

---

**\$3,000,000**

**TUPELO PUBLIC SCHOOL DISTRICT  
TUPELO, MISSISSIPPI  
LIMITED-TAX NOTE, SERIES 2011  
QUALIFIED SCHOOL CONSTRUCTION BOND -  
FEDERALLY TAXABLE - DIRECT PAYMENT**

**TRUST AGREEMENT**

**Dated as of \_\_\_\_\_, 2011**

**TUPELO PUBLIC SCHOOL DISTRICT**

**TO**

\_\_\_\_\_  
**as Trustee**

---

# **TRUST AGREEMENT**

## **TABLE OF CONTENTS**

|  | <u>Page</u> |
|--|-------------|
| GRANTING CLAUSES. ....   | 3           |
| ARTICLE I  |             |
| DEFINITIONS  |             |
| Section 1.01. <u>Definitions</u> . ....                                | 5           |
| ARTICLE II   |             |
| FORM, EXECUTION AND REGISTRATION OF NOTE                               |             |
| Section 2.01. Form and Terms of Note.....                              | 8           |
| Section 2.02. Registration, Transfer and Exchange..                    | 9           |
| Section 2.03. Ownership of Note..                                      | 9           |
| Section 2.04. Mutilated, Destroyed, Stolen or Lost Note.....           | 9           |
| Section 2.05. Conditions for Issuance of the Note.....                 | 10          |
| Section 2.06. [RESERVED].....  | 10          |
| ARTICLE III  |             |
| TRUSTEE'S RIGHTS AND DUTIES REGARDING THE NOTE                         |             |
| Section 3.01. Authentication Agent..                                   | 10          |
| Section 3.02. Registrar and Paying Agent..                             | 10          |
| Section 3.03. [Reserved].....  | 10          |
| Section 3.04. Owners..   | 10          |
| Section 3.05. Return of Paid Note..                                    | 11          |
| ARTICLE IV   |             |
| FUNDS AND ACCOUNTS   |             |
| Section 4.01. Establishment of Note Fund.....                          | 11          |
| Section 4.02. Application of Note Fund.....                            | 11          |
| Section 4.03. Investment of Moneys in Note Fund ..                     | 13          |
| Section 4.04. Allocation and Transfers of Investment Income.....       | 13          |
| Section 4.05. Identification By Trustee of Earnings in Funds..         | 13          |
| ARTICLE V  |             |
| EVENTS OF DEFAULT; REMEDIES ON DEFAULT                                 |             |
| Section 5.01. Events of Default..                                      | 14          |
| Section 5.02. Enforcement of Covenants and Conditions..                | 14          |
| Section 5.03. Application of Moneys..                                  | 14          |
| Section 5.04. Right of Trustee to Act Without Possession of Note..     | 15          |
| Section 5.05. Power of Majority of Registered Owners of Certificates.. | 15          |
| Section 5.06. Limitation on Suits..                                    | 15          |

ARTICLE VI

CONCERNING THE TRUSTEE

|               |   |    |
|---------------|---|----|
| Section 6.01. | Acceptance of Trust and Prudent Performance Thereof.....              | 16 |
| Section 6.02. | Trustee May Rely Upon Certain Documents and Opinions..                | 17 |
| Section 6.03. | Trustee Not Responsible for Trust Agreement Statements,<br>Validity.. | 17 |
| Section 6.04. | Limits on Duties and Liabilities of Trustee..                         | 18 |
| Section 6.05. | Moneys Held in Trust..  | 18 |
| Section 6.06. | Obligations of Trustee...   | 18 |
| Section 6.07. | Notice to Registered Owner..  | 18 |
| Section 6.08. | Intervention in Judicial Proceedings.....                             | 18 |
| Section 6.09. | Further Investigation by Trustee.....                                 | 18 |
| Section 6.10. | Trustee to Retain Financial Records.....                              | 19 |
| Section 6.11. | Compensation of Trustee..   | 19 |
| Section 6.12. | Trustee May Hold Note.....  | 19 |
| Section 6.13. | Appointment of Trustee..  | 19 |
| Section 6.14. | Merger of Trustee..   | 19 |
| Section 6.15. | Resignation or Removal of Trustee..                                   | 20 |
| Section 6.16. | Appointment of Successor Trustee.....                                 | 20 |
| Section 6.17. | Transfer of Rights and Property to Successor Trustee..                | 20 |

ARTICLE VII

MISCELLANEOUS

|               |  |    |
|---------------|--|----|
| Section 7.01. | Modification of Trust Agreement with Consent of<br>Registered Owner .. | 21 |
| Section 7.02. | Counterparts..   | 21 |

EXHIBIT "A" - SINKING FUND ACCOUNT DEPOSIT SCHEDULE

EXHIBIT "B" - FAIR MARKET VALUE OF INVESTMENTS

## TRUST AGREEMENT

THIS TRUST AGREEMENT (the "Trust Agreement"), is dated as of \_\_\_\_\_, 2011, by and between the TUPELO PUBLIC SCHOOL DISTRICT (the "District") and \_\_\_\_\_, \_\_\_\_\_, as Trustee (the "Trustee"),

