power's retiree benefit plan regulatory assets of approximately \$160 million and non-current liabilities of approximately \$80 million were reduced to zero as the pension plan was absorbed and will be held by NextEra Energy. Gulf Power employees will now participate in NextEra Energy's qualified noncontributory defined benefit pension plan. Certain Gulf Power employees also participate in NextEra Energy's supplemental executive retirement plan (SERP), which includes a non-qualified supplemental defined benefit pension component that provides benefits to a select group of management and highly compensated employees, and sponsors a contributory postretirement plan for other benefits for retirees of NextEra Energy and its subsidiaries meeting certain eligibility requirements.

**3. REGULATORY MATTERS**

**Retail Regulatory Matters**

On May 14, 2019, the FPSC approved Gulf Power's request to recover costs of restoring power and rebuilding the grid following Hurricane Michael. The FPSC approved an interim surcharge of \$8 per month for a residential customer using 1,000 kilowatt-hours. This equates to approximately \$342 million from its retail customers, which will also replenish the property damage reserve to approximately \$41 million.

**GULF POWER COMPANY**  
**NOTES TO FINANCIAL STATEMENTS (Continued)**

**4. INCOME TAXES**

In 2019, on behalf of Gulf Power, NextEra Energy will file a consolidated federal income tax return and various combined and separate state tax returns. Under the tax sharing agreement between NextEra Energy and certain of its subsidiaries, the income tax provision at each applicable subsidiary reflects the use of the "separate return method," except that tax benefits that could not be used on a separate return basis, but are used on the consolidated tax return, are recorded by the subsidiary that generated the tax benefits. Any remaining consolidated income tax benefits or expenses are recorded at the corporate level. Included in other regulatory assets and other regulatory liabilities on Gulf Power's balance sheet is the revenue equivalent of the difference in deferred income taxes computed under accounting rules, as compared to regulatory accounting rules.

In 2018, on behalf of Gulf Power, Southern Company filed a consolidated federal income tax return and various combined and separate state income tax returns. Under a joint consolidated income tax allocation agreement, each Southern Company subsidiary's current and deferred tax expense is computed on a stand-alone basis and no subsidiary is allocated more current expense than would be paid if it filed a separate income tax return. In accordance with IRS regulations, each company is jointly and severally liable for the federal tax liability.

**Effective Tax Rate**

A reconciliation of the federal statutory income tax rate to the effective income tax rate is as follows:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2019	2018	2019	2018
Statutory federal income tax rate	21.0%	21.0 %	21.0%	21.0%
State income tax, net of federal deduction	5.0	5.0	4.6	4.7
Amortization of deferred regulatory credit	(8.0)	(60.8)	(9.0)	(22.3)
Other, net	0.6	0.9	0.7	(0.1)
Effective income tax rate	<u>18.6%</u>	<u>(33.9)%</u>	<u>17.3%</u>	<u>3.3%</u>

**5. FINANCING**

In April 2019, two issuances of pollution control bonds with principle balances of \$37 million and \$29 million were remarketed from fixed rates of 2.1% and 4.45%, respectively, to variable rates based on an underlying index plus a specified margin. There was no change to the outstanding principal of the pollution control bonds. Additionally, in April 2019 there were \$30 million of new issuances related to the revolving credit facility with a maturity date of 2020. The interest rate is variable based on an underlying index plus a specified margin.

**6. STOCK COMPENSATION**

Stock-based compensation primarily in the form of NextEra Energy performance share awards, restricted stock, and stock options may be granted through the NextEra Energy, Inc. Amended and Restated 2011 Long Term Incentive Plan. As of June 30, 2019, there were 5 current employees participating in the performance share, restricted stock and stock option programs.

Performance share awards are typically payable at the end of a three-year performance period if the specified performance criteria are met. The fair value for the majority of performance share awards is estimated based upon the closing market price of NextEra Energy's common stock as of the date of grant less the present value of expected dividends, multiplied by an estimated performance multiple which is subsequently trued up based on actual performance.

Restricted stock typically vests within three years after the date of grant and is subject to, among other things, restrictions on transferability prior to vesting. The fair value of restricted stock is measured based upon the closing market price of NextEra Energy's common stock as of the date of grant.

Options typically vest within three years after the date of grant and have a maximum term of ten years. The exercise price of each option granted equals the closing market price of NextEra Energy's common stock on the date of grant. The fair value of the options is estimated on the date of the grant using the Black-Scholes option-pricing model.

**GULF POWER COMPANY**  
**NOTES TO FINANCIAL STATEMENTS (Continued)**

**7. FAIR VALUE MEASUREMENTS**

Fair value measurements are based on inputs of observable and unobservable market data that a market participant would use in pricing the asset or liability. The use of observable inputs is maximized where available and the use of unobservable inputs is minimized for fair value measurement and reflects a three-tier fair value hierarchy that prioritizes inputs to valuation techniques used for fair value measurement.

- Level 1 consists of observable market data in an active market for identical assets or liabilities.
- Level 2 consists of observable market data, other than that included in Level 1, that is either directly or indirectly observable.
- Level 3 consists of unobservable market data. The input may reflect the assumptions of Gulf Power of what a market participant would use in pricing an asset or liability. If there is little available market data, then Gulf Power's own assumptions are the best available information.

In the case of multiple inputs being used in a fair value measurement, the lowest level input that is significant to the fair value measurement represents the level in the fair value hierarchy in which the fair value measurement is reported.

Liabilities measured at fair value on a recurring basis, together with their associated level of the fair value hierarchy, were as follows:

	Fair Value Measurements Using			Total
	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)	
	(millions)			
<b>As of June 30, 2019:</b>				
Liabilities: Energy-related derivatives	\$	—	\$ 5	\$ 5
<b>As of December 31, 2018</b>				
Liabilities: Energy-related derivatives	\$	—	\$ 6	\$ 6

**Valuation Methodologies**

The energy-related derivatives primarily consist of over-the-counter financial products for natural gas and physical power products, including, from time to time, basis swaps. These are standard products used within the energy industry and are valued using the market approach. The inputs used are mainly from observable market sources, such as forward natural gas prices, power prices, implied volatility, and overnight index swap interest rates. Interest rate derivatives are also standard over-the-counter products that are valued using observable market data and assumptions commonly used by market participants. See Note 8 for additional information on how these derivatives are used.

As of June 30, 2019 and December 31, 2018, other financial instruments for which the carrying amount did not equal fair value were as follows:

	Carrying Amount		Fair Value	
	(millions)			
<b>Long-term debt, including current portion</b>				
June 30, 2019	\$	1,286	\$	1,366
December 31, 2018	\$	1,286	\$	1,309

The fair values are determined using Level 2 measurements and are based on quoted market prices for the same or similar issues or on the current rates available to Gulf Power.

**8. DERIVATIVES**

Gulf Power is exposed to commodity price risk. To manage the volatility attributable to this exposures, Gulf Power nets its exposures, where possible, to take advantage of natural offsets and may enter into various derivative transactions for the remaining exposures pursuant to Gulf Power's policies in areas such as counterparty exposure and risk management practices. Gulf Power's policy is that derivatives are to be used primarily for hedging purposes and mandates strict adherence to all applicable risk management

**GULF POWER COMPANY**  
**NOTES TO FINANCIAL STATEMENTS (Continued)**

policies. Derivative positions are monitored using techniques including, but not limited to, market valuation, value at risk, stress testing, and sensitivity analysis. Derivative instruments are recognized at fair value in the balance sheets as either assets or liabilities and are presented on a net basis. See Note 7 for additional information. In the statements of cash flows, the cash impacts of settled energy-related derivatives are recorded as operating activities.

**Energy-Related Derivatives**

Gulf Power enters into energy-related derivatives to hedge exposures to electricity, gas, and other fuel price changes. However, due to cost-based rate regulations and other various cost recovery mechanisms, Gulf Power has limited exposure to market volatility in energy-related commodity prices. Gulf Power manages fuel-hedging programs, implemented per the guidelines of the FPSC, through the use of financial derivative contracts, which is expected to continue to mitigate price volatility. The FPSC approved a stipulation and agreement that prospectively imposed a moratorium on Gulf Power's fuel-hedging program in October 2016 through December 31, 2017. In connection with the 2017 Rate Case Settlement Agreement, the FPSC extended the moratorium on Gulf Power's fuel-hedging program until January 1, 2021. The moratorium does not have an impact on the recovery of existing hedges entered into under the previously-approved hedging program.

Energy-related derivative contracts which are designated as regulatory hedges relate primarily to Gulf Power's fuel-hedging programs, where gains and losses are initially recorded as regulatory liabilities and assets, respectively, and then are included in fuel expense as the underlying fuel is used in operations and ultimately recovered through the fuel cost recovery clause.

Some energy-related derivative contracts require physical delivery as opposed to financial settlement, and this type of derivative is both common and prevalent within the electric industry. When an energy-related derivative contract is settled physically, any cumulative unrealized gain or loss is reversed and the contract price is recognized in the respective line item representing the actual price of the underlying goods being delivered.

At June 30, 2019, the net volume of energy-related derivative contracts for natural gas positions totaled 3.4 million mmBtu for Gulf Power, with the longest hedge date of 2020.

**Derivative Financial Statement Presentation and Amounts**

Gulf Power enters into energy-related and interest rate derivative contracts that may contain certain provisions that permit intra-contract netting of derivative receivables and payables for routine billing and offsets related to events of default and settlements. Fair value amounts of derivative assets and liabilities on the balance sheets are presented net to the extent that there are netting arrangements or similar agreements with the counterparties.

At June 30, 2019 and December 31, 2018, the fair value of energy-related derivatives was reflected on the balance sheets as follows:

	Other Current Liabilities	Other Deferred Credits and Liabilities	Total
	(millions)		
June 30, 2019	\$ 5	\$ —	\$ 5
December 31, 2018	\$ 6	\$ —	\$ 6

Energy-related derivatives not designated as hedging instruments were immaterial on the balance sheets at June 30, 2019 and December 31, 2018.

At June 30, 2019 and December 31, 2018, the pre-tax effects of unrealized derivative gains (losses) arising from energy-related derivatives designated as regulatory hedging instruments and deferred were as follows:

Balance Sheet Location*	Unrealized Losses	
	June 30, 2019	December 31, 2018
	(millions)	
Other regulatory assets, current	\$ 4	\$ 6
Other regulatory assets, deferred	—	—
	\$ 4	\$ 6

(\*) The unrealized gains and losses for derivative contracts subject to netting arrangements were presented net on the balance sheets

**GULF POWER COMPANY**  
**NOTES TO FINANCIAL STATEMENTS (Continued)**

For the periods ended June 30, 2019 and December 31, 2018, the pre-tax effects of energy-related derivatives and energy-related derivatives not designated as hedging instruments on the income statement were immaterial.

**Contingent Features**

Gulf Power does not have any credit arrangements that would require material changes in payment schedules or terminations as a result of a credit rating downgrade. There are certain derivatives that could require collateral, but not accelerated payment, in the event of various credit rating changes of certain affiliated companies. At June 30, 2019 and December 31, 2018, Gulf Power had no collateral posted with derivative counterparties to satisfy these arrangements.

At June 30, 2019, the fair value of derivative instruments with credit-risk-related contingent features that were in a liability position was approximately \$5 million. At December 31, 2018, the fair value of derivative liabilities with contingent features was immaterial. However, because of joint and several liability features underlying these derivatives, the maximum potential collateral requirements arising from the credit risk related contingent features, at a rating below investment grade, were approximately \$3 million as of June 30, 2019 and December 31, 2018, and include certain agreements that could require collateral in the event that one or more Southern Company power pool participants has a credit rating change to below investment grade. Following the sale of Gulf Power to NextEra Energy, Gulf Power is continuing to participate in the Southern Company power pool for a defined transition period that, subject to certain potential adjustments, is scheduled to end on January 1, 2024. Some derivative contracts do not contain credit ratings downgrade triggers, but do contain provisions that require certain financial measures be maintained and/or have credit-related cross-default triggers. In the event these provisions were triggered, Gulf Power could be required to post additional collateral of up to approximately \$2 million at June 30, 2019.

Generally, collateral may be provided by a NextEra Energy guaranty, letter of credit, or cash. If collateral is required, fair value amounts recognized for the right to reclaim cash collateral or the obligation to return cash collateral are not offset against fair value amounts recognized for derivatives executed with the same counterparty.

Gulf Power is exposed to losses related to financial instruments in the event of counterparties' nonperformance. Gulf Power only enters into agreements and material transactions with counterparties that have investment grade credit ratings by Moody's Investors Service, Inc. and S&P Global Ratings, a division of S&P Global Inc., or with counterparties who have posted collateral to cover potential credit exposure. Gulf Power has also established risk management policies and controls to determine and monitor the creditworthiness of counterparties in order to mitigate Gulf Power's exposure to counterparty credit risk.

Gulf Power does not anticipate a material adverse effect on the financial statements as a result of counterparty nonperformance.

**9. COMMITMENTS AND CONTINGENCIES**

**General Litigation Matters**

Gulf Power is subject to certain claims and legal actions arising in the ordinary course of business. In addition, Gulf Power's business activities are subject to extensive governmental regulation related to public health and the environment, such as regulation of air emissions and water discharges. Litigation over environmental issues and claims of various types, including property damage, personal injury, common law nuisance, and citizen enforcement of environmental requirements such as standards for air, water, land, and protection of natural resources has occurred throughout the U.S. This litigation has included claims for damages alleged to have been caused by CO<sub>2</sub> and other emissions, CCR, and alleged exposure to hazardous materials, and/or requests for injunctive relief in connection with such matters. The ultimate outcome of such pending or potential litigation against Gulf Power cannot be predicted at this time; however, for current proceedings not specifically reported herein, management does not anticipate that the ultimate liabilities, if any, arising from such current proceedings would have a material effect on Gulf Power's financial statements.

**Environmental Remediation**

Gulf Power must comply with environmental laws and regulations governing the handling and disposal of waste and releases of hazardous substances. Under these various laws and regulations, Gulf Power may also incur substantial costs to clean up affected sites. Gulf Power received authority from the FPSC to recover approved environmental compliance costs through the environmental cost recovery clause. The FPSC reviews costs and adjusts rates up or down annually.

Gulf Power recognizes a liability for environmental remediation costs only when it determines a loss is probable and reasonably estimable. At June 30, 2019, Gulf Power's environmental remediation liability included estimated costs of environmental remediation projects of approximately \$46 million, of which approximately \$4 million is included in current regulatory liabilities and other current liabilities and approximately \$42 million is included in regulatory liabilities, deferred and other liabilities and deferred credits. At December 31, 2018, the environmental remediation liability included estimated costs for environmental remediation projects of approximately \$48 million, of which approximately \$4 million is included in current regulatory liabilities and other current liabilities and approximately \$44 million is included in other regulatory liabilities, deferred and other liabilities and deferred credits.

**GULF POWER COMPANY**  
**NOTES TO FINANCIAL STATEMENTS (Continued)**

These estimated costs primarily relate to site closure criteria by the Florida Department of Environmental Protection (FDEP) for potential impacts to soil and groundwater from herbicide applications at Gulf Power's substations. The schedule for completion of the remediation projects is subject to FDEP approval. The projects have been approved by the FPSC for recovery through Gulf Power's environmental cost recovery clause; therefore, these liabilities have no impact on net income.

The ultimate outcome of these matters cannot be determined at this time; however, as a result of the regulatory treatment for environmental remediation expenses described above, the final disposition of these matters is not expected to have a material impact on Gulf Power's financial statements.

**APPENDIX B**  
**SUMMARY OF TERMS**

**THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK**

Glossary:

BD = Business Day  
 IPD = Interest Payment Date  
 RA = Remarketing Agent  
 TA = Tender Agent

	Daily Interest Rate Period	Weekly Interest Rate Period	Commercial Paper Interest Rate Period	Long-Term Interest Rate Period
<b>Authorized Denomination</b>	\$100,000 and any integral multiple of \$5,000 in excess of \$100,000	\$100,000 and any integral multiple of \$5,000 in excess of \$100,000	\$100,000 and any integral multiple of \$1,000 in excess of \$100,000	Integral multiples of \$5,000
<b>Interest Rate Setting</b>	Par rate determined by RA	Par rate determined by RA	Par rate and Commercial Paper Terms determined by RA	Par rate determined by RA
<b>Purchase from Owner at Owner's Option</b>	On any BD with irrevocable notice to TA by 11:00 a.m.	On any BD with at least 7 days irrevocable notice to TA	Not applicable	Not applicable
<b>Interest Rate Effective</b>	Daily (Sat., Sun. and holidays will be same as preceding BD)	Wednesday through Tuesday	Commercial Paper Date through last day of Commercial Paper Term (not greater than 270 days)	First day of Period through last day of Period (one year or more)
<b>Interest Rate Announced</b>	Daily	No later than BD prior to the Wednesday	No later than the Commercial Paper Date	No later than first day of Period
<b>Interest Accrual Date</b>	First day thereof and first BD of each month thereafter	First day thereof and first Wednesday of each month thereafter	Commercial Paper Date through last day of Commercial Paper Term	IPD through day preceding next IPD
<b>Calculation of Accrued Interest</b>	365/366-day year and actual days elapsed	365/366-day year and actual days elapsed	365/366-day year and actual days elapsed	360-day year; twelve 30-day months
<b>Interest Payment Date</b>	Fifth BD of the month	First Wednesday of the month	Day after end of Commercial Paper Term (next Commercial Paper Date or first day of next Period)	fifth day of the calendar month that is six months after the calendar month in which the adjustment date occurs and the fifth day of the calendar month every six months after each such payment date thereafter until the end of Period
<b>Interest Payment</b>	By check to registered owner as of Record Date on IPD; in immediately available funds by deposit to account or wire transfers to owners who request same	By check to registered owner as of Record Date on IPD; in immediately available funds by deposit to account or wire transfers to owners who request same	By check to registered owner as of Record Date on IPD; in immediately available funds by deposit to account or wire transfers to owners who request same, but only when Bond is presented	By check to registered owner as of Record Date on IPD
<b>Mandatory Tender for Purchase</b>	Effective date of any change in the Period	Effective date of any change in the Period	First day of Period and the Commercial Paper Date	Effective date of any change in the Period
<b>Optional Redemption</b>	100% of par plus accrued interest on any BD	100% of par plus accrued interest on any BD	100% of par plus accrued interest on day immediately succeeding last day of the Commercial Paper Term	If the period is less than or equal to 10 years, then non-callable. If the period is longer than 10 years, callable at par after 10 years; 100% of par plus accrued interest on any BD upon the occurrence of certain events

	<b>Daily Interest Rate Period</b>	<b>Weekly Interest Rate Period</b>	<b>Commercial Paper Interest Rate Period</b>	<b>Long-Term Interest Rate Period</b>
<b>Mandatory Redemption</b>	100% of par plus accrued interest upon final determination of taxability	100% of par plus accrued interest upon final determination of taxability	100% of par plus accrued interest upon final determination of taxability	100% of par plus accrued interest upon final determination of taxability
<b>Principal and any Premium Paid</b>	Upon presentation and surrender of Series 2019 Bonds	Upon presentation and surrender of Series 2019 Bonds	Upon presentation and surrender of Series 2019 Bonds	Upon presentation and surrender of Series 2019 Bonds
<b>Eligible Adjustment Date out of Period</b>	Any BD	Any BD	BD following a Commercial Paper Term	BD following Period; any BD on which Series 2019 Bonds permitted to be redeemed
<b>Adjustment to Period</b>	By the Company	By the Company	By the Company	By the Company
<b>Notice to Owners of Adjustment to Period</b>	At least 15 days	At least 15 days	At least 15 days	At least 15 days (30 days if effective date is not day after originally scheduled last day of Long-Term Interest Rate Period)
<b>Favorable Opinion of Counsel Required on Adjustment to Period</b>	Yes	Yes	Yes	Yes

## **APPENDIX C**

### **Form of Approving Opinion of Bond Counsel**

**THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK**

1180 Peachtree Street, N.E.  
Atlanta, Georgia 30309-3521  
Main: 404/572-4600  
Fax: 404/572-5100

October 17, 2019

Development Authority of Monroe County  
Forsyth, Georgia

Gulf Power Company  
Juno Beach, Florida

U.S. Bank National Association  
Atlanta, Georgia

Morgan Stanley & Co. LLC  
New York, New York

Re: \$45,000,000 Development Authority of Monroe County Revenue Bonds  
(Gulf Power Company Project), Series 2019

To the Addressees:

We have acted as Bond Counsel in connection with the issuance by the Development Authority of Monroe County, a public body corporate and politic of the State of Georgia (the "*Authority*"), of the Development Authority of Monroe County Revenue Bonds (Gulf Power Company Project), Series 2019, in the aggregate principal amount of \$45,000,000 (the "*Bonds*"). We have examined the law and such certified proceedings, including a certified copy of the transcript of the validation proceeding concluded in the Superior Court of Monroe County, Georgia, with respect to the Bonds and certain other obligations, and other papers as we have deemed necessary to render this opinion. In all such examinations, we have assumed the genuineness of signatures on original documents and the conformity to original documents of all copies submitted to us as certified, conformed or photographic copies and, as to certificates of public officials, we have assumed the same to have been properly given and to be accurate.

The Bonds are being issued pursuant to resolutions of the Authority adopted on September 10, 2019 and October 8, 2019, and a Trust Indenture, dated as of October 1, 2019 (the "*Indenture*"), between the Authority and U.S. Bank National Association, as trustee (the "*Trustee*"). The Bonds are being sold pursuant to an Underwriting Agreement, dated October 16, 2019 (the "*Underwriting Agreement*"), between the Authority and Morgan Stanley & Co. LLC (the "*Underwriter*") and approved by Gulf Power Company, a Florida corporation ("*Gulf Power*").

Pursuant to a Loan Agreement, dated as of October 1, 2019 (the "*Agreement*"), between the Authority, as lender, and Gulf Power, as borrower, the Bonds are being issued for the purpose of (i) financing or refinancing a portion of the cost of the acquisition, construction, installation and equipping of additions, extensions and improvements to the undivided interest of Gulf Power in certain sewage or solid waste disposal facilities (the "*Facilities*") at Unit 3 of the Plant Robert W. Scherer coal-fired steam electric generating facilities ("*Plant Scherer*") located in Monroe County, Georgia, and the common facilities associated with Units 1 to 4 (the "*Project*") and (ii) paying all or a portion of the costs of issuance of the Bonds.

As security for the payment of the Bonds, the Authority has, pursuant to the Indenture, assigned to the Trustee and pledged to the payment of the principal of, redemption premium (if any) on, tender price of, and interest on the Bonds, the trust estate for the Bonds (the "*Trust Estate*") which consists of the Authority's rights under the Agreement (except its rights to payment of certain costs, expenses and indemnification), including its rights to the Loan Repayments (as defined in the Indenture) and other moneys to the extent provided in the Indenture and under the Agreement.

As to questions of fact material to our opinion, we have relied upon (a) representations of the Authority and Gulf Power, (b) certified proceedings and other certifications of public officials furnished to us, (c) certifications by officials of Gulf Power, and (d) representations of Gulf Power relating to the use of the proceeds of the Bonds, the design, scope, function, cost and economic useful life of the Project and the relationship of the Project to Plant Scherer, contained in certificates of Gulf Power, without undertaking to verify the same by independent investigation.

We express no opinion with respect to (a) the corporate status and good standing of Gulf Power, (b) the corporate power of Gulf Power to enter into the Agreement, (c) the authorization, execution and delivery of the Agreement by Gulf Power, and (d) the Agreement being binding and enforceable upon Gulf Power. As to such matters, we refer you to the opinions of even date of Liebler, Gonzalez, & Portuondo, Morgan, Lewis & Bockius LLP, and McDaniel & Scott, P.C., Counsels to Gulf Power. We express no opinion as to the priority of the lien on the Trust Estate. We express no opinion herein as to the adequacy or sufficiency for its intended purpose of the Official Statement dated October 10, 2019 relating to the Bonds or any other material used in connection with the offering or sale of the Bonds.

Based upon our examination, we are of the opinion that as of the date hereof and under existing law:

1. The Authority is a duly created and validly existing public body corporate and politic of the State of Georgia with the full power and authority (a) to issue and sell the Bonds, (b) to loan the proceeds from the sale of the Bonds to Gulf Power and (c) to execute, deliver and perform its obligations under the Indenture, the Agreement and the Underwriting Agreement.

2. The Indenture, the Agreement and the Underwriting Agreement have been duly authorized, executed and delivered by the Authority, and the Indenture and the Agreement are valid and binding obligations of the Authority enforceable against the Authority. The Indenture creates a valid security interest in the Trust Estate.

3. The Bonds have been duly authorized, executed and delivered by the Authority and are valid, binding limited obligations of the Authority, secured by the Indenture and payable solely from the Trust Estate.

4. No authorization, approval, consent or other order of any governmental authority or agency is required for the valid authorization, execution, issuance and sale of the Bonds by the Authority and the valid authorization, execution and delivery of the Indenture, the Agreement and the Underwriting Agreement by the Authority, except for the

authorizations, consents or approvals as have been obtained or may be required under state securities or Blue Sky laws.

5. Under existing statutes, rulings and court decisions, and under applicable regulations and proposed regulations, interest on the Bonds is not includable in gross income for federal income tax purposes except for interest on any Bond for any period during which such Bond is held by a “substantial user” of the Project or a “related person” within the meaning of Section 147(a) of the Internal Revenue Code of 1986, as amended (the “Code”); however, interest on the Bonds is an item of tax preference for purposes of calculating the federal alternative minimum tax imposed on individuals. We express no opinion regarding any other federal tax consequences caused by the receipt or accrual of interest on, or ownership of, the Bonds. In rendering this opinion, we have assumed the continued compliance by the Authority and Gulf Power with their respective covenants regarding certain requirements of the Code that must be satisfied subsequent to the issuance of the Bonds in order that the interest on the Bonds be and continue to be, excluded from gross income for federal income tax purposes. Failure to comply with such covenants could cause interest on the Bonds to be included in federal gross income retroactive to the date of issuance of the Bonds.

6. Under existing statutes, the interest on the Bonds is exempt from all present State of Georgia income taxation.

The rights of the holders of the Bonds and the enforceability of the Bonds, the Agreement, the Indenture and the Underwriting Agreement may be subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting the enforcement of creditors' rights generally and principles of equity applicable to the availability of specific performance or other equitable relief. This opinion is given as of the date set forth above, and we have not undertaken to notify you, the owners of the Bonds, the Trustee or any other person or entity of any change in law or fact after the date hereof which might affect any of the opinions expressed herein.

Very truly yours,

KING & SPALDING LLP

By:

**[THIS PAGE INTENTIONALLY LEFT BLANK]**

**APPENDIX D**

**NOTICE OF TENDER OF BOOK-ENTRY BONDS-WEEKLY INTEREST RATE PERIOD**

**§ \_\_\_\_\_  
Development Authority of Monroe County (Georgia)  
Revenue Bonds  
(Gulf Power Company Project),  
Series 2019**

The Undersigned DTC Participant representing the beneficial owner of the book-entry bonds described below (the "Tendered Book-Entry Bonds") does hereby irrevocably tender the Tendered Book-Entry Bonds to U.S. Bank National Association, or its successor, as Tender Agent (the "Tender Agent"), for purchase by the Tender Agent seven days from the date of the Tender Agent's receipt, by telecopy or otherwise, of this notice, or the next Business Day\* if such seventh day is not a Business Day (the "Tender Date"); provided, however, that if this notice is received by the Tender Agent by telecopy, this notice shall be of no force or effect, and the Tendered Book-Entry Bonds shall not be accepted or purchased by the Tender Agent, unless the Tender Agent receives this notice in original executed form by hand delivery prior to 2:00 p.m. New York time on the Business Day next succeeding its receipt of such notice by telecopy. The Purchase Price of Tendered Book-Entry Bonds shall be the unpaid principal amount of the Tendered Book-Entry Bonds plus accrued and unpaid interest, if any, thereon to, but not including, the Tender Date, and without premium (the "Purchase Price"). In the event that the Tender Date is also an interest payment date for the Tendered Book-Entry Bonds, interest on the Tendered Book-Entry Bonds to, but not including, the Tender Date shall be paid in the ordinary fashion and shall not constitute part of the Purchase Price.

**Tendered Book-Entry Bonds**

<b>Tendered Principal Amount (in multiples of \$100,000 and <u>\$5,000 in excess thereof</u></b>	<b><u>DTC Participant Number</u></b>	<b><u>CUSIP Number(s)</u></b>
<b>§</b>		

The undersigned acknowledges and agrees by the execution and delivery of this notice that (1) the tender of the Tendered Book-Entry Bonds is irrevocable; (2) the undersigned is contractually bound to tender such Tendered Book-Entry Bonds to the Tender Agent on the Tender Date; and (3) in the event of a failure to tender the Tendered Book-Entry Bonds to the Tender Agent on or before 12:00 Noon, New York City time on the Tender Date the undersigned shall pay to the Tender Agent an amount (the "default amount") equal to the difference between (a) the costs arising out of the failure to tender and (b) the purchase price, as defined above,

---

\* "Business Day" shall have the meaning ascribed thereto by the Indenture under which the Tendered Book-Entry Bonds are issued.

which would have been paid to the undersigned upon a tender. As used herein the “costs arising out of the failure to tender” shall mean the sum of (x) the amount expended by the Tender Agent, either directly or through an agent, in acquiring book-entry bonds in substitution of the Tendered Book-Entry Bonds (including interest thereon) and (y) the administrative and other charges, expenses or commissions incurred in connection with the acquisition of such substitute book-entry bonds.

The undersigned agrees that the Tender Agent, either directly or through an agent, may acquire such substitute bonds in such manner and market them as it deems commercially reasonable, and further agrees that the default amount is reasonable in light of the anticipated harm caused by the failure to tender and the inconvenience of obtaining any other remedy.

The undersigned hereby irrevocably appoints the Tender Agent as his duly authorized attorney and directs the Tender Agent to effect the transfer of the Tendered Book-Entry Bonds.

Date of Notice:

Signature of DTC Participant Representing the Beneficial Owner of the Tendered Book-Entry Bonds

---

---

---

Street                      City

---

State                      Zip

---

Area Code                      Telephone Number

Federal Taxpayer Identification Number

---

**NOTICE OF TENDER OF BOOK-ENTRY BONDS-DAILY INTEREST RATE PERIOD**

\$ \_\_\_\_\_  
**Development Authority of Monroe County (Georgia)  
Revenue Bonds  
(Gulf Power Company Project),  
Series 2019**

The Undersigned DTC Participant representing the beneficial owner of the book-entry bonds described below (the "Tendered Book-Entry Bonds") does hereby irrevocably tender the Tendered Book-Entry Bonds to U.S. Bank National Association, or its successor, as Tender Agent (the "Tender Agent"), for purchase by the Tender Agent on the date hereof or the next Business Day\* if the date hereof is not a Business Day (the "Tender Date"); provided, however, that if this notice is not received by the Tender Agent by 11:00 a.m. on the date hereof, this notice shall be of no force or effect, and the Tendered Book-Entry Bonds shall not be accepted or purchased by the Tender Agent. The Purchase Price of Tendered Book-Entry Bonds shall be the unpaid principal amount of the Tendered Book-Entry Bonds plus accrued and unpaid interest, if any, thereon to, but not including, the Tender Date, and without premium (the "Purchase Price"). In the event that the Tender Date is also an interest payment date for the Tendered Book-Entry Bonds, interest on the Tendered Book-Entry Bonds to, but not including, the Tender Date shall be paid in the ordinary fashion and shall not constitute part of the Purchase Price.

**Tendered Book-Entry Bonds**

Tendered Principal Amount (in multiples of \$100,000 and <u>\$5,000 in excess thereof</u> )	<u>DTC Participant Number</u>	<u>CUSIP Number(s)</u>
§		

The undersigned acknowledges and agrees by the execution and delivery of this notice that (1) the tender of the Tendered Book-Entry Bonds is irrevocable; (2) the undersigned is contractually bound to tender such Tendered Book-Entry Bonds to the Tender Agent on the Tender Date; and (3) in the event of a failure to tender the Tendered Book-Entry Bonds to the Tender Agent on or before 12:00 Noon, New York City time on the Tender Date the undersigned shall pay to the Tender Agent an amount (the "default amount") equal to the difference between (a) the costs arising out of the failure to tender and (b) the purchase price, as defined above, which would have been paid to the undersigned upon a tender. As used herein the "costs arising out of the failure to tender" shall mean the sum of (x) the amount expended by the Tender Agent, either directly or through an agent, in acquiring book-entry bonds in substitution of the Tendered Book-Entry Bonds (including interest thereon) and (y) the administrative and other charges,

---

\* "Business Day" shall have the meaning ascribed thereto by the Indenture under which the Tendered Book-Entry Bonds are issued.

expenses or commissions incurred in connection with the acquisition of such substitute book-entry bonds.

The undersigned agrees that the Tender Agent, either directly or through an agent, may acquire such substitute bonds in such manner and market them as it deems commercially reasonable, and further agrees that the default amount is reasonable in light of the anticipated harm caused by the failure to tender and the inconvenience of obtaining any other remedy.

The undersigned hereby irrevocably appoints the Tender Agent as his duly authorized attorney and directs the Tender Agent to effect the transfer of the Tendered Book-Entry Bonds.

Date of Notice:

Signature of DTC Participant Representing the Beneficial Owner of the Tendered Book-Entry Bonds

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Street City

\_\_\_\_\_  
State Zip

\_\_\_\_\_  
Area Code Telephone Number

Federal Taxpayer Identification Number

\_\_\_\_\_

**THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK**

**APPENDIX E**

**Form of 15c2-12 Undertaking**

**THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK**

## GULF POWER COMPANY

### CONTINUING DISCLOSURE UNDERTAKING

This Continuing Disclosure Undertaking (the “Disclosure Undertaking”) is dated October [17], 2019 by GULF POWER COMPANY (the “Company”), in connection with the sale of \$45,000,000 aggregate principal amount of Development Authority of Monroe County Revenue Bonds (Gulf Power Company Project), Series 2019 (the “Bonds”). The Bonds are issued pursuant to a Trust Indenture dated as of October 1, 2019 (the “Indenture”), between the Development Authority of Monroe County (the “Issuer”) and U.S. Bank National Association, as trustee (the “Trustee”). The proceeds of the Bonds are provided by the Issuer to the Company pursuant to a Loan Agreement dated as of October 1, 2019 (the “Loan Agreement”) between Company and the Issuer.

**Section 1. Purpose of the Disclosure Undertaking.** This Disclosure Undertaking is being executed and delivered by the Company for the benefit of the Beneficial Owners (defined below) and in order to assist the Participating Underwriter in complying with the Rule (defined below). The Company acknowledges that the Issuer has undertaken no responsibility with respect to any reports, notices or disclosures provided or required under this Disclosure Undertaking, and the Issuer has no liability to any person, including any Beneficial Owner, with respect to any such reports, notices or disclosures.

**Section 2. Definitions.** In addition to the definitions set forth in the Indenture, which apply to any capitalized term used in this Disclosure Undertaking unless otherwise defined in this Section 2, the following capitalized terms shall have the following meanings:

“Annual Report” shall mean the information described in Section 3(a) hereof or a Form 10-K (as defined in Section 3(b) hereof).

“Beneficial Owner” shall mean, while the Bonds are held in a book-entry only system, the actual purchaser of each Bond, the ownership interest of which is to be recorded on the records of the direct and indirect participants of DTC, and otherwise shall mean the holder of Bonds.

“Commission” shall mean the Securities and Exchange Commission, or any successor body thereto.

“EMMA” shall mean the Electronic Municipal Market Access system and the EMMA Continuing Disclosure Service of MSRB, or any successor thereto approved by the United States Securities and Exchange Commission, as a repository for municipal continuing disclosure information pursuant to the Rule.

“Financial Obligation” means a (a) debt obligation; (b) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (c) guarantee of (a) or (b); provided that “financial obligation” shall

not include municipal securities as to which a final official statement (as defined in the Rule) has been provided to the MSRB consistent with the Rule.

“Listed Events” shall mean any of the events listed in Section 4(a) of this Disclosure Undertaking.

“MSRB” means the Municipal Securities Rulemaking Board, or any successor thereto.

“Participating Underwriter” shall mean the original underwriter of the Bonds required to comply with the Rule in connection with the offering of the Bonds.

“Rule” shall mean Rule 15c2-12(b)(5) adopted by the Commission under the Securities Exchange Act of 1934 (the “Exchange Act”), as the same may be amended from time to time.

### Section 3. Provision of Financial Information.

(a) With respect to the Company’s fiscal years ending December 31, 2019 and thereafter, if a Form 10-K (as defined below) is not filed with the Commission, the Company shall provide to the MSRB audited financial statements prepared in accordance with generally accepted accounting principles (GAAP) of the type set forth in the Official Statement dated October [ ], 2019, delivered with respect to the reoffering of the Bonds, not later than one hundred twenty (120) days after the end of the Company’s fiscal year.

(b) If the Company shall file with the Commission, with respect to the Company’s fiscal years ending December 31, 2019 and thereafter, reports on Form 10-K under Sections 13 or 15(d) of the Exchange Act, including any successor provisions thereto (the “Form 10-K”), then the Company shall provide to the MSRB (i) a copy of such Form 10-K or (ii) notice on an annual basis that the Form 10-K constitutes the annual financial information with respect to the Company required under the Rule, not later than one hundred twenty (120) days after the end of the Company’s fiscal year.

(c) The Company shall, in a timely manner, provide to the MSRB notice of failure by the Company to file any Annual Report by the date due.

### Section 4. Reporting of Events.

(a) The Company shall provide, in a timely manner not in excess of ten business days after the occurrence of the event, to the MSRB notice of the occurrence of any of the following events with respect to the Bonds:

- (1) principal and interest payment delinquencies;
- (2) non-payment related defaults, if material;
- (3) any unscheduled draws on debt service reserves reflecting financial difficulties;

- (4) unscheduled draws on credit enhancement facilities reflecting financial difficulties;
- (5) substitution of credit or liquidity providers or their failure to perform;
- (6) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
- (7) modifications to rights of the holders of the Bonds, if material;
- (8) bond calls, if material, and tender offers;
- (9) defeasances;
- (10) release, substitution, or sale of property securing repayment of the Bonds, if material;
- (11) rating changes;
- (12) bankruptcy, insolvency, receivership or similar event of the Company;
- (13) the consummation of a merger, consolidation, or acquisition involving the Company or the sale of all or substantially all of the assets of the Company, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
- (14) appointment of a successor or additional trustee or the change of name of a trustee, if material;
- (15) Incurrence of (a) a Financial Obligation of the Company, if material, or (b) an agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the Company, any of which affect security holders, if material; and
- (16) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the Company, any of which reflect financial difficulties.

(b) Neither the terms of the Loan Agreement, the Indenture nor the Bonds require that any debt service reserve fund be established.

Section 5. Termination of Reporting Obligation. The Company's obligations under this Disclosure Undertaking shall terminate upon the defeasance, prior redemption or payment in full of all of the Bonds. If the Company's obligations under the Loan Agreement and this Disclosure Undertaking are assumed in full by some other entity, such entity shall be responsible for compliance with this Disclosure Undertaking in the same manner as if it were the Company and the Company shall have no further responsibility hereunder. The Company shall provide timely notice to the MSRB of the termination of the Company's obligations under this Disclosure Undertaking pursuant to an assumption of its obligations hereunder.

Section 6. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Undertaking, the Company may amend this Disclosure Undertaking with the written consent of the Trustee (and the Trustee shall agree to any amendment so requested by the Company that does not change the duties of the Trustee hereunder, provided it receives indemnity satisfactory to it) or waive any provision hereof, but only in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature or status of the obligor with respect to the Bonds or the type of business conducted by said obligor, provided that (1) the undertaking, as amended or following such waiver, would have complied with the requirements of the Rule on the date of an adjustment of the Interest Rate Period, after taking into account any amendments to the Rule as well as any change in circumstances, and (2) the amendment or waiver does not materially impair the interests of the holders of Bonds, in the opinion of the Trustee or counsel expert in federal securities laws reasonably satisfactory to both the Company and the Trustee, or is approved by not less than the Beneficial Owners of a majority in aggregate principal amount of the outstanding Bonds.

In the event of any amendment to the type of financial or operating data provided in an Annual Report provided pursuant to Section 3(b) hereof, or any change in accounting principles reflected in such Annual Report, the Company agrees that the Annual Report will explain, in narrative form, the reasons for the amendment or change and the effect of such change, including comparative information, where appropriate. To the extent not otherwise included in such Annual Report, the Company will also provide timely notice of any change in accounting principles to the MSRB.

Section 7. Additional Information. Nothing in this Disclosure Undertaking shall be deemed to prevent the Company from disseminating any other information, using the means of dissemination set forth in this Disclosure Undertaking or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Undertaking. If the Company chooses to include any information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is specifically required by this Disclosure Undertaking, the Company shall have no obligation under this Disclosure Undertaking to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

Section 8. Default. In the event of a failure of the Company to comply with any provision of this Disclosure Undertaking, the Trustee may (and, at the request of the Beneficial Owners of not less than fifty-one percent (51%) of the aggregate principal amount of outstanding Bonds, shall) subject to the same conditions, limitations and procedures that would apply under the Indenture if the breach were an event of default under the Indenture (each, an "Event of Default"),

or any Beneficial Owner may, take such actions as may be necessary and appropriate, including seeking mandamus or specific performance by court order, to cause the Company to comply with its obligations under this Disclosure Undertaking; provided, that, to the extent permitted by the securities laws, any Beneficial Owner's right to challenge the adequacy of the information provided in accordance with the undertaking of the Company described in Section 3 and Section 4 hereof shall be subject to the same limitations as those set forth in Article X of the Indenture with respect to Events of Default thereunder. A default under this Disclosure Undertaking shall not be deemed an Event of Default under the Indenture or the Loan Agreement, and the sole remedy under this Disclosure Undertaking in the event of any failure of the Company to comply with this Disclosure Undertaking shall be an action to compel performance. The Trustee shall be entitled to rely conclusively upon any written evidence provided by the Company regarding the provision of information to the MSRB.

The Company agrees to pay the Trustee from time to time reasonable compensation for services provided by the Trustee in connection with this Disclosure Undertaking and to pay or reimburse the Trustee upon request for all reasonable fees, expenses, disbursements and advances incurred or made in accordance with this Disclosure Undertaking (including reasonable compensation and the expenses and disbursements of its counsel and of all agents and other persons regularly in its employ) or as a result of the Company's failure to perform its obligations hereunder, except to the extent that any such fees, expenses, disbursement or advance is due to the negligence or willful misconduct of the Trustee.

Section 9. Beneficiaries. This Disclosure Undertaking shall inure solely to the benefit of the Issuer, the Company, the Trustee, the Participating Underwriter, and Beneficial Owners, and shall create no rights in any other person or entity.

Section 10. Submission of Documents to the MSRB. Unless otherwise required by law, all documents provided to the MSRB pursuant to this Disclosure Undertaking shall be provided to the MSRB in an electronic, word-searchable format and shall be accompanied by identifying information, in each case as prescribed by the MSRB.

Section 11. Governing Law. This Disclosure Undertaking shall be governed by and construed in accordance with the laws of the State of New York.

*[signatures on following page]*

IN WITNESS WHEREOF, the Company has duly executed and delivered this Disclosure Undertaking as of the day and year first written above.

**GULF POWER COMPANY**

By: \_\_\_\_\_  
Name:  
Title:

ACCEPTED AND AGREED:

**U.S. BANK NATIONAL ASSOCIATION**

By: \_\_\_\_\_  
Name:  
Title:

Signature Page to Continuing Disclosure Undertaking  
\$45,000,000  
Development Authority of Monroe County  
Revenue Bonds  
(Gulf Power Company Project),  
Series 2019

**THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK**

**THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK**



**Gulf Power®**



Printed by: ImageMaster, LLC  
[www.imagemaster.com](http://www.imagemaster.com)

**MISSISSIPPI BUSINESS FINANCE CORPORATION**

**and**

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

---

**TRUST INDENTURE**

**Dated as of December 1, 2019**

---

**Relating to**

**\$55,000,000  
MISSISSIPPI BUSINESS FINANCE CORPORATION  
REVENUE BONDS  
(GULF POWER COMPANY PROJECT),  
SERIES 2019**

---

---

(This Table of Contents is not part of the Trust Indenture  
but is for convenience of reference only.)

## TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I DEFINITIONS	
SECTION 101	Meaning of Words and Terms ..... 4
SECTION 102	Rules of Construction ..... 12
ARTICLE II FORM, EXECUTION, AUTHENTICATION AND DELIVERY OF BONDS	
SECTION 201	Issuance of Bonds ..... 12
SECTION 202	Purchase of Bonds..... 24
SECTION 203	Execution and Payment..... 26
SECTION 204	Authentication of Bonds ..... 28
SECTION 205	Exchange of Bonds ..... 28
SECTION 206	Transfer of Bonds ..... 28
SECTION 207	Ownership of Bonds ..... 29
SECTION 208	Prerequisite to Execution of Bonds ..... 30
SECTION 209	Temporary Bonds..... 31
SECTION 210	Mutilated, Destroyed, Stolen or Lost Bonds..... 31
ARTICLE III REDEMPTION OF BONDS	
SECTION 301	Redemption. .... 32
SECTION 302	Notice of Redemption ..... 35
SECTION 303	Effect of Redemption ..... 36
SECTION 304	Partial Redemption..... 36
ARTICLE IV CONSTRUCTION FUND	
SECTION 401	Creation of Construction Fund..... 37
SECTION 402	Payments from Construction Fund ..... 37
SECTION 403	Items of Cost ..... 37
SECTION 404	Disbursements ..... 38
SECTION 405	Reliance on Requisitions..... 39
SECTION 406	Completion of the Project ..... 40

ARTICLE V  
BOND FUND

SECTION 501	Creation of Bond Fund.....	42
SECTION 502	Payments into Bond Fund.....	42
SECTION 503	Use of Moneys in Bond Fund .....	42
SECTION 504	Custody of Bond Fund .....	42
SECTION 505	Non-Presentation of Bonds .....	43
SECTION 506	Cancellation and Destruction of Bonds .....	43

ARTICLE VI  
DEPOSITARIES OF MONEYS, SECURITY FOR DEPOSITS AND INVESTMENT  
OF FUNDS

SECTION 601	Deposits Constitute Trust Funds .....	44
SECTION 602	Investment of Moneys.....	44

ARTICLE VII  
PARTICULAR COVENANTS AND PROVISIONS

SECTION 701	Covenant of Issuer as to Performance of Obligations .....	46
SECTION 702	Covenant to Perform Obligations .....	46
SECTION 703	Covenant to Perform Further Acts .....	47
SECTION 704	Bonds Not to Become Arbitrage Bonds .....	47

ARTICLE VIII  
DEFAULTS AND REMEDIES

SECTION 801	Events of Default .....	48
SECTION 802	Acceleration of Maturities .....	48
SECTION 803	Other Remedies.....	49
SECTION 804	Application of Moneys .....	50
SECTION 805	Effect of Discontinuance of Proceedings.....	51
SECTION 806	Right of Bondholders to Direct Proceedings .....	52
SECTION 807	Rights and Remedies of Bondholders.....	52
SECTION 808	Appointment of Receiver by Trustee .....	53
SECTION 809	Action by Trustee without Possession of Bonds .....	53
SECTION 810	No Remedy Exclusive.....	53
SECTION 811	Waiver of Default .....	53
SECTION 812	Notice of Default.....	54
SECTION 813	Remedies in Article VIII in Addition to Remedies in Loan Agreement AND PLEDGE AGREEMENT .....	54

ARTICLE IX  
TRUSTEE; PAYING AGENT

SECTION 901	Acceptance of Trusts and Performance of Duties .....	55
SECTION 902	Indemnification of Trustee.....	58

SECTION 903	Limitation on Obligations and Responsibilities of the Trustee .....	58
SECTION 904	Trustee Not Liable for Failure of Issuer to Act .....	59
SECTION 905	Compensation of Trustee .....	59
SECTION 906	Records Open to Inspection .....	60
SECTION 907	Trustee May Rely on Certificates .....	60
SECTION 908	Trustee Not Deemed to Have Notice of Default.....	61
SECTION 909	Trustee May Deal in Bonds and take Action as Bondholder.....	61
SECTION 910	Trustee Not Responsible for Recitals, Etc .....	61
SECTION 911	Trustee Protected in Relying on Certain Documents.....	61
SECTION 912	Qualifications of Trustee.....	62
SECTION 913	Resignation by and Removal of Trustee.....	62
SECTION 914	Appointment of Successor Trustee .....	63
SECTION 915	Separate Trustee or Co-Trustee .....	64
SECTION 916	[Reserved] .....	65
SECTION 917	Paying Agent.....	65
SECTION 918	Qualifications of Paying Agent; Resignation; Removal.....	65
SECTION 919	Registrar .....	66
SECTION 920	Qualifications of Registrar; Resignation; Removal .....	67
SECTION 921	Procedures with DTC.....	68

#### ARTICLE X

#### EXECUTION OF INSTRUMENTS BY BONDHOLDERS AND PROOF OF OWNERSHIP OF BONDS

SECTION 1001	Consents, etc., of Bondholders .....	70
--------------	--------------------------------------	----

#### ARTICLE XI

#### SUPPLEMENTAL INDENTURES

SECTION 1101	Supplemental Indentures Not Requiring Consent of Bondholders.....	71
SECTION 1102	Supplemental Indentures Requiring Consent of Bondholders.....	72
SECTION 1103	Any Supplemental Indenture Shall Be Deemed a Part of Indenture.....	73
SECTION 1104	Discretion of Trustee; Reliance on Counsel .....	74

#### ARTICLE XII

#### SUPPLEMENTAL LOAN AGREEMENTS AND SUPPLEMENTAL PLEDGE AGREEMENTS

SECTION 1201	Supplemental Loan Agreements and Supplemental Pledge Agreements Not Requiring Consent of Bondholders.....	75
SECTION 1202	Supplemental Loan Agreements and Supplemental Pledge Agreements Requiring Consent of Bondholders.....	75

ARTICLE XIII  
DEFEASANCE

SECTION 1301 Defeasance of Bonds..... 77

ARTICLE XIV  
REMARKETING AGENT; TENDER AGENT; PURCHASE AND REMARKETING  
OF BONDS

SECTION 1401 Remarketing Agent and Tender Agent ..... 79  
SECTION 1402 Qualifications of Remarketing Agent and Tender Agent;  
Resignation; Removal ..... 80  
SECTION 1403 Notice of Bonds Delivered for Purchase; Purchase of Bonds ..... 82  
SECTION 1404 [Reserved] ..... 83  
SECTION 1405 [Reserved] ..... 83  
SECTION 1406 Remarketing of Bonds; Notice of Interest Rates ..... 83  
SECTION 1407 Delivery of Bonds ..... 84  
SECTION 1408 Delivery of Proceeds of Sale..... 84

ARTICLE XV  
MISCELLANEOUS PROVISIONS

SECTION 1501 Covenants Binding Upon Successors ..... 85  
SECTION 1502 Notices ..... 85  
SECTION 1503 Manner of Notice ..... 87  
SECTION 1504 Issuer, Trustee, the Borrower and Bondholders Alone Have  
Rights Under Indenture ..... 87  
SECTION 1505 Severability and Effect of Invalidity ..... 87  
SECTION 1506 Release of Officers, Employees and Agents of Issuer..... 88  
SECTION 1507 If Payment or Performance Date not a Business Day..... 88  
SECTION 1508 Headings Not Part of Indenture ..... 88  
SECTION 1509 Counterparts ..... 88  
SECTION 1510 Applicable Law ..... 88

EXHIBIT A - FORM OF BOND  
EXHIBIT B - NOTICES OF TENDER OF BOOK-ENTRY BONDS

## TRUST INDENTURE

**THIS TRUST INDENTURE**, made and entered into as of the 1st day of December, 2019 (this “*Indenture*”), is by and between MISSISSIPPI BUSINESS FINANCE CORPORATION, a public corporation duly created and validly existing pursuant to the Constitution and laws of the State of Mississippi (the “*Issuer*”), and U.S. BANK NATIONAL ASSOCIATION, a national banking association having a corporate trust office in Atlanta, Georgia (the national banking association and any bank or trust company becoming successor trustee under this Indenture being herein called the “*Trustee*”).

### WITNESSETH :

**WHEREAS**, the Issuer is authorized by the provisions of Sections 57-10-201 *et seq.*, Mississippi Code of 1972, as amended and supplemented (the “*Act*”), including particularly Section 57-10-213, among other things, to provide financial assistance to businesses in the State of Mississippi by providing loans and to issue bonds for the purpose of financing and refinancing the projects of “eligible businesses” under the Act; and

**WHEREAS**, in order to finance or refinance the cost of acquisition, construction and equipping of certain sewage facilities and solid waste facilities, including functionally related and subordinate facilities, of Gulf Power Company (the “*Borrower*”), the Borrower has requested the Issuer to issue, pursuant to the Act and this Indenture, its \$55,000,000 aggregate principal amount of Mississippi Business Finance Corporation Revenue Bonds (Gulf Power Company Project), Series 2019 (the “*Bonds*”); and

**WHEREAS**, concurrently with the issuance of the Bonds, the Borrower and the Issuer have entered into the Loan Agreement, dated as of December 1, 2019 (the “*Loan Agreement*”), whereby the Issuer has agreed to lend the proceeds of the Bonds to the Borrower, and the Borrower has agreed to make Loan Repayments under and defined in the Loan Agreement equal to the principal of and interest and any premium on the Bonds and the Issuer will assign its right, title and interest in the Loan Agreement (except for certain reserved rights described below) to the Trustee for the benefit of the holders of the Bonds; and

**WHEREAS**, the Bonds are being issued to (i) finance or refinance all or a portion of the costs of the acquisition, construction and equipping of the Project (as defined in the Loan Agreement), and (ii) pay certain costs associated with the issuance of the Bonds; and

**WHEREAS**, the execution and delivery of this Indenture and the Loan Agreement and the issuance and sale of the Bonds have been in all respects duly and validly authorized by the Resolution (as hereinafter defined) duly adopted by the Issuer; and

**WHEREAS**, all acts, conditions and things required by the Constitution and laws of the State of Mississippi to happen, exist and be performed precedent to and in connection

with the execution and delivery of this Indenture and the Loan Agreement have happened, exist and have been performed as so required, in order to make this Indenture a valid and binding trust indenture for the security of the Bonds in accordance with its terms and in order to make the Loan Agreement a valid and binding loan agreement in accordance with its terms; and

**WHEREAS**, the Trustee has accepted the trusts created by this Indenture and in evidence thereof has joined in the execution hereof.

**NOW, THEREFORE, THIS INDENTURE WITNESSETH**, that in consideration of the premises, of the acceptance by the Trustee of the trusts hereby created, and of the purchase and acceptance of the Bonds by the holders thereof, and also for and in consideration of the sum of One Dollar (\$1.00) to the Issuer in hand paid by the Trustee at or before the execution and delivery of this Indenture, the receipt of which is hereby acknowledged, and for the purpose of fixing and declaring the terms and conditions upon which the Bonds are to be issued, authenticated, delivered, secured and accepted by all persons who shall from time to time be or become holders thereof, and in order to secure the payment of the principal of all the Bonds at any time issued and outstanding hereunder and the premium, if any, and interest thereon according to their tenor, purport and effect, and in order to secure the performance and observance of all the covenants, agreements and conditions therein and herein contained, the Issuer has executed and delivered this Indenture and has pledged and assigned and does hereby pledge and assign to the Trustee the Trust Estate which consists of the Issuer's rights under the Loan Agreement (except its rights under Sections 5.1(c) and 9.4 of the Loan Agreement to payment of certain costs and expenses and under Section 7.3 of the Loan Agreement to indemnification), including its rights to the Loan Repayments and other moneys to the extent provided in this Indenture and under the Loan Agreement, and has granted and does hereby grant a security interest in the Bond Fund, all as security for the payment of the Bonds and the premium, if any, and interest thereon and as security for the satisfaction of any other obligation assumed by it in connection with such Bonds, and it is so mutually agreed and covenanted by and between the parties hereto;

**TO HAVE AND TO HOLD** all the same with all privileges and appurtenances hereby conveyed and assigned, or agreed or intended so to be, to the Trustee, its successors in trust and their assigns forever;

**IN TRUST NEVERTHELESS**, upon the terms and trusts herein set forth for the equal and proportionate benefit and security, except as otherwise hereinafter expressly provided, of all and singular the present and future holders of the Bonds issued and to be issued under this Indenture, without preference, priority or distinction as to lien or otherwise, except as otherwise hereinafter expressly provided, of any one Bond over any other Bond, by reason of priority in the issue, sale or negotiation thereof or otherwise; and

**PROVIDED, HOWEVER,** that if, after the rights, title and interest of the Trustee in and to the estate pledged and assigned to it under this Indenture shall have ceased, terminated and been discharged in accordance with Article XIII hereof, the principal of and premium, if any, and interest on all of the Bonds shall have been paid to the Bondholders or shall have been paid to the Borrower pursuant to Section 505 hereof, then this Indenture and all covenants, agreements and other obligations of the Issuer hereunder shall cease, determine and be discharged, and thereupon the Trustee shall cancel and discharge this Indenture and shall execute and deliver to the Issuer and the Borrower such instruments in writing prepared by or on behalf of the Issuer or the Borrower as shall be required to evidence the discharge hereof; otherwise this Indenture shall be and remain in full force and effect.

**THIS INDENTURE FURTHER WITNESSETH,** and it is expressly declared, that all Bonds issued and secured hereunder are to be issued, authenticated and delivered and all the Loan Repayments, revenues and other income and moneys hereby pledged are to be dealt with and disposed of under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as hereinafter expressed, and the Issuer has agreed and covenanted, and does hereby agree and covenant, with the Trustee and with the respective holders and owners, from time to time, of the Bonds, or any part thereof, as follows:

**ARTICLE I  
DEFINITIONS**

**SECTION 101 MEANING OF WORDS AND TERMS.**

(a) When used in this Indenture (except as otherwise expressly provided or unless the context otherwise requires), the following terms shall have the meanings specified in the foregoing recitals:

Act  
Borrower  
Issuer  
Loan Agreement  
Bonds  
Trustee

(b) All words and terms defined in Article I of the Loan Agreement shall have the same meanings in this Indenture, unless otherwise specifically defined herein. In addition, the following words and terms as used in this Indenture shall have the following meanings unless some other meaning is plainly intended:

**“Alternate Long-Term Interest Rate Index”** shall mean, if for any reason, the Long-Term Interest Rate for Bonds is not so determined for the Long-Term Interest Rate Period by the Remarketing Agent on or prior to the first day of such Long-Term Interest Rate Period, then such Bonds shall bear interest at the Weekly Interest Rate as provided in Section 201(e) hereof, and shall continue to bear interest at a Weekly Interest Rate determined in accordance with Section 201(e) hereof until such time as the interest rate on such Bonds shall have been adjusted to another Interest Rate Period as provided herein, and the Bonds shall continue to be subject to mandatory purchase as described in Section 202(d) hereof.

**“Authorized Borrower Representative”** shall mean each person at the time designated to act on behalf of the Borrower by written certificate furnished to the Issuer and the Trustee containing the specimen signature of such person and signed on behalf of the Borrower by the Chairman or any Vice Chairman of the Board, the President, any Senior or Administrative Vice President, any Vice President, the Treasurer or any Assistant Treasurer of the Borrower. Such certificate may designate an alternate or alternates who shall have the same authority, duties and powers as the Authorized Borrower Representative.

**“Authorized Denominations”** shall mean: (i) with respect to any Long-Term Interest Rate Period, \$5,000 and any integral multiple thereof; (ii) with respect to any Daily Interest Rate Period or Weekly Interest Rate Period, \$100,000 and any integral multiple of

\$5,000 in excess thereof; and (iii) with respect to any Commercial Paper Interest Rate Period, \$100,000 and any integral multiple of \$1,000 in excess of \$100,000.

**“Bond Counsel”** means Maynard, Cooper & Gale, P.C., or other counsel nationally recognized on the subject of, and qualified to render approving legal opinions on the issuance of, municipal bonds and acceptable to the Borrower, the Trustee and the Issuer.

**“Bond Fund”** means the fund created by Section 501 hereof.

**“Bonds”** means the Bonds authorized to be issued under Sections 201 of this Indenture for the purpose of financing or refinancing the cost of acquisition, construction and equipping of the Project.

**“Borrower”** means Gulf Power Company, a corporation duly organized and validly existing under the laws of the State of Florida and qualified to transact business in the State of Mississippi, and its successors or assigns and any surviving, resulting or transferee corporation as provided in Section 7.2 of the Loan Agreement.

**“Business Day”** shall mean any day other than (i) a Saturday or Sunday and (ii) a day on which banks located in the cities in which the Principal Offices of the Trustee, the Remarketing Agent or the Tender Agent are located are required or authorized to remain closed and on which the New York Stock Exchange is closed.

**“Code”** shall mean the Internal Revenue Code of 1986, as amended from time to time and as applicable to the Bonds. References to the Code and Sections of the Code include relevant applicable regulations and proposed regulations thereunder and under the Internal Revenue Code of 1954, as amended to the date of enactment of the Tax Reform Act of 1986, and any successor provisions to those Sections, regulations or proposed regulations and, in addition, all revenue rulings, announcements, notices, procedures and judicial determinations under the foregoing applicable to the Bonds.

**“Commercial Paper Interest Rate Period”** shall mean each period, comprised of Commercial Paper Terms, during which Commercial Paper Term Rates are in effect.

**“Commercial Paper Term”** shall mean, with respect to any Bond, each period established in accordance with Section 201(g) hereof during which such Bond shall bear interest at a Commercial Paper Term Rate.

**“Commercial Paper Term Rate”** shall mean, with respect to each Bond, a fixed, non-variable interest rate on such Bond established periodically in accordance with Section 201(g) hereof.

**“Construction Fund”** means the fund created by Section 401 hereof.

**“Cost of the Project”** shall have the meaning set forth in Section 403 hereof.

**“Daily Interest Rate”** shall mean a variable interest rate on the Bonds established in accordance with Section 201(d) hereof.

**“Daily Interest Rate Period”** shall mean each period during which a Daily Interest Rate is in effect.

**“Defeasance Obligations”** means (i) Government Obligations and (ii) evidences of ownership of a proportionate interest in specified Government Obligations, which Government Obligations are held by a bank or trust company in the capacity of custodian.

**“DTC”** shall mean The Depository Trust Company, its successors and their assigns.

**“Favorable Opinion of Bond Counsel”** shall mean an opinion of Bond Counsel addressed to the Issuer and the Trustee to the effect that the action proposed to be taken is authorized or permitted by the laws of the State and this Indenture and will not adversely affect any exclusion from gross income for federal income tax purposes of interest on the Bonds.

**“Government Obligations”** means obligations issued or unconditionally guaranteed as to the timely payment of principal and interest by the United States.

**“Interest Accrual Date”** shall mean (i) with respect to any Daily Interest Rate Period, the first day thereof and, thereafter, the first day of each calendar month during that Daily Interest Rate Period, (ii) with respect to any Weekly Interest Rate Period, the first day thereof and, thereafter, the first Wednesday of each month during that Weekly Interest Rate Period, (iii) with respect to any Long-Term Interest Rate Period, the first day thereof and, thereafter, each Interest Payment Date in respect thereof and (iv) with respect to each Commercial Paper Term, the first day thereof.

**“Interest Payment Date”** shall mean (i) with respect to any Daily Interest Rate Period, the fifth Business Day of each calendar month, (ii) with respect to any Weekly Interest Rate Period, the first Wednesday of each calendar month, or, if such first Wednesday shall not be a Business Day, the next succeeding Business Day, (iii) with respect to any Long-Term Interest Rate Period, the fifth day of the calendar month that is six months after the calendar month in which the adjustment to any Long-Term Interest Rate Period occurs and the fifth day of the calendar month every six months after each such payment date thereafter until the end of such Long-Term Interest Rate Period, (iv) with respect to any Commercial Paper Term, the day next succeeding the last day thereof, (v) with respect to each Interest Rate Period, the day next succeeding the last day thereof and (vi) the Maturity Date.

**“Interest Rate Period”** shall mean any Daily Interest Rate Period, any Weekly Interest Rate Period, any Commercial Paper Interest Rate Period or any Long-Term Interest Rate Period.

**“Investment Obligations”** shall mean any one or more of the following investments, if and to the extent the same are then legal investments under the applicable laws of the State for moneys proposed to be invested therein:

(i) Bonds or obligations of the State or other states, or of counties, municipal corporations, or political subdivisions of the State;

(ii) Bonds or other obligations of the U.S. Government or of subsidiary corporations of the U.S. Government which are fully guaranteed by such government;

(iii) Obligations of and obligations guaranteed by agencies or instrumentalities of the U.S. Government, including those issued by the Federal Land Bank, Federal Home Loan Bank, Federal Intermediate Credit Bank, Bank for Cooperatives, and any other such agency or instrumentality; provided, however, that all such obligations shall have a current credit rating from a nationally recognized rating service of at least one of the three highest rating categories available and have a nationally recognized market;

(iv) Bonds or other obligations issued by any public housing agency or municipal corporation in the United States, which such bonds or obligations are fully secured as to the payment of both principal and interest by a pledge of annual contributions under an annual contributions contract or contracts with the United States Government, or project notes issued by any public housing agency, urban renewal agency, or municipal corporation in the United States which are fully secured as to payment of both principal and interest by a requisition, loan, or payment agreement with the U.S. Government;

(v) Certificates of deposit of national or state banks located within the State which have deposits insured by the Federal Deposit Insurance Corporation and certificates of deposit of federal savings and loan associations and state building and loan associations located within the State which have deposits insured by the Savings Association Insurance Fund of the Federal Deposit Insurance Corporation, including the certificates of deposit of any bank, savings and loan association, or building and loan association acting as depository, custodian, or trustee for any such bond proceeds. The portion of such certificates of deposit in excess of the amount insured by the Federal Deposit Insurance Corporation or the Savings Association Insurance Fund of the Federal Deposit Insurance Corporation, if any, shall be secured by deposit, with the Federal Reserve Bank of New York, or with any national or state bank or federal savings and loan association or state building and loan or savings and loan association located within the State or with a trust office within the State, of one or more the following securities in an aggregate principal amount equal at least to the amount of such excess; direct and general obligations

of the State or other states or of any county or municipal corporation in the State, obligations of the U.S. Government or subsidiary corporations included in paragraph (ii) hereof, obligations of the agencies and instrumentalities of the U.S. Government included in paragraph (iii) hereof, or bonds, obligations, or project notes of public housing agencies, urban renewal agencies, or municipalities included in paragraph (iv) hereof;

(vi) Securities of or other interests in any no-load, open-end management type investment company or investment trust registered under the Investment Company Act of 1940, as from time to time amended, or any common trust fund maintained by any bank or trust company which holds such proceeds as trustee or by an affiliate thereof so long as:

(a) the portfolio of such investment company or investment trust or common trust fund is limited to the obligations referenced in paragraph (ii) and (iii) hereof and repurchase agreements fully collateralized by any such obligations;

(b) such investment company or investment trust or common trust fund takes delivery of such collateral either directly or through an authorized custodian;

(c) such investment company or investment trust or common trust fund is managed so as to maintain its shares at a constant net asset value; and

(d) securities of or other interests in such investment company or investment trust or common trust fund are purchased and redeemed only through the use of national or state banks having corporate trust powers and located within the State;

(vii) Interest-bearing time deposits, repurchase agreements, reverse repurchase agreements, rate guarantee agreements, or other similar banking arrangements with a bank or trust company having capital and surplus aggregating at least \$50 million or with any government bond dealer reporting to, trading with, and recognized as a primary dealer by the Federal Reserve Bank of New York having capital aggregating at least \$50 million or with any corporation which is subject to registration with the Board of Governors of the Federal Reserve System pursuant to the requirements of the Bank Holding Company Act of 1956, provided that each such interest-bearing time deposit, repurchase agreement, reverse repurchase agreement, rate guarantee agreement, or other similar banking arrangement shall permit the money so placed to be available for use at the time provided with respect to the investment or reinvestment of such moneys; and

(viii) Any other investments to the extent at the time permitted by then applicable law for the investment of public funds.

**“Letter of Representations”** shall mean any letter of representations with DTC with respect to Bonds deposited with DTC in its book-entry system.

**“Long-Term Interest Rate”** shall mean, with respect to each Bond, a fixed, non-variable interest rate on such Bond established in accordance with Section 201(f) hereof.

**“Long-Term Interest Rate Period”** shall mean each period during which a Long-Term Interest Rate is in effect.

**“Maturity Date”** shall mean December 1, 2049.

**“No Call Period”** means the period during a Long-Term Interest Rate Period during which the Bonds are not subject to optional redemption by the Issuer at the direction of the Borrower pursuant to Section 301(c)(ii) hereof.

**“Outstanding”** or **“outstanding”** means all Bonds which have been authenticated and delivered by the Trustee under this Indenture, except:

(a) Bonds paid or redeemed or delivered to or acquired by the Trustee for cancellation;

(b) Bonds deemed to have been paid in accordance with Article XIII hereof;

(c) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered under this Indenture; and

(d) Undelivered Bonds;

provided, however, that in determining whether the holders of the requisite principal amount of outstanding Bonds have given any request, demand, authorization, direction, notice, consent or waiver hereunder, Bonds owned by the Issuer or the Borrower or any other obligor upon the Bonds or the Loan Agreement or any Affiliate of the Borrower or such other obligor shall be disregarded and deemed not to be outstanding (unless all of the outstanding Bonds are then owned by the Borrower or any other obligor upon the Bonds or the Loan Agreement or any Affiliate of the Borrower or such other obligor), except that, in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Bonds which a Responsible Officer of the Trustee actually knows to be so owned shall be so disregarded. Bonds so owned which have been pledged in good faith may be regarded as outstanding if the pledgee establishes to the satisfaction of the Trustee the pledgee’s right so to act with respect to such Bonds and that the pledgee is not the Issuer or the Borrower or any other

obligor upon the Bonds or the Loan Agreement or any Affiliate of the Borrower or such other obligor. "Affiliate of the Borrower or such other obligor" as used in this definition means any person directly or indirectly controlling or controlled by or under direct or indirect common control with the Borrower or such other obligor. For the purposes of this definition, "control" when used with respect to the Borrower or such other obligor means the power to direct the management and policies of the Borrower or such other obligor, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise, and the terms "controlling" and "controlled" have meanings correlative to the foregoing. For purposes of this definition, "Responsible Officer" means any vice president, assistant vice president or other officer of the Trustee within the corporate trust office specified in Section 1502 (or any successor corporate trust office) customarily performing functions similar to those performed by the persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred at the corporate trust office specified in Section 1502 because of such person's knowledge of and familiarity with the particular subject and having direct responsibility for the administration of this Indenture.

**"Paying Agent"** shall mean the initial and any successor paying agent or agents appointed in accordance with Section 917 hereof. "Principal Office" of the Paying Agent shall mean the Principal Office of the Tender Agent or such other office thereof designated in writing to the Issuer, the Trustee, the Tender Agent and the Remarketing Agent.

**"Pledge Agreement"** means a Pledge Agreement to be entered into by and between the Borrower and the Trustee, in the event additional collateral is pledged as collateral security for the payment of the principal of and interest on the Bonds, as provided in Section 5.3 of the Loan Agreement.

**"Principal Office"** in the case of the Trustee or Tender Agent, means the office at which, at the time in question, its corporate trust activities relating to the Bonds are principally conducted, and, in the case of the Remarketing Agent, means the office at which, at the time in question, its remarketing activities relating to the Bonds are principally conducted.

**"Project"** means the sewage facilities and solid waste disposal facilities and functionally related and subordinate facilities described in EXHIBIT A to the Loan Agreement.

**"Purchase Fund"** shall mean the fund created by Section 1401 hereof.

**"Rating Category"** shall mean a generic securities rating category, without regard, in the case of a long-term rating category, to any refinement or gradation of such long-term rating category by a numerical modifier or otherwise.

**"Record Date"** shall mean (a) with respect to any Interest Payment Date in respect of any Daily Interest Rate Period, the last Business Day of each calendar month or, in the

case of the last Interest Payment Date in respect of a Daily Interest Rate Period, the Business Day immediately preceding such Interest Payment Date, (b) with respect to any Interest Payment Date in respect of any Weekly Interest Rate Period, the Business Day next preceding each Interest Payment Date, (c) with respect to any Interest Payment Date in respect of any Commercial Paper Term, the Business Day immediately preceding such Interest Payment Date, and (d) with respect to any Interest Payment Date in respect of any Long-Term Interest Rate Period, the 15th day (whether or not a Business Day) immediately preceding such Interest Payment Date or, in the event that an Interest Payment Date shall occur less than 15 days after the first day of a Long-Term Interest Rate Period, such first day.

**“Registrar”** shall mean the registrar or registrars appointed in accordance with Section 206 hereof. **“Principal Office”** of the Registrar shall mean the Principal Office of the Tender Agent or such other office thereof designated in writing to the Issuer, the Trustee, the Tender Agent and the Remarketing Agent.

**“Remarketing Agent”** shall mean the initial and any successor remarketing agent appointed in accordance with Section 1401(a)(i) hereof. **“Principal Office”** of the Remarketing Agent shall mean Fifth Third Securities, Inc., Attn: Remarketing Desk, 38 Fountain Square Plaza, MD 1090SB, Cincinnati, OH 45263, or such other office thereof designated in writing to the Issuer, the Trustee and the Tender Agent.

**“Secretary”** shall mean the person at the time occupying the office of Secretary of the Issuer.

**“SIFMA Index”** means the Securities Industry and Financial Markets Association Municipal Swap Index, which is an index compiled from the weekly interest rate resets of tax-exempt variable rate issues included in a database maintained by Bloomberg which meet specific criteria established from time to time by SIFMA and issued on Wednesday of each week, or if any Wednesday is not a Business Day, the next succeeding Business Day.

**“Special Record Date”** shall mean, with respect to any Bond, the date established by the Trustee in connection with the payment of overdue interest on that Bond pursuant to Section 203 hereof.

**“State”** shall mean the State of Mississippi.

**“Tender Agent”** shall mean the initial and any successor tender agent appointed in accordance with Section 1401(b) hereof. **“Principal Office”** of the Tender Agent shall initially mean U.S. Bank National Association, 111 Filmore Avenue E., St. Paul, Minnesota 55107, Attention: Bond Drop Window, or such other office thereof designated in writing to the Issuer, the Trustee and the Remarketing Agent.

**“Tender Agreement”** shall mean the Tender Agreement, dated as of December 1, 2019, between the Trustee, the Borrower, the Remarketing Agent and the Tender Agent, as supplemented or amended in accordance with the provisions thereof.

**“Trust Estate”** shall mean the property and rights assigned by the Issuer to the Trustee in the granting clauses of this Indenture.

**“Undelivered Bonds”** shall mean any Bond so designated in accordance with the provisions of Section 202(f) hereof.

**“Weekly Interest Rate”** shall mean a variable interest rate on the Bonds established in accordance with Section 201(e) hereof.

**“Weekly Interest Rate Period”** means each period during which a Weekly Interest Rate is in effect.

**SECTION 102 RULES OF CONSTRUCTION.** (a) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, the words “Bond”, “owner”, “holder” and “person” shall include the plural as well as the singular number; the word “person” shall include any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization or government or any agency or political subdivision thereof; and the words “holder” or “Bondholder” or “Owner” when used herein with respect to Bonds shall mean the registered owner of one or more Bonds at the time issued and outstanding hereunder.

(b) Words importing the redemption or calling for redemption of the Bonds shall not be deemed to refer to or connote payment of Bonds at their stated maturity.

(c) The captions or headings in this Indenture are for convenience only and in no way limit the scope or intent of any provision or section of this Indenture.

(d) All reference herein to particular articles or sections are references to articles or sections of this Indenture unless some other reference is indicated.

## **ARTICLE II FORM, EXECUTION, AUTHENTICATION AND DELIVERY OF BONDS**

### **SECTION 201 ISSUANCE OF BONDS.**

(a) (i) Limitations on Issuance. No Bonds may be issued under the provisions of this Indenture except in accordance with the provisions of this Article. There shall be issued under and secured by this Indenture the Bonds of the Issuer in the aggregate principal amount of Fifty-Five Million Dollars (\$55,000,000) to (A) finance or refinance all or a portion of the costs of the acquisition, construction and equipping of the Project,

and (B) pay certain costs associated with the issuance of the Bonds. The Bonds shall initially be issued in the aggregate principal amount of \$55,000,000 and shall be designated “Mississippi Business Finance Corporation Revenue Bonds (Gulf Power Company Project), Series 2019” and shall be dated their date of original issuance. The Bonds issued hereunder shall mature, subject to the right of prior redemption as hereinafter set forth, on the Maturity Date and shall bear interest at the rate or rates determined as hereinafter provided.

(ii) Form of Bonds. The Bonds are issuable as registered Bonds without coupons in Authorized Denominations and shall initially be issued and held under the book-entry system maintained by DTC; provided, however, that the Borrower may at any time elect to discontinue the use of such book-entry system. The Bonds shall be substantially in the form set forth as EXHIBIT A hereto, with such appropriate variations, omissions and insertions as are permitted or required by this Indenture, and may have endorsed thereon such legends or text as may be necessary or appropriate to conform to any applicable rules and regulations of any governmental authority or any usage or requirement of law with respect thereto.

(b) (i) The Bonds bearing interest at a rate other than a Commercial Paper Term Rate shall bear interest from and including the Interest Accrual Date immediately preceding the date of authentication thereof, or, if such date of authentication shall be an Interest Accrual Date to which interest on the Bonds has been paid in full or duly provided for or the date of initial authentication of the Bonds, from such date of authentication and each Bond bearing interest at a Commercial Paper Term Rate shall bear interest from and including the first day of the related Commercial Paper Term; provided, however, that if, as shown by the records of the Trustee, interest on the Bonds shall be in default, Bonds issued in exchange for Bonds surrendered for registration of transfer or exchange shall bear interest from the date to which interest has been paid in full on the Bonds or, if no interest has been paid on the Bonds, the date of the first authentication of Bonds hereunder.

(ii) For any Daily Interest Rate Period, interest on the Bonds shall be payable on each Interest Payment Date for the period commencing on the second preceding Interest Accrual Date and ending on the day immediately preceding the immediately preceding Interest Accrual Date (that is, generally, for the calendar month immediately preceding such Interest Payment Date), unless the Interest Payment Date shall be the day next succeeding the last day of a Daily Interest Rate Period, in which case interest shall be payable on such Interest Payment Date for the period commencing on the Interest Accrual Date to which interest shall have been paid in full and ending on the day immediately preceding such Interest Payment Date. For any Weekly Interest Rate Period, interest on the Bonds shall be payable on each Interest Payment Date for the period commencing on the immediately preceding Interest Accrual Date (or, if any Interest Payment Date is not a Wednesday, commencing on the second preceding Interest Accrual Date) and ending on the Tuesday immediately preceding the Interest Payment Date (or, if the period ends sooner

than that Tuesday, ending on the last day of the Weekly Interest Rate Period). For any Commercial Paper Interest Rate Period or Long-Term Interest Rate Period, interest on the Bonds shall be payable on each Interest Payment Date for the period commencing on the immediately preceding Interest Accrual Date and ending on the day immediately preceding such Interest Payment Date. In any event, interest on the Bonds shall be payable for the final Interest Rate Period to the date on which the Bonds shall have been paid in full.

(iii) Interest shall be computed, in the case of a Long-Term Interest Rate Period, on the basis of a 360-day year consisting of twelve, 30-day months, and in the case of any other Interest Rate Period, on the basis of a 365 or 366-day year, as appropriate, and the actual number of days elapsed.

(c) In the manner hereinafter provided, the term of the Bonds will be divided into consecutive Interest Rate Periods during each of which the Bonds shall bear interest at the Daily Interest Rate, the Weekly Interest Rate, Commercial Paper Term Rates or Long-Term Interest Rates. The first Interest Rate Period shall commence on the date of issuance and delivery of the Bonds and shall be a Daily Interest Rate Period. The Bonds shall initially bear interest at the rates per annum determined in accordance with the provisions hereof as set forth in the acceptance of their respective appointments as Remarketing Agent signed by Fifth Third Securities, Inc., on the date of issuance and delivery of the Bonds. Notwithstanding any other provision hereof, except during a Long-Term Interest Rate Period ending on the day immediately preceding the Maturity Date, the Daily, Weekly, Commercial Paper or Long-Term Interest Rate shall not exceed 12% per annum.

(d) (i) Determination of Daily Interest Rate. During each Daily Interest Rate Period, the Bonds shall bear interest at the Daily Interest Rate, which shall be determined by the Remarketing Agent on each Business Day for such Business Day. The Daily Interest Rate shall be the rate of interest per annum determined by the Remarketing Agent (based on the examination of tax-exempt obligations comparable to such Bonds known by the Remarketing Agent to have been priced or traded under then-prevailing market conditions) to be the minimum interest rate which, if borne by such Bonds, would enable the Remarketing Agent to sell such Bonds on such Business Day at a price (without regard to accrued interest) equal to the principal amount thereof. The Daily Interest Rate for a day that is not a Business Day shall be the same as the Daily Interest Rate for the immediately preceding Business Day. If for any reason, the Daily Interest Rate cannot be determined for any Business Day by the Remarketing Agent as hereinbefore provided, then (1) the Daily Interest Rate for such day shall be the same as the Daily Interest Rate for the immediately preceding day if the Daily Interest Rate for such preceding day was determined by the Remarketing Agent or (2) if no Daily Interest Rate for the immediately preceding day was determined by the Remarketing Agent or if the Daily Interest Rate determined by the Remarketing Agent shall be held to be invalid or unenforceable by a court of law, then the interest rate to be determined by the Remarketing Agent for such day

shall be equal to 100% of the SIFMA Index, made available for such day, or if such index is no longer available, or no such index was so made available for such day, 70% of the interest rate on 30-day high grade unsecured commercial paper notes sold through dealers by major corporations as reported in *The Wall Street Journal* or *The Bond Buyer* on the day the Daily Interest Rate would otherwise be determined as provided herein for such Daily Interest Rate Period.