### W I T N E S S E T H

WHEREAS, in accordance with the Code and the Act (each as defined herein), the District has determined to issue its \$3,000,000 Limited-Tax Note, Series 2011 (Qualified School Construction Bond - Federally Taxable - Direct Payment) (the "Note"); and

WHEREAS, the execution and delivery of this Trust Agreement and the issuance of the Note have been in all respects fully and validly authorized by the District's Board of Trustees (the "Board") pursuant to a resolution adopted on March 29, 2011 (the "Note Resolution"); and

WHEREAS, the Trustee has accepted the trust created by this Trust Agreement and in evidence thereof has joined in the execution hereof;

NOW, THEREFORE, THIS TRUST AGREEMENT WITNESSETH:

### GRANTING CLAUSES

The District, in order to secure the payment of the Note according to its tenor and effect, and the performance and observance of each and all of the covenants and conditions herein and therein contained, and for and in consideration of the premises and of the purchase and acceptance of the Note by the Owner or Owners thereof, and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, have executed and delivered this Trust Agreement and the District has granted, bargained, sold, assigned, transferred, conveyed, warranted, granted a security interest in, pledged and set over, unto the Trustee and to its successors or successors in the trust hereby created and to its assigns forever as security and source of payment for its Note:

#### I.

The moneys and investments in the Note Fund covenanted to be created and maintained under this Trust Agreement;

## II.

To the extent permitted by the Act, the avails of any special tax levied on taxable property of the District for the purpose of paying debt service on the District's Note and any other funds which may be intended by the District to pay debt service on the Note, once such funds have been deposited into the Note Fund; and

## III.

To the extent permitted by the Act, any and all other property of every name and nature from time to time hereafter by delivery or by writing of any kind conveyed, assigned or transferred, or in which a security interest is granted, by the District or by anyone on its behalf or with its written consent, to the Trustee, which hereby is authorized to receive any and all such property at any and all times and to hold and apply the same to the terms hereof.

TO HAVE AND TO HOLD all and singular and said property hereby conveyed and assigned, or agreed or intended so to be, to the Trustee, its successor or successors in trust and its assigns, FOREVER.

IN TRUST, NEVERTHELESS, upon the terms and trust herein set forth, for the equal and proportionate benefit, security and protection of all Owners of the Note without preference, priority or distinction as to lien or otherwise of the Note over any of the others and for the benefit, security and protection of the Trustee (to the extent provided in Sections 5.03 and 6.11).

PROVIDED, HOWEVER, that if the District, its successors or assigns, shall well and truly pay or cause to be paid the principal of the Note issued by it and any interest due or to become due thereof, at the time and in the manner mentioned in the Note to the extent of the District's obligation thereunder and shall well and truly keep, perform and observe all the covenants and conditions pursuant to the terms of this Trust Agreement to be kept, performed and observed by it and shall pay to the Trustee all sums of money due or to become due to it in accordance with the terms and provisions hereof; then upon such final payment, as to the District, this Trust Agreement and the rights hereby granted shall cease, terminate and be void; otherwise, this Trust Agreement to be and remain in full force and effect.

THIS TRUST AGREEMENT FURTHER WITNESSETH, and it is expressly declared that the Note executed and delivered and secured hereunder is to be executed and delivered and all said property hereby assigned or pledged is 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 District has agreed and covenanted and does hereby agree and covenant with the Trustee and with the respective Owners from time to time of the Note, as follows:

## ARTICLE I

### DEFINITIONS

**Section 1.01. Definitions.** Unless the context clearly otherwise requires, the terms defined in this Article I and in the recitals and succeeding Articles of this Trust Agreement shall, for all purposes of this Trust Agreement and of any supplemental trust agreement, have the meanings herein specified, such definitions to be equally applicable to both the singular and plural forms of any of the terms defined:

"Act" means collectively Sections 37-59-101 *et seq.* and 37-59-301, Mississippi Code Annotated (1972), as amended, and the American Recovery and Reinvestment Act of 2009.

"Annual Payment Date" means September 15 of each year in which the Note remains outstanding.

"Authorized Denomination" means any denominations agreed to by the Purchaser and the District.

"Bond Counsel" means WATKINS & YOUNG PLLC, or any other nationally recognized bond counsel acceptable to the Trustee.

"Code" means the Internal Revenue Code of 1986 including without limitation Section 54A and 54F and regulations promulgated thereunder, as amended, supplemented or superseded, including the American Recovery and Reinvestment Act of 2009, and all regulations promulgated thereunder.

"Determination of Disqualification" shall have been deemed to occur as to a Note if, as a result of an Event of Disqualification, a final decree or judgment of any federal court or a final action of the Internal Revenue Service determines that the Note no longer qualifies as a "qualified school construction bond" for purposes of Section 54F of the Code. However, no such decree or action will be considered final for this purpose unless the District has been given written notice of such Determination of Disqualification and, if it is so desired and is legally allowed, has been afforded the opportunity to contest the same, either directly or in the name of any Owner and until conclusion of any appellate review, if sought.

"District" means the Tupelo Public School District, Tupelo, Mississippi.