(ii) Adjustment to Daily Interest Rate. At any time, the Borrower, by written direction to the Trustee, the Registrar, the Tender Agent and the then current Remarketing Agent, may elect that the Bonds shall bear interest at a Daily Interest Rate. Such direction shall specify (A) the effective date of such adjustment to a Daily Interest Rate, which shall be (1) a Business Day not earlier than the 15th day (or if the then-current Interest Rate Period shall be a Long-Term Interest Rate Period and such Long-Term Interest Rate Period shall end on a day prior to the day originally established as the last day thereof, not earlier than the 30th day) following the second Business Day after receipt by the Trustee of such direction, (2) in the case of an adjustment from a Long-Term Interest Rate Period, the day immediately following the last day of the then-current Long-Term Interest Rate Period or a day on which the Bonds would otherwise be subject to optional redemption pursuant to Section 301(c)(ii) hereof if such adjustment did not occur, and (3) in the case of an adjustment from a Commercial Paper Interest Rate Period, either the day immediately following the last day of the Commercial Paper Interest Rate Period or, as to any Bond, the day immediately following the last day of the Commercial Paper Term then in effect (or to be in effect) with respect to that Bond, and (B) the name and Principal Office of the Remarketing Agent while the Bonds bear interest at the Daily Interest Rate. In addition, the direction shall be accompanied by a Favorable Opinion of Bond Counsel. During each Daily Interest Rate Period commencing on a date so specified and ending on the day immediately preceding the effective date of the next succeeding Interest Rate Period, the interest rate borne by the Bonds shall be a Daily Interest Rate.

(iii) Notice of Adjustment to Daily Interest Rate. The Registrar shall give notice by first-class mail of an adjustment to a Daily Interest Rate Period to the Owners of the Bonds not less than 15 days (unless the then-current Interest Rate Period shall be a Long-Term Interest Rate Period and such Long-Term Interest Rate Period shall end on a day prior to the day originally established as the last day thereof, in which case not less than 30 days) prior to the effective date of such Daily Interest Rate Period. The Borrower shall cause the form of such notice to be provided to the Registrar. Such notice shall state (A) that the interest rate on the Bonds will be adjusted to a Daily Interest Rate, (B) the effective date of such Daily Interest Rate Period, (C) that the Bonds are subject to mandatory tender for purchase on such effective date, setting forth the applicable purchase price, and (D) the procedures of such purchase.

(e) (i) Determination of Weekly Interest Rate. During each Weekly Interest Rate Period, the Bonds shall bear interest at the Weekly Interest Rate, which shall be

determined by the Remarketing Agent no later than the Business Day immediately preceding the first day of each Weekly Interest Rate Period and thereafter no later than the Business Day immediately preceding Wednesday of each week during such Weekly Interest Rate Period. The Weekly Interest Rate shall be the rate of interest per annum determined by the Remarketing Agent (based on the examination of tax-exempt obligations comparable to such Bonds known by the Remarketing Agent to have been priced or traded under then-prevailing market conditions) to be the minimum interest rate which, if borne by such Bonds, would enable the Remarketing Agent to sell such Bonds on such Business Day at a price (without regard to accrued interest) equal to the principal amount thereof. If for any reason, the Weekly Interest Rate cannot be determined for any week by the Remarketing Agent as hereinbefore provided, then (A) the Weekly Interest Rate for such week shall be the same as the Weekly Interest Rate for the immediately preceding week if the Weekly Interest Rate for such immediately preceding week was determined by the Remarketing Agent or (B) if no Weekly Interest Rate for the immediately preceding week was determined by the Remarketing Agent or if the Weekly Interest Rate determined by the Remarketing Agent shall be held to be invalid or unenforceable by a court of law, then the Weekly Interest Rate for such week shall be equal to 100% of the SIFMA Index, made available for the week preceding the date of determination, or if such index is no longer available, or no such index was made available for the week preceding the date of determination, 70% of the interest rate on 30-day high grade unsecured commercial paper notes sold through dealers by major corporations as reported in *The Wall Street Journal* or *The Bond Buyer* on the day such Weekly Interest Rate would otherwise be determined as provided herein for such Weekly Interest Rate Period.

(ii) Adjustment to Weekly Interest Rate. At any time, the Borrower, by written direction to the Trustee, the Registrar, the Tender Agent and the Remarketing Agent, may elect that the Bonds shall bear interest at a Weekly Interest Rate. Such direction shall specify (A) the effective date of such adjustment to a Weekly Interest Rate, which shall be (1) a Business Day not earlier than the 15th day (or if the then-current Interest Rate Period shall be a Long-Term Interest Rate Period and such Long-Term Interest Rate Period shall end on a day prior to the day originally established as the last day thereof, not earlier than the 30th day) following the second Business Day after receipt by the Trustee of such direction, (2) in the case of an adjustment from a Long-Term Interest Rate Period, the day immediately following the last day of the then-current Long-Term Interest Rate Period or a day on which such Bonds would otherwise be subject to optional redemption pursuant to Section 301(c)(ii) hereof if such adjustment did not occur, and (3) in the case of an adjustment from a Commercial Paper Interest Rate Period, either the day immediately following the last day of the Commercial Paper Interest Rate Period or, as to any Bond, the day immediately following the last day of the Commercial Paper Term then in effect (or to be in effect) with respect to that Bond, and (B) the name and Principal Office of the Remarketing Agent while such Bonds bear interest at the Weekly Interest Rate. In addition, the direction shall be accompanied by a Favorable Opinion of Bond Counsel. During each Weekly Interest Rate Period commencing on a date so specified and ending

on the day immediately preceding the effective date of the next succeeding Interest Rate Period, the interest rate borne by such Bonds shall be a Weekly Interest Rate.

(iii) Notice of Adjustment to Weekly Interest Rate. The Registrar shall give notice by first-class mail of an adjustment to a Weekly Interest Rate Period to the Owners of the Bonds not less than 15 days (unless the then-current Interest Rate Period shall be a Long-Term Interest Rate Period and such Long-Term Interest Rate Period shall end on a day prior to the day originally established as the last day thereof, in which case not less than 30 days) prior to the effective date of such Weekly Interest Rate Period. The Borrower shall cause the form of such notice to be provided to the Registrar. Such notice shall state (A) that the interest rate on such Bonds will be adjusted to a Weekly Interest Rate, (B) the effective date of such Weekly Interest Rate Period, (C) that such Bonds are subject to mandatory tender for purchase on such effective date, setting forth the applicable purchase price, and (D) the procedures of such purchase.

(f) (i) Determination of Long-Term Interest Rate. During each Long-Term Interest Rate Period, the Bonds shall bear interest at the Long-Term Interest Rate. The Long-Term Interest Rate for such Bonds, or, in the case of an adjustment from a Commercial Paper Interest Rate Period in accordance with Alternative (II) set forth in Section 201(g)(iv) hereof, the Long-Term Interest Rate for such Bond, shall be determined by the Remarketing Agent on the effective date, or on a Business Day selected by it not more than 30 days prior to such effective date, of such Long-Term Interest Rate Period, with respect to the Bonds. The Long-Term Interest Rate shall be the rate of interest per annum determined by the Remarketing Agent (based on the examination of tax-exempt obligations comparable to such Bonds known by the Remarketing Agent to have been priced or traded under then-prevailing market conditions) to be the minimum interest rate which, if borne by such Bonds, would enable the Remarketing Agent to sell such Bonds on such effective date at a price (without regard to accrued interest) equal to the principal amount thereof. If for any reason, the Long-Term Interest Rate for any Long-Term Interest Rate Period cannot be determined by the Remarketing Agent as hereinabove provided, the Long-Term Interest Rate for such Long-Term Interest Rate Period the Long-Term Interest Rate will be at the Weekly Interest Rate as provided in Section 201(e) hereof, and shall continue to bear interest at a Weekly Interest Rate determined in accordance with Section 201(e) until such time as the interest rate on such Bonds shall have been adjusted to another Interest Rate Period as provided herein, and such Bonds shall continue to be subject to mandatory purchase as described in Section 202(d) hereof.

(ii) Adjustment to Long-Term Interest Rate. (a) At any time, the Borrower, by written direction to the Trustee, the Registrar, the Tender Agent and the then current Remarketing Agent may elect that the Bonds shall bear interest at a Long-Term Interest Rate. As a part of such election, the Borrower also may determine that the initial Long-Term Interest Rate Period shall be followed by successive Long-Term Interest Rate Periods. Such direction shall specify (1) the effective date of such Long-Term Interest

Rate Period, which date shall be (a) a Business Day not earlier than the 15th day (or if the then-current Interest Rate Period shall be a Long-Term Interest Rate Period and such Long-Term Interest Rate Period shall end on a day prior to the day originally established as the last day thereof, not earlier than the 30th day) following the second Business Day after receipt by the Trustee of such direction, (b) in the case of an adjustment from a Long-Term Interest Rate Period to another Long-Term Interest Rate Period, the day immediately following the last day of the then-current Long-Term Interest Rate Period or a day on which the Bonds would otherwise be subject to optional redemption pursuant to Section 301(c)(ii) hereof if such adjustment did not occur, (c) in the case of the determination of successive Long-Term Interest Rate Periods, the day immediately following the last day of the immediately preceding Long-Term Interest Rate Period and (d) in the case of an adjustment from a Commercial Paper Interest Rate Period, the date or dates determined in accordance with Alternatives (I) or (II) set forth in Section 201(g)(iv) hereof (provided, that if prior to the Borrower's making such election, any Bonds shall have been called for redemption and such redemption shall not have theretofore been effected, the effective date of such Long-Term Interest Rate Period shall not precede such redemption date); (2) the duration of such Long-Term Interest Rate Period or, if successive Long-Term Interest Rate Periods shall have been designated, of each such Long-Term Interest Rate Period, in accordance with Section 201(f)(iii) hereof; (3) a date or dates on or prior to which Owners are required to deliver such Bonds to be purchased (if other than the effective date); and (4) state the name and Principal Office of the Remarketing Agent while such Bonds bear interest at the Long-Term Interest Rate or Rates; provided, however, that in lieu of including the information to be provided pursuant to clause (2) above in such direction, such information may be provided in a supplemental written direction of the Borrower at any time prior to the effective date if also accompanied by a Favorable Opinion of Bond Counsel. The foregoing notwithstanding, the Borrower, by written direction to the Trustee, the Registrar, the Tender Agent and the Remarketing Agent may rescind its decision that such Bonds shall bear interest at a Long-Term Interest Rate provided that notice of such recession is sent to the Trustee and the Remarketing Agent not less than one day prior to the effective date of such Long-Term Interest Rate Period in which case such Bonds will remain in the then current Interest Rate Period; provided, however, that notwithstanding such rescission such Bonds shall still be subject to mandatory purchase as described in Section 202(d) hereof.

(B) Unless the Long-Term Interest Rate Period or Periods so determined are part of a series of successive Long-Term Interest Rate Periods which, together with the then-current Long-Term Interest Rate Period, shall be equal in length, as nearly as possible taking into account the requirements of this Section 201(f)(ii), such notice shall be accompanied by a Favorable Opinion of Bond Counsel. In any event, a Favorable Opinion of Bond Counsel shall be required prior to adjustment from a Long-Term Interest Rate Period of a duration in excess of one year to a Long-Term Interest Rate Period of a duration of exactly one year. If the Borrower shall designate successive Long-Term Interest Rate Periods, but shall not, with respect to the second or any subsequent Long-Term Interest

Rate Period, specify any of the information described in clauses (3) or (4) of Section 201(f)(ii)(A) above, the Borrower, by written direction to the Trustee, the Tender Agent and the Remarketing Agent, given not later than the third Business Day preceding the 15th day prior to the first day of such Long-Term Interest Rate Period, may specify any of such information not previously specified with respect to such Long-Term Interest Rate Period, accompanied by a Favorable Opinion of Bond Counsel if such opinion was required pursuant to the provisions above at the time of the determination of the initial Long-Term Interest Rate Period. During the Long-Term Interest Rate Period commencing and ending on the dates so determined and during each successive Long-Term Interest Rate Period, if any, so determined, the interest rate borne by the Bonds shall be a Long-Term Interest Rate.

(C) If, in connection with the expiration of any Long-Term Interest Rate Period (other than one of a succession of Long-Term Interest Rate Periods of equal duration, determined as aforesaid), by the Business Day preceding the date on which the Registrar must mail notice to the Owners of an adjustment of Interest Rate Period pursuant to Section 201(f)(iv) hereof, the Trustee shall not have received notice of the Borrower's election that, during the next succeeding Interest Rate Period, the Bonds shall bear interest at a Daily Interest Rate, a Weekly Interest Rate or a Long-Term Interest Rate, or at Commercial Paper Term Rates, the next succeeding Interest Rate Period shall be (1) if the Long-Term Interest Rate Period to expire is longer than one year in duration, a Weekly Interest Rate Period, so long as a Favorable Opinion of Bond Counsel shall be delivered or (2) if the Long-Term Interest Rate Period to expire is one year in duration, a Daily Interest Rate Period, so long as a Favorable Opinion of Bond Counsel shall be delivered.

(iii) Selection of Long-Term Interest Rate Period. The Long-Term Interest Rate Period shall be established by the Borrower in the notice given pursuant to Section 201(f)(ii) hereof (the first such Long-Term Interest Rate Period commencing on the date of adjustment of the Bonds to the Long-Term Interest Rate) and thereafter each successive Long-Term Interest Rate Period shall be the same as that so established by the Borrower until a different Long-Term Interest Rate Period is specified by the Borrower in accordance with this Section or until the adjustment of the Bonds to a Daily, Weekly or Commercial Paper Interest Rate Period or the Maturity Date. Each Long-Term Interest Rate Period shall be at least one year in duration and shall end on the day next preceding an Interest Payment Date (which must be a Business Day).

(iv) Notice of Adjustment to Long-Term Interest Rate. The Registrar shall give notice by first-class mail of an adjustment to a Long-Term Interest Rate Period to the Owners of the Bonds not less than 15 days (unless the then-current Interest Rate Period shall be a Long-Term Interest Rate Period and such Long-Term Interest Rate Period shall end on a day prior to the day originally established as the last day thereof, in which case not less than 30 days) prior to the effective date (or each effective date in the case of an adjustment from a Commercial Paper Interest Rate Period in accordance with Alternative (II) set forth in Section 201(g)(iv) hereof) of such Long-Term Interest Rate Period. The

Borrower shall cause the form of such notice to be provided to the Registrar. Such notice shall state: (A) that the interest rate on the Bonds shall be adjusted to a Long-Term Interest Rate, (B) the effective date or dates and the last day of such Long-Term Interest Rate Period, (C) that the Bonds are subject to mandatory tender for purchase on such effective date, (D) the procedures of such purchase, (E) that, although the adjustment to a Long-Term Interest Rate is subject to rescission by the Borrower, the Bonds remain subject to purchase.

(v) Adjustment from Long-Term Interest Rate Period. In addition to an adjustment from a Long-Term Interest Rate Period on the day immediately following the last day of the Long-Term Interest Rate Period, at any time during a Long-Term Interest Rate Period (subject to the provisions set forth in this paragraph (v)) the Borrower may elect that the Bonds no longer shall bear interest at a Long-Term Interest Rate and shall instead bear interest at a Daily Interest Rate, a Weekly Interest Rate, Commercial Paper Term Rates or a new Long-Term Interest Rate, as specified in such election. In the notice of such election, the Borrower shall also specify (A) the effective date of the new Interest Rate Period, which date shall be no earlier than the first date, not less than thirty-five days following the date of receipt by the Trustee of the notice of election from the Borrower, on which the Bonds shall be subject to optional redemption in accordance with Section 301(c)(ii) hereof, and (B) the name and Principal Office of the Remarketing Agent while such Bonds bear interest based on such new interest rate determination method. Bonds shall be subject to mandatory tender for purchase on the effective date of the new Interest Rate Period thereof, in accordance with Section 202(d) hereof, at a purchase price equal to the optional redemption price set forth in Section 301(c)(ii) hereof which would be applicable on that date. Notwithstanding any other provision of this Indenture, in the event that the Borrower elects to adjust from a Long-Term Interest Rate Period prior to the day following the last day thereof, the Registrar shall give the notice of adjustment to the new Interest Rate Period required by Sections 201(d)(iii), (e)(iii), (f)(iv) and (g)(iii), as applicable, not less than 30 days prior to the effective date of the new Interest Rate Period.

(g) (i) Determination of Commercial Paper Terms and Commercial Paper Term Rates. (A) During each Commercial Paper Interest Rate Period, the Bonds shall bear interest during each Commercial Paper Term for such Bond at the Commercial Paper Term Rate for such Bond. Each of such Commercial Paper Terms and Commercial Paper Term Rates for the Bond shall be determined by the Remarketing Agent no later than the first day of each Commercial Paper Term. Each Commercial Paper Term for the Bond shall be a period of not more than 270 days, determined by the Remarketing Agent to be the period which, together with all other Commercial Paper Terms for all Bonds then Outstanding, will result in the lowest overall interest expense on such Bonds over the next succeeding 270 days. Further, each Commercial Paper Term shall end on either a day which immediately precedes a Business Day or on the day immediately preceding the Maturity Date. If for any reason a Commercial Paper Term for any Bond cannot be so determined by the Remarketing Agent, it will extend by one Business Day (or until the earlier stated

maturity of the Bonds) automatically until the Remarketing Agent is able to set the rate and, if in that instance the Remarketing Agent fails for whatever reason to determine the interest rate for such Bond, then the interest rate for such Bond for that Commercial Paper Interest Rate Period shall be the interest rate in effect for the preceding Commercial Paper Interest Rate Period. In determining the number of days in each Commercial Paper Term, the Remarketing Agent shall take into account the following factors: (1) existing short-term tax-exempt market rates and indices of such short-term rates, (2) the existing market supply and demand for short-term tax-exempt securities, (3) existing yield curves for short-term and long-term tax-exempt securities for obligations of credit quality comparable to such Bonds, (4) general economic conditions, (5) industry economic and financial conditions that may affect or be relevant to such Bonds, and (6) such other facts, circumstances and conditions as the Remarketing Agent, in its sole discretion, shall determine to be relevant. Not later than 12:30 p.m. on the first day of each Commercial Paper Term the Remarketing Agent shall notify the Tender Agent of each Commercial Paper Term and Commercial Paper Term Rate established on such day.

(B) The Commercial Paper Term Rate for each Commercial Paper Term for each Bond shall be the rate of interest per annum determined by the Remarketing Agent (based on the examination of tax-exempt obligations comparable to the Bonds known by the Remarketing Agent to have been priced or traded under then-prevailing market conditions) to be the minimum interest rate which, if borne by such Bond, would enable the Remarketing Agent to sell such Bond on the date and at the time of such determination at a price (without regard to accrued interest) equal to the principal amount thereof.

(ii) Adjustment to Commercial Paper Term Rates. At any time, the Borrower, by written direction to the Trustee, the Registrar, the Tender Agent and the Remarketing Agent, may elect that the Bonds shall bear interest at Commercial Paper Term Rates. Such direction shall specify (A) the effective date of the Commercial Paper Interest Rate Period (during which such Bonds shall bear interest at Commercial Paper Term Rates), which shall be (1) a Business Day not earlier than the 15th day (or if the then-current Interest Rate Period shall be a Long-Term Interest Rate Period and such Long-Term Interest Rate Period shall end on a day prior to the day originally established as the last day thereof, not earlier than the 30th day) following the second Business Day after receipt by the Trustee of such direction, and (2) in the case of an adjustment from a Long-Term Interest Rate Period, the day immediately following the last day of the then-current Long-Term Interest Rate Period or a day on which such Bonds would otherwise be subject to optional redemption pursuant to Section 301(c)(ii) hereof if such adjustment did not occur; provided that, if prior to the Borrower's making such election any Bonds shall have been called for redemption and such redemption shall not have theretofore been effected, the effective date of such Commercial Paper Interest Rate Period shall not precede such redemption date; and (B) the name and Principal Office of the Remarketing Agent while the Bonds bear interest at the Commercial Paper Term Rates. In addition, the direction shall be accompanied by a Favorable Opinion of Bond Counsel. During each Commercial Paper Interest Rate Period

commencing on the date so specified and ending, with respect to each applicable Bond, on the day immediately preceding the effective date of the next succeeding Interest Rate Period with respect to such Bond, each such Bond shall bear interest at a Commercial Paper Term Rate during each Commercial Paper Term for such Bond.

(iii) Notice of Adjustment to Commercial Paper Term Rates. The Registrar shall give notice by first-class mail of an adjustment to a Commercial Paper Term Rate Period to the Owners of the Bonds not less than 15 days (unless the then-current Interest Rate Period shall be a Long-Term Interest Rate Period and such Long-Term Interest Rate Period shall end on a day prior to the day originally established as the last day thereof, in which case not less than 30 days) prior to the effective date of such Commercial Paper Interest Rate Period. The Borrower shall cause the form of such notice to be provided to the Registrar. Such notice shall state (A) that during such Commercial Paper Interest Rate Period, the Bond will have one or more consecutive Commercial Paper Terms during each of which such Bond will bear a Commercial Paper Term Rate, (B) the effective date of such Commercial Paper Interest Rate Period, (C) that the Bonds are subject to mandatory tender for purchase on the effective date of such Commercial Paper Interest Rate Period, setting forth the applicable purchase price, and (D) the procedures for such purchase.

(iv) Adjustment from Commercial Paper Interest Rate Period. At any time during a Commercial Paper Interest Rate Period, the Borrower may elect, pursuant to Section 201(d)(ii), (e)(ii) or (f)(ii) hereof, that the Bonds no longer shall bear interest at Commercial Paper Term Rates and shall instead bear interest at a Daily Interest Rate, a Weekly Interest Rate or a Long-Term Interest Rate, as specified in such election. Such election also shall specify an alternative from the immediately succeeding Alternatives (I) and (II) and, in accordance with such election, the Remarketing Agent shall effect one of such alternatives:

Alternative (I): determine Commercial Paper Terms of such duration that, as soon as possible, all Commercial Paper Terms shall end on the same date; or

Alternative (II): determine Commercial Paper Terms of such duration that will, in the judgment of the Remarketing Agent, best promote an orderly transition to the next succeeding Interest Rate Period.

If Alternative (I) above shall be selected, the date on which all Commercial Paper Terms so determined shall end shall be the last day of the then-current Commercial Paper Interest Rate Period and the day next succeeding such date shall be the effective date of the Daily Interest Rate Period, Weekly Interest Rate Period or Long-Term Interest Rate Period elected by the Borrower. If Alternative (II) above shall be selected, beginning on the 14th day following the second Business Day after the receipt by the Trustee of the direction of the Borrower effecting such election, the day next succeeding the last day of the Commercial Paper Term determined in accordance with Alternative (II) with respect to each Bond shall be, with respect to such Bond, the effective date of the Daily Interest Rate

Period, Weekly Interest Rate Period or Long-Term Interest Rate Period elected by the Borrower. The Remarketing Agent, promptly upon the determination thereof, shall give written notice of each such last date and each such effective date with respect to each Bond to the Borrower, the Trustee and the Tender Agent.

(v) During any transition period from a Commercial Paper Interest Rate Period to the next succeeding Interest Rate Period in accordance with Alternative (II) of Section 201(g)(iv) hereof, Bonds bearing interest at a Commercial Paper Term Rate shall be governed by the provisions of this Indenture applicable to a Commercial Paper Interest Rate Period and Bonds bearing interest at a Daily Interest Rate, Weekly Interest Rate or Long-Term Interest Rate, as applicable, shall be governed by the provisions of this Indenture applicable to such Interest Rate Period.

(h) The determination of the Alternate Long-Term Interest Rate Index and the determination of each Daily Interest Rate, Weekly Interest Rate and Long-Term Interest Rate and each Commercial Paper Term and Commercial Paper Term Rate by the Remarketing Agent shall be conclusive and binding upon the Remarketing Agent, the Trustee, the Tender Agent, the Issuer, the Borrower, and the Owners of the Bonds.

(i) The Bonds shall be numbered from R-1 consecutively upwards in order of authentication.

(j) Notwithstanding anything to the contrary contained in this Indenture, the Borrower may at any time, by written direction of an Authorized Borrower Representative to the Trustee, the Registrar, the Tender Agent and the Remarketing Agent and but only upon the approval of the Issuer, elect that the Bonds shall bear interest based on an alternate interest rate determination method not included under the provisions of this Indenture. Such direction shall set forth in full the Bonds affected by such election, the details of such interest rate determination method, including (without limitation) the manner of determining interest rates, the effective date of adjustment, the term of the interest rate period, the interest payment dates, the provisions for tender for purchase and redemption, if any, and the name and Principal Office of the Remarketing Agent while such Bonds bear interest based on such interest rate determination method, and shall include the form of Bonds incorporating such details; provided, however, that the effective date of such adjustment shall be (i) a Business Day not earlier than the 15th day (or if the then-current Interest Rate Period shall be a Long-Term Interest Rate Period and such Long-Term Interest Rate Period shall end on a day prior to the day originally established as the last day thereof, not earlier than the 30th day) following the second Business Day after receipt by the Trustee of such direction, (ii) in the case of an adjustment from a Long-Term Interest Rate Period, the day immediately following the last day of the then-current Long-Term Interest Rate Period or a day on which the Bonds would otherwise be subject to optional redemption pursuant to Section 301(c)(ii) hereof if such adjustment did not occur, and (iii) in the case of an adjustment from a Commercial Paper Interest Rate Period, either the day immediately following the last day of the Commercial Paper Interest Rate Period or, as to

any Bond, the day immediately following the last day of the Commercial Paper Interest Term then in effect (or to be in effect) with respect to that Bond. In addition, the direction shall be accompanied by a Favorable Opinion of Bond Counsel. The Trustee, the Registrar, the Tender Agent, the Remarketing Agent and the Borrower shall take such actions and enter into such documents, and the Borrower shall appoint such additional parties, as may be necessary to effectuate such direction.

## **SECTION 202 PURCHASE OF BONDS.**

(a) During Daily Interest Rate Period. During any Daily Interest Rate Period, any Bond or portion thereof in an Authorized Denomination shall be purchased from its Owner at the option of the Owner on any Business Day at a purchase price equal to the principal amount thereof plus accrued interest from the Interest Accrual Date immediately preceding the date of purchase through the day immediately preceding the date of purchase, unless the date of purchase shall be an Interest Accrual Date, in which case at a purchase price equal to the principal amount thereof, payable in immediately available funds, upon delivery to the Tender Agent at its Principal Office, by no later than 11:00 a.m., New York City time, on such Business Day, of an irrevocable written notice or an irrevocable telephonic notice, promptly confirmed by telecopy or other writing, which states the Bonds to be tendered, the principal amount of such Bond or such portion thereof and the date of purchase. For payment of such purchase price on the date specified in such notice, such Bond must be delivered, at or prior to 12:00 Noon, New York City time, on such Business Day, to the Tender Agent at its Principal Office, accompanied by an instrument of transfer thereof, in form satisfactory to the Tender Agent, executed in blank by the Owner thereof or his duly-authorized attorney, with such signature guaranteed by an “eligible guarantor institution” as defined in Rule 17Ad-15 under the Securities Exchange Act of 1934 (an “*Eligible Guarantor Institution*”). Notwithstanding the foregoing, during any period when the Bonds are registered in the name of Cede & Co. or such other nominee of DTC as DTC shall designate and held by DTC in its book-entry system, the optional tender of Bonds shall be accomplished in accordance with the Letter of Representations with DTC with respect to the Bonds and a tender of such Bonds must be initiated by the delivery of a notice to the Tender Agent in the form set forth as EXHIBIT B hereto.

(b) During Weekly Interest Rate Period. During any Weekly Interest Rate Period, any Bond or portion thereof in an Authorized Denomination shall be purchased from its Owner at the option of the Owner on any Business Day at a purchase price equal to the principal amount thereof plus accrued interest, if any, from the Interest Accrual Date immediately preceding the date of purchase through the day immediately preceding the date of purchase, unless the date of purchase shall be an Interest Accrual Date in which case at a purchase price equal to the principal amount thereof, payable in immediately available funds, upon delivery to the Tender Agent at its Principal Office of an irrevocable written notice or an irrevocable telephonic notice, promptly confirmed by tested telex, telecopy or other writing, which states the Bonds to be tendered, the principal amount of

such Bond or such portion thereof and the date on which the same shall be purchased, which date shall be a Business Day not prior to the seventh day next succeeding the date of the delivery of such notice to the Tender Agent. For payment of such purchase price on the date specified in such notice, such Bond must be delivered, at or prior to 12:00 Noon, New York City time, on the date specified in such notice, to the Tender Agent at its Principal Office, accompanied by an instrument of transfer thereof, in form satisfactory to the Tender Agent, executed in blank by the Owner thereof or his duly-authorized attorney, with such signature guaranteed by an Eligible Guarantor Institution. Notwithstanding the foregoing, during any period when the Bonds are registered in the name of Cede & Co. or such other nominee of DTC as DTC shall designate and held by DTC in its book-entry system, the optional tender of Bonds shall be accomplished in accordance with the Letter of Representations with DTC with respect to the Bonds and a tender of such Bonds must be initiated by the delivery of a notice to the Tender Agent in the form set forth as EXHIBIT B hereto.

(c) Mandatory Tender for Purchase On Business Day Next Succeeding the Last Day of Each Commercial Paper Term. On the Business Day next succeeding the last day of each Commercial Paper Term for a Bond, unless such day is the first day of a new Interest Rate Period (in which event Section 202(d) hereof shall be applicable), such Bond shall be purchased from its Owner, at a purchase price equal to the principal amount thereof, payable in immediately available funds. For payment of such purchase price on such day, such Bond must be delivered, at or prior to 12:30 p.m., New York City time, on such day, to the Tender Agent at its Principal Office, accompanied by an instrument of transfer thereof, in form satisfactory to the Tender Agent, executed in blank by the Owner thereof or his duly-authorized attorney, with such signature guaranteed by an Eligible Guarantor Institution.

(d) Mandatory Tender for Purchase on First Day of Each Interest Rate Period. The Bonds shall be subject to mandatory tender for purchase on the first day of each Interest Rate Period, at a purchase price, payable in immediately available funds, equal to 100% of the principal amount of the Bonds or, in the case of a purchase on the first day of an Interest Rate Period which shall be preceded by a Long-Term Interest Rate Period and which shall commence prior to the day originally established as the last day of such preceding Long-Term Interest Rate Period, at a purchase price equal to the optional redemption price set forth in Section 301(c)(ii) which would have been applicable to the Bonds on such mandatory purchase date if such preceding Long-Term Interest Rate Period had continued to the day originally established as its last day.

(e) Notice of Mandatory Tender for Purchase. In connection with any mandatory tender for purchase of Bonds in accordance with Section 202(d) hereof, the Registrar shall give notice as a part of the notice given pursuant to Sections 201(d)(iii), (e)(iii), (f)(iv) or (g)(iii) hereof. Such notice shall state (i) the Bonds to be tendered, (ii) the type of Interest Rate Period to commence on such mandatory purchase date; (iii) that

the purchase price of any Bond so subject to mandatory purchase shall be payable only upon surrender of such Bond to the Tender Agent at its Principal Office, accompanied by an instrument of transfer thereof, in form satisfactory to the Tender Agent, executed in blank by the Owner thereof or his duly-authorized attorney, with such signature guaranteed by an Eligible Guarantor Institution; and (iv) that all Bonds so subject to mandatory tender for purchase shall be purchased on the mandatory purchase date.

(f) Irrevocable Notice Deemed to be Tender of Bond; Undelivered Bonds. (i) The giving of notice by an Owner of a Bond as provided in Sections 202(a) or (b) hereof, shall constitute the irrevocable tender for purchase of each Bond with respect to which such notice shall have been given irrespective of whether such Bond shall be delivered as provided in such Section, except that Bonds held at DTC and for which an optional tender has been made by delivery of the notice set forth as EXHIBIT B hereto shall not be purchased unless such Bonds are transferred to the name of the Tender Agent in DTC's book-entry-only system on the tender date as provided in such notice. Further, each Bond shall be deemed irrevocably tendered for purchase on the first day of each Commercial Paper Term or Interest Rate Period as provided in Sections 202(c) or (d) hereof, in each case irrespective of whether such Bond shall be delivered as provided in this Section.

(ii) The Tender Agent may refuse to accept delivery of any Bonds for which a proper instrument of transfer has not been provided. In the event that any Owner of a Bond who shall have given notice of tender for purchase pursuant to Sections 202(a) or (b) hereof, or the Owner of any Bond subject to mandatory tender for purchase pursuant to Section 202(c) or (d) hereof, shall fail to deliver such Bond to the Tender Agent at the place and on the applicable date and time specified, or shall fail to deliver such Bond properly endorsed, such Bond shall constitute an Undelivered Bond. If funds in the amount of the purchase price of the Undelivered Bond are available for payment to the Owner thereof on the date and at the time specified, from and after the date and time of that required delivery, (A) the Undelivered Bond shall no longer be deemed to be Outstanding under this Indenture; (B) interest shall no longer accrue thereon; and (C) funds in the amount of the purchase price of the Undelivered Bond shall be held by the Tender Agent for the benefit of the Owner thereof (provided that the Owner shall have no right to any investment proceeds derived from such funds), to be paid on delivery (or proper endorsement) of the Undelivered Bond to the Tender Agent. Any funds held by the Tender Agent as described in clause (C) of the preceding sentence shall be held uninvested.

**SECTION 203 EXECUTION AND PAYMENT.** The Bonds shall be executed on behalf of the Issuer with the manual or facsimile signatures of its Executive Director and attested by the Secretary or Assistant Secretary, and the official seal of the Issuer shall be impressed or a facsimile thereof imprinted thereon.

In case any officer whose signature or facsimile signature shall appear on any Bonds shall cease to be such officer before the delivery of such Bonds, such signature or such facsimile signature shall nevertheless be valid and sufficient for all purposes the same as if

the officer had remained in office until such delivery, and also any Bond may be signed by or bear the facsimile signature of such persons as at the actual time of the execution of such Bond shall be the proper officers to sign such Bond although at the date of such Bond such persons may not have been such officers.

Principal or redemption price of and interest on the Bonds shall be payable, without deduction for the services of any paying agent, in any coin or currency of the United States of America which, at the time of payment, is legal tender for the payment of public and private debts, subject to the further provisions of this Section, (a) in the case of principal or redemption price of such Bond, when due, upon presentation and surrender of such Bond at the Principal Office of the Trustee or at the office, designated by the Trustee, of any other paying agent and (b) in the case of interest on such Bond, on each Interest Payment Date by check mailed on that date to the address of the person entitled thereto, as of the applicable Record Date, as such address appears on the registration books of the Issuer hereinafter provided or, except for interest in respect of a Long-Term Interest Rate Period, upon the request of each Owner of Bonds who has provided deposit or transfer instructions to the Paying Agent at least two Business Days prior to such Record Date, deposited in immediately available funds to the account of such Owner maintained with the Paying Agent or transmitted by wire transfer to the account of such Owner maintained with a commercial bank located within the United States of America, but, in the case of interest payable in respect of a Commercial Paper Term, only upon delivery of such Bond to the Tender Agent.

If and to the extent, however, that payment or provision for payment of interest on any Bond on any Interest Payment Date is not made, that interest shall cease to be payable to the Owner of that Bond as of the applicable Record Date. When moneys become available for payment of the interest, (a) the Trustee shall establish a Special Record Date for the payment of that interest which shall be not more than 15 nor fewer than 10 days prior to the date of the proposed payment, and (b) the Trustee shall give notice by first-class mail of the proposed payment and of the Special Record Date to each Owner not fewer than 10 days prior to the Special Record Date and, thereafter, the interest shall be payable to the Owners of the Bonds as of the Special Record Date at the close of business on the Special Record Date.

Notwithstanding any provision of this Indenture or of any Bond, the Trustee or the Paying Agent may enter into an agreement with any holder of 100% in aggregate principal amount of the Bonds providing for making any or all payments to that holder of principal or redemption price of and interest on that Bond or any part thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner other than as provided in this Indenture and in the Bond, without presentation or surrender of the Bond, and for giving any notice required hereunder, upon any conditions that shall be satisfactory to the Trustee, the Paying Agent and the Borrower; provided that no such agreement with such a holder shall provide for less notice than is otherwise provided for herein.

The Trustee or the Paying Agent, as the case may be, will furnish a copy of each of those agreements, certified to be correct by an officer of the Trustee, to the Borrower. Any payment of principal, redemption price or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, this Indenture.

**SECTION 204 AUTHENTICATION OF BONDS.** Only such of the Bonds having endorsed thereon a certificate of authentication substantially in the form set forth in EXHIBIT A hereto, duly executed by the Registrar, shall be entitled to any benefit or security under this Indenture. No Bond shall be valid or obligatory for any purpose unless and until such certificate of authentication shall have been duly executed by the Registrar, and such certificate of the Registrar upon any such Bond shall be conclusive evidence that such Bond has been duly issued and delivered under this Indenture. The Registrar's certificate of authentication on any Bond shall be deemed to have been duly executed if signed by an authorized signatory of the Registrar, but it shall not be necessary that the same signatory sign the certificate of authentication on all of the Bonds that may be issued hereunder at any one time.

**SECTION 205 EXCHANGE OF BONDS.** Upon surrender thereof at the Principal Office of the Registrar, Bonds may, at the option of the registered owner thereof, be exchanged for an equal aggregate principal amount of Bonds of any denomination or denominations authorized by this Indenture, and bearing interest at the same rate as the Bonds surrendered for exchange.

**SECTION 206 TRANSFER OF BONDS.** The Tender Agent is hereby appointed as Registrar and as such shall keep books for the registration and for the registration of transfer of Bonds as provided in this Indenture, provided that during a Long-Term Interest Rate Period, the Trustee shall be and is hereby appointed as Registrar, with responsibility for the duties of the Registrar hereunder.

At reasonable times and under reasonable regulations established by the Registrar, the books for the registration and registration of transfer of Bonds may be inspected and copied by the Issuer, the Trustee, the Borrower, or by Owners (or a designated representative thereof) of a majority in principal amount of the Bonds then Outstanding, the authority of any such designated representative to be evidenced to the satisfaction of the Registrar.

The Issuer, the Trustee, the Tender Agent, the Paying Agent and the Remarketing Agent may deem and treat the Owner of any Bond as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal of and interest and any premium on, or the purchase price of, such Bond and for all other purposes, and neither the Issuer, the Trustee, the Tender Agent, the Paying Agent nor any Remarketing Agent shall be affected by any notice to the contrary. All such payments so made to any such Owner or upon his order shall be valid and effectual

to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

The transfer of any Bond may be registered only upon the books kept for the registration and registration of transfer of Bonds upon surrender thereof to the Registrar, together with an assignment duly executed by the registered owner or his attorney or legal representative in such form as shall be satisfactory to the Registrar. Upon any such registration of transfer the Issuer shall execute and the Registrar shall authenticate and deliver in exchange for such Bond a new Bond or Bonds, registered in the name of the transferee, of any denomination or denominations authorized by this Indenture, in an aggregate principal amount equal to the principal amount of such Bonds and bearing interest at the same rate.

In all cases in which Bonds shall be exchanged or the transfer of Bonds shall be registered hereunder, the Issuer shall execute and the Registrar shall authenticate and deliver at the earliest practicable time Bonds in accordance with the provisions of this Indenture. All Bonds surrendered in any such exchange or registration of transfer shall forthwith be canceled by the Registrar. The Issuer or the Registrar may make a charge for every such exchange or registration of transfer of Bonds sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or registration of transfer, and such charge shall be paid before any such new Bond shall be delivered. Except in connection with the remarketing of Bonds, neither the Issuer nor the Registrar shall be required to make any such exchange or registration of transfer of Bonds, in the case of any proposed redemption of Bonds, during the 15 days immediately preceding the selection of Bonds for such redemption or after any such Bond or any portion thereof has been called for redemption.

The transferor shall provide or cause to be provided to the Trustee all information necessary to allow the Trustee to comply with any applicable tax reporting obligations, including without limitation any cost basis reporting obligations under Internal Revenue Code Section 6045. The Trustee may rely on the information provided to it and shall have no responsibility to verify or ensure the accuracy of such information.

**SECTION 207 OWNERSHIP OF BONDS.** Except as provided in Section 203 hereof, the person in whose name any Bond shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal of and premium, if any, and interest on any such Bond shall be made only to or upon the order of the registered owner thereof or his registered assigns on the applicable Record Date. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond, including the interest thereon, to the extent of the sum or sums so paid.

Any owner of any Bond is hereby granted power to transfer absolute title thereto by assignment thereof to a bona fide purchaser for value (present or antecedent) without notice

of prior defenses or equities or claims of ownership enforceable against his assignor or any person in the chain of title and before the maturity of such Bond. Every prior owner of any Bond shall be deemed to have waived and renounced all of his equities or rights therein in favor of every such bona fide purchaser, and every such bona fide purchaser shall acquire absolute title thereto and to all rights represented thereby.

**SECTION 208 PREREQUISITE TO EXECUTION OF BONDS.** The Bonds shall be executed substantially in the form and manner herein set forth, shall bear a certificate of validation and shall be deposited with the Registrar for authentication, but prior to or simultaneously with the authentication and delivery of the Bonds by the Registrar there shall be delivered to the Trustee the following:

(a) copies, certified by the Secretary, of the resolutions adopted by the Issuer authorizing the issuance, sale and delivery of the Bonds and the execution and delivery of the Loan Agreement and this Indenture;

(b) executed counterparts or certified copies of the Loan Agreement and this Indenture;

(c) opinions of counsel to the Issuer or Bond Counsel, addressed to the Trustee, to the effect that the execution and delivery of the Loan Agreement has been duly authorized by the Issuer, and that, assuming proper authorization and the execution and delivery of the Loan Agreement by the Borrower, the Loan Agreement is valid and binding on the Issuer in accordance with its terms;

(d) an opinion of counsel for the Borrower, addressed to the Trustee, to the effect that the execution and delivery of the Loan Agreement has been duly authorized by the Borrower, and that, assuming proper authorization, execution and delivery of the Loan Agreement by the Issuer, the Loan Agreement is valid and binding on the Borrower in accordance with its respective terms;

(e) an opinion of Bond Counsel as to the validity of the Bonds and as to the exclusion of interest on the Bonds for federal income tax purposes in customary form;

(f) a request and authorization of the Issuer, signed by the Chair, to the Registrar to authenticate and deliver the Bonds to such person or persons named therein upon payment to the Trustee for the account of the Issuer of a sum specified therein;

(g) delivery of a tax certificate and agreement from the Issuer and Borrower in form and substance acceptable to Bond Counsel;

(h) a certified copy of the transcript of judicial proceedings providing for the validation of the Bonds; and

(i) a written statement or certificate signed by a duly authorized representative of the Borrower approving the terms, purchase price of, and use of the proceeds of the sale of the Bonds.

When the documents mentioned above in this Section shall have been filed with the Trustee and when the Bonds shall have been executed as required by this Indenture, the Registrar shall authenticate the Bonds and deliver them to or upon the order of the purchasers named in the authentication order referred to in clause (f) of this Section, but only upon payment to the Trustee for the account of the Issuer of the purchase price of the Bonds. The Trustee shall be entitled to rely upon such resolution, or any certificate of award authorized by such resolution, as to the names of the purchasers, the interest rate or rates and periods of the Bonds and the amount of such purchase price.

The amount of the proceeds representing accrued interest on the Bonds shall be deposited by the Trustee in accordance with Section 502 hereof simultaneously with the delivery of the Bonds. The balance of the proceeds received from the sale of the Bonds, net underwriter's discount and certain out of pocket expenses of the underwriter for the Bonds, shall be deposited by the Trustee into the Construction Fund; all simultaneously with the delivery of the Bonds.

**SECTION 209 TEMPORARY BONDS.** Until definitive Bonds are ready for delivery, there may be executed, and upon request of the Issuer the Registrar shall authenticate and deliver, in lieu of definitive Bonds and subject to the same limitations and conditions, temporary Bonds, in the form of registered Bonds without coupons in Authorized Denominations, substantially of the tenor set forth in EXHIBIT A hereto and with such appropriate omissions, insertions and variations as may be required. Until definitive Bonds are ready for delivery, any temporary Bond may, if so provided by the Issuer by resolution, be exchanged at the Principal Office of the Registrar, without charge to the holder thereof, for an equal aggregate principal amount of temporary registered Bonds without coupons, of like tenor and bearing interest at the same rate.

If temporary Bonds shall be issued, the Issuer shall cause the definitive Bonds to be prepared and to be executed and delivered to the Registrar, and the Registrar, upon presentation to it at its Principal Office of any temporary Bond shall cancel the same and authenticate and deliver in exchange therefor at the Principal Office of the Registrar, without charge to the holder thereof, a definitive Bond or Bonds of an equal aggregate principal amount and bearing interest at the same rate as the temporary Bond surrendered. Until so exchanged the temporary Bonds shall in all respects be entitled to the same benefit and security of this Indenture as the definitive Bonds to be issued and authenticated hereunder.

**SECTION 210 MUTILATED, DESTROYED, STOLEN OR LOST BONDS.** In case any Bond secured hereby shall become mutilated or be destroyed, stolen, or lost, the Issuer shall cause to be executed, and the Registrar shall authenticate and

deliver, a new Bond of like date and tenor in exchange and substitution for and upon the cancellation of such mutilated Bond, or in lieu of and in substitution for such Bond destroyed, stolen, or lost, upon the holder's paying the reasonable expenses and charges of the Issuer and the Registrar in connection therewith and, in the case of a Bond destroyed, stolen, or lost, his filing with the Registrar evidence satisfactory to it, the Issuer and the Borrower that such Bond was destroyed, stolen, or lost, and of his ownership thereof and furnishing the Issuer, the Registrar, the Trustee and the Borrower indemnity satisfactory to each of them.

In case any such mutilated, destroyed, stolen or lost Bond has become or is about to become due and payable, the Issuer, at the direction of the Borrower, may, instead of issuing a new Bond, direct the Trustee to pay such Bond.

### **ARTICLE III REDEMPTION OF BONDS**

#### **SECTION 301 REDEMPTION. Dates and Prices.**

(a) The Bonds issued under the provisions of this Indenture shall not be subject to prior redemption except as provided or permitted in this Article III.

(b) During any Long-Term Interest Rate Period, in the event of a prepayment by the Borrower of Loan Repayments with respect to the Bonds pursuant to subsection (a) of Section 10.1 of the Loan Agreement, the Bonds shall be redeemed in whole on the date selected by the Borrower at a redemption price of 100% of the principal amount thereof plus accrued interest to the date fixed for redemption, if:

(i) The Borrower shall have determined that the continued operation of any portion of the Project, or the plant of which the Project is a part, is impracticable, uneconomical or undesirable; or

(ii) all, or substantially all of, or any portion of, the Project, or the plant of which the Project is a part, shall have been condemned or taken by eminent domain; or

(iii) the operation of any portion of the Project, or the plant of which the Project is a part, shall have been enjoined for a period of at least six consecutive months; or

(iv) as a result of any change in the Constitution of the State of Mississippi or the Constitution of the United States of America, or as a result of any legislative or administrative action (whether state or federal) or by final decree, judgment or order of any court or administrative body (whether state or federal) after any contest thereof by the Borrower in good faith, the Indenture, the Loan Agreement or the Bonds shall be discharged or unenforceable or impossible of performance in accordance with the intent and purposes of the parties as expressed in the Loan Agreement.

(c) In the event of a prepayment by the Borrower of all or a portion of the Loan Repayments, together with interest thereon, pursuant to subsection (b) of Section 10.1 of the Loan Agreement, the Bonds to which such Loan Repayments are applicable shall be subject to redemption prior to maturity as follows:

(i) (A) On any Business Day during a Daily Interest Rate Period or a Weekly Interest Rate Period, the Bonds shall be subject to optional redemption by the Issuer, at the direction of the Borrower, in whole or in part, at a redemption price of 100% of the principal amount thereof plus accrued interest, if any, to the redemption date.

(B) On the day succeeding the last day of any Commercial Paper Term with respect to any Bond, such Bond shall be subject to optional redemption by the Issuer, at the direction of the Borrower, in whole or in part, at 100% of its principal amount.

(ii) During any Long-Term Interest Rate Period, the Bonds are subject to optional redemption by the Issuer, at the direction of the Borrower (i) on the final Interest Payment Date for such Long-Term Interest Rate Period, at a redemption price equal to 100% of the principal amount thereof plus interest accrued, if any, to the redemption date, and (ii) prior to the end of the then current Long-Term Interest Period, at any time during the redemption periods and at the redemption prices set forth below, plus interest accrued, if any, to the redemption date:

<u>Original Length of Current Term Rate Period (Years)</u>	<u>Commencement of Redemption Period</u>	<u>Redemption Price as Percentage of Principal</u>
More than 10 years	Tenth anniversary of commencement of Long-Term Interest Rate Period	100%
Equal to or less than 10 years	Non-callable	Non-callable

If the Borrower has given notice of a change in the Long-Term Interest Rate Period or notice of an adjustment of the Interest Rate Period for the Bonds to the Long-Term Interest Rate Period and, at least one day prior to such change in the Long-Term Interest Rate Period or such adjustment the Borrower has provided (i) a certification of the Remarketing Agent to the Trustee that the foregoing schedule is not consistent with prevailing market conditions, (ii) evidence of approval by the Issuer of the revised redemption provisions described below, and (iii) a Favorable Opinion of Bond Counsel addressed to the Trustee that a change in the redemption provisions of the Bonds will not adversely affect the exclusion from gross income of interest on the Bonds for federal income tax purposes, the foregoing redemption periods and redemption prices may be revised, effective as of the date of such adjustment in the Long-Term Interest Rate Period or an adjustment to the Long-Term Interest Rate Period, as determined by the Remarketing

Agent in its judgment, taking into account the then prevailing market conditions as set forth in such certification.

(iii) In addition, during any No Call Period, the Bonds will be nonetheless subject to optional redemption by the Issuer, at the direction of the Borrower, in whole or in part, at any time, if the Borrower delivers to the Trustee a written certificate (i) to the effect that by reason of a change in use of the Project or any portion thereof, the Borrower has been unable, after reasonable effort, to obtain an opinion of Bond Counsel to the effect that a court, in a properly presented case, should decide that (a) Section 150 of the Code (or successor provision of similar import) does not prevent that portion of the Loan Repayments payable under the Loan Agreement and attributable to interest on the Bonds from being deductible by the Borrower for federal income tax purposes and (b) Treasury Regulations Section 1.142-2 (or a successor provision of similar import) does not prevent interest on the Bonds from being excluded for federal income tax purposes from the gross income of the Bondholders thereof (other than a Bondholder who is a “substantial user” of the Project or a “related person” within the meaning of Section 147(a) of the Code), (ii) specifying that as a result of its inability to obtain such opinion of Bond Counsel, the Borrower has elected to prepay amounts due under the Loan Agreement equal to the redemption price of the Bonds to be so redeemed and (iii) specifying the principal amount of the Bonds which the Borrower has determined to be the minimum necessary to be so redeemed in order for the Borrower to retain its rights to such interest deductions and for interest on the Bonds to retain such exclusion from gross income for federal income tax purposes (which principal amount of the Bonds will be so redeemed). The redemption price for the Bonds shall be equal to the outstanding principal amount thereof plus accrued interest, if any, to the redemption date.

(d) The Bonds shall be subject to mandatory redemption by the Issuer, at the principal amount thereof plus accrued interest to the redemption date, on the 180th day (or such earlier date as may be designated by the Borrower) after a final determination by a court of competent jurisdiction or an administrative agency, or receipt by the Issuer and the Borrower of an opinion of Bond Counsel obtained by the Borrower and rendered at the request of the Borrower, to the effect that (x) as a result of a failure by the Borrower to perform or observe any covenant or agreement in the Loan Agreement, or the inaccuracy of any representation, the interest on the Bonds is included for federal income tax purposes in the gross income of the Bondholders thereof, or would be so included absent such redemption, or (y) such redemption is required under the terms of a closing agreement or other similar agreement with the Internal Revenue Service settling an issue raised in connection with an examination of the Bonds or in connection with a submission to the Internal Revenue Service Voluntary Closing Agreement Program or similar program. No determination by any court or administrative agency shall be considered final for the purposes of this paragraph unless the Borrower shall have had the opportunity to participate in the proceeding which resulted in such determination, either directly or through a Bondholder, to a degree it deems sufficient and until the conclusion of any court proceeding

initiated after a final agency determination, and of any appellate review sought by any party to such agency or court proceeding or the expiration of the time for seeking such review. The Bonds shall be redeemed either in whole or in part in such principal amount that the interest payable on the Bonds remaining outstanding after such redemption would not be included in the gross income of any Bondholder thereof, other than a Bondholder who is a “substantial user” of the Project or a “related person” within the meaning of Section 147(a) of the Code.

(e) If less than all of the Bonds shall be called for redemption, the particular Bonds or portions of Bonds to be redeemed shall be selected by the Trustee, by lot or in such other manner as the Trustee in its discretion may determine to be fair and appropriate, in the principal amounts designated by the Borrower or otherwise as required by this Indenture; provided, however, that in connection with any redemption of Bonds, the Trustee shall first select for redemption any Bonds held by the Tender Agent for the account of the Borrower (or any nominees thereof) pursuant to Section 1407(c) hereof, and that if, as indicated in a certificate of an Authorized Borrower Representative delivered to the Trustee, the Borrower shall have offered to purchase all Bonds then Outstanding and less than all of such Bonds shall have been tendered to the Borrower for such purchase, the Trustee, at the direction of an Authorized Borrower Representative, shall select for redemption all such Bonds which have not been so tendered; and provided, further, that the portion of any Bond to be redeemed shall be in the principal amount constituting an Authorized Denomination, and that, in selecting Bonds for redemption, the Trustee shall treat each Bond as representing that number of Bonds which is obtained by dividing the principal amount of such Bond by the minimum Authorized Denomination.

**SECTION 302 NOTICE OF REDEMPTION.** At least 30 days before the redemption date of any Bonds, the Registrar shall cause a notice of any such redemption, in the name of the Issuer, to be mailed by first class mail (except as otherwise provided below), postage prepaid, to all registered owners of Bonds to be redeemed as a whole or in part at their addresses as they appear on the registration books hereinabove provided for. The notice provided pursuant to this Section shall be sent by certified mail, return receipt requested, to any owner of the Bonds that is a depository institution and those entities described in the immediately preceding sentence. Any such notice shall be given in the name of the Issuer, shall identify (i) the complete official name of the issue, (ii) the Bonds or portions thereof to be redeemed by designation, letters, CUSIP numbers, numbers or other distinguishing marks, dated date, interest rate, maturity date and principal amount, (iii) the redemption price to be paid, (iv) the date of mailing and the date fixed for redemption, (v) the place or places, by name and address, where the amounts due upon redemption are payable and (vi) the name, address and telephone number of the person to whom inquiries regarding the redemption may be directed, and shall state that on the redemption date the Bonds called for redemption will be payable and that from that date interest will cease to accrue. A second notice shall be sent in the same manner described above not more than 60 days after the redemption date to the owner of any called Bond

which was not presented for payment on the redemption date. Failure so to mail any such notice to the registered owner of any Bond shall not affect the validity of the proceedings for redemption of any other Bond and failure to mail any such notice to any other entity as required by this Section shall not affect the validity of the proceedings for redemption of any Bond. The Registrar shall not be subject to any liability to any Bondholder by reason of its failure to mail any such notice provided in this Section. In case any Bond is to be redeemed in part only, the notice of redemption which relates to such Bond shall state also that on or after the redemption date, upon surrender of such Bond, a new Bond in principal amount equal to the unredeemed portion of such Bond will be issued.

Any notice of redemption, except a notice of mandatory redemption pursuant to Section 301(d) hereof or any similar provision contained in any indenture supplemental hereto, shall, unless at the time such notice is given the Bonds to be redeemed are deemed to have been paid in accordance with Article XIII hereof, state any conditions to the redemption. Such notice shall be of no effect unless the conditions, if any, set forth in the notice have been satisfied. In the event that such notice contains conditions and the conditions have not be satisfied on or prior to the redemption date, the redemption shall not be made, and the Trustee shall within a reasonable time thereafter give notice, in the manner in which the notice of redemption was given, that such conditions have not been satisfied.

If a notice of redemption shall be unconditional, or if the conditions of a conditional notice of redemption shall have been satisfied, the Bonds so called for redemption shall become and be due and payable on the date fixed for redemption, and upon the presentation and surrender of such Bonds at the place or places specified such Bonds shall be redeemed.

**SECTION 303 EFFECT OF REDEMPTION.** All Bonds and portions of Bonds which have been duly selected for redemption under the provisions of this Article and which are deemed to have been paid in accordance with Article XIII hereof shall cease to bear interest on the date fixed for redemption.

**SECTION 304 PARTIAL REDEMPTION.** In case part but not all of an outstanding Bond shall be selected for redemption, the owner thereof or his attorney or legal representative shall present and surrender such Bond to the Trustee for payment of the principal amount thereof so called for redemption, and the Issuer shall execute and the Trustee shall authenticate and deliver to or upon the order of such owner or his attorney or legal representative, without charge therefor, for the unredeemed portion of the principal amount of the Bond so surrendered, a Bond bearing interest at the same rate.

**ARTICLE IV  
CONSTRUCTION FUND**

**SECTION 401 CREATION OF CONSTRUCTION FUND.** (a) A special fund is hereby created and designated the Mississippi Business Finance Corporation Revenue Bonds, Series 2019 (Gulf Power Company Project) Construction Fund (herein called the “*Construction Fund*”), to the credit of which such deposits shall be made as are required by the provisions of Section 208 of this Indenture. Any moneys received by the Trustee from any other source for the payment of the Cost of the Project shall be deposited to the credit of the Construction Fund.

(b) The monies in the Construction Fund shall be held by the Trustee in trust, and subject to the provisions of Section 404, 406 and 602 of this Indenture, shall be applied to the payment of the Cost of the Project (as described in Section 403 hereof), and, pending such application, shall be subject to a lien and charge in favor of the holders of the Bonds issued and outstanding under this Indenture and for the further security of such holders until paid out or transferred as herein provided.

**SECTION 402 PAYMENTS FROM CONSTRUCTION FUND.** Payment of the Cost of the Project shall be made from the Construction Fund. All payments from the Construction Fund shall be subject to the provisions and restrictions set forth in this Article, and the Issuer covenants that it will not cause to be paid from the Construction Fund any sums except in accordance with such provisions and restrictions.

**SECTION 403 ITEMS OF COST.** For purposes of this Indenture, the Cost of the Project shall embrace all the costs paid or incurred by the Borrower, but only the costs permitted by the Act of acquiring, constructing and installing the Project and, without intending thereby to limit or restrict any proper definition of such Cost under the Act, shall include:

(a) To the extent permitted under the Code and applicable United States Treasury Regulations, payment to the Borrower and the Issuer of such amounts, if any, as shall be necessary to reimburse the Borrower and the Issuer in full for advances and payments made by them or either of them or for their accounts before or after the delivery of the Bonds for expenditures in connection with the acquisition of any property required for the Project including payment of any short-term, temporary or other borrowings, bonds, notes or other evidences of indebtedness (including any unpaid fees, charges or costs in connection therewith), the proceeds of which have been applied to the payment of items of the Cost of the Project, the preparation of plans and specifications for the Project (including any preliminary study or planning of the Project or any aspect thereof and any reports of analyses concerning the Project), the acquisition, construction and installation of the Project, including reimbursement to the Borrower for allowance for funds used during construction before the date of the Bonds, interest on the Bonds during construction (which shall mean the period beginning with the date of delivery of the Bonds and ending on the

date upon which the acquisition, construction and installation of the Project shall have been completed, except if the Project consist of facilities which will be placed in service at different times, the date to which interest may be paid from Bond proceeds will be the date upon which all such portions of the Project shall have been placed in service) and all real or personal property, deemed necessary in connection with the Project, or any one or more of the expenditures (including architectural, engineering and supervisory services). The foregoing notwithstanding, the expenditures to be reimbursed pursuant to this Section have been incurred within 60 days prior to August 14, 2019 or constitute preliminary expenditures within the meaning and to the extent permitted by Section 1.150-2(f)(2) of the United States Treasury Regulations or will be incurred after such date in connection with the Project.

(b) Payment of the initial or acceptance fee of the Trustee, legal, accounting and financial advisory fees and expenses (including, without limitation, fees for preparation of any “blue sky” or legal investment surveys), underwriting fees, filing and rating agencies’ fees and printing and engraving costs incurred in connection with the authorization, sale and issuance of the Bonds, the execution and filing of this Indenture, the Loan Agreement, Tender Agreement, any Pledge Agreement and any financing statements and all other documents in connection therewith, and payment of all fees, costs and expenses for the preparation of this Indenture, the Loan Agreement, Tender Agreement, any Pledge Agreement and the Bonds, including recording fees and documentary stamp taxes, if any, and any other fees and expenses necessary or incident to the issuance and sale of the Bonds or the acquisition, installation and construction of the Project.

(c) Payment for labor, services, materials and supplies used or furnished in site improvement and in the acquisition, construction and installation of the Project, all as provided in the plans and specifications therefor, payment for the cost of the acquisition, construction and installation of utility services or other facilities, and all real and personal property deemed necessary in connection with the Project and payment for the miscellaneous expenses incidental to any of the foregoing items.

(d) Payment, as they become due, of the fees and expenses of the Trustee (as Trustee and Bond Registrar), properly incurred under this Indenture that may become due until the Completion Date.

(e) Payment of any other costs and expenses relating to the acquisition, construction and installation of the Project (including testing) or the authorization, issuance and sale of the Bonds.

(f) Costs incurred in connection with the validation of the Bonds.

**SECTION 404 DISBURSEMENTS.** Payments from the Construction Fund shall be made by the Trustee upon the order of the Borrower in accordance with the provisions of this Section, but no such payment shall be made unless and until the Trustee shall receive a requisition signed by the Authorized Borrower Representative, in

substantially the form attached to the Loan Agreement as Exhibit “B”, which requisition shall state:

- (a) the item number of each such payment,
- (b) the name of the person, firm or corporation to whom each such payment is due,
- (c) the respective amounts to be paid,
- (d) the purpose by general classification for which each obligation to be paid was incurred,
- (e) that obligations in the stated amounts have been incurred and have been paid or are presently due and payable or have been paid by the Borrower and that each item thereof is a proper charge against the Construction Fund and has not been the subject of a previous withdrawal from the Construction Fund,
- (f) that there has not occurred and is not continuing any event of default under the Loan Agreement and to the best of his knowledge there has not been filed with or served upon the Issuer or the Borrower notice of any lien, right or attachment upon, or claim affecting the right of any such persons, firms or corporations to receive payment of, the respective amounts stated in such requisition which has not been released or will not be released simultaneously with the payment of such obligation, and
- (g) that, after giving effect to such requisition, (i) not less than 95% of the proceeds of the Bonds withdrawn from the Construction Fund will have been used to provide “sewage facilities” or “solid waste disposal facilities” within the meaning of Section 142(a)(5) or 142(a)(6) of the Code, as the case may be and (ii) no more than 2% of the proceeds (within the meaning of Section 147(g) of the Code) of the Bonds will have been used to pay costs of issuance of any of the Bonds.

Upon receipt of the requisition, the Trustee shall pay such obligation from the Construction Fund. If prior to payment of any item in a requisition the Borrower should for any reason desire not to pay such item, the Borrower shall give notice of such decision to the Trustee. In making any disbursement the Trustee shall pay each such obligation directly to the Borrower or to any payee designated by the Authorized Borrower Representative, as set forth in such requisition.

**SECTION 405 RELIANCE ON REQUISITIONS.** The Trustee may rely fully on any requisition delivered pursuant to this Article and shall not be required to make any investigation in connection therewith. The Trustee shall be under no duty or obligation to analyze or verify the payments or reimbursements by the Borrower, but shall hold such requisitions solely as a repository, subject at all reasonable times (following delivery to the

Trustee of reasonable prior written notice of such party's desire to inspect such requisition) to examination by the Borrower, the Issuer and the agents and representatives thereof.

**SECTION 406 COMPLETION OF THE PROJECT.** (a) Upon the receipt by the Trustee of the certificate required by Section 4.5 of the Loan Agreement, any balance remaining in the Construction Fund attributable to the Bonds (other than amounts retained by the Trustee to pay costs not then due and payable or for which the liability for payment is in dispute and amounts directed by the Borrower to be retained therein in furtherance of the Borrower's covenants set forth in Section 4.7 of the Loan Agreement) shall (i) be applied in whole or in part to the redemption of Bonds on the earliest date upon which such Bonds may called for redemption without premium pursuant to Sections 301(b) or (c) hereof or any similar provisions contained in any indenture supplemental hereto, to the purchase of Bonds in such amounts, at such prices, at such times and otherwise as directed by the Borrower or in any other manner directed by the Borrower which in all such cases, as indicated in an opinion of Bond Counsel furnished by the Borrower to the Issuer and the Trustee, will not impair the validity under the Act of the Bonds or the exclusion from gross income for purposes of federal income taxes of the interest thereon, or (ii) in the absence of any such redemption, purchase or direction within sixty (60) days of the receipt by the Trustee of such certificate, be deposited by the Trustee into the Bond Fund. From time to time as the proper disposition of the amounts retained by the Trustee in the Construction Fund as aforesaid shall be determined, to the extent that such amounts are not paid out in full by the Trustee pursuant to Section 404 hereof, the Borrower shall so notify the Trustee and the Issuer by one or more certificates as aforesaid and any amounts from time to time no longer to be so retained by the Trustee shall be applied as aforesaid.

(b) In the event that the Borrower exercises an option under the Loan Agreement to effect the redemption of all the Bonds then outstanding, the Trustee shall, upon the direction of the Borrower, deposit in the Bond Fund, on the date the prepayment is made, any balance remaining in the Construction Fund.

(c) If the principal of all outstanding Bonds shall have become due and payable in accordance with Section 802 of this Indenture, the Trustee shall, upon the obtaining or entering of a judgment or decree for the payment of moneys due as provided in Article VIII of this Indenture, or at the direction of the Borrower, deposit in the Bond Fund any balance remaining in the Construction Fund.

(d) In the event that the Issuer shall be required to redeem Bonds pursuant to Section 301(d) hereof or pursuant to any similar provision contained in any indenture supplemental hereto, the Trustee shall, at the direction of the Borrower, withdraw from the Construction Fund and deposit into the Bond Fund an amount not exceeding the aggregate principal amount of, and accrued interest on, the Bonds so to be redeemed.

(e) In the event of an acceleration of the Bonds in accordance with Section 802 hereof, the Trustee without further direction shall immediately transfer all of the moneys in the Construction Fund to the Bond Fund.

[Remainder of page intentionally left blank]

## **ARTICLE V BOND FUND**

**SECTION 501 CREATION OF BOND FUND.** A special fund is hereby created and designated the “Mississippi Business Finance Corporation Revenue Bonds (Gulf Power Company Project), Series 2019 Bond Fund” (the “*Bond Fund*”). The moneys in the Bond Fund shall be held by the Trustee in trust and applied as hereinafter provided and, pending such application, shall be subject to a lien and charge in favor of the holders of the Bonds issued and outstanding under this Indenture and for the further security of such holders until paid out or transferred as herein provided.

**SECTION 502 PAYMENTS INTO BOND FUND.** There shall be deposited to the credit of the Bond Fund (a) the accrued interest received on the Bonds issued hereunder, (b) all Loan Repayments and (c) all other moneys received by the Trustee under and pursuant to any of the provisions of the Loan Agreement or otherwise which are required, or are accompanied by directions from the Borrower or the Issuer that such moneys are, to be paid into the Bond Fund. The Trustee is authorized to receive at any time payments from the Borrower pursuant to the Loan Agreement or otherwise for deposit in the Bond Fund. In the event of an acceleration of the Bonds in accordance with Section 802 hereof, the Trustee without further direction shall immediately transfer all of the moneys in the Construction Fund to the Bond Fund.

**SECTION 503 USE OF MONEYS IN BOND FUND.** All interest accruing on the Bonds up to the dates of their delivery shall be paid from the amounts deposited in the Bond Fund pursuant to Section 502(a) hereof. Except as otherwise provided in this Indenture, moneys in the Bond Fund shall be used solely for the payment of the principal of and premium, if any, and interest on the Bonds. Upon receipt of a written notice from the Borrower pursuant to Article X of the Loan Agreement, and, in the case of a directed purchase of Bonds, upon the deposit of cash or Investment Obligations in the Bond Fund sufficient, together with other amounts available therefor in the Bond Fund, to make the directed purchase of Bonds, the Issuer and the Trustee covenant and agree to take and cause to be taken the necessary steps to redeem or purchase such principal amount of Bonds as specified by the Borrower in such written notice; provided, however, that any moneys in the Bond Fund may be used on direction of the Borrower to redeem a part of the Bonds outstanding and then redeemable or to purchase Bonds for cancellation only so long as the Borrower is not in default with respect to any payments required pursuant to Section 5.1 of the Loan Agreement and to the extent the moneys are in excess of the amount required for payment of the Bonds theretofore matured or called for redemption and interest accrued and payable in respect of outstanding Bonds.

**SECTION 504 CUSTODY OF BOND FUND.** The Bond Fund shall be in the custody of the Trustee but in the name of the Issuer, and the Issuer hereby authorizes and directs the Trustee to withdraw sufficient funds from the Bond Fund to pay the principal of and premium, if any, and interest on the Bonds as the same become due and

payable, for the purpose of paying the principal and premium, if any, and interest, which authorization and direction the Trustee hereby accepts.

**SECTION 505 NON-PRESENTMENT OF BONDS.** All moneys which the Trustee shall have withdrawn from the Bond Fund or shall have received from any other source and set aside, for the purpose of paying any of the Bonds hereby secured, either at the maturity thereof or upon call for redemption, shall be held in trust for the respective holders of such Bonds, but any moneys which shall be so set aside by the Trustee and which shall remain unclaimed by the holders of such Bonds for a period of one year after the date on which such Bonds shall have become due and payable shall upon request in writing be paid to the Borrower; provided, however, that the Trustee, before being required to make any such payment, may at the expense of the Borrower cause a notice to be published as required by applicable unclaimed property laws, rules or regulations that the moneys have not been claimed and that after a date named therein any unclaimed balance of the moneys then remaining will be returned to the Borrower and thereafter the holders of such Bonds shall look only to the Borrower for payment and then only to the extent of the amount so received without any interest thereon, and the Issuer and the Trustee shall have no responsibility with respect to such moneys. In the absence of any such written request from the Borrower, the Trustee shall from time to time deliver such unclaimed funds to or as directed by pertinent escheat authority, as identified by the Trustee in its sole discretion, pursuant to and in accordance with applicable unclaimed property laws, rules or regulations. Any such delivery shall be in accordance with the customary practices and procedures of the Trustee and the escheat authority. Any money held by Trustee pursuant to this paragraph shall be held uninvested and without any liability for interest.

**SECTION 506 CANCELLATION AND DESTRUCTION OF BONDS.** All Bonds paid, redeemed or purchased, either at or before maturity, and all Bonds acquired by or delivered to the Trustee for cancellation shall be canceled upon the payment, redemption or purchase, or upon such acquisition or delivery, of such Bonds. All Bonds canceled under any of the provisions of this Indenture shall be destroyed by the Trustee. The Trustee shall execute a certificate in duplicate describing the Bonds so destroyed, and one executed certificate shall be filed with the Borrower and the other executed certificate shall be retained by the Trustee.

[Remainder of page intentionally left blank]

**ARTICLE VI**  
**DEPOSITARIES OF MONEYS, SECURITY FOR DEPOSITS**  
**AND INVESTMENT OF FUNDS**

**SECTION 601 DEPOSITS CONSTITUTE TRUST FUNDS.** All moneys deposited with the Trustee under the provisions of this Indenture or the Loan Agreement shall be held in trust and applied only in accordance with the provisions of this Indenture and the Loan Agreement and shall not be subject to lien or attachment by any creditor of the Issuer or the Borrower.

All moneys deposited with the Trustee under this Indenture and the Loan Agreement shall be continuously secured for the benefit of the Issuer and the holders of the Bonds either (a) by lodging with a bank or trust company approved by the Issuer and by the Trustee, as custodian, as collateral security, obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States of America, or other marketable securities eligible as security for the deposit of trust funds under regulations of the Comptroller of the Currency of the United States of America, having a market value (exclusive of accrued interest) not less than the amount of such deposit, or (b) in such other manner as may then be required or permitted by applicable state or federal laws and regulations regarding the security for, or granting a preference in the case of, the deposit of trust funds; provided, however, that it shall not be necessary for the Trustee to give security for any moneys which shall be represented by the investments mentioned in the first paragraph of Section 602 of this Article VI purchased under the provisions of this Article VI as an investment of such moneys.

**SECTION 602 INVESTMENT OF MONEYS.** The Trustee shall, except as provided in Article XIII hereof, invest and reinvest moneys held for the credit of the Bond Fund or the Construction Fund in Investment Obligations upon the receipt of, and in accordance with written instructions of an Authorized Borrower Representative in Investment Obligations. Any request by an Authorized Borrower Representative shall specify the issuer or obligor, type, principal amount, interest rate and maturity of each such requested investment of moneys. The Trustee may conclusively rely upon the Borrower's written instructions as to both the suitability and legality of the directed investments.

Investment Obligations so purchased as an investment of moneys in the Bond Fund and the Construction Fund shall be deemed at all times to be part of such Fund and any interest accruing on and any profit realized from the investment of moneys in such Fund shall be credited to such Fund and any loss resulting from such investment shall be charged to such Fund. Neither the Trustee nor the Issuer shall be liable or responsible for any loss resulting from any such investment.

The Issuer hereby authorizes and directs the Trustee to comply with any written instructions of the Borrower given from time to time with respect to income from the investment of moneys in the Bond Fund or the Construction Fund or any other fund created

under the Indenture to pay all or a portion of such income to the United States in furtherance of the covenants set forth in Section 4.7 of the Loan Agreement, which authorization and direction the Trustee hereby accepts. Amounts held by the Tender Agent in the Purchase Fund shall not be invested.

The Trustee may make any and all such investments through its own investment department or that of its affiliates or subsidiaries, and may charge its ordinary and customary fees for such trades, including cash sweep account fees. In the absence of investment instructions from the Borrower, the Trustee shall not be responsible or liable for keeping the moneys held by it hereunder fully invested in Investment Obligations.

Although the Issuer and the Borrower each recognizes that it may obtain a broker confirmation or written statement containing comparable information at no additional cost, the Issuer and the Borrower hereby agree that confirmations of permitted investments are not required to be issued by the Trustee for each month in which a monthly statement is rendered. No statement need be rendered for any fund or account if no activity occurred in such fund or account during such month.

[Remainder of page intentionally left blank]

**ARTICLE VII  
PARTICULAR COVENANTS AND PROVISIONS**

**SECTION 701 COVENANT OF ISSUER AS TO PERFORMANCE OF OBLIGATIONS.** The Issuer covenants that it will cause to be paid promptly the principal of and premium, if any, and interest on every Bond issued under the provisions of this Indenture at the places, on the dates and in the manner provided herein and in such Bond, according to the true intent and meaning thereof; provided, however, that any amount in the Bond Fund available for any payment of the principal of or premium, if any, or interest on such Bond shall be credited against any amount required to be caused by the Issuer so to be paid. Such principal, premium and interest are payable solely from the Loan Repayments, any other income derived from the sale, leasing or operation of the Project and other moneys to the extent provided in this Indenture and any payments under any credit enhancement provided by the Borrower in accordance with the provisions of the Loan Agreement and this Indenture, which Loan Repayments and any other income and other moneys to the extent provided in this Indenture are hereby pledged to the payment thereof in the manner and to the extent hereinabove particularly specified.

Neither the State nor any political subdivision thereof shall in any event be liable for the payment of the principal of, purchase price, redemption premium, or interest on the Bonds, or for the performance of any pledge, mortgage, obligation or agreement of any kind whatsoever that may be undertaken by the Issuer, and none of the Bonds shall be construed to constitute a debt or a pledge of the faith and credit of the State or any political subdivision thereof, including Monroe County, within the meaning of any constitutional or statutory provision whatsoever, and shall not directly, indirectly or contingently obligate the State or any of its political subdivisions to levy or to pledge any form of taxation whatever therefor or to make any appropriation for the payment thereof; nor shall any breach of any such pledge, mortgage, obligation or agreement impose any pecuniary liability upon any member, officer, employee or agent of the Issuer, or any charge upon the general credit of the Issuer, or any pecuniary liability upon the Issuer payable from any moneys, revenues, payments, and proceeds other than the Trust Estate. The Issuer has no taxing power.

**SECTION 702 COVENANT TO PERFORM OBLIGATIONS.** The Issuer covenants and agrees that it will not knowingly consent to or take any action or fail to take any action upon request by the Trustee or the Borrower or fail to do anything upon request by the Trustee or the Borrower which would result in the termination of the Loan Agreement so long as any Bonds are outstanding; that it will not terminate the Loan Agreement or cause it to be terminated except in strict accordance with the terms of the Loan Agreement; that it will promptly notify the Trustee, when known to the Issuer, of any actual or alleged event of default under or breach of the Loan Agreement, whether by the Borrower or the Issuer; that it will not execute or agree to any change, amendment or modification of or supplement to the Loan Agreement except by a supplement or an

amendment duly executed by the Borrower and the Issuer with the approval of the Trustee and upon the further terms and conditions set forth in Article XII of this Indenture; and that it will not agree to any abatement, reduction, abrogation, waiver, diminution or other modification in any manner or to any extent whatsoever of the obligation of the Borrower under the Loan Agreement to pay the Loan Repayments without the consent of the holder of each Bond adversely affected thereby. The Issuer covenants that it will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Indenture, in any and every Bond executed, authenticated and delivered hereunder and in all proceedings of the Issuer pertaining thereto. The Issuer represents that it is duly authorized under the Constitution and laws of the State of Mississippi, including particularly and without limitation the Act, to issue the Bonds authorized hereby and to enter into this Indenture, to pledge and assign the Loan Repayments and any other income and other moneys in the manner and to the extent herein set forth; that all action on its part for the issuance of the Bonds initially issued hereunder and the execution and delivery of this Indenture has been duly and effectively taken; and that such Bonds in the hands of the owners thereof are and will be valid and binding obligations of the Issuer according to the tenor and import thereof.

**SECTION 703 COVENANT TO PERFORM FURTHER ACTS.** The Issuer covenants that it will do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, such supplements and amendments to this Indenture and such further acts, instruments and transfers as the Trustee may reasonably require for the better pledging and assigning unto the Trustee of each and all of the Loan Repayments and any other income and other moneys pledged and assigned hereby to the payment of the principal of and premium, if any, and interest on the Bonds.

**SECTION 704 BONDS NOT TO BECOME ARBITRAGE BONDS.** The Issuer covenants with the holders of the Bonds that, notwithstanding any other provision of this Indenture or any other instrument, to the best of its knowledge, information and belief, it will not take or consent to be taken on its behalf any actions and will make no investment or other use of the proceeds of the Bonds which would cause the Bonds to be arbitrage bonds under Section 148 of the Code and it further covenants that it will, to the extent within its control, comply with the requirements of such Section at the expense of the Borrower. The foregoing covenants shall extend, throughout the term of the Bonds, to all funds created under this Indenture and all moneys on deposit to the credit of any such fund, and to any other amounts which are proceeds of the Bonds for purposes of Section 148 of the Code and the regulations thereunder. In taking any action pursuant to this Section 704, the Issuer may rely on a Favorable Opinion of Bond Counsel.

**ARTICLE VIII  
DEFAULTS AND REMEDIES**

**SECTION 801      EVENTS OF DEFAULT.** Each of the following events is hereby declared an “event of default”:

(a) Failure to pay the principal of or premium, if any, on any of the Bonds when the same shall become due and payable, whether at maturity, through unconditional proceedings for redemption or otherwise; or

(b) Failure to pay interest on any of the Bonds when the same shall become due and payable and the continuation of such failure for one Business Day; or

(c) Failure to pay an amount due pursuant to Section 202 hereof after such payment has become due and payable and the continuation of such failure for one Business Day; or

(d) Failure to perform any other covenant, condition, agreement or provision contained in the Bonds or in this Indenture on the part of the Issuer to be performed which failure shall continue for 90 days after written notice specifying such failure and requiring same to be remedied shall have been given to the Issuer by the Trustee, which may give such notice in its discretion and shall give such notice at the written request of the holders of not less than a majority in aggregate principal amount of the Bonds then outstanding, unless the Trustee, or the Trustee and the holders of a principal amount of Bonds not less than the principal amount of Bonds the holders of which requested such notice, as the case may be, agree in writing to an extension of such period prior to its expiration; provided, however, that the Trustee, or the Trustee and the holders of such principal amount of Bonds, as the case may be, shall be deemed to have agreed to an extension of such period if corrective action is instituted by the Issuer or the Borrower within the applicable period and is being diligently pursued; or

(e) An “event of default” as defined in Section 9.1 of the Loan Agreement.

**SECTION 802      ACCELERATION OF MATURITIES.**

(a) Upon the occurrence and continuance of an event of default specified in clause (a), (b) or (c) of Section 801 of this Article or an event of default specified in clauses (c) or (d) of Section 9.1 of the Loan Agreement, the Trustee may, and upon the written request of the holders of not less than a majority in aggregate principal amount of Bonds then outstanding shall, by a notice in writing to the Issuer and the Borrower, declare the principal of all the Bonds then outstanding (if not then due and payable) to be immediately due and payable, and upon such declaration the same shall become and be immediately due and payable, anything in this Indenture or in the Bonds to the contrary notwithstanding; and the Trustee shall give notice thereof in writing to the Issuer, the Borrower, the Tender

Agent and the Remarketing Agent, and notice to the holders of the Bonds in the same manner as a notice of redemption under Section 302 of this Indenture.

(b) The provisions of the preceding paragraph (a), however, are subject to the condition that, if, after the principal of the Bonds shall have been so declared to be due and payable, and before any judgment or decree for the payment of the moneys due shall have been obtained or entered as hereinafter provided, the Borrower, pursuant to the Loan Agreement, shall deposit with the Trustee a sum sufficient to pay all matured installments of interest upon all Bonds and the principal of any and all Bonds which shall have become due otherwise than by reason of such declaration (with interest upon such principal and, to the extent permissible by law, on overdue installments of interest, at the rate per annum borne by the Bonds on the date of such declaration) and such amounts as shall be sufficient to cover reasonable compensation and reimbursement of expenses payable to the Trustee, and all events of default hereunder other than nonpayment of the principal of Bonds which shall have become due by such declaration shall have been remedied, then, in every such case, such event of default shall be deemed waived and such declaration and its consequences rescinded and annulled, and the Trustee shall promptly give written notice of such waiver, rescission and annulment to the Issuer, the Borrower, the Tender Agent, the Remarketing Agent, and, if notice of the acceleration of the Bonds shall have been given to the Owners, shall give notice thereof to the Owners; but no such waiver, rescission and annulment shall extend to or affect any subsequent event of default or impair any right or remedy consequent thereon.