"District Representative" means the President or Secretary of the Board, the Superintendent, or any other person at the time designated to act on behalf of the District by written certificate furnished to the Trustee, containing the specimen signature of such person and signed on behalf of the District by the President of the Board of the District.

"Event of Default" means any event described in Section 5.01 hereof.

"Event of Disqualification" means the failure of the District to observe any covenant, agreement or representation herein or in its Note Resolution or Certificate Regarding Tax Matters, which failure results in a Determination of Disqualification.

"Investment Agreement" means any investment contract that may be subsequently executed by the District, the Trustee and a provider approved by the District providing for the investment of funds in the Note Fund, or such other investment agreement as may be permitted under Mississippi law and the Code.

"Maximum Permitted Sinking Fund Balance" means the maximum permitted balance in the Sinking Fund Account as of any Annual Deposit Date, as shown on Exhibit A attached hereto.

"Maximum Permitted Sinking Fund Yield" means \_\_\_\_\_% per annum.

"Note Fund Deposit Amount" means the amount of interest and sinking fund payment to be deposited by the District into the Note Fund on or before each Annual Payment Date.

"Note Fund" means the fund of that name created under Section 4.01 hereof.

"Note Resolution" means the resolution adopted on March 29, 2011 by the District's Board of Trustees authorizing the issuance of a Note and the execution and delivery of this Trust Agreement.

"Opinion of Counsel" means the written opinion of legal counsel of recognized national standing in the field of municipal bonds.

"Owner" means any person or persons in whose name the Note shall be registered.

"Purchaser" means \_\_\_\_\_, \_\_\_\_\_, Mississippi.

"Qualified Investments" means, if and to the extent permitted by Mississippi law and by any policy guidelines promulgated by the District and subject to the applicable requirements of Treasury Amended Regulation No. 1 (as amended from time to time):

(1) any bonds or other direct obligations of the United States of America or the State of Mississippi, or of any county or municipality of the State of Mississippi.

(2) any interest bearing time certificates of deposit or interest-bearing accounts with or through any financial institution issued by a qualified depository of the State of Mississippi.

(3) any open-end or closed-end management type investment company or investment trust provided that the portfolio of which is limited to direct obligations of the United States of America, United States Government agencies, United States Government instrumentalities, or United States Government sponsored enterprises and to repurchase agreements fully collateralized by direct obligations of the United States of America, United States Government agencies, United States

Government instrumentalities, or United States Government sponsored enterprises, and the investment company or investment trust takes delivery of such collateral for the repurchase agreement, either directly or through an authorized custodian.

(4) Investments in repurchase agreements of any securities enumerated above, if (i) the Trustee has received a perfected first security interest in such securities securing such repurchase agreement and the Trustee or its appointed agent shall hold such obligations free and clear of the claims of third parties or (ii) the Trustee's ownership of such repurchase agreement under the terms hereof is duly recorded by book-entry in the records of the Federal Reserve System or other issuer. For purposes of this section, the term "repurchase agreement" means a purchase of securities pursuant to an agreement by which the seller will repurchase such securities on or before a specified date and for a specified amount and will deliver the underlying securities by physical delivery, third-party custodial agreement or book-entry. For the purpose of this subdivision the term "counterparty" means the other party to the transaction. A counterparty bank's trust department or safekeeping department may be used for physical delivery of the underlying security. The term of repurchase agreements shall be for one year or less.

(5) Any other forms of investments, including but not limited to a debt service forward delivery agreement, permissible under applicable laws of the State of Mississippi (including, but not limited to, Mississippi Code Sections 37-59-43, 29-3-113 and 27-105-33).

"Record Date" means the fifteenth day of the calendar month preceding the calendar month in which a principal or interest payment is due on the Note.

"Trustee" means \_\_\_\_\_, \_\_\_\_\_ or any successor Trustee serving as such under this Trust Agreement.

"Trust Agreement" means this Trust Agreement and any amendments or supplements hereto.

"Trust Estate" means the property described in the Granting Clause hereof.

## ARTICLE II

### FORM, EXECUTION AND REGISTRATION OF NOTE

**Section 2.01. Form and Terms of Note.** The Note to be issued under this Trust Agreement shall be designated "Tupelo Public School District, Limited-Tax Note, Series 2011 (Qualified School Construction Bond - Federally Taxable - Direct Payment)".

The Note shall be dated the date of initial execution and delivery thereof and shall evidence and represent principal of the Note. The Note shall be in the form of a fully registered Note and issued in Authorized Denominations. The principal of the Note shall be payable in lawful money of the United States of America.



The principal of the Note shall mature on \_\_\_\_\_, \_\_\_\_\_, subject to earlier prepayment as stated below. The principal of the Note shall bear interest at a rate of \_\_\_\_% payable annually on \_\_\_\_\_, commencing \_\_\_\_\_, \_\_\_\_.

The principal of the Note is subject to prepayment at a District's option at any time, in whole or in part, at the par value of the Note to be redeemed.

The Note is subject to special mandatory redemption, to the extent that less than 100% of the Available Project Proceeds are expended for Qualified Purposes by the three-year anniversary of the date of issuance of the Note, within 90 calendar days from the three-year anniversary of the date of issuance of the Note.

The Trustee shall give notice of such prepayment in writing by registered or certified mail, return receipt requested, at least five days prior to the date for prepayment. If it is determined that a portion, but not all, of the principal amount of the Note is to be called for prepayment, then, upon notice of intention to prepay such amount, the Owner thereof shall surrender such Note to the Trustee on or before the applicable prepayment date for: (a) payment to such Owner of the prepayment price of the portion of the principal amount called for prepayment and (b) delivery to such Owner of a new Note in the aggregate principal amount of the unpaid balance of the principal amount of such Note. A new Note representing the unpaid balance of the principal amount represented by such Note shall be issued to the Owner thereof, without charge therefor. If the Owner of the Note selected for prepayment shall fail to present such Note to the Trustee for payment and exchange as aforesaid, such Note shall, nevertheless, become due and payable on the date fixed for prepayment to the extent of the principal amount called for prepayment (and to that extent only).

The Note is issued in anticipation of and is primarily payable out of the avails of a special tax levied pursuant to Section 37-59-107 of the Mississippi Code of 1972, as amended, to pay debt service on the Note, along with any other available funds that have been legally pledged to pay debt service on the Note.

**Section 2.02. Registration, Transfer and Exchange.** The Trustee is hereby appointed as agent of the District for the purpose of registering the Note and transfers of the Note as herein provided. The transfer or exchange of the Note is subject to the terms of an Investment Letter executed by each initial registered Owner of the Note stating, among other things, that: (1) the Owner is purchasing the Note for investment purposes, (2) the Owner does not have the present intention to resell the Note and (3) the Note will not be transferred in violation of any securities laws. Subject to the foregoing sentence, as long as the Note executed and delivered hereunder shall remain outstanding, the Trustee shall maintain an office for the registration and transfer of such Note, and shall also keep at said office of the Trustee a register for such registration and transfer.

Upon surrender for transfer of the Note at the corporate trust office of the Trustee with a written instrument of transfer satisfactory to the Trustee, duly executed by the Owner or the Owner's duly authorized attorney, upon payment of any tax, fee or other governmental charge required to be paid with respect to such transfer, and subject to the transfer limitations stated in the Investment Letter referenced in the preceding paragraph, the District shall execute and the Trustee shall

authenticate and deliver, in the name of the designated transferee or transferees, one or more Notes of any Authorized Denomination and of a like tenor and effect.

The Note, upon surrender thereof at the corporate trust office of the Trustee, may, at the option of the Owner thereof, be exchanged for an equal aggregate principal amount of Notes of any Authorized Denominations.

In all cases in which the privilege of exchanging or transferring the Note is exercised, the District shall execute and the Trustee shall authenticate and deliver Notes in accordance with the provisions of this Trust Agreement. For every such exchange or transfer of Note, whether temporary or definitive, the Districts and the Trustee may make a charge sufficient to reimburse them for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer, which sum or sums shall be paid by the person requesting such exchange or transfer as a condition precedent to the exercise of the privilege of making such exchange or transfer. The costs of preparing each new Note upon each exchange or transfer, and any other expenses of the Trustee incurred in connection therewith (except any applicable tax, fee or other governmental charge) shall be paid by the District.

**Section 2.03. Ownership of Note.** The District and the Trustee and their successors, each in its discretion, may deem and treat the person in whose name any Note shall for the time being be registered as the absolute owner thereof for all purposes, and neither the Districts, the Trustee nor their respective successors shall be affected by any notice to the contrary. Payment of or on account of any such Note shall be made only to or upon the order of the Owner thereof, but such registration may be changed as provided above. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Note to the extent of the sum or sums so paid.

**Section 2.04. Mutilated, Destroyed, Stolen or Lost Note.** In case any outstanding Note shall be mutilated or be destroyed, stolen or lost, the District shall execute and the Trustee shall authenticate and deliver a new Note of like tenor, number and amount as the Note so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Note, upon surrender of such mutilated Note, or in lieu of and in substitution of the Note destroyed, stolen or lost, upon filing with the Trustee evidence satisfactory to the Trustee that such Note has been destroyed, stolen, or lost and proof of ownership thereof, and upon furnishing the Trustee with indemnity satisfactory to it and complying with such other reasonable regulations as the Trustee may prescribe and paying such reasonable expenses as the District and the Trustee may incur in connection therewith.

**Section 2.05. Conditions for Issuance of the Note.** The District shall not execute and the Trustee shall not authenticate and deliver the Note unless theretofore or simultaneously therewith there shall have been delivered to the Trustee the following:

- (a) Copies of the Note Resolution authorizing the issuance of the Note and the execution and delivery of this Trust Agreement.
- (b) The executed Note registered in the name of the Owner.
- (c) Executed counterparts of this Trust Agreement.

(d) The manually signed approving opinion of Bond Counsel and concerning the validity and legality of the Note; and

(e) Such further certifications, documents and opinions of counsel as the Trustee, District or Bond Counsel may require.