### **SECTION 803      OTHER REMEDIES.**

(a) Upon the occurrence and continuance of any event of default specified in Section 801 of this Indenture, then and in every such case the Trustee may proceed, and upon the written request of the holders of not less than a majority in aggregate principal amount of the Bonds then outstanding hereunder shall proceed, subject to the provisions of Section 902 of this Indenture, to protect and enforce its rights and the rights of the Bondholders under the laws of the State of Mississippi and under this Indenture and the Loan Agreement by such suits, actions or special proceedings in the office of any board or officer having jurisdiction, either for the specific performance of any covenant or agreement contained herein or therein or in aid or execution of any power herein or therein granted or for the enforcement of any proper legal or equitable remedy, as the Trustee, being advised by counsel, shall deem most effectual to protect and enforce such rights.

(b) In the enforcement of any remedy under this Indenture the Trustee shall be entitled to sue for, enforce payment of and receive any and all amounts then or during any default becoming, and at any time remaining, due for principal, interest or otherwise under any of the provisions of this Indenture or of the Bonds or in respect of Loan Repayments under the Loan Agreement and unpaid, with interest on overdue payments of principal and interest or Loan Repayments (if and to the extent permitted by law) at the rate or rates of interest specified in such Bonds, together with any and all costs and expenses of collection

and all proceedings hereunder, and under such Bonds and the Loan Agreement, without prejudice to any other right or remedy of the Trustee or of the Bondholders, but solely subject to the limitations provided herein and in such Bonds and the Loan Agreement, for any portion of such amounts remaining unpaid and interest, costs and expenses as above provided, and to collect in any manner provided by law any moneys adjudged or decreed to be payable; provided that any amounts due from the Issuer and not payable by the Borrower under the Loan Agreement shall be payable solely from moneys in the Bond Fund and available therefor.

**SECTION 804 APPLICATION OF MONEYS.** Anything in this Indenture to the contrary notwithstanding, if at any time the moneys in the Bond Fund shall not be sufficient to pay the principal of or premium, if any, or interest on the Bonds as the same shall become due and payable (either by their terms or by acceleration of maturities under the provisions of Section 802 of this Article), such moneys, together with any moneys then available or thereafter becoming available for such purpose, whether through the exercise of the remedies provided for in this Article or otherwise, shall be applied, following the satisfaction of any payments due to the Trustee under the provisions of Sections 902 and 905 of this Indenture, as follows:

(a) If the principal of all the Bonds shall not have become due and payable either in accordance with their terms or by acceleration, all such moneys shall be applied

First: to the payment to the persons entitled thereto of all installments of interest then due and payable in the order in which such installments became due and payable and, if the amount available shall not be sufficient to pay in full any particular installment, then to the payment, ratably, according to the amounts due on such installment, to the persons entitled thereto, without any discrimination or preference except as to any difference in the respective rates of interest specified in the Bonds;

Second: to the payment to the persons entitled thereto of the unpaid principal of and premium, if any, on any of such Bonds which shall have become due and payable (other than Bonds deemed to have been paid in accordance with Article XIII hereof), in the order of their due dates, with interest on the principal amount of such Bonds at the respective rates specified therein from the respective dates upon which such Bonds became due and payable to the payment date, and, if the amount available shall not be sufficient to pay in full the principal of and premium, if any, on such Bonds due and payable on any particular date, together with such interest, then to the payment first of such interest, ratably, according to the amount of such interest due on such payment date, and then to the payment of such principal and premium, if any, ratably, according to the amount of such principal and premium, if any, due on such date, to the persons entitled thereto without any discrimination or preference; and

Third: to the payment of the interest and premium, if any, on and the principal of such Bonds, to the purchase and retirement of such Bonds and to the redemption of such Bonds, all in accordance with the provisions of this Indenture.

(b) If the principal of all the Bonds has become due and payable either in accordance with their terms or by acceleration, all such moneys shall be applied to the payment of the principal, premium, if any, and interest then due on the Bonds, without preference or priority of principal and premium, if any, over interest or of interest over principal and premium, if any, or of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal, premium, if any, and interest, to the persons entitled thereto, without discrimination or preference except as to any difference in the respective rates of interest specified in the Bonds.

(c) If the principal of all the Bonds shall have become immediately due and payable under the provisions of Section 802 of this Article and if such acceleration shall thereafter have been rescinded and annulled, then, subject to the provisions of subparagraph (b) of this Section in the event that the principal of all such Bonds shall later become due and payable, the moneys remaining in and thereafter accruing to the Bond Fund for such Bonds shall be applied in accordance with the provisions of subparagraph (a) of this Section.

Whenever moneys are to be applied by the Trustee pursuant to the provisions of this Section, such moneys shall be applied by the Trustee at such times, and from time to time, as the Trustee in its sole discretion shall determine, having due regard to the amount of such moneys available for such application and the likelihood of additional moneys becoming available for such application in the future; setting aside such moneys in trust for the proper purpose shall constitute proper application by the Trustee; and the Trustee shall incur no liability whatsoever to the Issuer, to any Bondholder or to any other person for any delay in applying any such moneys, so long as the Trustee acts with reasonable diligence, having due regard to the circumstances, and ultimately applies the same in accordance with such provisions of this Indenture as may be applicable at the time of application by the Trustee. Whenever the Trustee shall exercise such discretion in applying such moneys, it shall fix the date (which shall be an Interest Payment Date unless the Trustee shall deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal to be paid on such date shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the fixing of any such date, and shall not be required to make payment to the holder of any Bond until such Bond shall be surrendered to the Trustee for appropriate endorsement, or for cancellation if fully paid.

#### **SECTION 805 EFFECT OF DISCONTINUANCE OF PROCEEDINGS.**

In case any proceeding taken by the Trustee on account of any default shall have been discontinued or abandoned for any reason, then and in every such case the Issuer, the

Borrower, the Trustee and the Bondholders shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Trustee shall continue as though no proceeding had been taken.

**SECTION 806 RIGHT OF BONDHOLDERS TO DIRECT PROCEEDINGS.** Anything in this Indenture to the contrary notwithstanding, the holders of a majority in principal amount of the Bonds then outstanding hereunder shall have the right, subject to the provisions of Section 902 of this Indenture, by an instrument or concurrent instruments in writing executed and delivered to the Trustee, to direct the method and place of conducting all remedial proceedings to be taken by the Trustee hereunder or the exercise of any trust or power conferred upon the Trustee hereunder, provided that such direction shall not be otherwise than in accordance with law and the provisions of this Indenture.

**SECTION 807 RIGHTS AND REMEDIES OF BONDHOLDERS.** No holder of any of the Bonds shall have any right to institute any suit, action or proceeding in equity or at law on any Bond or for the execution of any trust hereunder or for any other remedy hereunder unless such holder previously shall have given to the Trustee and to the Borrower written notice of the event of default on account of which such suit, action or proceeding is to be instituted, and unless also the holders of not less than a majority in aggregate principal amount of the Bonds then outstanding shall have made written request of the Trustee, after the right to exercise such powers or right of action, as the case may be, shall have accrued, to institute such action, suit or proceeding in its or their name and shall have afforded the Trustee a reasonable opportunity either to proceed to exercise the powers hereinabove granted or to institute such action, suit or proceeding in its or their name, and unless, also, there shall have been offered to the Trustee reasonable security and indemnity against the costs, expenses and liabilities to be incurred therein or thereby, and the Trustee shall have refused or neglected to comply with such written request within a reasonable time; and such notification, request and offer to indemnify are hereby declared in every such case, at the option of the Trustee, to be conditions precedent to the execution of the powers and trusts of this Indenture or to any other remedy hereunder. It is understood and intended that, except as otherwise above provided, no one or more holders of the Bonds hereby secured shall have any right in any manner whatever by his or their action to affect, disturb or prejudice the security of this Indenture, or to enforce any right hereunder except in the manner herein provided, that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the benefit of all holders of such outstanding Bonds, and that any individual rights of action or any other right given to one or more of such holders by law are restricted by this Indenture to the rights and remedies herein provided.

Nothing in this Section shall affect or impair the right of any Bondholder to enforce the payment of the principal of and premium, if any, and interest on his Bond or Bonds, at the time and place in the Bond expressed.

**SECTION 808 APPOINTMENT OF RECEIVER BY TRUSTEE.** Upon the occurrence of an event of default, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Trustee and of the Bondholders under this Indenture, the Trustee shall be entitled, as a matter of right, to the appointment of a receiver or receivers of the Loan Repayments and other amounts payable under the Loan Agreement pending such proceedings, with such powers as the court making such appointment shall confer, whether or not the Loan Repayments and other amount and income shall be deemed sufficient ultimately to satisfy the Bonds outstanding hereunder.

**SECTION 809 ACTION BY TRUSTEE WITHOUT POSSESSION OF BONDS.** All rights of action under this Indenture or under any of the Bonds secured hereby, enforceable by the Trustee, may be enforced by it without the possession of any of the Bonds or the production thereof in the trial or other proceeding relative thereto, and any such suit, action or proceeding instituted by the Trustee shall be brought in its name for the benefit of all the holders of such Bonds, subject to the provisions of this Indenture.

**SECTION 810 NO REMEDY EXCLUSIVE.** No remedy herein conferred upon or reserved by the Trustee or to the holders of the Bonds is intended to be exclusive of any other remedy or remedies herein provided, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or by law.

**SECTION 811 WAIVER OF DEFAULT.** No delay or omission of the Trustee or of any holder of the Bonds to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or any acquiescence therein and every power and remedy given by this Indenture to the Trustee and to the holders of the Bonds, respectively, may be exercised from time to time and as often as may be deemed expedient.

Before the entry of final judgment or decree in any suit, action or proceeding instituted by it under the provisions of this Indenture or before the completion of the enforcement of any other remedy under this Indenture, the Trustee shall be permitted to discontinue such suit, action, proceeding or enforcement of any remedy if in its opinion any default forming the basis of such suit, action, proceeding or enforcement of any remedy shall have been remedied.

Notwithstanding anything contained herein to the contrary, the Trustee, upon the written request of the holders of not less than a majority in aggregate principal amount of the Bonds then outstanding, shall waive any event of default hereunder and its consequences; provided, however, that, except under the circumstances set forth in clause (b) of Section 802 hereof, an event of default under clauses (a), (b) or (c) of Section 801 hereof with respect to any Bonds may not be waived without the written consent of the holders of all such Bonds.

**SECTION 812 NOTICE OF DEFAULT.** The Trustee shall mail, by first-class mail, postage prepaid, to all owners of the Bonds at their addresses as they appear on the registration books written notice of the occurrence of any event of default set forth in Section 801 of this Article within 30 days (i) after the occurrence of an event of default under clause (a) or (b) of Section 801 hereof or (ii) after the Trustee shall have notice, pursuant to the provisions of Section 908 of this Indenture, that any other such event of default shall have occurred; provided, however, that, except in the case of a default under clause (a) or (b) of Section 801 hereof, the Trustee shall be protected in withholding such notice if so long as the Board of Directors, the Executive Committee or a Trust Committee of Directors and/or responsible officers of the Trustee in good faith determines that the withholding of such notice is in the best interest of the Bondholders. The Trustee shall not, however, be subject to any liability to any Bondholder by reason of its failure to mail any such notice.

**SECTION 813 REMEDIES IN ARTICLE VIII IN ADDITION TO REMEDIES IN LOAN AGREEMENT AND PLEDGE AGREEMENT.** The remedies conferred in this Article shall be in addition to any remedies available to the Trustee under the Loan Agreement or any other instruments now or hereafter securing the Loan Repayments, which remedies are hereby incorporated herein by reference.

[Remainder of page intentionally left blank]

**ARTICLE IX  
TRUSTEE; PAYING AGENT**

**SECTION 901 ACCEPTANCE OF TRUSTS AND PERFORMANCE OF DUTIES.** The Trustee accepts and agrees to execute the trusts imposed upon it by this Indenture, but only upon subject to the terms and conditions set forth in this Article and subject to the provisions of this Indenture, to all of which the parties hereto and the respective holders of the Bonds agree:

(a) The Trustee may execute any of the trusts or powers hereof and perform any of its duties by or through attorneys, agents or receivers, but shall not be answerable for the conduct of the same if appointed with due care, and shall be entitled to advice of counsel concerning all matters of trusts hereof and duties hereunder.

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

(c) The Trustee shall not be accountable for the use or application by the Borrower of any of the Bonds or the proceeds thereof or for the use or application of any money paid over by the Trustee in accordance with the provisions of this Indenture or for the use and application of money received by any paying agent.

(d) The Trustee shall be protected in acting and relying upon any notice, order, requisition, request, consent, certificate, order, opinion (including an opinion of independent counsel), affidavit, letter, telegram or other paper or document in good faith deemed by it to be genuine and correct and to have been signed or sent by the proper person or persons. Any action taken by the Trustee pursuant to this Indenture upon the request or authority or consent of any person who at the time of making such request or giving such authority or consent is the holder of any Bonds shall be conclusive and binding upon all future owners of the same Bonds and upon Bonds issued in exchange therefor or in place thereof.

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

(f) Before taking any action under this Indenture relating to an event of default or in connection with its duties under this Indenture other than making payments of principal and interest on the Bonds as they become due or causing an acceleration of the Bonds whenever required by the Indenture, the Trustee may require that a satisfactory indemnity bond be furnished for the reimbursement of all expenses to which it may be put and to protect it against all liability, including, but not limited to, any liability arising

directly or indirectly under any federal, state or local statute, rule, law or ordinance related to the protection of the environment or hazardous substances and except liability which is adjudicated to have resulted from its gross negligence or willful misconduct in connection with any action so taken.

(g) The Trustee shall have no responsibility with respect to any information, statement or recital in any official statement, offering memorandum or any other disclosure material prepared or distributed with respect to the Bonds, except for any information provided by the Trustee, and shall have no responsibility for compliance with any state or federal securities laws in connection with the Bonds.

(h) None of the provisions of this Indenture shall require the Trustee to expend or risk its own funds or otherwise to incur any liability, financial or otherwise, in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers if it shall have reasonable grounds for believing that repayment of such funds or indemnity satisfactory to it against such risk or liability is not assured to it.

(i) At any and all reasonable times the Trustee, and its duly authorized agents, attorneys, experts, engineers, accountants and representatives, shall have the right fully to inspect all books and records of the Issuer pertaining to the Bonds, and to make such copies and memoranda from and with regard thereto as may be desired.

(j) The Trustee shall not be required to give any certificate or surety in respect of the execution of this Indenture or otherwise in respect thereof.

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

(l) All moneys received by the Trustee shall, until used or applied or invested as herein provided, be held in trust for the purposes for which they were received but need not be segregated from other funds except to the extent otherwise required herein or required by law.

(m) The Trustee's immunities and protections from liability and its right to compensation and indemnification in connection with the performance of its duties under this Indenture shall be enforceable by the Trustee in each of its capacities hereunder. Notwithstanding anything else contained herein or in any other document or instrument executed by or on behalf of the Trustee in connection herewith, no stipulation, covenant,

agreement or obligation contained herein or therein shall be deemed or construed to be a stipulation, covenant, agreement or obligation of any present or future officer, director, employee, or agent of the Trustee in any such person's individual capacity and no such person, in his individual capacity shall be liable personally for any breach or non-observance of or for any failure to perform, fulfill or comply with any such stipulation, covenant, agreement or obligation. All immunities and protections and rights to indemnification of the Trustee and its officers, directors, employees and agents, together with the Trustee's rights to compensation, shall survive the Trustee's resignation or removal and final payment of the Bonds.

(n) In the event the Trustee receives inconsistent or conflicting requests and indemnity from two or more groups of holders of the Bonds, each representing less than a majority in aggregate principal amount of the Bonds outstanding, the Trustee, in its sole discretion, may determine what action, if any, shall be taken.

(o) In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the Trustee shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

(p) In no event, except as a result of gross negligence or willful misconduct, shall the Trustee be responsible or liable for any special, indirect, punitive or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit), irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

(q) Pursuant to Section 12.8 of the Loan Agreement, the Borrower shall file and refile and record and re-record or cause to be filed and refiled and recorded and re-recorded all instruments, financing statements, continuation statements, notices and other instruments required by applicable law to be filed and refiled and recorded and re-recorded and shall continue or cause to be continued the liens of such instruments for so long as the Bonds shall be outstanding in order fully to preserve and protect the rights of the holders of the Bonds and the Trustee and the Trustee shall have no responsibility with regards to any of the foregoing.

The Trustee shall have only such duties and obligations as are expressly specified in this Indenture and no duties or obligations shall be implied to the Trustee.

The Trustee, prior to the occurrence of an event of default within the purview of Section 801 hereof and after the curing of all events of default which may have occurred,

undertakes to perform such duties and only such duties as are specifically set forth in this Indenture, and no implied covenants or obligations should be read into this Indenture against the Trustee. If any event of default under this Indenture shall have occurred and be continuing, the Trustee shall exercise such of the rights and powers vested in it by this Indenture and shall use the same degree of care as a prudent person would exercise or use in the circumstances in the conduct of such prudent person's own affairs.

The Trustee also accepts and agrees to do and perform the duties and obligations imposed upon it by and under the Loan Agreement and any Pledge Agreement, but only upon the terms and conditions set forth in the Loan Agreement, any Pledge Agreement and this Indenture.

**SECTION 902 INDEMNIFICATION OF TRUSTEE.** The Trustee shall be under no obligation to institute any suit, or to take any remedial proceeding under this Indenture or under the Loan Agreement or any Pledge Agreement, or to enter any appearance or in any way defend in any suit in which it may be made defendant, or to take any steps in the execution of the trusts hereby created or in the enforcement of any rights and powers hereunder or under the Loan Agreement or any Pledge Agreement, until it shall be indemnified to its satisfaction against any and all costs and expenses, outlays and counsel fees (including counsel fees on appeal, if any) and other reasonable disbursements, and against all liability; the Trustee may, nevertheless, begin suit, or appear in and defend suit, or do anything else in its judgment proper to be done by it as such Trustee, without indemnity, and in such case the Issuer shall reimburse the Trustee, but solely from funds available therefor under the Loan Agreement, for all costs and expenses, outlays and counsel fees and other reasonable disbursements properly incurred in connection therewith to the extent not previously reimbursed by the Borrower pursuant to Section 7.3(a) of the Loan Agreement. If the Borrower shall fail to make such reimbursement pursuant to Section 7.3(a) of the Loan Agreement and the Issuer shall fail to make such reimbursement from the funds available therefor under the Loan Agreement, the Trustee may reimburse itself from any moneys in its possession under the provisions of this Indenture and it shall be entitled to a preference over any of the Bonds Outstanding hereunder.

**SECTION 903 LIMITATION ON OBLIGATIONS AND RESPONSIBILITIES OF THE TRUSTEE.**

(a) Trustee shall not be under any obligation to effect or maintain insurance or to renew any policies of insurance or to inquire as to the sufficiency of any policies or insurance carried by the Issuer or the Borrower, or to report, or make or file claims or proof of loss for, any loss or damage insured against or which may occur, or to keep itself informed or advised as to the payment of any taxes or assessments, or to require any such payment to be made.

(b) The Trustee shall not have any responsibility in respect to the validity, sufficiency, due execution or acknowledgment of this Indenture by the Issuer or the validity

or sufficiency of the security provided hereunder or in respect of the title or value of the Project or, except as to the authentication thereof by the Trustee, in respect of the validity of the Bonds or the due execution or issuance thereof.

(c) The Trustee shall not be under any obligation to see that any duties herein or in the Loan Agreement imposed upon any party other than itself, or any covenants herein or therein contained on the part of any party other than itself to be performed, but the Trustee may require of the Issuer and the Borrower full information and advice as to the performance of the aforesaid covenants, conditions and agreements.

**SECTION 904 TRUSTEE NOT LIABLE FOR FAILURE OF ISSUER TO ACT.** The Trustee shall not be liable or responsible because of the failure of the Issuer or of any of its employees or agents to make any collections or deposits or to perform any act herein required of the Issuer or because of the loss of any moneys arising through the insolvency or the act or default or omission of any other depository in which such moneys shall have been deposited under the provisions of this Indenture. The Trustee shall not be responsible for the application of any of the proceeds of the Bonds or any other moneys deposited with it and paid out, withdrawn or transferred thereunder if such application, payment, withdrawal or transfer shall be made in accordance with the provisions of this Indenture. The immunities and exemptions from liability of the Trustee hereunder shall extend to its directors, officers, employees and agents.

None of the provisions of this Indenture or any Pledge Agreement shall be construed to relieve the Trustee from liability for its own grossly negligent action, its own grossly negligent failure to act, or its own willful misconduct, except that:

(a) the Trustee shall not be liable for any error or judgment made in good faith by any one of its officers, unless it shall be established that the Trustee was grossly negligent in ascertaining the pertinent facts; and

(b) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the holders of not less than a majority in principal amount of the Bonds then outstanding relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust or power conferred upon the Trustee under the provisions of this Indenture.

**SECTION 905 COMPENSATION OF TRUSTEE.** The Trustee, the Paying Agent, the Registrar, the Tender Agent and the Remarketing Agent under this Indenture shall be entitled to reasonable compensation for their services rendered hereunder (not limited by any provision of law in regard to the compensation of the trustee of an express trust) and to reimbursement for their actual out-of-pocket expenses (including counsel fees) reasonably incurred in connection therewith except as a result of their gross negligence or willful misconduct. If the Issuer shall fail to perform any of the covenants or agreements

contained in this Indenture, other than the covenants or agreements in respect of the payment of the principal of and interest on the Bonds, the Trustee may, in its discretion and without notice to the Owners of the Bonds, at any time and from time to time, make advances to effect performance of the same on behalf of the Issuer, but the Trustee shall be under no obligation to do so; but no such advance shall operate to relieve the Issuer from any default hereunder. In Section 5.1 of the Loan Agreement, the Borrower has agreed that it will pay the Trustee, the Paying Agent, the Registrar, the Tender Agent and the Remarketing Agent such compensation and reimbursement of expenses and advances, but the Borrower may, without creating a default hereunder, contest in good faith the reasonableness of any such services, expenses and advances. In Section 7.3 of the Loan Agreement, the Borrower has agreed to indemnify the Trustee to the extent stated therein. If the Borrower shall have failed to make any payment to the Trustee under Section 5.1 of the Loan Agreement and such failure shall have resulted in an event of default under the Loan Agreement, the Trustee shall have, in addition to any other rights hereunder, a first lien with right of payment prior to payment on account of principal of and premium, if any, and interest on any Bond, upon the trust estate for the foregoing fees, charges and expenses incurred by it, except for moneys or obligations deposited with or paid to the Trustee for the redemption or payment of Bonds which are deemed to have been paid in accordance with Article XIII hereof and funds held pursuant to Article XIV hereof. When the Trustee incurs expenses or renders services after the occurrence of an event of default hereunder or under the Loan Agreement, such expenses and the compensation for such services are intended to constitute expenses of administration under any federal or state bankruptcy, insolvency, arrangement, moratorium, reorganization or other debtor relief law.

**SECTION 906 RECORDS OPEN TO INSPECTION.** All records and files pertaining to the Project in the custody of the Trustee shall be open at all reasonable times (following delivery to the Trustee of reasonable prior written notice of such party's desire to inspect such records or files) to the inspection of the Issuer, the Borrower and the agents and representatives of either of them. The Trustee shall have no duty to review or analyze such records or files and shall hold such records or files solely as a repository for the benefit of the Bondholders; the Trustee shall not be deemed to have notice of any information contained therein or event of default which may be disclosed therein in any manner.

**SECTION 907 TRUSTEE MAY RELY ON CERTIFICATES.** In case at any time it shall be necessary or desirable for the Trustee to make any investigation respecting any fact preparatory to taking or not taking any action or doing or not doing anything as such Trustee, and in any case in which this Indenture provides for permitting or taking any action, the Trustee may rely upon any certificate required or permitted to be filed with it under the provisions of this Indenture, and any such certificate shall be evidence of such fact to protect the Trustee in any action that it may or may not take or in respect of anything it may or may not do, in good faith, by reason of the supposed existence of such fact. Except as otherwise provided in this Indenture, any request, notice, certificate or other instrument from the Issuer or the Borrower to the Trustee shall be deemed to have

been signed by the proper party or parties if signed by the Authorized Issuer Representative or by the Authorized Borrower Representative, as the case may be, and the Trustee may accept and rely upon a request, notice, certificate or other instrument so signed as to any action taken by the Issuer or the Borrower.

**SECTION 908 TRUSTEE NOT DEEMED TO HAVE NOTICE OF DEFAULT.** Except upon the happening of any event of default specified in clause (a) or (b) of Section 801 of this Indenture, the Trustee shall not be obliged to take notice or be deemed to have notice of any event of default hereunder or under the Loan Agreement, unless specifically notified in writing of such event of default by the holders of not less than a majority in aggregate principal amount of the Bonds hereby secured and then outstanding and all notices or other instruments required by this Indenture to be delivered to the Trustee, must, in order to be effective, reference this Indenture and the Bonds, and in the absence of such notice so delivered the Trustee may conclusively assume there is no Default except as aforesaid.

**SECTION 909 TRUSTEE MAY DEAL IN BONDS AND TAKE ACTION AS BONDHOLDER.** Any bank or trust company acting as Trustee under this Indenture, and its directors, officers, employees or agents, may in good faith buy, sell, own, hold and deal in any of the Bonds issued under and secured by this Indenture, and may join in the capacity of a Bondholder in any action which any bondholder may be entitled to take with like effect as if such bank or trust company were not the Trustee under this Indenture.

**SECTION 910 TRUSTEE NOT RESPONSIBLE FOR RECITALS, ETC.** The recitals, statements and representations contained herein and in the Bonds (excluding the Trustee's certificate of authentication on the Bonds) shall be taken and construed as made by and on the part of the Issuer and not by the Trustee, and the Trustee does not assume and shall not be under any responsibility for the correctness of the same.

**SECTION 911 TRUSTEE PROTECTED IN RELYING ON CERTAIN DOCUMENTS.** The Trustee shall be protected and shall incur no liability in acting or proceeding, or in not acting or not proceeding, in good faith, reasonably and in accordance with the terms of this Indenture, upon any resolution, order, notice, request, consent, waiver, certificate, statement, affidavit, requisition, bond or other paper or document which it shall in good faith reasonably believe to be genuine and to have adopted or signed by the purported proper board or person or to have been repaired and furnished pursuant to any of the provisions of this Indenture, or upon the written opinion of any attorney, engineer, accountant or other expert reasonably believed by the Trustee to be qualified in relation to the subject matter, and the Trustee shall be under no duty to make any investigation or inquiry as to any statements contained or matters referred to in any such instrument. Neither the Trustee nor the Issuer shall be under any obligation to see the recording or filing of the Indenture, the Loan Agreement, and Financing Statements or any other instrument or otherwise to the giving to any person of notice of the provisions hereof or thereof.

**SECTION 912 QUALIFICATIONS OF TRUSTEE.** There shall at all times be a trustee hereunder which shall be a corporation organized and doing business under the laws of the United States of America or of any State, authorized under such laws to exercise corporate trust powers, having a combined capital and surplus of at least \$25,000,000 and subject to supervision or examination by federal or state authority. If such corporation published reports of condition at least annually, pursuant to law or to the requirements of the aforesaid supervising or examining authority, then for the purposes of this Section 912, the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section 912, it shall resign immediately in the manner and with the effect specified in Section 913 hereof.

**SECTION 913 RESIGNATION BY AND REMOVAL OF TRUSTEE.**

(a) No resignation by or removal of the Trustee and no appointment of a successor Trustee pursuant to this Article shall become effective until the acceptance of appointment by the successor Trustee under Section 914 hereof.

(b) The Trustee may resign at any time by giving written notice thereof to the Issuer and the Borrower. If an instrument of acceptance by a successor Trustee shall not have been delivered to the Trustee within 30 days after the giving of such notice of resignation, the resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee.

(c) The Trustee may be removed at any time (i) by demand of the holders of a majority in principal amount of the Bonds then outstanding, signed in person by such holders or by their attorneys, legal representatives or agents and delivered to the Trustee, the Issuer and the Borrower (such demand to be effective only when received by the Trustee, the Issuer and the Borrower) or (ii) as long as no event of default hereunder shall have occurred and be continuing, by the Issuer, at the direction of the Borrower.

(d) If at any time:

(1) the Trustee shall cease to be eligible under Section 912 hereof and shall fail to resign after written request therefor by the Issuer, by the Borrower or by any Bondholder who shall have been a bona fide Bondholder for at least six months, or

(2) the Trustee shall become incapable of acting or shall be adjudged a bankrupt or insolvent or a receiver of the Trustee or of its property shall be appointed or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation, then, in any such case, (A) the Issuer or the Borrower may remove the Trustee, or (B) any

Bondholder who has been a Bondholder for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor.

(e) If the Trustee shall resign, be removed, be dissolved or otherwise become incapable of action or the bank or trust company acting as Trustee shall be taken over by any governmental official, agency, department or board, or if a vacancy shall occur in the office of the Trustee for any reason, the Issuer at the direction of the Borrower shall promptly appoint a successor. If, within thirty (30) days after such resignation, removal, incapability or taking over, or the occurrence of such vacancy, a successor Trustee shall be appointed by an instrument or concurrent instruments in writing executed by the holders of a majority in principal amount of the Bonds then outstanding and delivered to the Issuer, the successor Trustee so appointed shall, forthwith upon its acceptance of such appointment, become the successor Trustee and supersede the successor Trustee appointed by the Issuer and approved by the Borrower. Photographic copies of each such instrument shall be delivered promptly by the Issuer to the Borrower, to the successor Trustee appointed by the Issuer and to the successor Trustee so appointed by the Bondholders. If no successor Trustee shall have been so appointed and accepted appointment within thirty (30) days of such resignation, removal, dissolution, incapability or the occurrence of a vacancy in the office of Trustee, in the manner herein provided, the Trustee or holder of any Bond may petition any court of competent jurisdiction for the appointment of a successor Trustee, until a successor shall have been appointed as above provided.

(f) The resigning Trustee or Trustee being removed shall give notice, on behalf of the Issuer, of any resignation or removal, as applicable, of the Trustee and each appointment of a successor Trustee by mailing written notice of such event by first class mail, postage prepaid, to all registered owners of Bonds at their addresses as they may appear on the registration books. Each notice shall include the name of the successor Trustee and the address of its principal office. The Issuer and such resigning Trustee or Trustee being removed shall not, however, be subject to any liability to any Bondholder by reason of the failure to mail any such notice.

(g) The resigning Trustee or Trustee being removed shall be entitled to be paid in full for any amount owing to it under Section 905 of this Indenture prior to signing any agreements transferring the transaction to a successor Trustee.

**SECTION 914 APPOINTMENT OF SUCCESSOR TRUSTEE.** Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor, and also to the Issuer, an instrument in writing accepting such appointment hereunder, and thereupon such successor Trustee, without any further act, shall become fully vested with all the rights, immunities, powers and trusts, and subject to all the duties and obligations, of its predecessor; but such predecessor shall, nevertheless, on the written request of its successors or of the Issuer, and upon payment of the expenses, charges and other disbursements of such predecessor which are payable pursuant to the provisions of

Section 905 of this Article, execute and deliver an instrument transferring to such successor Trustee all the rights, immunities, powers and trusts of such predecessor hereunder; and every predecessor Trustee shall deliver all property and moneys held by it hereunder to its successor. Should any instrument in writing from the Issuer be required by any successor Trustee for more fully and certainly vesting in such Trustee the rights, immunities, powers and trusts hereby vested or intended to be vested in the predecessor Trustee, any such instrument in writing shall and will, on request, be executed, acknowledged and delivered by the Issuer.

Notwithstanding any of the foregoing provisions of this Article, any bank, corporation or association into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any bank, corporation or association succeeding to all or substantially all of the corporate trust business of the Trustee, having power to perform the duties and execute the trusts of this Indenture and otherwise qualified to act as Trustee hereunder, shall be the successor of the Trustee hereunder without the execution or filing of any paper with any party hereto or any further act on the part of any of the parties hereto except on the part of any of the parties hereto except where an instrument of transfer or assignment is required by law to effect such succession, anything herein to the contrary notwithstanding.

**SECTION 915 SEPARATE TRUSTEE OR CO-TRUSTEE.** It is the purpose of this Indenture that there shall be no violation of any law of any jurisdiction (including particularly the law of Mississippi) denying or restricting the right of banking corporations or associations to transact business as trustees in such jurisdiction. Therefore, in the event of the incapacity or lack of authority of the Trustee, as determined by the Trustee, by reason of any present or future law of any jurisdiction, to exercise any of the powers, rights or remedies herein granted to the Trustee or to hold title to the property in trust as herein granted or to take other action which may be necessary or desirable in connection therewith in such jurisdiction, the Trustee may appoint an additional individual or institution as a separate Trustee or Co-Trustee, and each and every remedy, power, right, claim, demand, cause of action, immunity, estate, title, interest and lien expressed or intended by this Indenture to be exercised by or vested in or conveyed to the Trustee with respect thereto shall be exercisable by and vest in such separate Trustee or Co-Trustee to exercise such powers, rights and remedies, and every covenant and obligation necessary to the exercise thereof by such separate Trustee or Co-Trustee shall run to and be enforceable by either of them.

Should any conveyance or instrument in writing from the Issuer be required by the separate Trustee or Co-Trustee so appointed by the Trustee for more fully and certainly vesting in and confirming to him or it such properties, rights, powers, trusts, duties and obligations, any and all such conveyances and instruments in writing shall, on request, be executed, acknowledged and delivered by the Issuer. In case any separate Trustee or

Co-Trustee, or a successor to either, shall die, become incapable of acting, resign or be removed, all the estates, properties, rights, powers, trusts, duties and obligations of such separate Trustee or Co-Trustee, so far as permitted by law, shall vest in and be exercised by the Trustee until the appointment of a new Trustee or successor to such separate Trustee or Co-Trustee.

**SECTION 916 [RESERVED].**

**SECTION 917 PAYING AGENT.** The Tender Agent is hereby appointed as the initial Paying Agent. The Borrower shall appoint any successor Paying Agent for the Bonds, subject to the conditions set forth in Section 918 hereof. Each Paying Agent (if not also the Trustee) shall designate to the Trustee its Principal Office and signify its acceptance of the duties and obligations imposed upon it hereunder by a written instrument of acceptance delivered to the Issuer, the Borrower and the Trustee under which such Paying Agent will agree, particularly:

(a) to hold all sums held by it for the payment of the principal of and interest and any premium on Bonds in trust for the benefit of the Owners until such sums shall be paid to the Owners or otherwise disposed of as herein provided; and

(b) to keep such books and records as shall be consistent with prudent industry practice and to make such books and records available for inspection by the Issuer, the Trustee and the Borrower at all reasonable times.

The Issuer shall cooperate with the Trustee and the Borrower to cause the necessary arrangements to be made and to be thereafter continued whereby funds will be made available for the payment when due of the Bonds as presented at the Principal Office of the Paying Agent.

**SECTION 918 QUALIFICATIONS OF PAYING AGENT; RESIGNATION; REMOVAL.** The Paying Agent shall be a bank, a trust company or another corporation duly organized under the laws of the United States of America or any state or territory thereof, and, in each case, having a combined capital and surplus of at least \$25,000,000 and authorized by law to perform all the duties imposed upon it by this Indenture. The Paying Agent may at any time resign and be discharged of the duties and obligations created by this Indenture by giving at least 60 days' notice to the Issuer, the Borrower and the Trustee. The Paying Agent may be removed at any time by an instrument, signed by the Borrower, filed with the Issuer, the Paying Agent and the Trustee.

Notwithstanding any of the foregoing provisions of this Article, any bank, corporation or association into which the Paying Agent may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Paying Agent shall be a party, or any bank, corporation or association succeeding to all or substantially all of the corporate trust

business of the Paying Agent, having power to perform the duties and execute the trusts of this Indenture and otherwise qualified to act as the Paying Agent hereunder, shall be the successor of the Paying Agent hereunder without the execution or filing of any paper with any party hereto or any further act on the part of any of the parties hereto except on the part of any of the parties hereto except where an instrument of transfer or assignment is required by law to effect such succession, anything herein to the contrary notwithstanding.

In the event of the resignation or removal of the Paying Agent, the Paying Agent shall pay over, assign and deliver any moneys held by it in such capacity to its successor or, if there be no successor, to the Trustee.

If an instrument of acceptance by a successor Paying Agent shall not have been delivered to the Paying Agent within sixty (60) days after the giving of such notice of resignation, the resigning Paying Agent may petition any court of competent jurisdiction for the appointment of a successor Paying Agent. If no successor Paying Agent shall have been so appointed and accepted appointment within sixty (60) days of such resignation, removal, incapability or the occurrence of a vacancy in the office of Paying Agent, in the manner herein provided, the Paying Agent or any Bondowner may petition any court of competent jurisdiction for the appointment of a successor Paying Agent, until a successor shall have been appointed as above provided.

In the event that the Paying Agent shall resign, be removed or be dissolved, or if the property or affairs of the Paying Agent shall be taken under the control of any state or federal court or administrative body because of bankruptcy, insolvency or any other reason, and the Borrower shall not have appointed its successor as Paying Agent, the Paying Agent or any Bondholder may petition any court of competent jurisdiction for the appointment of a successor Paying Agent, until a successor shall have been appointed as above provided and the Trustee shall ipso facto be deemed to be the Paying Agent for all purposes of this Indenture until the appointment of the Paying Agent or successor Paying Agent, as the case may be.

The resigning Paying Agent or Paying Agent being removed shall be entitled to be paid in full for any amount owing to it under Section 905 of this Indenture prior to signing any agreements transferring the transaction to a successor Paying Agent.

**SECTION 919 REGISTRAR.** The Tender Agent is hereby appointed as the initial Registrar. The Borrower shall appoint any successor Registrar for the Bonds, subject to the conditions set forth in Section 920 and Section 206 hereof. Each Registrar (if not also the Trustee) shall designate to the Trustee its Principal Office and signify its acceptance of the duties imposed upon it hereunder by a written instrument of acceptance delivered to the Issuer, the Borrower and the Trustee under which such Registrar will agree, particularly, to keep such books and records as shall be consistent with prudent industry practice and to make such books and records available for inspection by the Issuer, the Trustee and the Borrower at all reasonable times.

The Issuer shall cooperate with the Trustee and the Borrower to cause the necessary arrangements to be made and to be thereafter continued whereby Bonds, executed by the Issuer and authenticated by the Trustee, shall be made available for exchange and registration of transfer at the Principal Office of the Registrar. The Issuer shall cooperate with the Trustee, the Registrar and the Borrower to cause the necessary arrangements to be made and thereafter continued whereby the Paying Agent and the Remarketing Agent shall be furnished such records and other information, at such times, as shall be required to enable the Paying Agent and the Remarketing Agent to perform the duties and obligations imposed upon them hereunder.

**SECTION 920 QUALIFICATIONS OF REGISTRAR; RESIGNATION; REMOVAL.** The Registrar shall be a corporation duly organized under the laws of the United States of America or any state or territory thereof, having a combined capital and surplus of at least \$25,000,000 and authorized by law to perform all the duties imposed upon it by this Indenture. The Registrar may at any time resign and be discharged of the duties and obligations created by this Indenture by giving at least 60 days' notice to the Issuer, the Trustee and the Borrower. The Registrar may be removed at any time by an instrument, signed by the Borrower, filed with the Issuer, the Registrar and the Trustee.

Notwithstanding any of the foregoing provisions of this Article, any bank, corporation or association into which the Registrar may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Registrar shall be a party, or any bank, corporation or association succeeding to all or substantially all of the corporate trust business of the Registrar, having power to perform the duties and execute the trusts of this Indenture and otherwise qualified to act as the Registrar hereunder, shall be the successor of the Registrar hereunder without the execution or filing of any paper with any party hereto or any further act on the part of any of the parties hereto except on the part of any of the parties hereto except where an instrument of transfer or assignment is required by law to effect such succession, anything herein to the contrary notwithstanding.

In the event of the resignation or removal of the Registrar, the Registrar shall deliver any Bonds held by it in such capacity to its successor or, if there be no successor, to the Trustee.

If an instrument of acceptance by a successor Registrar shall not have been delivered to the Registrar within sixty (60) days after the giving of such notice of resignation, the resigning Registrar may petition any court of competent jurisdiction for the appointment of a successor Registrar. If no successor Registrar shall have been so appointed and accepted appointment within sixty (60) days of such resignation, removal, incapability or the occurrence of a vacancy in the office of Registrar, in the manner herein provided, the Registrar or any Bondowner may petition any court of competent jurisdiction for the appointment of a successor Registrar, until a successor shall have been appointed as above provided.

In the event that the Registrar shall resign, be removed or be dissolved, or if the property or affairs of the Registrar shall be taken under the control of any state or federal court or administrative body because of bankruptcy, insolvency or any other reason, and the Borrower shall not have appointed its successor as Registrar, The Registrar or any Bondholder may petition any court of competent jurisdiction for the appointment of a successor Registrar, until a successor shall have been appointed as above provided and the Trustee shall ipso facto be deemed to be the Registrar for all purposes of this Indenture until the appointment by the Borrower of the Registrar or successor Registrar, as the case may be.

The resigning Registrar or Registrar being removed shall be entitled to be paid in full for any amount owing to it under Section 905 of this Indenture prior to signing any agreements transferring the transaction to a successor Registrar.