**Section 2.06. [Reserved].**

### ARTICLE III

#### TRUSTEE'S RIGHTS AND DUTIES REGARDING THE NOTE

**Section 3.01. Authentication Agent.** The Trustee shall be the authenticating agent for the District in connection with the issuance of the Note under the Note Resolution. In the event the Note is exchanged for a new Note or Notes in substitution or exchange therefor, the Trustee shall be the authenticating agent for the District and the District and the Trustee shall cause the new Note or Notes to be prepared. No Note shall be valid or obligatory for any purpose or entitled to any right or benefit hereunder or under any Note Resolution or this Agreement unless executed by the District and authenticated by the District or Trustee.

**Section 3.02. Registrar and Paying Agent.** The Trustee shall be the registrar and paying agent for the Note. As long as the Note is outstanding hereunder and the applicable Note Resolution, the District shall maintain a register at the corporate trust office of the Trustee for the registration and transfer of the Note.

**Section 3.03. [Reserved].**

**Section 3.04. Owners.** As to the Note, the District and the Trustee and their respective successors, each in its discretion, may deem and treat the person in whose name the Note shall be registered as the absolute owner thereof for all purposes and neither the Districts nor the Trustee nor their respective successors shall be affected by any notice to the contrary. Payment of or on account of the principal and interest, if any, represented by any such Note shall be made only to or upon the order of the Owner thereof, but such registration may be changed as provided above. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Note to the extent of the sum or sums so paid.

**Section 3.05. Return of Paid Note.** The Note, when paid, shall be receipted and returned to the Superintendent of the District.

## ARTICLE IV

### FUNDS AND ACCOUNTS

#### **Section 4.01. Establishment of Note Fund.**

There is hereby established and created in trust a special fund designated the "Note Fund" which shall be held by the Trustee and which, unless otherwise directed by the District, shall be kept separate and apart from all other funds and moneys held by the Trustee. The Trustee shall administer such fund as provided in this Article IV. The Note Fund shall be maintained by the Trustee until the maturity date of the Note, or earlier redemption thereof. Within the Note Fund, the Trustee shall establish the following accounts:

- (a) Interest Account
- (b) Sinking Fund Account

#### **Section 4.02. Application of Note Fund.**

(a) The District shall make periodic payments to the Trustee for deposit into the District's Note Fund. The District covenants that it will make such deposits at the times and in the amount necessary to ensure that the District has on deposit in the Note Fund on the dates indicated on Exhibit A the minimum balances shown on Exhibit A attached hereto and incorporated herein by reference. The parties hereto agree that they will amend this Agreement and any other related agreements as necessary if the District subsequently enters into an Investment Agreement regarding amounts in the Note Fund or if the District desires to amend the deposit schedule. Provided, however, no such Amendment may be made unless the District reasonably demonstrates that it will have sufficient funds in the Note Fund to pay the Note at maturity and unless the District provides a letter from recognized bond counsel stating that such amendment will not violate Section 4.02 (d) hereof.

(b) The Trustee shall deposit into the Note Fund all payments made by the District for sinking fund deposit and for interest on its Note. The amounts representing interest payable on the Note shall be deposited by the Trustee into the Interest Account and transferred by the Trustee to the Record Date Registered Owner of the Note on the applicable Annual Payment Date. The portion of each Note Fund Deposit Amount representing a sinking fund deposit shall be deposited into the Sinking Fund Account and used to pay the Note principal at maturity or earlier prepayment of the Note.

(c) The Trustee shall mail a notice to the District on or before July 1 of each year showing the Note Fund Deposit Amount that will be required as of the following September 15. The notice will inform the District of the amount of interest due on the Note and the additional amount, if any, that must be deposited into the Sinking Fund Account to ensure the balance of the Sinking Fund Account on August 1 of each year (including accrued interest) is at least equal to the Sinking Fund Account balance set forth in Exhibit A and incorporated herein by reference.

(d) The Sinking Fund Account deposits shall be adjusted to ensure that the Sinking Fund Account is funded at a rate not more rapid than equal annual installments (taking into account interest earnings) and to ensure the balance of the Sinking Fund Account as of the maturity date of the Note will not exceed the reasonable amount necessary to repay the Note at maturity. Without limiting the generality of the foregoing provision, the Trustee shall not deposit, but shall immediately return to the District, any amounts received from the District which, if deposited into the Sinking Fund Account, would cause the balance in the Sinking Fund Account to exceed the applicable Maximum Permitted Sinking Fund Balance shown on Exhibit A or to exceed the amount necessary to pay the principal amount of the Note at maturity.

(e) The Trustee shall not invest the amounts in the Sinking Fund Account at a yield higher than the Maximum Permitted Sinking Fund Yield, unless it first obtains from the District's bond counsel a letter stating that investing the funds at a higher rate will not cause an Event of Disqualification.

(f) To the extent that the District has entered into an Investment Agreement on September 15 of each year, or such other date stated in the Investment Agreement, the Trustee will withdraw the amount of each District's Forward Delivery Investment from the District's Note Fund and use such amounts to purchase investment securities on behalf of the District in the amount of the Forward Delivery Investment as provided in the Investment Agreement. All such investment securities purchased on behalf of a District will be held in that District's Note Fund. Any amounts in a District's Note Fund in excess of the amount of the Forward Delivery Investment will remain invested in the Note Fund as directed by the District.

Upon the maturity date or earlier prepayment date of the District's Note, the Trustee will withdraw the outstanding balance from the Sinking Fund Account, and use such funds to pay the principal of the District's Note to the Owner thereof. If the balance of the Sinking Fund Account is insufficient to pay the entire principal balance of the District's Note, the Trustee will immediately upon discovering such insufficiency, send a notice to the District of the amount due and the District will immediately deposit with the Trustee an amount of funds sufficient for such purpose. Any funds remaining in the District's Note Fund following the payment its Note and all Trustee fees will be paid to the District by the Trustee.

#### **Section 4.03. Investment of Moneys in Note Fund.**

Any funds held in the Note Fund of the District shall be invested and reinvested by the Trustee in Qualified Investments, as directed in writing by the District from time to time. In the absence of written instructions to the contrary, the Trustee is directed to invest funds in the District's Note Fund in a U.S. Treasury money market fund. All interest earnings on the Sinking Fund Account shall remain in the Sinking Fund Account.

Under no circumstances may the Trustee invest any funds that would cause the yield on the Note Fund to exceed the Maximum Permitted Sinking Fund Yield, other than as set forth in Section 4.02 (d) hereof.

All Qualified Investments purchased shall mature or be redeemable or be subject to repurchase by another entity on a date or dates prior to the time when the moneys so invested will be required for expenditure. The Trustee may make any and all such investments through its investment department or through the investment department of any financial institution which is an affiliate of the Trustee and may trade with itself or any of its affiliates in doing so. Money in separate funds or accounts may be commingled for the purpose of investment or deposit provided that interest earnings shall be credited pro rata to the respective funds and accounts from which the money came. The Trustee shall sell and reduce to cash a sufficient amount of such investments in the respective funds or accounts whenever the cash balances therein are insufficient to pay the amount contemplated to be paid therefrom.

In computing the amount in any fund held under the provisions of this Trust Agreement, obligations purchased as an investment of moneys therein shall be valued at the cost or market face value thereof, whichever is lower, exclusive of accrued interest. Where market prices for obligations held hereunder are not readily available, the market price for such obligations may be determined in such a manner as the Trustee deems reasonable. Anything else herein to the contrary notwithstanding, amounts invested under an investment agreement shall be valued at par.

Purchases of all investments shall be made for fair market value, according to the guidelines set forth in Exhibit B attached hereto.

**Section 4.04. Allocation and Transfers of Investment Income.** Subject to any express provision of this Trust Agreement to the contrary regarding the transfer or credit of earnings accrued and earned upon investment, any investments shall be deemed at all times a part of the fund from which the investment was made.

**Section 4.05. Identification By Trustee of Earnings in Funds.** Subject to the provisions of any Investment Agreement, the funds of the District held by the Trustee may be invested in conjunction with other funds of the Trustee but designated as a trust fund on the books and records of the Trustee; provided, however, that notwithstanding the foregoing, the Trustee at all times shall be able to identify the earnings of each fund on a daily basis; provided, however, that separate book entry accounts need not be maintained in the Note Fund so long as the Trustee at all times shall be able to identify the District's moneys in the Note Fund; provided, further, that for purposes of the District's pledge and assignment of its rights and interest under the Note Resolution and this Trust Agreement, the interest of the District in the Note Fund shall be treated as a separate fund of the District in the same manner as if separate book entry accounts were being maintained.

## ARTICLE V

### EVENTS OF DEFAULT; REMEDIES ON DEFAULT

**Section 5.01. Events of Default.** Each of the following events is hereby defined as, and is declared to be and to constitute, an "Event of Default" hereunder:

(a) If default shall be made in the due and punctual payment of the Note Fund Deposit Amount; or

(b) If the District shall fail to comply with the provisions of its Note or Note Resolution or default in the performance of any covenant, agreement or condition on its part to be performed under this Trust Agreement, and such default shall continue for a period of 30 days after written notice thereof by the Trustee or the Owner of the Note.

The Trustee shall provide written notice to the District promptly upon receipt of actual notice of any of the events described in this Section 5.01.

**Section 5.02. Enforcement of Covenants and Conditions.** In any case of an Event of Default, the Trustee, subject only to the provisions of Section 5.05 hereof and without any request from the Owner, may take such action or actions for enforcement of its rights and the rights of the Owner as due diligence, prudence and care would require, and to pursue the same with like diligence, prudence and care, including commencement of an action for mandamus or other appropriate action to require the District to comply with the terms of this Trust Agreement, the Note and its Note Resolution.

The Trustee may also enforce any such other appropriate legal or equitable remedy as the Trustee, being advised by counsel, shall deem most effectual to protect and enforce any of its rights or any of the rights of the Owner of the Note.