**SECTION 921 PROCEDURES WITH DTC.** During any period when the Bonds are held under the book-entry system maintained by DTC, the Trustee is hereby directed to comply with the provisions of the Letter of Representations and, to the extent such provisions conflict with the provisions of this Indenture, the provisions of the Letter of Representations shall control with respect to Bonds to which such Letter of Representations applies. Notwithstanding any other provisions of this Indenture to the contrary, the Issuer and the Remarketing Agent agree to give the Trustee such notices and to make payment at such time or times as shall be necessary in order to enable the Trustee to comply with the provisions of the Letter of Representations. Neither the Issuer nor the Trustee shall have any responsibility or obligation to DTC participants or the persons for whom they act as nominees with respect to the Bonds regarding accuracy of any records maintained by DTC or DTC participants, the payments by DTC or DTC participants of any amount in respect of principal, redemption price or interest on the Bonds, any notice which is permitted or required to be given to or by Owners hereunder (except such notice as is required to be given by the Issuer to the Trustee or to DTC), or any consent given or other action taken by DTC as Bondowner.

In the event that Bonds are no longer held under the book-entry system maintained by DTC and are issued to the owners thereof in bond (physical) form, the Registrar will authenticate and deliver to the owners of the Bonds a new Bond or Bonds in the principal amount equal to the aggregate principal amount of Bonds then Outstanding (less the principal amount of the Bonds not held by means of a book-entry system), registered in the name of the owners, in exchange for the Bond or bonds then held by DTC and DTC shall surrender such Bond or Bonds then held by it to the Trustee for cancellation and destruction in accordance with the terms of Section 506 hereof.

In connection with any proposed transfer outside the book-entry system maintained by DTC, the Issuer, the Borrower or DTC shall provide or cause to be provided to the Trustee all information necessary to allow the Trustee to comply with any applicable tax reporting obligations, including without limitation any cost basis reporting obligations

under Internal Revenue Code Section 6045. The Trustee may rely on the information provided to it and shall have no responsibility to verify or ensure the accuracy of such information.

[Remainder of page intentionally left blank]

**ARTICLE X**  
**EXECUTION OF INSTRUMENTS BY BONDHOLDERS**  
**AND PROOF OF OWNERSHIP OF BONDS**

**SECTION 1001 CONSENTS, ETC., OF BONDHOLDERS.** Any request, direction, consent or other instrument in writing required or permitted by this Indenture to be signed or executed by Bondholders may be in any number of concurrent instruments of similar tenor and may be signed or executed by such Bondholders or their attorneys or legal representatives. Proof of the execution of any such instrument and of the ownership of Bonds shall be sufficient for any purpose of this Indenture and shall be conclusive in favor of the Trustee with regard to any action taken by it under such instrument if made in the following manner:

(a) The fact and date of the execution by any person of any such instrument may be proved in accordance with such reasonable rules as the Trustee may adopt.

(b) The ownership of Bonds shall be proved by the registration books kept under the provisions of Section 206 of this Indenture.

But nothing contained in this Article shall be construed as limiting the Trustee to such proof, it being intended that the Trustee may accept any other evidence of the matters herein stated which it may deem sufficient. Any request or consent of the holder of any Bond shall bind every future holder of the same Bond and of any Bond issued in place thereof in respect of anything done by the Trustee in pursuance of such request or consent.

[Remainder of page intentionally left blank]

**ARTICLE XI**  
**SUPPLEMENTAL INDENTURES**

**SECTION 1101 SUPPLEMENTAL INDENTURES NOT REQUIRING CONSENT OF BONDHOLDERS.** The Issuer and the Trustee may, from time to time and at any time, with the consent of the Borrower but without the consent of Bondholders, enter into such supplements and amendments to this Indenture as shall not be inconsistent with the terms and provisions hereof and, in the opinion of Bond Counsel, shall not be detrimental to the interests of the Bondholders (except to the extent permitted under (k)):

(a) to cure any ambiguity or defect or omission in this Indenture or in any supplemental trust indenture;

(b) to grant to or confer upon the Trustee for the benefit of the Bondholders any additional rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon the Bondholders or the Trustee;

(c) to confirm the lien of this Indenture or to subject to this Indenture additional revenues, properties or collateral;

(d) to correct any description of, or to reflect changes in, any properties comprising the Project;

(e) in connection with any other change which, in the judgment of the Trustee, will not restrict, limit or reduce the obligation of the Issuer to pay the principal of and premium, if any, and interest on the Bonds or otherwise impair the security of the Bondholders under this Indenture;

(f) to modify, amend or supplement this Indenture or any supplemental trust indenture hereto in such manner as to permit the qualification hereof and thereof under the Trust Indenture Act of 1939, as amended, or any similar federal statute hereafter in effect or to permit the qualification of the Bonds for sale under the securities laws of any of the states of the United States;

(g) to make amendments to the provisions hereof relating to matters under Section 148(f) of the Code, provided that an opinion of Bond Counsel, to the effect that such amendments will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Bonds, is delivered to the Trustee;

(h) to authorize different Authorized Denominations of the Bonds and to make correlative amendments and modifications to this Indenture regarding exchangeability of Bonds of different Authorized Denominations, redemptions of portions of Bonds of particular Authorized Denominations and similar amendments and modifications of a technical nature;

(i) to increase or decrease the number of days specified in Sections 201(d)(ii) and (iii), 201(e)(ii) and (iii), 201(f)(i), (ii), (iii) and (iv) and 201(g)(i), (ii) and (iii) hereof; provided that no decreases in any such number of days shall become effective except during a Daily Interest Rate Period or a Weekly Interest Rate Period and until 30 days after the Trustee shall have given notice to the holders of the Bonds affected thereby;

(j) to make any amendments appropriate or necessary to provide for the delivery of additional collateral or any insurance policy, irrevocable transferable letter of credit, guaranty, surety bond, line of credit, revolving credit agreement or other agreement or security device delivered to the Trustee and providing for (i) payment of the principal, interest and redemption premium on the Bonds or a portion thereof, or (ii) payment of the purchase price of the Bonds, or (iii) both (i) and (ii);

(k) on any date on which all of the Bonds are subject to mandatory purchase to modify the Indenture in any respect (even if to the adverse interest of Owners) provided that such supplement will not be effective until after such mandatory purchase and the payment of the purchase price in connection therewith; or

(l) on any date on which all of the Bonds are subject to mandatory purchase, to modify the Indenture to specify redemption prices greater or lesser, and after periods longer or shorter, than those set forth in Section 301(c)(ii) hereof.

**SECTION 1102 SUPPLEMENTAL INDENTURES REQUIRING CONSENT OF BONDHOLDERS.** Subject to the terms and provisions contained in this Section, and not otherwise, the holders of not less than a majority in aggregate principal amount of the Bonds then outstanding and the Borrower shall have the right, from time to time, anything contained in this Indenture to the contrary notwithstanding, to consent to and approve the execution by the Issuer and the Trustee of such trust indenture or trust indentures supplemental hereto as shall be deemed necessary or desirable by the Issuer for the purpose of modifying, altering, amending, adding to or rescinding, in any particular way, any of the terms or provisions contained in this Indenture or in any supplemental trust indenture; provided, however, that, unless approved in writing by the holders of all Bonds then Outstanding and the Borrower, nothing herein contained shall permit, or be construed as permitting, (a) an extension of the maturity of the principal of or the interest on any Bond issued hereunder, (b) a reduction in the principal amount of any Bond or the redemption premium or the rate of interest thereon, (c) the creation of a lien upon or a pledge of the Trust Estate, including the Loan Repayments or any other income derived from the Trust Estate, (d) a preference or priority of any Bond or Bonds over any other Bond or Bonds, or (e) a reduction in the aggregate principal amount of the Bonds required for consent to such supplemental trust indenture. Nothing herein contained, however, shall be construed as making necessary the approval by Bondholders of the execution of any supplemental trust indenture as authorized in Section 1101 of this Article.

If at any time the Issuer shall request the Trustee to enter into any supplement or amendment for any of the purposes of this Section, the Trustee shall, at the expense of the Borrower, cause notice of the proposed execution of such supplement or amendment to be mailed by first class mail, postage prepaid, to all owners of Bonds at their addresses as they appear on the registration books. Such notice shall briefly set forth the nature of the proposed supplement or amendment and shall state that copies thereof are on file at the Principal Office of the Trustee for inspection by any Bondholder. The Trustee shall not, however, be subject to any liability to any Bondholder by reason of its failure to mail any such notice, and any such failure shall not affect the validity of such supplement or amendment when consented to and approved as provided in this Section.

Whenever, at any time within one year after the date of the mailing of such notice, the Issuer shall deliver to the Trustee an instrument or instruments in writing purporting to be executed by the holders of not less than the required aggregate principal amount of the Bonds then Outstanding and the Borrower, which instrument or instruments shall refer to the proposed supplemental trust indenture described in such notice and shall specifically consent to and approve the execution thereof in substantially the form of the copy thereof referred to in such notice, thereupon, but not otherwise, the Trustee may execute such supplemental trust indenture in substantially such form, without liability or responsibility to any holder of any Bond, whether or not such holder shall have consented thereto.

If the holders of not less than the percentage of Bonds required by this Section 1102 shall have consented to and approved the execution thereof as herein provided, no holder of any Bond shall have any right to object to the execution of such supplement or amendment, or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the Issuer from executing the same or from taking any action pursuant to the provisions thereof.

Upon the execution of any supplement or amendment pursuant to the provisions of this Section, this Indenture shall be and be deemed to be modified and amended in accordance therewith, and the respective rights, duties and obligations under this Indenture of the Issuer, the Trustee and all holders of Bonds then Outstanding shall thereafter be determined, exercised and enforced hereunder, subject in all respects to such modifications and amendments.

**SECTION 1103 ANY SUPPLEMENTAL INDENTURE SHALL BE DEEMED A PART OF INDENTURE.** The Trustee is authorized to join with the Issuer in the execution of any supplemental trust indenture hereto and to make the further agreements and stipulations which may be contained therein. Any supplemental trust indenture executed in accordance with the provisions of this Article shall thereafter form a part of this Indenture, and all of the terms and conditions contained in any such supplemental trust indenture as to any provision authorized to be contained therein shall be

and shall be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

**SECTION 1104 DISCRETION OF TRUSTEE; RELIANCE ON COUNSEL.** In each and every case provided for in this Article, the Trustee shall be entitled to exercise its discretion in determining whether or not to execute any proposed supplemental trust indenture, if the rights, obligations and interests of the Trustee would be affected, and the Trustee shall not be under any responsibility or liability to the Issuer or to any Bondholder or to anyone whomsoever for its refusal in good faith to enter into any such supplemental trust indenture if such supplemental trust indenture is deemed by it to be contrary to the provisions of this Article. The Trustee shall be entitled to receive, and shall be fully protected in relying upon, the opinion of any counsel approved by it, who may be counsel for the Borrower, as conclusive evidence that any such proposed supplemental trust indenture does or does not comply with the provisions of this Indenture, and that it is or is not proper for it, under the provisions of this Article, to join in the execution of such supplemental trust indenture.

[Remainder of page intentionally left blank]

**ARTICLE XII**  
**SUPPLEMENTAL LOAN AGREEMENTS**  
**AND SUPPLEMENTAL PLEDGE AGREEMENTS**

**SECTION 1201 SUPPLEMENTAL LOAN AGREEMENTS AND SUPPLEMENTAL PLEDGE AGREEMENTS NOT REQUIRING CONSENT OF BONDHOLDERS.** Without the consent of any Bondholder, the Issuer and the Borrower may enter into, and the Trustee may consent to, from time to time and at any time, such agreements supplemental to the Loan Agreement as shall not be inconsistent with the terms and provisions thereof and, if a Pledge Agreement shall then be in effect, the Trustee may enter into any agreement supplemental to the Pledge Agreement as shall not be inconsistent with the terms thereof, which in the opinion of Bond Counsel shall not be detrimental to the interests of the Bondholders (which supplemental agreements shall thereafter form a part of the Loan Agreement and Pledge Agreement, respectively),

(a) to cure any ambiguity or defect or omission in the Loan Agreement or in any supplemental agreement, or in any Pledge Agreement or in any supplemental pledge agreement then in effect, or

(b) to grant to or confer upon the Issuer or the Trustee for the benefit of the Bondholders any additional rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon the Issuer or the Bondholders or the Trustee, or

(c) to correct any description of, or to reflect changes in, any properties comprising the Project, or

(d) in connection with any other change which, in the judgment of the Trustee, will not restrict, limit or reduce the obligation of the Borrower to pay the Loan Repayments or otherwise materially impair the security of the Bondholders under this Indenture.

**SECTION 1202 SUPPLEMENTAL LOAN AGREEMENTS AND SUPPLEMENTAL PLEDGE AGREEMENTS REQUIRING CONSENT OF BONDHOLDERS.** Except for supplemental agreements or supplemental pledge agreements provided for in Section 1201 of this Article or amendments to the Loan Agreement and any Pledge Agreement as therein provided for, the Issuer shall not enter into and the Trustee shall not consent to any supplemental agreement or amendment to the Loan Agreement or enter into any supplemental pledge agreement or amendment to any Pledge Agreement unless notice of the proposed execution of such supplemental agreement, supplemental pledge agreement or amendment shall have been given and the holders of not less than a majority in aggregate principal amount of the Bonds then outstanding shall have consented to and approved the execution thereof all as provided for in Section 1102 of this Indenture in the case of supplemental trust indentures; provided that the Trustee shall be entitled to exercise its discretion in consenting or not consenting to any such supplemental agreement, supplemental pledge agreement or amendment in the

same manner as provided for in Section 1104 of this Indenture in the case of supplemental trust indentures.

[Remainder of page intentionally left blank]

## **ARTICLE XIII DEFEASANCE**

**SECTION 1301 DEFEASANCE OF BONDS.** If there is paid to the holders of all of the Bonds secured hereby the principal of and premium, if any, and interest on such Bonds which is and shall thereafter become due and payable thereon, together with all other sums payable hereunder, then and in that case the rights, title and interest of the Trustee in and to the estate pledged and assigned to it under this Indenture shall cease, terminate and be discharged, and such Bonds shall cease to be entitled to any lien, benefit or security under this Indenture. In such event, the Trustee shall transfer and assign to the Borrower all property then held by the Trustee, shall execute such documents as may be reasonably required by the Issuer or the Borrower to evidence the transfer and assignment and shall turn over to the Borrower any surplus in the Bond Fund and any surplus in any other fund created hereunder. If the Issuer shall pay or cause to be paid to the holders of less than all of the outstanding Bonds the principal of and premium, if any, and interest on such Bonds which is and shall thereafter become due and payable upon such Bonds, such Bonds, or portions thereof, shall cease to be entitled to any lien, benefit or security under this Indenture.

Any or all of the outstanding Bonds then bearing interest at a Long-Term Interest Rate during a Long-Term Interest Rate Period ending on or after the redemption date or on the day immediately preceding the Maturity Date, as the case may be, or at Commercial Paper Term Rates for Commercial Paper Terms which end on the redemption date or the day immediately preceding the Maturity Date, as the case may be, shall be deemed to have been paid within the meaning and with the effect expressed in this Section when (a) in case the Bonds, or portions thereof, have been selected for redemption in accordance with Section 301 hereof prior to their maturity, the Borrower shall have given to the Trustee irrevocable instructions to mail in accordance with the provisions of Section 302 hereof notice of redemption of such Bonds, or portions thereof, (b) there shall have been deposited with the Trustee either moneys in an amount which shall be sufficient, or Defeasance Obligations, which shall not contain provisions permitting the redemption thereof at the option of the issuer thereof, the principal of and the interest on which when due, and without any reinvestment thereof, will provide moneys which, together with the moneys, if any, deposited with or held by the Trustee available therefor, shall be sufficient to pay when due the principal of and premium, if any, and interest due and to become due on the Bonds, or portions thereof, on or prior to the redemption date or maturity date thereof, as the case may be, and (c) in the event the Bonds do not mature and are not to be redeemed within the next succeeding 60 days, the Borrower (i) shall have given the Trustee irrevocable instructions to mail, as soon as practicable in the same manner as a notice of redemption is mailed pursuant to Section 302 hereof, a notice to the holders of the Bonds, or portions thereof, stating that the deposit of moneys or Defeasance Obligations required by clause (b) of this paragraph has been made with the Trustee and that the Bonds are deemed to have been paid in accordance with this Section and stating such maturity or

redemption date upon which moneys are to be available for the payment of the principal of and premium, if any, and interest on the Bonds, or portions thereof and (ii) shall cause to be delivered to the Trustee or escrow agent, as the case may be, a verification report of any independent, nationally recognized, certified public accountant showing the sufficiency of such deposit. Neither the moneys or Defeasance Obligations deposited with the Trustee pursuant to this Section nor principal or interest payments on any such obligations shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal of and premium, if any, and interest on the Bonds, or portions thereof. If payment of less than all of the Bonds is to be provided for in the manner and with the effect expressed in this Section, the Trustee shall select such Bonds, or portions thereof, in the manner specified in Section 301 hereof for selection for redemption of less than all Bonds in the principal amounts designated to the Trustee by the Borrower.

[Remainder of page intentionally left blank]

**ARTICLE XIV  
REMARKETING AGENT; TENDER AGENT; PURCHASE  
AND REMARKETING OF BONDS**

**SECTION 1401    REMARKETING AGENT AND TENDER AGENT.**

(a) Fifth Third Securities, Inc. shall be the initial Remarketing Agent for the Bonds. The Borrower shall appoint any successor Remarketing Agent for the Bonds, subject to the conditions set forth in Section 1402(a) hereof. The term of appointment of any Remarketing Agent shall expire, and the Borrower shall appoint a successor Remarketing Agent, upon the adjustment of the interest rate determination method for the Bonds in accordance with Section 201 hereof; provided, however, that the Borrower may elect to appoint the then current Remarketing Agent as the successor Remarketing Agent, in which event any remarketing agreement between the Borrower and the then current Remarketing Agent may, at the option of the Borrower, remain in effect during such new term of appointment. The Remarketing Agent shall designate its Principal Office and signify its acceptance of the duties and obligations imposed upon it hereunder by a written instrument of acceptance delivered to the Issuer, the Trustee, the Tender Agent and the Borrower under which the Remarketing Agent will agree, particularly, to keep such books and records as shall be consistent with prudent industry practice and to make such books and records available for inspection by the Issuer, the Trustee, the Tender Agent and the Borrower at all reasonable times.

(b) The initial Tender Agent shall be U.S. Bank National Association. The Borrower shall appoint any successor Tender Agent for the Bonds, subject to the conditions set forth in Section 1402(b) hereof. The Tender Agent shall designate its Principal Office and signify its acceptance of the duties and obligations imposed upon it hereunder by a written instrument of acceptance delivered to the Issuer, the Trustee, the Borrower, and the Remarketing Agent. By acceptance of its appointment hereunder, the Tender Agent agrees:

(i) to hold all Bonds delivered to it pursuant to Section 202 hereof, as agent and bailee of, and in escrow for the benefit of, the respective Owners which shall have so delivered such Bonds until moneys representing the purchase price of such Bonds shall have been delivered to or for the account of or to the order of such Owners;

(ii) to establish and maintain, and there is hereby established with the Tender Agent, a separate segregated trust fund designated as the "Mississippi Business Finance Corporation Revenue Bonds (Gulf Power Company Project), Series 2019 Purchase Fund" (the "Purchase Fund"), including any subaccounts within the Purchase Fund, as directed, until such time as it has been discharged from its duties as Tender Agent hereunder;

(iii) to hold all moneys (without investment thereof) delivered to it hereunder for the purchase of Bonds pursuant to Section 202 hereof in the Purchase Fund for the purchase of Bonds pursuant to Section 202 hereof, as agent and bailee of, and in escrow for the benefit of, the person or entity which shall have so delivered such moneys until the Bonds purchased with such moneys shall have been delivered to or for the account of such person or entity;

(iv) to hold all Bonds registered in the name of the new Owners thereof and make such Bonds available for delivery to the Remarketing Agent in accordance with the Tender Agreement; and

(v) to keep such books and records as shall be consistent with prudent industry practice and to make such books and records available for inspection by the Issuer, the Trustee, the Borrower and the Remarketing Agent at all reasonable times (following reasonable prior written notice of such party's desire to inspect such books and records).

The Issuer shall cooperate with the Borrower and the Trustee to cause the necessary arrangements to be made and to be thereafter continued to enable the Tender Agent to perform its duties and obligations described above.

#### **SECTION 1402 QUALIFICATIONS OF REMARKETING AGENT AND TENDER AGENT; RESIGNATION; REMOVAL.**

(a) The Remarketing Agent shall be a member of the Financial Industry Regulatory Authority, having a combined capital stock, surplus and undivided profits of at least \$15,000,000 and authorized by law to perform all the duties imposed upon it by this Indenture. The Remarketing Agent may at any time resign and be discharged of the duties and obligations created by this Indenture by giving at least 45 days' notice to the Issuer, the Trustee, the Tender Agent and the Borrower. Such resignation shall take effect on the earlier of the day a successor Remarketing Agent shall have been appointed by the Borrower and shall have accepted such appointment or 45 days from the date the Remarketing Agent submits such resignation. The Borrower may from time to time remove the Remarketing Agent upon five Business Days' notice and appoint a different Remarketing Agent by an instrument signed by the Borrower and filed with the Issuer, the Remarketing Agent, the Trustee and the Tender Agent.

(b) The Tender Agent shall be a corporation or a national or state banking association or trust company duly organized under the laws of the United States of America or any state or territory thereof, and, if not a bank or trust company, and in any case having a combined capital stock, surplus and undivided profits of at least \$25,000,000 and authorized by law to perform all the duties imposed upon it by this Indenture and the Tender Agreement. The Tender Agent may at any time resign and be discharged of the duties and obligations created by this Indenture by giving at least 60 days' notice to the Issuer, the

Trustee, the Borrower and the Remarketing Agent. Such resignation shall take effect on the day a successor Tender Agent shall have been appointed by the Borrower and shall have accepted such appointment. The Tender Agent may be removed by the Borrower, at any time by an instrument signed by the Borrower, filed with the Tender Agent, the Issuer, the Trustee, and the Remarketing Agents.

Notwithstanding any of the foregoing provisions of this Article, any bank, corporation or association into which the Tender Agent may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Tender Agent shall be a party, or any bank, corporation or association succeeding to all or substantially all of the corporate trust business of the Tender Agent, having power to perform the duties and execute the trusts of this Indenture and otherwise qualified to act as the Tender Agent hereunder, shall be the successor of the Tender Agent hereunder without the execution or filing of any paper with any party hereto or any further act on the part of any of the parties hereto except on the part of any of the parties hereto except where an instrument of transfer or assignment is required by law to effect such succession, anything herein to the contrary notwithstanding.

In the event of the resignation or removal of the Tender Agent, the Tender Agent shall deliver any Bonds and moneys held by it in such capacity to its successor or, if there is no successor, to the Trustee.

If an instrument of acceptance by a successor Tender Agent shall not have been delivered to the Tender Agent within sixty (60) days after the giving of such notice of resignation, the resigning Tender Agent may petition any court of competent jurisdiction for the appointment of a successor Tender Agent. If no successor Tender Agent shall have been so appointed and accepted appointment within sixty (60) days of such resignation, removal, incapability or the occurrence of a vacancy in the office of Tender Agent, in the manner herein provided, the Tender Agent or any Bondowner may petition any court of competent jurisdiction for the appointment of a successor Tender Agent, until a successor shall have been appointed as above provided.

In the event that the Tender Agent shall resign, be removed or be dissolved, or if the property or affairs of the Tender Agent shall be taken under the control of any state or federal court or administrative body because of bankruptcy, insolvency or any other reason, and the Borrower shall not have appointed its successor as Tender Agent, the Tender Agent or any Bondholder may petition any court of competent jurisdiction for the appointment of a successor Tender Agent, until a successor shall have been appointed as above provided and the Trustee shall ipso facto be deemed to be the Tender Agent for all purposes of this Indenture until the appointment of the Tender Agent or successor Tender Agent, as the case may be.

The resigning Tender Agent or Tender Agent being removed shall be entitled to be paid in full for any amount owing to it under Section 905 of this Indenture prior to signing any agreements transferring the transaction to a successor Tender Agent.

**SECTION 1403 NOTICE OF BONDS DELIVERED FOR PURCHASE;  
PURCHASE OF BONDS.**

(a) The Tender Agent shall determine timely and proper delivery of Bonds pursuant to this Indenture and the proper endorsement of such Bonds. Such determination shall be binding on the Owners of such Bonds, the Issuer, the Borrower, the Remarketing Agent and the Trustee absent manifest error. As promptly as practicable, in accordance with the provisions of the Tender Agreement, the Tender Agent shall give telephonic or electronic notice, promptly confirmed by a written notice, to the Trustee, the Remarketing Agent and the Borrower specifying the principal amount of Bonds, if any, as to which it shall receive notice of tender for purchase in accordance with Sections 202(a) or (b).

(b) Bonds required to be purchased in accordance with Section 202 hereof shall be purchased from the Owners thereof, on the date and at the purchase price at which such Bonds are required to be purchased. Funds for the payment of such purchase price shall be derived from the following sources in the order of priority indicated:

(i) moneys furnished by the Trustee to the Tender Agent pursuant to Section 1301 hereof, such moneys to be applied only to the purchase of Bonds which are deemed to be paid in accordance with Article XIII hereof;

(ii) proceeds of the sale of such Bonds remarketed pursuant to Section 1406 hereof and furnished to the Tender Agent by the Remarketing Agent for deposit into the Purchase Fund;

(iii) moneys furnished to the Tender Agent representing moneys provided by the Borrower pursuant to Section 11.1 or 11.2 of the Loan Agreement or otherwise available for such purpose.

(c) (i) The Registrar shall authenticate a new Bond or Bonds in an aggregate principal amount equal to the principal amount of Bonds purchased in accordance with Section 1403(b), whether or not the Bonds so purchased are presented by the Owners thereof, bearing a number or numbers not contemporaneously outstanding. Every Bond authenticated and delivered as provided in this Section 1403(c) shall be entitled to all the benefits of this Indenture equally and proportionately with any and all other Bonds duly issued hereunder. The Registrar shall maintain a record of the Bonds purchased as provided in this Section 1403, together with the names and addresses of the former Owners thereof.

(ii) In the event any Bonds purchased as provided in this Section 1403 shall not be presented to the Tender Agent, the Tender Agent shall segregate and hold the moneys for the purchase price of such Bonds in trust for the benefit of the former Owners of such Bonds, who shall, except as provided in the following sentence, thereafter be restricted exclusively to such moneys for the satisfaction of any claim for the purchase price of such Bonds. Any moneys which the Tender Agent shall segregate and hold in trust for the payment of the purchase price of any Bond and remaining unclaimed for one year after the date of purchase shall, upon the Borrower's written request to the Tender Agent, be paid to the Borrower. After the payment of such unclaimed moneys to the Borrower, the former Owner of such Bond shall look only to the Borrower for the payment thereof. In the absence of any such written request from the Borrower, the Tender Agent shall from time to time deliver such unclaimed funds to or as directed by pertinent escheat authority, as identified by the Tender Agent in its sole discretion, pursuant to and in accordance with applicable unclaimed property laws, rules or regulations. Any such delivery shall be in accordance with the customary practices and procedures of the Tender Agent and the escheat authority. Any money held by the Tender Agent pursuant to this paragraph shall be held uninvested and without any liability for interest.

**SECTION 1404 [RESERVED].**

**SECTION 1405 [RESERVED].**

**SECTION 1406 REMARKETING OF BONDS; NOTICE OF INTEREST RATES.**

(a) Upon notice of the tender for purchase of Bonds, or in connection with any mandatory tender for purchase of Bonds, in accordance with Section 202 hereof, and except to the extent the Borrower directs the Remarketing Agent not to do so, the Remarketing Agent shall offer for sale and use its best efforts to sell such Bonds, any such sale to be made on the date of such purchase in accordance with Section 202. Any Bond which is tendered for purchase, pursuant to Sections 202(a) or (b) hereof, after that Bond has become subject to mandatory tender for purchase pursuant to Sections 202(c) or (d) hereof, shall be sold only to a purchaser who agrees to refrain from selling that Bond other than under the terms of this Indenture and hold that Bond only to the date of mandatory purchase.

(b) The Remarketing Agent shall determine the rate of interest to be borne by the Bonds during each Interest Rate Period and by each Bond during each Commercial Paper Term for such Bond and the Commercial Paper Terms for each Bond during each Commercial Paper Interest Rate Period as provided in Section 201 hereof and shall furnish to the Registrar, Paying Agent, the Borrower and the Trustee on the Business Day of determination each rate of interest and Commercial Paper Term so determined.

(c) The Remarketing Agent shall give telephonic or electronic notice to the Trustee and the Tender Agent on each date on which Bonds shall have been purchased pursuant to Section 1403(b) hereof, specifying the principal amount of Bonds, if any, sold by it pursuant to Section 1406(a) hereof.

**SECTION 1407 DELIVERY OF BONDS.**

(a) Bonds purchased with moneys described in clause (i) of Section 1403(b) hereof shall be delivered to the Trustee for cancellation.

(b) Bonds purchased with moneys described in clause (ii) of Section 1403(b) hereof shall be made available for delivery by the Tender Agent to the Remarketing Agent for delivery to the purchasers thereof against payment therefor in accordance with the Tender Agreement.

(c) Bonds purchased with moneys described in clause (iii) of Section 1403(b) hereof shall at the direction of the Borrower, be (i) held by the Tender Agent for the account of the Borrower, (ii) delivered to the Trustee for cancellation or (iii) delivered to the Borrower; provided, however, that any Bonds so purchased after the selection thereof by the Trustee for redemption shall be delivered to the Trustee for cancellation.

(d) Bonds delivered as provided in this Section 1407 shall be registered in the manner directed by the recipient thereof.

**SECTION 1408 DELIVERY OF PROCEEDS OF SALE.** The proceeds of the sale by the Remarketing Agent of any Bonds delivered to it by, or held by it for the account of, the Trustee, or the Borrower, or delivered to it by any other Owner, shall be turned over to the Tender Agent, the Borrower, or such other Owner, as the case may be; provided, however, that if any such Bond is sold by the Remarketing Agent at a price in excess of the principal amount thereof (exclusive of that portion, if any, of such price representing accrued interest), such excess shall be paid to the Borrower.

[Remainder of page intentionally left blank]

**ARTICLE XV  
MISCELLANEOUS PROVISIONS**

**SECTION 1501 COVENANTS BINDING UPON SUCCESSORS.** In the event of the dissolution of the Issuer, all of the covenants, stipulations, obligations and agreements contained in this Indenture by or on behalf of or for the benefit of the Issuer shall bind or inure to the benefit of the successor or successors of the Issuer from time to time and any officer, board, commission, authority, agency or instrumentality to whom or to which any power or duty affecting such covenants, stipulations, obligations and agreements shall be transferred by or in accordance with law, and the word “Issuer” as used in this Indenture shall include such successor or successors.

**SECTION 1502 NOTICES.** Any notice, demand, direction, request or other instrument authorized or required by this Indenture to be given to or filed with the Issuer or the Trustee shall be (subject, with respect to the Trustee, to Section 913 hereof) deemed to have been sufficiently given or filed for all purposes of this Indenture if and when sent by certified mail, return receipt requested:

to the Issuer, if addressed to:

Mississippi Business Finance Corporation  
Attn: Executive Director  
735 Riverside Drive, Suite 300  
Jackson, Mississippi 39202

to the Trustee, if addressed to:

U.S. Bank National Association  
Attention: Global Corporate Trust  
1349 W. Peachtree Street, NW  
Suite 1050  
Atlanta, Georgia 30309

to the Borrower, if addressed as provided in the Loan Agreement;

to the Tender Agent, if addressed to:

U.S. Bank National Association  
Attention: Global Corporate Trust  
1349 W. Peachtree Street, NW  
Suite 1050  
Atlanta, Georgia 30309  
E-mail: tender.notifications@usbank.com

to the Remarketing Agent, if addressed to:

Fifth Third Securities, Inc.  
Attn: Remarketing Desk  
38 Fountain Square Plaza  
MD 1090SB  
Cincinnati, OH 45263

The Issuer, the Trustee, the Borrower, the Tender Agent, and the Remarketing Agent may, by notice given hereunder, designate any further or different addresses to which subsequent communications under this Indenture may be sent.

Furthermore, the Trustee shall have the right to accept and act upon any notice, demand, direction, request or other instructions, including funds transfer instructions (“Instructions”), given pursuant to this Indenture and delivered using Electronic Means (as defined below); provided, however, that the Borrower, the Issuer or and such other party giving such instruction (the “Sender”) shall provide to the Trustee an incumbency certificate listing officers with the authority to provide such Instructions (“Authorized Officers”) and containing specimen signatures of such Authorized Officers, which incumbency certificate shall be amended by the Sender whenever a person is to be added or deleted from the listing. If the Sender elects to give the Trustee Instructions using Electronic Means and the Trustee in its discretion elects to act upon such Instructions, the Trustee’s understanding of such Instructions shall be deemed controlling. The Borrower, the Issuer and any other Sender understand and agree that the Trustee cannot determine the identity of the actual sender of such Instructions and that the Trustee shall conclusively presume that directions that purport to have been sent by an Authorized Officer listed on the incumbency certificate provided to the Trustee have been sent by such Authorized Officer. Each Sender shall be responsible for ensuring that only Authorized Officers transmit such Instructions to the Trustee and that the Sender and all Authorized Officers are solely responsible to safeguard the use and confidentiality of applicable user and authorization codes, passwords and/or authentication keys upon receipt by the Sender. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee’s reliance upon and compliance with such Instructions notwithstanding such directions conflict or are inconsistent with a subsequent written instruction. The Borrower agrees: (i) to assume all risks arising out of the use of Electronic Means to submit Instructions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized Instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting Instructions to the Trustee and that there may be more secure methods of transmitting Instructions than the method(s) selected by the Borrower for use by the Borrower, the Issuer and the other parties who may give instructions to the Trustee under this Indenture; (iii) that the security procedures (if any) to be followed in connection with its transmission of Instructions provide to it a commercially reasonable degree of protection

in light of its particular needs and circumstances; and (iv) to notify the Trustee immediately upon learning of any compromise or unauthorized use of the security procedures. "Electronic Means" shall mean the following communications methods: S.W.I.F.T., e-mail, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys issued by the Trustee, or another method or system specified by the Trustee as available for use in connection with its services hereunder.

All documents received by the Trustee under the provisions of this Indenture, or photographic copies thereof, shall be retained in its possession until this Indenture shall be released under the provisions of this Indenture, subject at all reasonable times to the inspection of the Issuer, the Borrower, any Bondholder and any agent or representative thereof. A copy of any notice, certificate or other communication given pursuant to this Indenture shall also be given to the Borrower at the address set forth in Section 12.1 of the Loan Agreement.

**SECTION 1503 MANNER OF NOTICE.** If, because of the temporary or permanent suspension of publication of any newspaper or financial journal or for any other reason, the Trustee shall be unable to publish in a newspaper or financial journal any notice required to be published by the provisions of this Indenture, the Trustee shall give such notice in such other manner as directed by the Issuer in writing, and the giving of such notice in such manner shall for all purposes of this Indenture be deemed to be in compliance with the requirement for the publication thereof.

**SECTION 1504 ISSUER, TRUSTEE, THE BORROWER AND BONDHOLDERS ALONE HAVE RIGHTS UNDER INDENTURE.** Except as herein otherwise expressly provided, nothing in this Indenture express or implied is intended or shall be construed to confer upon any person, other than the parties hereto, the Borrower and the holders from time to time of the Bonds issued under and secured by this Indenture, any right, remedy or claim, legal or equitable, under or by reason of this Indenture or any provision thereof, this Indenture and all its provisions being intended to be and being for the sole and exclusive benefit of the parties hereto, the Borrower and the holders from time to time of the Bonds issued hereunder.

**SECTION 1505 SEVERABILITY AND EFFECT OF INVALIDITY.** In case any one or more of the provisions of this Indenture or of the Bonds issued hereunder shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Indenture or of the Bonds. In case any covenant, stipulation, obligation or agreement contained in the Bonds or in this Indenture shall for any reason be held to be in violation of law, then such covenant, stipulation, obligation or agreement shall be deemed to be the covenant, stipulation, obligation or agreement of the Issuer to the full extent permitted by law.

**SECTION 1506 RELEASE OF OFFICERS, EMPLOYEES AND AGENTS OF ISSUER.** All covenants, stipulations, obligations and agreements of the Issuer contained in this Indenture shall be deemed to be covenants, stipulations, obligations and agreements of the Issuer to the full extent permitted by the Constitution and laws of the State. No covenant, stipulation, obligation or agreement contained herein shall be deemed to be a covenant, stipulation, obligation or agreement of any present or future member of the Issuer or other officer of the Issuer in his individual capacity, and neither the members of the Issuer nor any other officer executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof. No member of the Issuer, and no other officer of the Issuer shall incur any personal liability in acting or proceeding or in not acting or not proceeding, in good faith, reasonably and in accordance with the terms of this Indenture.

**SECTION 1507 IF PAYMENT OR PERFORMANCE DATE NOT A BUSINESS DAY.** If the date for making any payment of principal or premium, if any, or interest or the last date for performance of any act or the exercising of any right, as provided in this Indenture, shall be a legal holiday or a day on which banking institutions in the city in which the Trustee or the Paying Agent shall be located are authorized by law to remain closed, such payment may be made or act performed or right exercised on the next succeeding day not a legal holiday or not a day on which such banking institutions are authorized by law to remain closed, with the same force and effect as if done on the nominal date provided in this Indenture, and no interest shall accrue for the period after such nominal date.

**SECTION 1508 HEADINGS NOT PART OF INDENTURE.** Any headings preceding the texts of the several articles hereof, and any table of contents appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Indenture, nor shall they affect its meaning, construction or effect.

**SECTION 1509 COUNTERPARTS.** This Indenture may be executed in multiple counterparts, each of which shall be regarded for all purposes as an original, and such counterparts shall constitute but one and the same instrument.

**SECTION 1510 APPLICABLE LAW.** This Indenture shall be governed by, and construed in accordance with, the laws of the State of Mississippi.

IN WITNESS WHEREOF, MISSISSIPPI BUSINESS FINANCE CORPORATION has caused this Indenture to be executed by its Executive Director, and its official seal to be impressed hereon and attested by its Secretary, and U.S. BANK NATIONAL ASSOCIATION, has caused this Indenture to be executed by an authorized signatory and its corporate seal to be impressed hereon for and on its behalf, all as of the day and year first above written.



Attest  
  
Secretary

MISSISSIPPI BUSINESS FINANCE CORPORATION

By:   
Executive Director

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By: \_\_\_\_\_  
Vice President

IN WITNESS WHEREOF, MISSISSIPPI BUSINESS FINANCE CORPORATION has caused this Indenture to be executed by its Executive Director, and its official seal to be impressed hereon and attested by its Secretary, and U.S. BANK NATIONAL ASSOCIATION, has caused this Indenture to be executed by an authorized signatory and its corporate seal to be impressed hereon for and on its behalf, all as of the day and year first above written.

**MISSISSIPPI BUSINESS FINANCE CORPORATION**

(SEAL)

By: \_\_\_\_\_  
Executive Director

Attest:

\_\_\_\_\_  
Secretary

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

By: *Jack Ellison*  
Vice President

**EXHIBIT A**  
**FORM OF BONDS**

R-1

**\$55,000,000**

**UNITED STATES OF AMERICA**  
**STATE OF MISSISSIPPI**  
**MISSISSIPPI BUSINESS FINANCE CORPORATION**  
**REVENUE BONDS**  
**(GULF POWER COMPANY PROJECT),**  
**SERIES 2019**

<u>Interest Rate</u>	<u>Original Issue Date</u>	<u>Maturity Date</u>	<u>CUSIP No.</u>
<u>Period</u> Daily		December 1, 2049	

[To be filled in only if the Interest Rate Period identified above is the Commercial Paper Rate]:

<u>Purchase Date</u>	<u>Commercial Paper Term</u>	<u>Commercial Paper Term Rate</u>	<u>Interest Payable</u>
----------------------	------------------------------	-----------------------------------	-------------------------

**REGISTERED OWNER: CEDE & CO.**

**PRINCIPAL AMOUNT: FIFTY-FIVE MILLION AND 00/100 DOLLARS**

**MISSISSIPPI BUSINESS FINANCE CORPORATION** (the "Issuer"), a public corporation duly created and validly existing pursuant to the Constitution and laws of the State of Mississippi, for value received, hereby promises to pay, solely from the special fund provided therefor as hereinafter referred to, to the Registered Owner referred to above or registered assigns, on the Maturity Date stated above or earlier as hereinafter referred to) upon the presentation and surrender hereof at the corporate trust office of the Trustee (hereinafter mentioned), the Principal Amount stated above, and to pay, solely from the special fund, to the Registered Owner at his address as it appears on the Bond registration books of the Issuer, interest on the Principal Amount until payment of such Principal Amount, at the rates and on the dates determined as described herein and in the Indenture (hereinafter defined). The principal of and any premium on this Bond are payable at the designated office of U.S. BANK NATIONAL ASSOCIATION, as Trustee. Interest on this Bond is payable by (i) check mailed to the Registered Owner hereof at the address of

the Registered Owner of this Bond as of the close of business on the Record Date (as defined in the Indenture) in respect of such interest, or (ii) except for interest in respect of a Long-Term Interest Rate Period (described herein), upon the request of the Registered Owner hereof, by wire transfer to such Registered Owner at an account maintained at a commercial bank located within the United States of America; provided that the Registered Owner hereof shall have provided transfer instructions to the Paying Agent at least two Business Days (hereinafter defined) prior to the applicable Record Date; provided further, that interest payable in respect of a Commercial Paper Term (described herein) is payable only upon delivery hereof to the Tender Agent (hereinafter identified). Principal or redemption price and interest shall be paid in any coin or currency of the United States of America which, at the time of payment, is legal tender for the payment of public and private debts without deduction for the services of the Paying Agent.

Capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to such terms in the Indenture or the Loan Agreement (herein defined).

THIS BOND AND PREMIUM, IF ANY, AND INTEREST THEREON ARE LIMITED AND SPECIAL OBLIGATIONS OF THE ISSUER AND PAYABLE SOLELY FROM THE REVENUES AND OTHER AMOUNTS DERIVED FROM THE LOAN AGREEMENT (DEFINED HEREIN) AND ARE SECURED AS SET FORTH IN THE INDENTURE. THIS BOND AND THE INTEREST THEREON SHALL NOT BE DEEMED TO CONSTITUTE A DEBT, LIABILITY OR OBLIGATION OF THE STATE OF MISSISSIPPI OR ANY POLITICAL SUBDIVISION THEREOF, BUT THIS BOND SHALL BE PAYABLE SOLELY FROM THE REVENUES PRODIED THEREFOR AS HEREIN DESCRIBED, AND THE ISSUER IS NOT OBLIGATED TO PAY THE PRINCIPAL OF THIS BOND, OR THE PREMIUM, IF ANY, THEREON OR INTEREST THEREON OR OTHER AMOUNTS DUE WITH RESPECT THERETO EXCEPT FROM THE TRUST ESTATE PLEDGED THEREFOR. NEITHER THE FAITH AND CREDIT OF THE ISSUER OR THE STATE OF MISSISSIPPI NOR THE TAXING POWER OF THE STATE OF MISSISSIPPI OR ANY POLITICAL SUBDIVISION THEREOF IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF OR THE PREMIUM, IF ANY, ON OR INTEREST ON THIS BOND, OR THE COSTS INCIDENTAL THERETO. NO COVENANT OR AGREEMENT CONTAINED IN THE INDENTURE SHALL BE DEEMED TO BE A COVENANT OR AGREEMENT OF ANY MEMBER, OFFICER, AGENT OR EMPLOYEE OF THE ISSUER IN HIS INDIVIDUAL CAPACITY, AND NO MEMBER OF THE BOARD OF DIRECTORS OF THE ISSUER NOR ANY OFFICER OF THE ISSUER EXECUTING THIS BOND SHALL BE LIABLE PERSONALLY ON THE BONDS OR BE SUBJECT TO ANY PERSONAL LIABILITY IN CONNECTION WITH THE ISSUANCE OF THIS BOND.

No recourse shall be had for the payment of the principal or redemption price or purchase price of, or interest on, this Bond, or for any claim based hereon or on the Indenture, against any member, officer, agent or employee, past, present or future, of the

Issuer or of any successor body, as such, either directly or through the Issuer or any such successor body, under any constitutional provision, statute or rule of law, or by the enforcement of any assessment or by any legal or equitable proceeding or otherwise.

This Bond is one of a duly authorized series of revenue bonds of the Issuer in the aggregate principal amount of \$55,000,000 known as “Mississippi Business Finance Corporation Revenue Bonds (Gulf Power Company Project), Series 2019” (the “Bonds”), dated December 12, 2019, and issued to (i) finance or refinance, in whole or in part, Gulf Power Company’s (the “Borrower”) share of the cost of the acquisition, construction, installation and equipping of additions, extensions and improvements to certain sewage or solid waste disposal facilities (the “Facilities”) at Plant Daniel Units 1 & 2 to include low volume waste water treatment equipment installation (permanent and temporary), balance of plant, new equipment for dry bottom coal ash handling (new hoppers) and bottom coal ash pond closure (collectively, the “Project”); and (ii) pay all or a portion of the related costs of issuance of the Bonds, all as more specifically described in EXHIBIT A to the Loan Agreement.

The Bonds are issued under and pursuant to a Trust Indenture (the Trust Indenture, together with all trust indentures supplemental thereto as therein permitted, being herein called the “Indenture”), dated as of December 1, 2019, by and between the Issuer and U.S. Bank National Association, a national banking association, having a corporate trust office in Atlanta, Georgia (the national banking association and any bank or trust company becoming successor trustee under the Indenture being herein called the “Trustee”). Copies of the Indenture are on file at the designated office of the Trustee. Reference is hereby made to the Indenture for the provisions, among others, with respect to the custody and application of the proceeds of Bonds issued under the Indenture, the collection and disposition of revenues, a description of the funds charged with and pledged to the payment of the principal of and premium, if any, and interest on, or purchase price of, the Bonds, the nature and extent of the security, the terms and conditions under which the Bonds are or may be issued, the rights, duties and obligations of the Issuer and of the Trustee and the rights of the holders of the Bonds.

This Bond is issued, and the Indenture was made and entered into, under and pursuant to and in full compliance with the Constitution and laws of the State of Mississippi, particularly the provisions of Sections 57-10-201 *et seq.*, Mississippi Code of 1972, as amended and supplemented, including particularly Section 57-10-213, and pursuant to resolutions adopted by the Issuer on August 14, 2019 and November 13, 2019, which resolutions authorized the execution and delivery of the Bonds, the Loan Agreement (defined herein) and the Indenture.

The Issuer has entered into a Loan Agreement, dated as of December 1, 2019 (the “Loan Agreement”), with the Borrower, under the provisions of which the Issuer will loan the proceeds of the Bonds to the Borrower and the Borrower has agreed to apply such proceeds to financing the cost of the Project. The Loan Agreement, in accordance with

and as required by the Act, provides for the payment by the Borrower of amounts (“Loan Repayments”) sufficient to pay the principal of and premium, if any, and interest on the Bonds as the same shall become due and payable and the Loan Agreement further obligates the Borrower to pay the cost of maintaining, repairing and operating the Project. The Loan Agreement provides that the Loan Repayments shall be paid directly to the Trustee for the account of the Issuer. Such Loan Repayments shall be deposited to the credit of a special fund created by the Indenture and designated “Mississippi Business Finance Corporation Revenue Bonds (Gulf Power Company Project), Series 2019 Bond Fund” (the “Bond Fund”), which special fund is pledged to and charged with the payment of the principal of and premium, if any, and interest on all Bonds issued under the Indenture. The Loan Agreement further obligates the Borrower to pay the purchase price of Bonds tendered for purchase by the Registered Owners thereof pursuant to the provisions thereof, to the extent that funds are not otherwise available under the Indenture. The Loan Agreement provides that the Borrower is unconditionally obligated to meet its obligations to pay the Loan Repayments and to perform and observe the other agreements on its part contained therein.

In the manner hereinafter provided, the term of the Bonds will be divided into consecutive Interest Rate Periods during each of which the Bonds shall bear interest at a Daily Interest Rate, a Weekly Interest Rate, or a Long-Term Interest Rate or Rates, or each Bond may bear interest at a Commercial Paper Term Rate during one or more consecutive Commercial Paper Terms. The first Interest Rate Period shall be as specified in the Indenture. The subsequent Interest Rate Period(s) and interest rate(s) for this Bond shall be determined in accordance with the Indenture.

The Bonds will be subject to optional, extraordinary optional and mandatory redemption prior to maturity and to optional and mandatory tender for purchase and remarketing in certain circumstances, all as provided in the Indenture.

If an event of default under the Indenture shall occur, the principal of all Bonds may be declared due and payable upon the conditions, in the manner and with the effect provided in the Indenture.

As provided in the Indenture, and subject to certain limitations therein set forth, this Bond or any portion of the principal amount thereof will be deemed to have been paid within the meaning and with the effect expressed in the Indenture, and the entire indebtedness of the Issuer in respect thereof shall be satisfied and discharged, if there has been irrevocably deposited with the Trustee moneys and/or Governmental Obligations as provided in the Indenture.

If any Bonds are not presented for payment on their redemption date or at maturity, the Registered Owners thereof shall look only to the moneys set aside for such purpose by the Trustee. After one year, such moneys may be paid to the Borrower, and the Registered Owners of such Bonds shall thereafter look only to the Borrower for payment thereof.

At the designated corporate trust office of the Registrar, in the manner and subject to the limitations, conditions and charges provided in the Indenture, Bonds may be exchanged for an equal aggregate principal amount of Bonds of Authorized Denominations and bearing interest at the same rate.

The Registered Owner of this Bond shall have no right to enforce the provisions of the Indenture or to institute action to enforce the covenants therein, or to take any action to enforce the covenants therein, or to take any action with respect to any event of default under the Indenture, or to institute, appear in or defend any suit or other proceeding with respect thereto, except as provided in the Indenture.

Modifications, alterations or amendments of the Indenture or of any trust indenture supplemental thereto may be made only to the extent and in the circumstances permitted by the Indenture.

The transfer of this Bond may be registered by the Registered Owner hereof in person or by his attorney or legal representative at the corporate trust office of the Registrar, but only in the manner and subject to the limitations and conditions provided in the Indenture and upon surrender and cancellation of this Bond. Upon any such registration of transfer the Issuer shall execute and the Registrar shall authenticate and deliver in exchange for this Bond a new Bond or Bonds, registered in the name of the transferee, of Authorized Denominations, in aggregate principal amount equal to the principal amount of this Bond and bearing interest at the same rate.

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

All acts, conditions and things required to happen, exist and be performed precedent to and in the issuance of this Bond and the execution of the Indenture and the Loan Agreement have happened, exist and have been performed as so required.

The Registered Owner of this Bond, by acceptance hereof, is deemed to have agreed and consented to the terms and provisions of the Indenture and the Loan Agreement and, in the event this Bond bears interest at a Long-Term Interest Rate and any Pledge Agreement.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any benefit or security under the Indenture until it shall have been authenticated by the execution by the Registrar of the Certificate of Authentication endorsed hereon.

[Signature page follows]

**IN WITNESS WHEREOF, MISSISSIPPI BUSINESS FINANCE CORPORATION** has caused this Bond to be executed in its name by the manual or facsimile signatures of its Executive Director and Secretary and the official seal of the Authority to be affixed hereon, as of the \_\_\_<sup>th</sup> day of December, 2019.

**MISSISSIPPI BUSINESS FINANCE CORPORATION**

(SEAL)

Attest:

By: \_\_\_\_\_  
Executive Director

\_\_\_\_\_  
Secretary

[SIGNATURE PAGE TO MISSISSIPPI BUSINESS FINANCE CORPORATION  
REVENUE BONDS (GULF POWER COMPANY PROJECT), SERIES 2019]

**CERTIFICATE OF AUTHENTICATION**

This is one of the bonds designated therein and issued under the provisions of the within-mentioned Indenture.

Date of authentication: December \_\_, 2019

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

By: \_\_\_\_\_  
Authorized Signatory

STATE OF MISSISSIPPI  
COUNTY OF HINDS

The undersigned, Secretary of the Issuer, hereby certifies that the within Mississippi Business Finance Corporation Revenue Bond, Series 2019 (Gulf Power Company Project) was validated and confirmed by decree of the Chancery Court of the First Judicial District of Hinds County, Mississippi rendered on the \_\_<sup>th</sup> day of December, 2019.

(SEAL)

\_\_\_\_\_  
Secretary of Mississippi  
Business Finance Corporation

**FORM OF ASSIGNMENT**

**FOR VALUE RECEIVED,** \_\_\_\_\_ the undersigned, hereby sells.  
assigns and transfers unto:

---

PLEASE PRINT OR TYPEWRITE NAME AND ADDRESS OF ASSIGNEE

---

TAX IDENTIFICATION OR SOCIAL SECURITY NO.

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated:

---

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatever. Signature must be guaranteed by a member of a Medallion Signature Program.

**EXHIBIT B**

**NOTICE OF TENDER OF BOOK-ENTRY BONDS  
WEEKLY INTEREST RATE PERIOD**

**Mississippi Business Finance Corporation  
Revenue Bonds  
(Gulf Power Company Project), Series 2019**

The Undersigned DTC Participant representing the beneficial owner of the book-entry bonds described below (the “Tendered Book-Entry Bonds”) does hereby irrevocably tender the Tendered Book-Entry Bonds to U.S. Bank National Association, Atlanta, Georgia, or its successor as Tender Agent (the “Tender Agent”), for purchase by the Tender Agent seven days from the date of the Tender Agent’s receipt, by telecopy or otherwise, of this notice, or the next Business Day\* if such seventh day is not a Business Day (the “Tender Date”); provided, however, that if this notice is received by the Tender Agent by telecopy, this notice shall be of no force or effect, and the Tendered Book-Entry Bonds shall not be accepted or purchased by the Tender Agent, unless the Tender Agent receives this notice in original executed form by hand delivery prior to 2:00 p.m. New York time on the Business Day next succeeding its receipt of such notice by telecopy. The Purchase Price of Tendered Book-Entry Bonds shall be the unpaid principal amount of the Tendered Book-Entry Bonds plus accrued and unpaid interest, if any, thereon to, but not including, the Tender Date, and without premium (the “Purchase Price”). In the event that the Tender Date is also an interest payment date for the Tendered Book-Entry Bonds, interest on the Tendered Book-Entry Bonds to, but not including, the Tender Date shall be paid in the ordinary fashion and shall not constitute part of the Purchase Price.

Tendered Book-Entry Bonds

Tendered Principal Amount  
(\$100,000 and integral  
multiples of \$5,000 in  
excess thereof)  
\$

DTC Participant Number

CUSIP Number

\* “Business Day” shall have the meaning ascribed thereto by the Trust Indenture under which the Bonds are issued.

THE UNDERSIGNED ACKNOWLEDGES AND AGREES BY THE EXECUTION AND DELIVERY OF THIS NOTICE (1) THAT THE TENDER OF THE TENDERED BOOK-ENTRY BONDS IS IRREVOCABLE; (2) THAT THE UNDERSIGNED IS CONTRACTUALLY BOUND TO TENDER SUCH TENDERED BOOK-ENTRY BONDS TO THE TENDER AGENT ON THE TENDER DATE; AND (3) THAT IN THE EVENT OF A FAILURE TO TENDER THE TENDERED BOOK-ENTRY BONDS TO THE TENDER AGENT ON OR BEFORE 12:00 NOON NEW YORK TIME ON THE TENDER DATE THE UNDERSIGNED SHALL PAY TO THE TENDER AGENT AN AMOUNT (THE "DEFAULT AMOUNT") EQUAL TO THE DIFFERENCE BETWEEN (A) THE COSTS ARISING OUT OF THE FAILURE TO TENDER AND (B) THE PURCHASE PRICE, AS DEFINED ABOVE, WHICH WOULD HAVE BEEN PAID TO THE UNDERSIGNED UPON A TENDER. AS USED HEREIN THE "COSTS ARISING OUT OF THE FAILURE TO TENDER" SHALL MEAN THE SUM OF (X) THE AMOUNT EXPENDED BY THE TENDER AGENT, EITHER DIRECTLY OR THROUGH AN AGENT, IN ACQUIRING BOOK-ENTRY BONDS IN SUBSTITUTION OF THE TENDERED BOOK-ENTRY BONDS (INCLUDING INTEREST THEREON) AND (Y) THE ADMINISTRATIVE AND OTHER CHARGES, EXPENSES OR COMMISSIONS INCURRED IN CONNECTION WITH THE ACQUISITION OF SUCH SUBSTITUTE BOOK-ENTRY BONDS.

THE UNDERSIGNED AGREES THAT THE TENDER AGENT, EITHER DIRECTLY OR THROUGH AN AGENT, MAY ACQUIRE SUCH SUBSTITUTE BONDS IN SUCH MANNER AND MARKET AS IT DEEMS COMMERCIALY REASONABLE, AND FURTHER AGREES THAT THE DEFAULT AMOUNT IS REASONABLE IN LIGHT OF THE ANTICIPATED HARM CAUSED BY THE FAILURE TO TENDER AND THE INCONVENIENCE OF OBTAINING ANY OTHER REMEDY.

THE UNDERSIGNED HEREBY IRREVOCABLY APPOINTS THE TENDER AGENT AS HIS DULY AUTHORIZED ATTORNEY AND DIRECTS THE TENDER AGENT TO EFFECT THE TRANSFER OF THE TENDERED BOOK-ENTRY BONDS.

Date of Notice:  
Representing

Signature of DTC Participant  
the Beneficial Owner of the Tendered  
Book-Entry Bonds

---

Street City

---

State Zip

---

Area Code Telephone Number  
Federal Taxpayer Identification Number

---

---

---

NOTICE OF TENDER OF BOOK-ENTRY BONDS  
DAILY INTEREST RATE PERIOD

**Mississippi Business Finance Corporation  
Revenue Bonds  
(Gulf Power Company Project), Series 2019**

The Undersigned DTC Participant representing the beneficial owner of the book-entry bonds described below (the “**Tendered Book-Entry Bonds**”) does hereby irrevocably tender the Tendered Book-Entry Bonds to U.S. Bank National Association, Atlanta, Georgia, or its successor as Tender Agent (the “**Tender Agent**”), for purchase by the Tender Agent on the date hereof or the next Business Day\* if the date hereof is not a Business Day (the “**Tender Date**”); provided, however, that if this notice is not received by the Tender Agent by 11:00 a.m. on the date hereof, this notice shall be of no force or effect, and the Tendered Book-Entry Bonds shall not be accepted or purchased by the Tender Agent. The Purchase Price of Tendered Book-Entry Bonds shall be the unpaid principal amount of the Tendered Book-Entry Bonds plus accrued and unpaid interest, if any, thereon to, but not including, the Tender Date, and without premium (the “**Purchase Price**”). In the event that the Tender Date is also an interest payment date for the Tendered Book-Entry Bonds, interest on the Tendered Book-Entry Bonds to, but not including, the Tender Date shall be paid in the ordinary fashion and shall not constitute part of the Purchase Price.

Tendered Book-Entry Bonds

Tendered Principal Amount  
(\$100,000 and integral  
multiples of \$5,000 in  
excess thereof)  
\$

DTC Participant Number

CUSIP Number

---

\* “Business Day” shall have the meaning ascribed thereto by the Trust Indenture under which the Bonds are issued.

THE UNDERSIGNED ACKNOWLEDGES AND AGREES BY THE EXECUTION AND DELIVERY OF THIS NOTICE (1) THAT THE TENDER OF THE TENDERED BOOK-ENTRY BONDS IS IRREVOCABLE; (2) THAT THE UNDERSIGNED IS CONTRACTUALLY BOUND TO TENDER SUCH TENDERED BOOK-ENTRY BONDS TO THE TENDER AGENT ON THE TENDER DATE; AND (3) THAT IN THE EVENT OF A FAILURE TO TENDER THE TENDERED BOOK-ENTRY BONDS TO THE TENDER AGENT ON OR BEFORE 12:00 NOON NEW YORK TIME ON THE TENDER DATE THE UNDERSIGNED SHALL PAY TO THE TENDER AGENT AN AMOUNT (THE "DEFAULT AMOUNT") EQUAL TO THE DIFFERENCE BETWEEN (A) THE COSTS ARISING OUT OF THE FAILURE TO TENDER AND (B) THE PURCHASE PRICE, AS DEFINED ABOVE, WHICH WOULD HAVE BEEN PAID TO THE UNDERSIGNED UPON A TENDER. AS USED HEREIN THE "COSTS ARISING OUT OF THE FAILURE TO TENDER" SHALL MEAN THE SUM OF (X) THE AMOUNT EXPENDED BY THE TENDER AGENT, EITHER DIRECTLY OR THROUGH AN AGENT, IN ACQUIRING BOOK-ENTRY BONDS IN SUBSTITUTION OF THE TENDERED BOOK-ENTRY BONDS (INCLUDING INTEREST THEREON) AND (Y) THE ADMINISTRATIVE AND OTHER CHARGES, EXPENSES OR COMMISSIONS INCURRED IN CONNECTION WITH THE ACQUISITION OF SUCH SUBSTITUTE BOOK-ENTRY BONDS.

THE UNDERSIGNED AGREES THAT THE TENDER AGENT, EITHER DIRECTLY OR THROUGH AN AGENT, MAY ACQUIRE SUCH SUBSTITUTE BONDS IN SUCH MANNER AND MARKET AS IT DEEMS COMMERCIALY REASONABLE, AND FURTHER AGREES THAT THE DEFAULT AMOUNT IS REASONABLE IN LIGHT OF THE ANTICIPATED HARM CAUSED BY THE FAILURE TO TENDER AND THE INCONVENIENCE OF OBTAINING ANY OTHER REMEDY.

THE UNDERSIGNED HEREBY IRREVOCABLY APPOINTS THE TENDER AGENT AS HIS DULY AUTHORIZED ATTORNEY AND DIRECTS THE TENDER AGENT TO EFFECT THE TRANSFER OF THE TENDERED BOOK-ENTRY BONDS.

Date of Notice:  
Representing

Signature of DTC Participant  
the Beneficial Owner of the Tendered  
Book-Entry Bonds

---

---

---

Street City

---

State Zip

---

Area Code Telephone Number

Federal Taxpayer Identification Number

---

**LOAN AGREEMENT**

**Between**

**MISSISSIPPI BUSINESS FINANCE CORPORATION**

**and**

**GULF POWER COMPANY**

---

**\$55,000,000**  
**MISSISSIPPI BUSINESS FINANCE CORPORATION**  
**REVENUE BONDS**  
**(GULF POWER COMPANY PROJECT),**  
**SERIES 2019**

---

**Dated as of December 1, 2019**

---

(This Table of Contents is not a part of the Loan Agreement  
but is for convenience of reference only)

**TABLE OF CONTENTS**

	<u>Page</u>
<b>ARTICLE I</b>	
<b>DEFINITIONS AND RULES OF CONSTRUCTION</b>	
SECTION 1.1	Definitions..... 1
SECTION 1.2	Rules of Construction ..... 3
<b>ARTICLE II</b>	
<b>REPRESENTATIONS</b>	
SECTION 2.1	Representations by the Issuer..... 4
SECTION 2.2	Representations by the Borrower..... 4
<b>ARTICLE III</b>	
<b>LOAN OF PROCEEDS OF THE BONDS</b>	
SECTION 3.1	Amount and Source of Loan ..... 6
<b>ARTICLE IV</b>	
<b>COMPLETION OF THE PROJECT; ISSUANCE OF THE BONDS</b>	
SECTION 4.1	Agreement to Acquire and Construct the Project ..... 7
SECTION 4.2	Agreement to Issue the Bonds; Application of the Bond Proceeds..... 7
SECTION 4.3	Disbursements from the Construction Fund ..... 8
SECTION 4.4	The Borrower Required to Pay Remaining Cost of the Project..... 8
SECTION 4.5	Establishment of Completion Date ..... 8
SECTION 4.6	Investment of Fund Moneys; Arbitrage Covenant ..... 8
SECTION 4.7	The Borrower and Issuer Not to Adversely Affect Exclusion of Interest on Bonds from Gross Income for Federal Income Tax Purposes ..... 9
SECTION 4.8	No Third Party Beneficiary..... 11
<b>ARTICLE V</b>	
<b>PAYMENT PROVISIONS</b>	
SECTION 5.1	Loan Repayments and Other Amounts Payable ..... 12
SECTION 5.2	Obligations of the Borrower Hereunder Unconditional ..... 12
SECTION 5.3	Other Credit Enhancement..... 13
<b>ARTICLE VI</b>	
<b>MAINTENANCE AND REMOVAL</b>	
SECTION 6.1	Maintenance and Modifications of Project by the Borrower..... 14
SECTION 6.2	Removal of Portions of the Project..... 14

ARTICLE VII  
SPECIAL COVENANTS

SECTION 7.1	No Warranty of Condition or Suitability by the Issuer.....	15
SECTION 7.2	The Borrower to Maintain its Legal Existence; Conditions Under Which Exceptions Permitted.....	15
SECTION 7.3	Indemnification Covenants.....	15
SECTION 7.4	Limitation of Liability of the Issuer.....	17

ARTICLE VIII  
ASSIGNMENT, LEASING AND SALE

SECTION 8.1	Assignment, Leasing and Sale by the Borrower.....	18
SECTION 8.2	Assignment of Rights by the Issuer.....	18

ARTICLE IX  
EVENTS OF DEFAULT AND REMEDIES

SECTION 9.1	Events of Default Defined.....	20
SECTION 9.2	Remedies on Default.....	21
SECTION 9.3	No Remedy Exclusive.....	22
SECTION 9.4	Agreement to Pay Attorneys' Fees and Expenses.....	22
SECTION 9.5	No Additional Waiver Implied by One Waiver.....	22

ARTICLE X  
PREPAYMENT

SECTION 10.1	Right to Prepay Loan Repayments.....	23
SECTION 10.2	Procedure for Prepayments.....	23
SECTION 10.3	Relative Position of Agreement and Indenture.....	24
SECTION 10.4	Compliance with Indenture.....	24

ARTICLE XI  
PURCHASE AND REMARKETING OF BONDS

SECTION 11.1	Purchase of Bonds; Initial Remarketing Agent; Initial Tender Agent.....	25
SECTION 11.2	Optional Purchase of Bonds.....	25
SECTION 11.3	Determination of Interest Rate Periods.....	26

ARTICLE XII  
MISCELLANEOUS

SECTION 12.1	Notices.....	27
SECTION 12.2	Binding Effect.....	28
SECTION 12.3	Severability and Effect of Invalidity.....	28
SECTION 12.4	Termination.....	28
SECTION 12.5	If Payment or Performance Date a Legal Holiday.....	28

SECTION 12.6	Trustee, The Borrower and Issuer May Rely on Authorized Representatives.....	29
SECTION 12.7	Agreement Represents Complete Agreement.....	29
SECTION 12.8	Other Instruments.....	29
SECTION 12.9	Execution of Counterparts .....	29
SECTION 12.10	Applicable Law .....	29
SECTION 12.11	U.S.A. PATRIOT ACT.....	29

EXHIBIT A - Description of the Project

EXHIBIT B – Form of Requisition

## LOAN AGREEMENT

This LOAN AGREEMENT, made and entered into as of the 1st day of December, 2019 is by and between MISSISSIPPI BUSINESS FINANCE CORPORATION, a public corporation duly created and validly existing pursuant to the Constitution and laws of the State of Mississippi (the “*Issuer*”), and GULF POWER COMPANY (the “*Borrower*”), a corporation duly organized and validly existing under the laws of the State of Florida and qualified to transact business in the State of Mississippi:

### WITNESSETH:

In consideration of the respective representations and agreements hereinafter contained, the parties hereto agree as follows:

## ARTICLE I DEFINITIONS AND RULES OF CONSTRUCTION

### SECTION 1.1 DEFINITIONS.

(a) When used in this Loan Agreement (except as otherwise expressly provided or unless the context otherwise requires), the following terms shall have the meanings specified in the Indenture (as defined below):

Act  
Authorized Borrower Representative  
Bond Counsel  
Bond Fund  
Code  
Commercial Paper Interest Rate Period  
Construction Fund  
Daily Interest Rate Period  
Interest Payment Date  
Interest Rate Periods  
Long-Term Interest Rate Period  
Outstanding  
Paying Agent  
Pledge Agreement  
Purchase Fund  
Registrar  
Remarketing Agent  
Tender Agent  
Trustee  
Weekly Interest Rate Period

(b) When used herein, the word defined below shall have the meanings given to them by the language employed in this Section 1.1(b) defining such words and terms, unless the context clearly indicates otherwise.

**“Authorized Issuer Representative”** means the President, Vice President, Executive Director or Secretary of the Issuer or each of the persons at the time designated to act on behalf of the Issuer by written certificate furnished to the Borrower and the Trustee containing the specimen signatures of such persons and signed on behalf of the Issuer by the President, Vice President, Executive Director or Secretary of the Issuer.

**“Bonds”** means the Bonds authorized to be issued under Section 201 of the Indenture.

**“Borrower”** means Gulf Power Company, a corporation duly organized and validly existing under the laws of the State of Florida and qualified to transact business in the State of Mississippi, and its successors or assigns and any surviving, resulting or transferee corporation as provided in Section 7.2 hereof.

**“Completion Date”** means the date established in accordance with the provisions of Section 4.5 hereof.

**“Cost”** means any item of cost within any proper definition of such word under the Act and as defined for purposes of the Indenture.

**“Favorable Opinion of Bond Counsel”** means an opinion of Bond Counsel addressed to the Issuer and the Trustee to the effect that the action proposed to be taken is authorized or permitted by the laws of the State and this Loan Agreement and will not adversely affect any exclusion from gross income for federal income tax purposes of interest on the Bonds.

**“Force Majeure”** means the following: acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders of any kind of the government of the United States of America or of the State or any of their departments, agencies or officials or any political subdivision thereof, or any civil or military authority; insurrections; riots; epidemics; landslides; lightning; earthquakes; fire; hurricanes; storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; breakage or accident to machinery; partial or entire failure of utilities; terrorist activity; or any other cause or event not reasonably within the control of the Borrower.

**“Indenture”** means the Trust Indenture, of even date herewith, between the Issuer and U.S. Bank National Association, as Trustee, pursuant to which (i) the Bonds are authorized to be issued and (ii) the Issuer’s rights under this Loan Agreement (except the Issuer’s rights under Sections 5.1(c) and 9.4 hereof relating to payment of certain costs and expenses and under Section 7.3 hereof relating to indemnification), including the Loan

Repayments and other revenues and proceeds receivable by the Issuer are pledged and assigned as security for the payment of principal of and premium, if any, and interest on the Bonds, and any amendments or supplements thereto.

**“Issuer”** means the Mississippi Business Finance Corporation, a public corporation duly created and validly existing pursuant to the Constitution and laws of the State of Mississippi, and its successors and assigns and any resulting entity from or surviving any consolidation or merger to which it or its successors may be a party.

**“Loan Agreement”** means this Loan Agreement, as amended or supplemented.

**“Loan Repayments”** means the payments required by Section 5.1(a) hereof.

**“Project”** means the industrial wastewater, solid waste and functionally related and subordinate facilities of the Borrower described in EXHIBIT A attached hereto, as the same may be amended from time to time, together with all additions thereto and substitutions therefor, and less any deletions therefrom, as they may at any time exist.

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

**SECTION 1.2 RULES OF CONSTRUCTION.** (a) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders.

(b) Unless the context shall otherwise indicate, the words “Bond”, “owner”, “holder” and “person” shall include the plural as well as the singular number; the word “person” shall include any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization or government or any agency or political subdivision thereof; and the words “Holder”, “Bondholder” or “Owner” when used herein with respect to Bonds shall mean the registered owner of one or more Bonds at the time issued and outstanding under the Indenture.

(c) Words importing the redemption or calling for redemption of the Bonds shall not be deemed to refer to or to connote the payment of Bonds at their stated maturities.

(d) The captions or headings in this Loan Agreement are for convenience only and in no way limit the scope or intent of any provision or section of this Loan Agreement.

(e) All references herein to particular articles or sections are references to articles or sections of this Loan Agreement unless some other reference is indicated.

## **ARTICLE II REPRESENTATIONS**

**SECTION 2.1 REPRESENTATIONS BY THE ISSUER.** The Issuer makes the following representations, as of the date of delivery of this Loan Agreement:

(a) The Issuer is a public corporation duly created and validly existing pursuant to the Constitution and laws of the State of Mississippi;

(b) The Issuer is duly authorized under the provisions of the Act to enter into, execute and deliver this Loan Agreement, to undertake the transactions contemplated on its part by this Loan Agreement, and to carry out its obligations hereunder, and the Issuer has duly authorized the execution and delivery of this Loan Agreement;

(c) The Issuer proposes to issue under Section 201 of the Indenture \$55,000,000 aggregate principal amount of its Bonds for the purpose of financing the Cost of the Project; and

(d) By proper action of the Issuer, the officers of the Issuer executing and attesting this Loan Agreement have been duly authorized to execute and deliver this Loan Agreement.

**SECTION 2.2 REPRESENTATIONS BY THE BORROWER.** The Borrower makes the following representations, as of the date of delivery of this Loan Agreement:

(a) The Borrower is a corporation organized and existing under the laws of the State of Florida, is duly qualified to do business in the State and has power to enter into this Loan Agreement, and by proper corporate action has duly authorized the execution and delivery of this Loan Agreement;

(b) The Borrower has the power to enter into, and to perform and observe the covenants on its part contained in, this Loan Agreement, and, by proper corporate action, has duly authorized the execution and delivery of this Loan Agreement;

(c) The Borrower is not subject to any charter, bylaw or contractual limitation which in any way limits, restricts or prevents it from entering into, or performing and observing any of the covenants and agreements on its part contained in, this Loan Agreement;

(d) The execution and delivery of this Loan Agreement, does not, and the consummation of the transactions contemplated hereby and thereby and the fulfillment of the terms hereof and thereof will conflict with or not result in a breach of any of the terms or provisions of, or constitute a default under, any indenture, mortgage, deed of trust or other agreement or instrument to which the Borrower is a party or by which it is bound or

constitute a default under any of the foregoing or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Borrower under the terms of any instrument or agreement;

(e) All necessary authorizations, approvals, consents and other orders of any governmental authority or agency for the execution and delivery by the Borrower of this Loan Agreement have been obtained and are in full force and effect; and

(f) The information furnished by the Borrower and used by the Issuer in preparing the certification with respect to the Bonds pursuant to Section 148 of the Code and in preparing the information statement pursuant to Section 149(e) of the Code is accurate and complete as of the date of issuance of the Bonds.

**ARTICLE III**  
**LOAN OF PROCEEDS OF THE BONDS**

**SECTION 3.1 AMOUNT AND SOURCE OF LOAN.** Concurrently with the delivery of the Bonds, the Issuer will, upon the terms and conditions of this Loan Agreement, lend the proceeds of the Bonds to the Borrower, by depositing the proceeds of the sale thereof in accordance with the provisions of the Indenture.

**ARTICLE IV**  
**COMPLETION OF THE PROJECT; ISSUANCE OF THE BONDS**

**SECTION 4.1 AGREEMENT TO ACQUIRE AND CONSTRUCT THE PROJECT.** In accordance with the provisions of Section 4.3 hereof and Section 404 of the Indenture and except as otherwise provided in the Indenture, it is agreed that the proceeds, except accrued interest, from the sale of the Bonds will be used solely for the purpose of paying all or a portion of the Cost of the Project and thereby to cause the acquisition, construction and installation of the Project substantially in accordance with the plans and specifications of the Project, including any and all supplements, amendments and additions thereto and in accordance with change orders approved in writing by the Borrower, and to reimburse the Borrower for any Cost of the Project heretofore or hereafter paid by the Borrower from its own funds; provided, however, that no supplement, amendment, addition or change order relating to the plans and specifications shall be inconsistent with the representations made in Section 2.2 hereof or, except as permitted by the third paragraph of this Section 4.1, change the essential character and function of the Project initially described in EXHIBIT A hereto.

The Borrower agrees to use commercially reasonable efforts to cause the acquisition, construction and installation of the Project to be performed with reasonable dispatch in accordance with the plans and specifications therefor, delays by reason of Force Majeure beyond the reasonable control of the Borrower excepted, but if for any reason such acquisition, construction and installation is not completed there shall be no diminution in the Loan Repayments and other amounts required to be paid by the Borrower.

In addition to supplementing, amending and adding to the plans and specifications for the Project including any change orders, within the limits set forth in the first paragraph of this Section, it is understood and agreed that the Borrower may cause components of the Project to be omitted or deleted or new components to be substituted or added as an addition to the Project or in substitution of components thereof so omitted or deleted, provided that, if any change would alter the essential character or function of the Project, the Borrower shall, prior to causing any such change, file with the Trustee a written opinion of Bond Counsel to the effect that such change will not result in the interest on the Bonds, or any thereof, becoming subject to inclusion in gross income for purposes of federal income taxes then in effect. In the event of an omission, deletion, addition or substitution as aforesaid which shall cause EXHIBIT A to be inaccurate in any material respect, the Borrower and the Issuer shall revise EXHIBIT A to this Loan Agreement to reflect such omission, deletion, addition or substitution and mail a copy of such revised EXHIBIT A to the Trustee.

**SECTION 4.2 AGREEMENT TO ISSUE THE BONDS; APPLICATION OF THE BOND PROCEEDS.** (a) The Issuer agrees that it will, as promptly as possible, issue, sell and cause to be delivered to the purchasers thereof \$55,000,000 aggregate principal amount of its Bonds for the purpose of paying a portion of the Cost of the Project.

The Issuer will cause proceeds of the Bonds to be applied in the manner required by the Indenture in accordance with directions of the Borrower provided upon issuance of the Bonds.

(b) The Borrower hereby approves the terms and conditions of the Indenture and the Bonds, and the terms and conditions under which the Bonds have been issued, sold and delivered.

**SECTION 4.3 DISBURSEMENTS FROM THE CONSTRUCTION FUND.** The Issuer and the Borrower hereby agree that moneys in the Construction Fund shall be applied to the payment of the Cost of the Project or otherwise in accordance with Article IV of the Indenture. The Trustee shall not make any disbursement from the Construction Fund until the Borrower shall have provided the Trustee with a requisition in substantially the form attached hereto as Exhibit "B" and shall have delivered such requisition in accordance with Article IV of the Indenture.

**SECTION 4.4 THE BORROWER REQUIRED TO PAY REMAINING COST OF THE PROJECT.** In the event that moneys in the Construction Fund available for the payment of the Cost of the Project should not be sufficient to pay the Cost of the Project, the Borrower agrees to pay all that portion of the Cost of the Project not available therefor in the Construction Fund. The Issuer does not make any warranty that the foregoing amounts paid into the Construction Fund will be sufficient to pay the Cost of the Project. The Borrower agrees that if, after exhaustion of the moneys in the Construction Fund, the Borrower should pay any portion of the Cost of the Project it shall not be entitled to any reimbursement therefor from the Trustee, except as contemplated by Section 403(a) of the Indenture, or from the holders of any of the Bonds, and that it shall not be entitled to any abatement or diminution of the Loan Repayments payable under Section 5.1(a) hereof.

**SECTION 4.5 ESTABLISHMENT OF COMPLETION DATE.** The Completion Date shall be evidenced to the Trustee by a certificate dated and signed by an Authorized Borrower Representative setting forth the Cost of the Project and stating that, except for amounts not then due and payable or the liability for the payment of which is being contested or disputed by the Borrower, (i) the acquisition, construction and installation of the Project have been completed substantially in accordance with the plans and specifications therefor and the Cost of the Project has been paid, and (ii) all other facilities necessary in connection with the Project have been acquired, constructed and installed in accordance with the plans and specifications therefor and all costs and expenses incurred in connection therewith have been paid. Notwithstanding the foregoing, such certificate shall state that it is given without prejudice to any rights against third parties which exist at the date of such certificate or which may subsequently come into being.

**SECTION 4.6 INVESTMENT OF FUND MONEYS; ARBITRAGE COVENANT.** Any moneys held as part of the Bond Fund or Construction Fund shall be invested or reinvested by the Trustee as provided in the Indenture. The Borrower hereby

covenants that it will restrict that investment and reinvestment and the use of the proceeds of the Bonds in such manner and to such extent, if any, as may be necessary so that the Bonds will not constitute arbitrage bonds under Section 148 of the Code.

The Borrower shall provide the Issuer with, and the Issuer may base its certificate required under Section 148 of the Code on, a certificate of an appropriate officer, employee or agent of or consultant to the Borrower for inclusion in the transcript of proceedings for the Bonds, setting forth the reasonable expectations of the Borrower on the date of delivery of and payment for the Bonds regarding the amount and use of the proceeds of the Bonds and the facts, estimates and circumstances on which those expectations are based.

**SECTION 4.7 THE BORROWER AND ISSUER NOT TO ADVERSELY AFFECT EXCLUSION OF INTEREST ON BONDS FROM GROSS INCOME FOR FEDERAL INCOME TAX PURPOSES.** (a) The Borrower and the Issuer each hereby represents and covenants, for the benefit of the holders of the Bonds, that, to the best of its knowledge, information and belief, respectively, it has taken and caused to be taken and that it shall take and cause to be taken all actions that may be required of it for the interest on the Bonds to be and to remain excluded from the gross income of the owners thereof for federal income tax purposes, and that, to the best of its knowledge, information and belief, respectively, it has not taken or permitted to be taken on its behalf, and that it shall not take, or permit to be taken on its behalf, any action which, if taken, would adversely affect that exclusion for federal income tax purposes. The Borrower further covenants with the Issuer, for the benefit of the holders of the Bonds, that it shall take all steps necessary to comply with the provisions of Section 148(f) of the Code, relating to rebate payments to the United States of America, to the extent applicable.

(b) Without limiting the foregoing, the Borrower agrees as follows:

1. At least 95% of the proceeds of the Bonds will be used to provide “sewage or solid waste disposal facilities” or land, buildings or other property functionally related and subordinate thereto within the meaning of Section 142(a)(5) or (6) of the Code, and the applicable existing and proposed regulations promulgated thereunder, in each case the original use of which facilities commenced with the Borrower. All of the proceeds of the Bonds will be spent for Costs of the Project.

2. Not more than 2% of the proceeds (within the meaning of Section 147(g) of the Code) of the Bonds will be used to pay for any costs of issuance of the Bonds.

3. No portion of the proceeds of the Bonds will be used to provide a skybox or other private luxury box, airplane, any health club facility, store the principal business of which is the sale of alcoholic beverages for consumption off premises or facility used primarily for gambling.

4. Any portion of the proceeds of the Bonds to be used to pay the cost of acquisition of any real or personal property (or any interest therein) to be included in the Project is or will be with respect to land or either (i) real or personal property of which the Borrower is the first user; or (ii) a building (and the equipment therefor) if the rehabilitation expenditures (as defined in Section 147(d)(3) of the Code) with respect to such building equals or exceeds fifteen percent (15%) of the portion of the cost of acquiring such building (and equipment) to be financed with the proceeds of the Bonds; or (iii) a structure other than a building (and equipment therefor) if the rehabilitation expenditures (as defined in Section 147(d)(3) of the Code) with respect to such structure equals or exceeds one hundred percent (100%) of the portion of the cost of acquiring such property to be financed with the proceeds of the Bonds.