**Section 5.03. Application of Moneys.** All moneys received by the Trustee pursuant to the right given or action taken under the provisions of this Trust Agreement, after payment of the costs and expenses of the proceedings resulting in the collection of such moneys and of the fees, expenses, liabilities and advances incurred or made by the Trustee, shall be deposited in the Note Fund and all moneys in the Note Fund shall be applied as follows:

First: To the payment of interest, if any, then due on the Note to the Owner, and if the amount available shall not be sufficient to pay such interest in full, then to the payment ratably to the persons entitled thereto, without any discrimination or privilege; and

Second: Upon the maturity or earlier prepayment of the Note, to the payment of the unpaid principal of any of the Note which shall have become due to the Owner, and, if the amount available shall not be sufficient to pay in full such Note due on any particular date, then to the payment ratably to the persons entitled thereto without any discrimination or privilege.

Whenever moneys are to be applied by the Trustee pursuant to the provisions of this Section, such moneys shall be applied by it at such times, and from time to time, as the Trustee shall determine, having due regard to the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future. Whenever the Trustee shall apply such funds, it shall fix the date upon which such application is to be made

and upon such date interest on the amounts of principal to be paid on such dates shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the deposit with it of any such moneys and of the fixing of any such date, and shall not be required to make payment to the Owner of any unpaid Note until such Note shall be presented to the Trustee for appropriate endorsement or for cancellation if fully paid.

**Section 5.04. Right of Trustee to Act Without Possession of Note.** All rights of action under this Trust Agreement or under the Note may be enforced by the Trustee without the possession of the Note or the production thereof in any trial or other proceeding relating thereto, and any such suit or proceeding instituted by the Trustee shall be brought in its name as Trustee, without the necessity of joining as plaintiff or defendant the Owner of the Note.

**Section 5.05. Power of Majority of Registered Owners of Certificates.** Anything in this Trust Agreement to the contrary notwithstanding, the Owners of a majority in aggregate principal amount of the Note outstanding hereunder shall have the right, at any time, by an instrument or instruments in writing executed and delivered to the Trustee, to direct the method and place of conducting all proceedings to be taken under this Trust Agreement, provided that such direction shall not be otherwise than in accordance with the provisions of law and that the Trustee shall be indemnified as provided in Section 6.06 hereof.

**Section 5.06. Limitation on Suits.** No Owner of any Note shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement of this Trust Agreement or a Note Resolution or for the execution of any trust hereof or for any other remedy hereunder, unless an Event of Default has occurred of which the Trustee has been notified or of which it is deemed to have notice; nor unless also the Owners of twenty-five percent (25%) in aggregate principal amount of the Note outstanding hereunder shall have made written request to the Trustee and shall have offered it reasonable opportunity either to proceed to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name; nor unless also they shall have offered to the Trustee indemnity as provided hereinafter; and such notification, request and offer of indemnity are hereby declared in every such case at the option of the Trustee to be conditions precedent to the execution of the powers and trust of this Trust Agreement, and to any action or cause of action for enforcement or for any other remedy hereunder; it being understood and intended that no one or more Owners of the Note shall have any right in any manner whatsoever to affect, disturb or prejudice the lien of this Trust Agreement by its or their action or to enforce any right hereunder except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the equal benefit of the Owners of all Notes outstanding hereunder. Nothing contained in this Trust Agreement shall, however, affect or impair the right of any Owner of a Note, which is absolute and unconditional, to enforce and bring suit for the payment of the principal of and interest, if any, on any Note owned by such Owner at and after the maturity thereof or the obligations of the District to pay the principal of and interest, if any, on its Note issued hereunder at the time and place expressed in said Note in accordance with the terms of the Note.



## ARTICLE VI

### CONCERNING THE TRUSTEE

**Section 6.01. Acceptance of Trust and Prudent Performance Thereof.** The Trustee, prior to the occurrence of an Event of Default and after the curing of all such Events of Default as may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Trust Agreement. The Trustee shall during the existence of any such Event of Default (which has not been cured) exercise such of the rights and powers vested in it by this Trust Agreement, and use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

The Trustee shall not be required to take notice or be deemed to have notice of any default hereunder, except as provided in Section 5.01(a) hereof or unless the Trustee shall be specifically notified in writing of such default by the Owners of at least twenty-five percent (25%) in aggregate principal amount of the Note outstanding hereunder, and all notices or other instruments required by this Trust Agreement to be delivered at the office of the Trustee may conclusively assume that there is no default, except as aforesaid.

No provision of this Trust Agreement shall be construed to relieve the Trustee from liability for its own negligence or its own willful misconduct, except that

(a) prior to such an Event of Default hereunder, and after the curing of all such Events of Default which may have occurred:

(i) the duties and obligations of the Trustee shall be determined solely by the express provisions of this Trust Agreement, and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Trust Agreement, and no implied covenants or obligations shall be read into this Trust Agreement against the Trustee; and

(ii) in the absence of bad faith or negligence on the part of the Trustee, the Trustee may conclusively rely, as to the truth of the statements and to the correctness of the opinions expressed therein, upon any certificate or opinion furnished to the Trustee conforming to the requirements of this Trust Agreement; but in the case of any such certificate or opinion which by any provision hereof is specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not it conforms to the requirements of this Trust Agreement; and

(b) at all times, regardless of whether or not any such Event of Default shall exist:

(i) the Trustee shall not be liable for any error of judgment made in good faith by a responsible officer or officers of the Trustee unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts and

(ii) 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 Owners of not less than a majority in aggregate principal amount of the Note at the time outstanding relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee under this Trust Agreement.