5. No portion of the proceeds of the Bonds will be used directly or indirectly for the acquisition of land or any interest therein to be used for the purpose of farming.

6. Less than twenty-five percent (25%) of the proceeds of the Bonds will be used directly or indirectly for the acquisition of land or any interest therein to be used for purposes other than farming.

7. The Project does not and will not include any office except for offices (i) located at the site of the Project and (ii) not more than a de minimis amount of the functions to be performed at which is not directly related to the day-to-day operations of the Project.

8. Except for certain “preliminary expenditures” described below, no portion of the proceeds of the Bonds will be used to reimburse the Borrower for costs of the Project paid more than 60 days prior to August 14, 2019 (the date on which the Issuer adopted a resolution declaring its official intent to issue revenue bonds in order for the Borrower to reimburse itself for such expenditures from the proceeds of the Bonds). Except for preliminary expenditures, the Borrower agrees that it will not seek reimbursement from the proceeds of the Bonds for any expenditure that was paid more than three years prior to the date of reimbursement, nor will the Borrower seek reimbursement of any expenditure for any facility more than 18 months after such facility has been placed in service. The Borrower agrees that the amount of proceeds of the Bonds to be used to reimburse “preliminary expenditures” will not exceed 20% of the proceeds of the Bonds. “Preliminary expenditures” means expenditures for architectural, engineering, surveying, soil testing, and similar costs that were incurred prior to commencement of the acquisition, construction, installation, modification or equipping of the Project (other than land acquisition, site preparation and similar costs incident to the commencement of construction).

**SECTION 4.8 NO THIRD PARTY BENEFICIARY.** It is specifically agreed between the parties executing this Loan Agreement that it is not intended by any of the provisions of any part of this Loan Agreement to create in favor of the public or any member thereof, other than as expressly provided herein or in the Indenture, the rights of a third party beneficiary hereunder, or to authorize anyone not a party to this Loan Agreement, or specifically indemnified hereunder, to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Loan Agreement. The duties, obligations and responsibilities of the parties to this Loan Agreement with respect to third parties shall remain as imposed by law.

**ARTICLE V  
PAYMENT PROVISIONS**

**SECTION 5.1 LOAN REPAYMENTS AND OTHER AMOUNTS PAYABLE.** (a) The Borrower agrees to repay the loan made by the Issuer by paying to the Trustee for the account of the Issuer an amount equal to the principal amount of the Bonds plus the interest accrued thereon and any premium in installments (the “Loan Repayments”) due on the dates, in the amounts and in the manner provided in the Indenture for the Issuer to cause payment to be made to the holders of the Bonds of the principal of and interest and any premium on the Bonds, whether at maturity, upon redemption or otherwise, provided that any amount credited under the Indenture against any payment required to be made by the Issuer thereunder shall be credited against the corresponding payment required to be made by the Borrower hereunder. Notwithstanding anything to the contrary contained herein, the Borrower covenants that it will pay the Loan Repayments at such times and in such amounts to assure that payment of the principal of and interest and any premium on the Bonds shall be made when due.

(b) The Borrower agrees to pay to the Trustee promptly upon billing, (i) the reasonable fees and charges of the Trustee, Paying Agent, Registrar, Remarketing Agent and Tender Agent and all expenses (including reasonable counsel fees) incurred by such parties under this Loan Agreement, the Indenture or any Pledge Agreement as the same become due, (ii) any expenses incurred in connection with the purchase or redemption of Bonds and (iii) the amounts owed to the Trustee pursuant to Section 902 of the Indenture.

(c) The Borrower agrees to pay to the Issuer promptly upon billing, an amount equal to the reasonable costs and expenses (including reasonable counsel fees) of the Issuer incurred in connection with this Loan Agreement, the Indenture and the Bonds, until the principal of and premium, if any, and interest on the Bonds shall have been fully paid or provision for the payment thereof shall have been made in accordance with the provisions of the Indenture.

(d) The Borrower covenants, for the benefit of the owners of the Bonds, to pay or cause to be paid, to the Tender Agent for deposit in the Purchase Fund, such amounts as shall be necessary to enable the Tender Agent to pay the purchase price of Bonds delivered to it for purchase, all as more particularly described in Article XIV of the Indenture.

**SECTION 5.2 OBLIGATIONS OF THE BORROWER HEREUNDER UNCONDITIONAL.** Until such time as the principal of and premium, if any, and interest on all Bonds shall have been fully paid or deemed to have been paid in accordance with Article XIII of the Indenture, the Borrower’s obligations under this Loan Agreement shall be absolute and unconditional, and the Borrower (a) will not suspend or discontinue payment of any amounts required to be paid by it pursuant to Section 5.1 hereof, (b) will perform and observe all of its other agreements contained in this Loan Agreement, and (c) except as permitted by this Loan Agreement, will not terminate this Loan Agreement for

any cause, including, without limiting the generality of the foregoing, the occurrence of any act or circumstance that may constitute failure of consideration, destruction of or damage to the Project, commercial frustration of purpose, any change in the tax or other laws of the United States of America or of the State or any political subdivision of either of them, or any failure of the Issuer to perform or observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Loan Agreement. Notwithstanding anything in the Indenture or this Agreement, the Borrower agrees that the obligation of the Borrower to pay the expenses of the Issuer and the Trustee under Section 9.4, as well as the indemnification afforded to the Issuer Indemnified Parties and the Trustee under Section 7.3 of this Loan Agreement, shall not be discharged upon the payment in full of the Bonds

Nothing contained in this Section shall be construed to release the Issuer from the performance of any of the agreements on its part herein contained; and in the event the Issuer should willfully fail to perform any such agreement on its part, the Borrower may institute such action against the Issuer as the Borrower may deem necessary to compel performance so long as such action shall not violate the agreements on the part of the Borrower contained in the first sentence of this Section or diminish the amounts required to be paid by the Borrower pursuant to Section 5.1 hereof. The Borrower may also, at its own cost and expense and in its own name or in the name of the Issuer, prosecute or defend any action or proceeding or take any other action involving third persons which the Borrower deems reasonably necessary in order to secure or protect its right of possession, occupancy and use hereunder, and in such event the Issuer hereby agrees to cooperate fully with the Borrower and to take all action necessary to effect the substitution of the Borrower for the Issuer in any action or proceeding if the Borrower shall so request.

**SECTION 5.3 OTHER CREDIT ENHANCEMENT.** The Borrower may at its discretion in connection with an adjustment of the Bonds to a Long-Term Interest Rate Period provide additional collateral security for the payment of principal of and interest on the Bonds including, but not limited to, an insurance policy, irrevocable transferable letter of credit, guaranty, surety bond, line of credit, revolving credit agreement or other agreement or device providing for the payment of the principal, interest and redemption premium on, and purchase price of, the Bonds; provided, however, that prior to the delivery of such other credit enhancement, the Borrower shall cause to be delivered to the Trustee (1) a Favorable Opinion of Bond Counsel, and (2) an opinion of counsel to the provider of such credit enhancement with respect to the enforceability of such credit enhancement. Notwithstanding anything to the contrary contained in the Indenture, the Bonds or this Loan Agreement, upon delivery of such credit enhancement, the principal, interest and redemption premium on, and purchase price of, the Bonds shall also be secured by, and payable from, such credit enhancement.

**ARTICLE VI  
MAINTENANCE AND REMOVAL**

**SECTION 6.1 MAINTENANCE AND MODIFICATIONS OF PROJECT BY THE BORROWER.** Subject to the provisions of Section 6.2 hereof, the Borrower agrees that so long as any Bonds are outstanding it will, at no expense to the Issuer, maintain, repair and operate the Project, or cause the Project to be maintained, repaired and operated, in accordance with the Act. The Borrower may cause modifications to be made to completed components of the Project.

**SECTION 6.2 REMOVAL OF PORTIONS OF THE PROJECT.** The Borrower shall not be under any obligation to cause renewal, repair or replacement of any inadequate, obsolete, worn-out, unsuitable, undesirable or unnecessary portion of the Project. In any instance where the Borrower determines that any portion of the Project have become inadequate, obsolete, worn-out, unsuitable, undesirable or unnecessary, the Borrower may cause such portion of the Project to be removed and cause the sale, trade in, exchange or other disposal of such removed portion of the Project without any responsibility or accountability to the Issuer, the Trustee or the holders of the Bonds.

The removal of any portion of the Project pursuant to the provisions of this Section shall not entitle the Borrower to any abatement or diminution of the amounts required to be paid pursuant to Section 5.1 hereof.

## **ARTICLE VII SPECIAL COVENANTS**

**SECTION 7.1 NO WARRANTY OF CONDITION OR SUITABILITY BY THE ISSUER.** The Issuer makes no warranty, either express or implied, as to the condition of the Project or their suitability for the Borrower's purposes or needs.

**SECTION 7.2 THE BORROWER TO MAINTAIN ITS LEGAL EXISTENCE; CONDITIONS UNDER WHICH EXCEPTIONS PERMITTED.** The Borrower agrees that, so long as any Bonds are outstanding, it will maintain its legal existence, will not dissolve or otherwise dispose of all or substantially all of its assets and will not consolidate with or merge into one or more other entities or permit one or more other entities to consolidate with or merge into it; provided that the Borrower may, without violating its agreement contained in this Section, consolidate with or merge into one or more other entities, or permit one or more other entities to consolidate with or merge into it, or sell or otherwise transfer to one or more other entities all or substantially all of its assets as an entirety and thereafter dissolve, provided the surviving, resulting or transferee entity or entities, as the case may be (if other than the Borrower), assumes or assume in writing all of the obligations of the Borrower herein, and, if not organized under the laws of the State, is or are qualified to do business in the State.

**SECTION 7.3 INDEMNIFICATION COVENANTS.** (a) The Borrower hereby agrees to indemnify and hold harmless the Trustee and its officers, directors, agents and employees from and against any and all costs, claims, liabilities, losses or damages whatsoever (including reasonable costs and fees of counsel, auditors or other experts), asserted or arising out of or in connection with the acceptance or administration of the trusts established pursuant to the Indenture, except costs, claims, liabilities, losses or damages resulting from the gross negligence or willful misconduct of the Trustee, including the reasonable costs and expenses (including the reasonable fees and expenses of its counsel) of defending itself against any such claim or liability in connection with its exercise or performance of any of its duties hereunder and of enforcing this indemnification provision. The Borrower hereby agrees to indemnify and hold harmless the Trustee and its officers, directors, agents and employees from and against any and all costs, claims, liabilities, losses or damages whatsoever (including reasonable costs and fees of counsel, auditors or other experts), asserted or arising out of or in connection with claims arising out of the construction agreements and the construction or operation of the Project. If any such claim is asserted, or any such lien or charge upon payments, or any such taxes, assessments, impositions or other charges are sought to be imposed, the Trustee shall give prompt notice to the Borrower, and the Borrower shall pay the same or bond and assume the defense thereof, with full power to contest, litigate, compromise or settle the same in its sole discretion. The indemnifications set forth herein shall survive the termination of the Indenture and this Loan Agreement and the resignation or removal of the Trustee and shall extend to the Trustee in each of its capacities under the Indenture.

(b) The Borrower agrees to indemnify the Issuer, its members, officers, employees and agents (the "Issuer Indemnified Parties") against all claims arising out of (1) the breach by the Borrower of the Borrower's covenants under Sections 4.4 and 4.5 hereof and (2) the Indenture, this Loan Agreement, any Pledge Agreement, construction agreements and the construction or operation of the Project and to pay or bond or discharge and indemnify and hold harmless the Issuer Indemnified Parties from and against (a) any lien or charge upon payments by the Borrower, to or for the account of the Issuer hereunder, and (b) any taxes, assessments, impositions and other charges of any federal, state or municipal government or political body in respect of the Project; provided, however, the Borrower shall not indemnify the Issuer Indemnified Parties against claims resulting from any willfully wrongful act of the Issuer. If any such claim is asserted, or any such lien or charge upon payments or any such taxes, assessments, impositions or other charges are sought to be imposed, the Issuer will give prompt notice to the Borrower, and the Borrower shall pay the same or bond and assume the defense thereof, with full power to contest, litigate, compromise or settle the same in its sole discretion.

(c) The Borrower shall at all times protect and hold the Issuer Indemnified Parties harmless against any claims or liability resulting from any loss or damage to property or any injury to or death of any person that may be occasioned by any cause whatsoever pertaining to the Project or the use thereof, including without limitation any assignment of its interest in this Loan Agreement, such indemnification to include reasonable expenses and attorneys' fees incurred by the Issuer Indemnified Parties in connection therewith, provided that such indemnity shall be effective only to the extent of any loss that may be sustained by the Issuer Indemnified Parties in excess of the net proceeds received by it or them from any insurance carried by the Borrower with respect to such loss and provided further that the benefits of this Section 7.3(c) shall not inure to any person other than the Issuer Indemnified Parties and provided that the Borrower shall not indemnify the Issuer Indemnified Parties against any claim or liability resulting from the willfully wrongful act of the Issuer.

(d) The Borrower further agrees to indemnify and hold harmless the Issuer Indemnified Parties against any and all losses, claims, damages or liabilities, joint or several, to which they or any of them may become subject and to reimburse each of them for any legal or other expenses (including, to the extent hereinafter provided, reasonable counsel fees) incurred by them in connection with investigating any such losses, claims, damages or liabilities or in connection with defending any actions, insofar as such losses, claims, damages, liabilities, expenses or actions arise out of or are based upon any untrue statement or alleged untrue statement of a material fact contained in any disclosure or offering document prepared in connection with the initial sale of the Bonds or any remarketing of the Bonds, including any documents incorporated into such disclosure or offering document, or the omission or alleged omission to state therein a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading. The Issuer agrees promptly to notify the Borrower of the

commencement of any litigation or proceedings against it, any of its aforesaid officials or employees in connection with the issuance and sale or remarketing of the Bonds. The omission so to notify the Borrower of any such action shall not relieve the Borrower from any liability which it may have to the Issuer otherwise than on account of the foregoing indemnity. In case such notice of any such action shall be so given, the Borrower shall be entitled to participate at its own expense in the defense of such action, in which event such defense shall be conducted by counsel chosen by the Borrower satisfactory to the Issuer and the Issuer shall bear the fees and expenses of any additional counsel retained by it; but if the Borrower shall elect not to assume the defense of such action, the Borrower will reimburse the Issuer Indemnified Parties for the reasonable fees and expenses of any counsel retained by them; provided, however, if the Issuer Indemnified Parties in any such action include both the Borrower and the Issuer Indemnified Parties and counsel for the Borrower shall have reasonably concluded that there may be a conflict of interest involved in the representation by such counsel of both the Borrower and the Issuer Indemnified Party, the Issuer Indemnified Party or Parties shall have the right to select separate counsel, satisfactory to the Borrower, to participate in the defense of such action on behalf of such Issuer Indemnified Party or Parties (it being understood, however, that the Borrower shall not be liable for the expenses of more than one separate counsel representing the Issuer Indemnified Parties who are parties to such action).

Notwithstanding the foregoing, the obligations of the Borrower and the indemnification afforded by this Section 7.3 shall not be discharged upon the payment in full of the Bonds

**SECTION 7.4 LIMITATION OF LIABILITY OF THE ISSUER.** In the event of any default by the Issuer hereunder, the liability of the Issuer to the Borrower shall be enforceable only out of its interest under this Loan Agreement and there shall be no other recourse by the Borrower against the Issuer, its members, officers, agents and employees, past, present or future, or any of the property now or hereafter owned by it or them. No obligation of the Issuer hereunder or under the Bonds shall be deemed to constitute a debt, liability or obligation of the Issuer or of the State or any other political subdivision thereof. No covenant, agreement or obligation contained herein shall be deemed to be a covenant, agreement or obligation of any member, officer, employee or agent of the Issuer in his individual capacity, and neither the members of the Issuer nor any officer thereof executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof. No member, officer, employee or agent of the Issuer shall incur any personal liability with respect to any other action taken by him pursuant to this Agreement or the Indenture.

**ARTICLE VIII  
ASSIGNMENT, LEASING AND SALE**

**SECTION 8.1 ASSIGNMENT, LEASING AND SALE BY THE BORROWER.** This Loan Agreement may be assigned, and the Project may be leased or sold as a whole or in part, by the Borrower without the necessity of obtaining the consent of either the Issuer or the Trustee, subject, however, except as provided in Section 7.2 hereof, to each of the following conditions:

(a) no assignment, lease or sale shall relieve the Borrower from liability for any of its obligations hereunder, and in the event of any such assignment, lease or sale (unless the Issuer and the Trustee otherwise consent) the Borrower shall continue to remain primarily liable for the payments required to be made pursuant to Sections 5.1 and 5.3 hereof and for the performance and observance of the other agreements on its part contained herein;

(b) the assignee, lessee or buyer shall assume the obligations of the Borrower hereunder to the extent of the interest assigned, leased or sold, except, at the option of the Borrower, the Borrower may retain its obligations under Sections 5.1 and 5.3 hereof, including without limitation, its obligations with respect to Loan Repayments hereunder; and

(c) The Borrower shall, not later than 10 days prior to the delivery thereof, furnish or cause to be furnished to the Issuer and to the Trustee a true and complete copy of the form of each such proposed assignment, lease or conveyance, as the case may be.

**SECTION 8.2 ASSIGNMENT OF RIGHTS BY THE ISSUER.** The Borrower hereby consents to the pledge and assignment by the Issuer of all of its rights under this Loan Agreement (except its rights under Sections 5.1(c) and 9.4 hereof relating to payment of certain costs and expenses and under Section 7.3 hereof relating to indemnification) to the Trustee under the Indenture for the benefit of the holders from time to time of the Bonds, and the Borrower hereby agrees that by virtue of such assignment the Trustee may enjoy and enforce all such rights of the Issuer hereunder.

The Issuer agrees that, except for such pledge and assignment, it will not pledge, assign, mortgage, encumber, convey or otherwise transfer any of its interests or rights under this Loan Agreement; provided, however, that if the laws of the State at the time shall so permit, nothing contained in this Section shall prevent the consolidation of the Issuer with, or merger of the Issuer into, any public entity the property and income of which are not subject to, or are exempt from, taxation; and provided, further, that upon any such consolidation, merger or transfer, the due and punctual payment of the principal of, premium, if any, and interest on the Bonds according to their tenor, and the due and punctual performance and observance of all the agreements and conditions of this Loan

Agreement to be kept and performed by the Issuer, shall be expressly assumed in writing by the entity resulting from such consolidation or surviving such merger.

**ARTICLE IX  
EVENTS OF DEFAULT AND REMEDIES**

**SECTION 9.1 EVENTS OF DEFAULT DEFINED.** The following shall be “events of default” under this Loan Agreement, and the terms “event of default” and “default” shall mean, whenever they are used in this Loan Agreement, any one or more of the following events:

(a) Failure by the Borrower to pay or cause to be paid when due the Loan Repayments in the amounts and at the times specified in Section 5.1(a) hereof or the amounts payable under Section 5.1(d) hereof necessary to enable the Tender Agent to pay the purchase price of Bonds delivered to it for purchase, which failure shall have resulted in an event of default under subsection (a), (b) or (c) of Section 801 of the Indenture.

(b) Failure by the Borrower to observe or to perform any covenant, condition, representation or agreement in this Loan Agreement on its part to be observed or performed, other than as referred to in clause (a) of this Section, for a period of 90 days after written notice, specifying such failure and requesting that it be remedied, has been given to the Borrower by the Issuer or the Trustee, which may give such notice in its discretion and shall give such notice at the written request of the holders of not less than a majority in principal amount of the Bonds then outstanding, unless the Issuer and the Trustee, or the Issuer, the Trustee and the holders of a principal amount of Bonds not less than the principal amount of Bonds the holders of which requested such notice, as the case may be, agree in writing to an extension of such period prior to its expiration; provided, however, that the Issuer and the Trustee, or the Issuer, the Trustee and the holders of such principal amount of Bonds, as the case may be, shall be deemed to have agreed to an extension of such period if corrective action has been instituted by the Borrower within the applicable period and is being diligently pursued.

(c) The expiration of a period of ninety (90) days following:

(1) the adjudication of the Borrower as a bankrupt by any court of competent jurisdiction;

(2) the entry of an order approving a petition seeking reorganization or arrangement of the Borrower under the Federal Bankruptcy Laws or any other applicable law or statute of the United States of America, or of any state thereof; or

(3) the appointment of a trustee or a receiver of all or substantially all of the property of the Borrower;

(4) unless during such period such adjudication, order or appointment of a trustee or receiver shall be vacated or shall be stayed on appeal or otherwise or shall have otherwise ceased to continue in effect.

(d) The filing by the Borrower of a voluntary petition in bankruptcy or the making of an assignment for the benefit of creditors; the consenting by the Borrower to the appointment of a receiver or trustee of all or any part of its property; the filing by the Borrower of a petition or answer seeking reorganization or arrangement under the Federal Bankruptcy Laws, or any other applicable law or statute of the United States of America, or any state thereof; or the filing by the Borrower of a petition to take advantage of any insolvency act.

The provisions of clause (b) of this Section are subject to the following limitations: If by reason of Force Majeure the Borrower is unable as a whole or in part to carry out its agreements herein contained, other than the obligations on the part of the Borrower contained in Article V and Sections 7.3, 7.4 and 9.4 hereof, the Borrower shall not be deemed in default during the continuance of such inability. The Borrower agrees, however, to use its best efforts to remedy with all reasonable dispatch the cause or causes preventing the Borrower from carrying out its agreements; provided, that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of the Borrower, and the Borrower shall not be required to make settlement of strikes, lockouts and other industrial disturbances by acceding to the demands of the opposing party or parties when such course is in the judgment of the Borrower unfavorable to the Borrower.

**SECTION 9.2 REMEDIES ON DEFAULT.** Upon the occurrence and continuance of an event of default specified in clause (a), (c) or (d) of Section 9.1 hereof, and further upon the condition that all Bonds outstanding under the Indenture shall have become immediately due and payable, all Loan Repayments hereunder shall, without further action, become immediately due and payable.

Any waiver of an event of default under the Indenture and a rescission and annulment of its consequences shall constitute a waiver of the corresponding event of default under this Loan Agreement and a rescission and annulment of the consequences thereof.

Upon the occurrence and continuance of any event of default, the Issuer may take whatever action at law or in equity may appear necessary or desirable to collect the Loan Repayments then due and thereafter to become due or to enforce performance and observance of any obligation, agreement or covenant of the Borrower under this Loan Agreement.

Any amounts collected pursuant to action taken under this Section 9.2 shall, after deducting the costs of collection, be paid into the Bond Fund and applied in accordance with the provisions of the Indenture or, if the Bonds have been fully paid (or deemed to have been paid in accordance with the provisions of Article XIII of the Indenture), to the Borrower.

In the enforcement of the remedies provided in this Section, the Issuer may treat, and the Borrower agrees to pay, all expenses of enforcement, including, without limitation, reasonable legal, accounting and advertising expenses and Trustee's fees and expenses, as amounts then due and owing under Section 5.1(b) or (c) hereof.

**SECTION 9.3 NO REMEDY EXCLUSIVE.** No remedy herein conferred upon or reserved to the Issuer is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Loan Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

**SECTION 9.4 AGREEMENT TO PAY ATTORNEYS' FEES AND EXPENSES.** In the event the Borrower should default under any of the provisions of this Loan Agreement or any Pledge Agreement and the Issuer should employ attorneys or incur other expenses for the collection of the Loan Repayments hereunder or the enforcement of performance or observance of any obligation or agreement of the Borrower herein or therein contained, the Borrower agrees that it will on demand therefor pay to the Issuer the reasonable fees of such attorneys and such other reasonable expenses so incurred by the Issuer, to the extent permitted by law.

**SECTION 9.5 NO ADDITIONAL WAIVER IMPLIED BY ONE WAIVER.** In the event any agreement contained in this Loan Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

## **ARTICLE X PREPAYMENT**

**SECTION 10.1 RIGHT TO PREPAY LOAN REPAYMENTS.** (a) During any Long-Term Interest Rate Period, the Borrower shall have, and is hereby granted, the option to prepay Loan Repayments due hereunder with respect to the Bonds at any time by taking, or causing the Issuer to take, the actions required by the Indenture for the redemption, or provision therefor, of all Bonds then outstanding, if:

(1) The Borrower shall have determined that the continued operation of any portion of the Project is impracticable, uneconomical or undesirable; or

(2) all or substantially all of any of the Project shall have been condemned or taken by eminent domain; or

(3) the operation of any portion of the Project shall have been enjoined for a period of at least six consecutive months; or

(4) as a result of any change in the Constitution of the State or the Constitution of the United States of America, or as a result of any legislative or administrative action (whether state or federal) or by final decree, judgment or order of any court or administrative body (whether state or federal) after any contest thereof by the Borrower in good faith, the Indenture, the Agreement or the Bonds shall become void or unenforceable or impossible of performance in accordance with the intent and purposes of the parties as expressed in the Agreement.

(b) The Borrower shall have, and is hereby granted, the option to prepay all or any portion of the unpaid Loan Repayments hereunder, together with interest thereon, at any time by taking, or causing the Issuer to take, the actions required by the Indenture (i) to discharge the lien thereof through the redemption, or provision for payment or redemption, of all Bonds then outstanding or (ii) to effect the redemption, or provision for payment or redemption, of less than all Bonds then outstanding.

**SECTION 10.2 PROCEDURE FOR PREPAYMENTS.** To exercise an option granted in Section 10.1 hereof, the Borrower shall give written notice to the Issuer and the Trustee which shall designate therein the principal amount and maturities of the Bonds to be redeemed, or for the payment or redemption of which provision is to be made, and, in the case of a redemption of Bonds, shall specify (a) the date of redemption, which shall not be less than 45 days from the date the notice is mailed (unless a shorter notice is satisfactory to the Trustee) and (b) the applicable redemption provision of the Indenture. The exercise of an option granted in Section 10.1 hereof is revocable by the Borrower at any time prior to the time at which the Bonds to be redeemed, or for the payment or redemption of which provision is to be made, are first deemed to have been paid in accordance with Article XIII of the Indenture.

Upon receipt of a notice pursuant to this Section, the Issuer shall forthwith take or cause to be taken all actions required under the Indenture to effect the redemption, or provision for payment or redemption, of Bonds in accordance with such notice and, in the case of a prepayment of the entire unpaid balance of the Loan Repayments, together with interest thereon, to discharge the lien of the Indenture.

**SECTION 10.3 RELATIVE POSITION OF AGREEMENT AND INDENTURE.** The rights granted to the Borrower in this Article shall be and remain prior and superior to the Indenture and may be exercised whether or not the Borrower is in default hereunder, provided that such default will not result in nonfulfillment of any condition to the exercise of any such right.

**SECTION 10.4 COMPLIANCE WITH INDENTURE.** Anything in this Loan Agreement to the contrary notwithstanding, the Issuer and the Borrower shall take all actions required by this Loan Agreement and the Indenture in order to comply with the provisions of Section 301(d) of the Indenture or any similar provision contained in any indenture supplemental thereto.

**ARTICLE XI  
PURCHASE AND REMARKETING OF BONDS**

**SECTION 11.1 PURCHASE OF BONDS; INITIAL REMARKETING AGENT; INITIAL TENDER AGENT.** (a) In consideration of the issuance of the Bonds by the Issuer, but for the benefit of the holders of the Bonds, the Borrower has agreed, and does hereby covenant, to cause the necessary arrangements to be made and to be thereafter continued whereby, from time to time, the Bonds will be purchased from the holders thereof in accordance with the provisions of the Indenture. In furtherance of the foregoing covenant of the Borrower, the Issuer, at the direction of the Borrower, has set forth in Section 202 of the Indenture the terms and conditions relating to such purchases and has set forth in Article XIV of the Indenture the duties and responsibilities of the Tender Agent with respect to the purchase of Bonds and of the Remarketing Agent with respect to the remarketing of Bonds. The Borrower appoints (i) Fifth Third Securities, Inc., as the initial Remarketing Agent with respect to the Bonds, and (ii) U.S. Bank National Association, as the initial Tender Agent and hereby authorizes and directs the Tender Agent and the Remarketing Agents to purchase, offer, sell and deliver Bonds in accordance with the provisions of Section 202 and Article XIV of the Indenture. The Issuer acknowledges that the Remarketing Agent, in undertaking its respective duties set forth in the Indenture with respect to the determination of the interest rates borne by the Bonds, will be acting as agent for and on behalf of the Issuer.

Without limiting the generality of the foregoing covenant of the Borrower, and in consideration of the Issuer's having set forth in the Indenture the aforesaid provisions of Section 202 and Article XIV thereof, the Borrower has covenanted and agreed in Section 5.1(d) hereof, for the benefit of the holders of the Bonds, to pay, or cause to be paid, to the Tender Agent such amounts as shall be necessary to enable the Tender Agent to pay the purchase price of Bonds, all as more particularly described in Section 202 and Article XIV of the Indenture.

(b) The Issuer shall have no obligation or responsibility, financial or otherwise, with respect to the purchase or remarketing of Bonds or the making or continuation of arrangements therefor, except that the Issuer shall generally cooperate with the Borrower, the Trustee, the Tender Agent and the Remarketing Agents as contemplated in Article XIV of the Indenture.

**SECTION 11.2 OPTIONAL PURCHASE OF BONDS.** Except after the occurrence of an event of default, the Borrower, at any time and from time to time, may furnish moneys to the Tender Agent accompanied by a notice directing that such moneys be applied to the purchase of Bonds to be purchased pursuant to Section 202 and Article XIV of the Indenture. Bonds so purchased shall be delivered to the Borrower in accordance with Section 1407(c) of the Indenture.

**SECTION 11.3 DETERMINATION OF INTEREST RATE PERIODS.**

The Issuer acknowledges and agrees that the Borrower may determine the duration and type of the Interest Rate Periods and certain redemption and other provisions relating to Long-Term Interest Rate Periods as, and to the extent, set forth in Section 201 of the Indenture.

## ARTICLE XII MISCELLANEOUS

**SECTION 12.1 NOTICES.** All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given on the fifth day following the day on which the same have been mailed by registered mail, postage prepaid, addressed as follows: if to the Issuer, to Mississippi Business Finance Corporation, Attn: Executive Director, 735 Riverside Drive, Suite 300, Jackson, Mississippi 39202; if to the Borrower, to Gulf Power Company, 700 Universe Boulevard, Juno Beach, Florida 33408, Attention: Chief Financial Officer; and if to the Trustee, to U.S. Bank National Association, Attention: Global Corporate Trust, 1349 W. Peachtree Street, NW, Suite 1050, Atlanta, Georgia 30309. A duplicate copy of each notice, certificate or other communication given hereunder by either the Issuer or the Borrower to the other shall also be given to the Trustee. The Issuer, the Borrower and the Trustee may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Furthermore, the Trustee shall have the right to accept and act upon any notice, demand, direction, request or other instructions, including funds transfer instructions (“Instructions”), given pursuant to this Loan Agreement and delivered using Electronic Means (as defined below); provided, however, that the Borrower, the Issuer or and such other party giving such instruction (the “Sender”) shall provide to the Trustee an incumbency certificate listing officers with the authority to provide such Instructions (“Authorized Officers”) and containing specimen signatures of such Authorized Officers, which incumbency certificate shall be amended by the Sender whenever a person is to be added or deleted from the listing. If the Sender elects to give the Trustee Instructions using Electronic Means and the Trustee in its discretion elects to act upon such Instructions, the Trustee’s understanding of such Instructions shall be deemed controlling. The Borrower, the Issuer and any other Sender understand and agree that the Trustee cannot determine the identity of the actual sender of such Instructions and that the Trustee shall conclusively presume that directions that purport to have been sent by an Authorized Officer listed on the incumbency certificate provided to the Trustee have been sent by such Authorized Officer. Each Sender shall be responsible for ensuring that only Authorized Officers transmit such Instructions to the Trustee and that the Sender and all Authorized Officers are solely responsible to safeguard the use and confidentiality of applicable user and authorization codes, passwords and/or authentication keys upon receipt by the Sender. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee’s reliance upon and compliance with such Instructions notwithstanding such directions conflict or are inconsistent with a subsequent written instruction. the Borrower agrees: (i) to assume all risks arising out of the use of Electronic Means to submit Instructions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized Instructions, and the risk of interception and misuse by third parties; (ii) that

it is fully informed of the protections and risks associated with the various methods of transmitting Instructions to the Trustee and that there may be more secure methods of transmitting Instructions than the method(s) selected by the Borrower for use by the Borrower, the Issuer and the other parties who may give instructions to the Trustee under this Loan Agreement; (iii) that the security procedures (if any) to be followed in connection with its transmission of Instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances; and (iv) to notify the Trustee immediately upon learning of any compromise or unauthorized use of the security procedures. "Electronic Means" shall mean the following communications methods: S.W.I.F.T., e-mail, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys issued by the Trustee, or another method or system specified by the Trustee as available for use in connection with its services hereunder.

**SECTION 12.2 BINDING EFFECT.** This Loan Agreement shall inure to the benefit of and shall be binding upon the Issuer, the Borrower and their respective successors and assigns, subject, however, to the limitations contained in this Loan Agreement and particularly in Sections 7.2, 8.1 and 8.2 hereof.

**SECTION 12.3 SEVERABILITY AND EFFECT OF INVALIDITY.** In the event any provision of this Loan Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof. In the event any covenant, stipulation, obligation or agreement contained in this Loan Agreement shall for any reason be held to be in violation of law, then such covenant, stipulation, obligation or agreement of the Issuer or the Borrower, as the case may be, shall be enforced to the full extent permitted by law.

**SECTION 12.4 TERMINATION.** This Loan Agreement shall remain in full force and effect from the date hereof until all of the Bonds shall have been paid or be deemed to have been paid in accordance with Article XIII of the Indenture and the fees, charges, expenses and costs of the Trustee and the Issuer and all other amounts payable by the Borrower under the Indenture and this Loan Agreement shall have been paid. After such payment or provision for payment has been made, any surplus amounts remaining in the Bond Fund not required for the payment of Bonds and surplus amounts in any other fund created under the Indenture shall belong to and be paid to the Borrower, as provided in Article XIII of the Indenture. Notwithstanding the foregoing, the obligations of the Borrower set forth in this Loan Agreement shall not be discharged upon the payment in full of the Bonds.

**SECTION 12.5 IF PAYMENT OR PERFORMANCE DATE A LEGAL HOLIDAY.** If the date for making any payment, or the last date for performance of any act or the exercising of any right, as provided in this Loan Agreement, shall be a legal holiday or a day on which banking institutions in the State of Georgia or the City of New York, New York are authorized by law to remain closed, such payment may be made or

act performed or right exercised on the next succeeding day not a legal holiday or not a day on which such banking institutions are authorized by law to remain closed, with the same force and effect as if done on the nominal date provided in this Loan Agreement, and no interest shall accrue for the period after such nominal date.

**SECTION 12.6 TRUSTEE, THE BORROWER AND ISSUER MAY RELY ON AUTHORIZED REPRESENTATIVES.** Whenever under the provisions of this Loan Agreement the approval of the Borrower is required or the Issuer or the Trustee is required to take some action at the request of the Borrower, such approval shall be given or such request shall be made by an Authorized Borrower Representative unless otherwise specified in this Loan Agreement and the Issuer and the Trustee shall be authorized to act on any such approval or request and the Borrower shall have no complaint or recourse against the Issuer or the Trustee as a result of any such action taken. Whenever under the provisions of this Loan Agreement, the approval of the Issuer is required or the Borrower or the Trustee is required to take some action at the request of the Issuer, such approval shall be given or such request shall be made by an Authorized Issuer Representative unless otherwise specified in this Loan Agreement, the Borrower and the Trustee shall be authorized to act on any such approval or request and the Issuer shall have no complaint or recourse against the Borrower or the Trustee as a result of any such action taken.

**SECTION 12.7 AGREEMENT REPRESENTS COMPLETE AGREEMENT.** This Loan Agreement represents the entire agreement between the parties. This Loan Agreement may be modified, supplemented and amended only as provided in the Indenture.

**SECTION 12.8 OTHER INSTRUMENTS.** The Borrower shall file and refile and record and re-record or cause to be filed and refiled and recorded and re-recorded all instruments, financing statements, continuation statements, notices and other instruments required by applicable law to be filed and refiled and recorded and re-recorded and shall continue or cause to be continued the liens of such instruments for so long as the Bonds shall be outstanding in order fully to preserve and protect the rights of the holders of the Bonds and the Trustee.

**SECTION 12.9 EXECUTION OF COUNTERPARTS.** This Loan Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**SECTION 12.10 APPLICABLE LAW.** This Loan Agreement shall be governed by and construed in accordance with the laws of the State.

**SECTION 12.11 U.S.A. PATRIOT ACT.** The parties hereto acknowledge that in accordance with Section 326 of the U.S.A. Patriot Act, the Trustee, like all financial institutions and in order to help fight the funding of terrorism and money laundering, is required to obtain, verify, and record information that identifies each person or legal entity

that establishes a relationship or opens an account with the Trustee. The parties to this Loan Agreement agree that they will provide the Trustee with such information as it may request in order for the Trustee to satisfy the requirements of the U.S.A. Patriot Act.

IN WITNESS WHEREOF, the Issuer and the Borrower have caused this Loan Agreement to be executed in their respective names by their duly authorized officers and, in the case of the Issuer, its seal to be hereunto affixed and attested by a duly authorized officer for and on its behalf, all as of the date first above written.

MISSISSIPPI BUSINESS FINANCE CORPORATION

(SEAL)



Attest:

  
Secretary

By:   
Executive Director

GULF POWER COMPANY

By: \_\_\_\_\_  
Name:  
Title:

IN WITNESS WHEREOF, the Issuer and the Borrower have caused this Loan Agreement to be executed in their respective names by their duly authorized officers and, in the case of the Issuer, its seal to be hereunto affixed and attested by a duly authorized officer for and on its behalf, all as of the date first above written.

**MISSISSIPPI BUSINESS FINANCE CORPORATION**

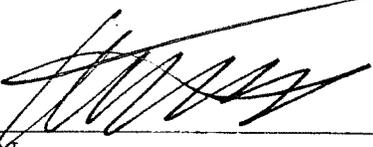
(SEAL)

By: \_\_\_\_\_  
Executive Director

Attest:

\_\_\_\_\_  
Secretary

**GULF POWER COMPANY**

By:   
Name: Aldo E. Portales  
Title: Assistant Treasurer

**EXHIBIT A**  
**DESCRIPTION OF THE PROJECT**

The financing or refinancing, in whole or in part, the Borrower's share of the cost of the acquisition, construction, installation and equipping of additions, extensions and improvements to certain sewage facilities or solid waste disposal facilities and functionally related and subordinate facilities necessary or convenient in connection with the operation of the foregoing at Plant Daniel Units 1 & 2 to include low volume waste water treatment equipment installation (permanent and temporary), balance of plant, new equipment for dry bottom coal ash handling (new hoppers) and bottom coal ash pond closure.

**EXHIBIT B**

**[FORM OF REQUISITION]**

REQUISITION NO. \_\_\_\_\_

U.S. Bank National Association, as trustee  
Attention: Global Corporate Trust  
Atlanta, Georgia

Re: \$55,000,000 Mississippi Business Finance Corporation Revenue Bonds  
(Gulf Power Company Project), Series 2019

To the Addressee:

The undersigned Gulf Power Company (the "Borrower") hereby submits this requisition for payment from the Construction Fund established under the Trust Indenture, dated as of December 1, 2019 (the "Indenture"), between the Mississippi Business Finance Corporation (the "Issuer") and you, as trustee, relating to the obligations in caption (the "Bonds"). All capitalized terms used herein and not defined herein shall have the meaning ascribed thereto in the Indenture unless the context or use clearly indicates a different meaning or intent.

Amount Requested: \_\_\_\_\_

Total Disbursements to Date: \_\_\_\_\_

1. Each obligation for which a disbursement is hereby requested is described in reasonable detail in Schedule I hereto together with the (a) name of the person, firm or corporation to whom payment is due, (b) the respective amounts to be paid, and (c) the purpose by general classification for which each obligation to be paid was incurred.

2. The Borrower hereby certifies that:

- (a) obligations in the stated amounts have been incurred and have been paid or are presently due and payable or have been paid by the Borrower and that each item thereof is a proper charge against the Construction Fund and has not been the subject of a previous withdrawal from the Construction Fund;
- (b) that there has not occurred and is not continuing any event of default under the Loan Agreement, and to the best of his knowledge there has

not been filed with or served upon the Issuer or the Borrower notice of any lien, right or attachment upon, or claim affecting the right of any such persons, firms or corporations to receive payment of, the respective amounts stated in such requisition which has not been released or will not be released simultaneously with the payment of such obligation, and

- (c) that, after giving effect to such requisition, (i) not less than 95% of the proceeds of the Bonds withdrawn from the Construction Fund will have been used to provide “sewage facilities” or “solid waste disposal facilities” within the meaning of Section 142(a)(5) or 142(a)(6) of the Code, as the case may be and (ii) no more than 2% of the proceeds (within the meaning of Section 147(g) of the Code) of the Bonds will have been used to pay costs of issuance of any of the Bonds.

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

GULF POWER COMPANY

By: \_\_\_\_\_  
Authorized Borrower Representative