None of the provisions contained in this Trust Agreement shall require the Trustee to expend or risk its own funds or otherwise incur individual financial liability in the performance of any of its rights or powers.

**Section 6.02. Trustee May Rely Upon Certain Documents and Opinions.** Except as otherwise provided in Section 6.01,

(a) the Trustee may rely upon and shall be protected in acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, bond or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

(b) any request, direction, election, order, certification or demand of a District shall be sufficiently evidenced by an instrument signed by a District Representative (unless otherwise specifically prescribed in this Trust Agreement), and any resolution of a District may be evidenced to the Trustee by a certified resolution;

(c) the Trustee may consult with counsel (who may be counsel for one or more Districts) and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance with the opinion of such counsel.

**Section 6.03. Trustee Not Responsible for Trust Agreement Statements, Validity.** The Trustee shall not be responsible for any recital or statement in the Note (except in respect of any certificate of the Trustee endorsed on such Note), or for the validity of the execution by the District of this Trust Agreement or the validity of the Note Resolution or of any supplemental instrument, or for the sufficiency of the security of the Note issued hereunder or intended to be secured otherwise; and the performance or observance of any covenant, condition or agreement on the part of the District except as herein set forth, but the Trustee may require of the District full information and advice as to the performance of the covenants, conditions and agreements aforesaid and of the condition of the physical property included in the trust estate.

**Section 6.04. Limits on Duties and Liabilities of Trustee.** The permissive right of the Trustee to do things enumerated in this Trust Agreement shall not be construed as a duty of the Trustee and the Trustee shall be answerable only for its own negligence or willful default. The Trustee shall not be required to give any bond or surety in respect of the execution of the said trusts and powers or otherwise in respect of the premises.

**Section 6.05. Moneys Held in Trust.** Moneys held by the Trustee hereunder are held in trust and may not be commingled with other funds except to the extent required by law.

**Section 6.06. Obligations of Trustee.** The Trustee shall be under no obligation to institute any suit or proceeding under this Trust Agreement, or to enter any appearance or in any way defend in any suit in which it may be named as a defendant, or to take any steps in the execution of the trusts hereby created or in the enforcement of any rights and powers hereunder, until it shall have received indemnification satisfactory to the Trustee for all fees, costs and expenses, outlays and counsel fees and other reasonable disbursements in connection therewith, together with adequate indemnity against all risk and 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 assurance of reimbursement or indemnity, and in such case the Trustee shall be reimbursed for all fees, costs and expenses, outlays and counsel fees and other reasonable disbursements properly incurred in connection therewith. If the District shall fail to make such reimbursement, the Trustee may reimburse itself from any moneys in its possession under the provisions of this Trust Agreement and shall be entitled to preference therefor over any Note outstanding hereunder.

**Section 6.07. Notice to Registered Owner.** The Trustee shall give to the Registered Owner of the Note written notice of all Events of Default known to the Trustee by virtue of actual knowledge of a responsible officer, within fifteen (15) days after the occurrence of an Event of Default, unless such default shall have been cured before the giving of such notice; provided that, except in the case of default in the payment of principal of the Note, the Trustee shall be protected in withholding such notice to the Owner if and so long as its board of directors, an executive committee or trust committee of officers of the Trustee in good faith determines that the withholding of such notice is in the interest of the Owner; and further provided that no such notice shall be given unless and until any such default becomes an Event of Default.

**Section 6.08. Intervention in Judicial Proceedings.** In any judicial proceeding to which the District is a party and which in the opinion of the Trustee has a substantial bearing on the interest of the Owner of the Note, the Trustee may intervene on behalf of such Owner, and shall do so upon receipt of indemnification satisfactory to the Trustee if requested by the Owners of at least twenty-five percent (25%) in the aggregate principal amount of the Note outstanding hereunder. The rights and obligations of the Trustee under this Section are subject to the approval of the court having jurisdiction in the premises.

**Section 6.09. Further Investigation by Trustee.** The resolutions, opinions, certificates and other instruments provided for in this Trust Agreement may be accepted by the Trustee as conclusive evidence of the facts and conclusions stated therein and shall be in full warrant, protection and authority to the Trustee for its actions hereunder; but the Trustee may, in its unrestricted discretion, and shall, upon receipt of indemnification satisfactory to the Trustee, if requested in writing so to do by the Owners of not less than twenty-five percent (25%) in aggregate principal amount of the Note outstanding hereunder, cause to be made such independent investigation as it may see fit, and in that event may decline to release any property, or pay over cash, or take other action unless satisfied by such investigation of the truth and accuracy of the matters so investigated. The expense of such investigation shall be paid by the District, or, if paid by the Trustee, shall be repaid to it with interest at a rate of interest equal to the interest rate publicly

announced from time to time by the Trustee as its reference rate, by the District or from the trust estate.

**Section 6.10. Trustee to Retain Financial Records.** The Trustee shall retain any financial information or other program documentation furnished by the District in accordance with this Trust Agreement until three (3) years after the final payment of the Note.

**Section 6.11. Compensation of Trustee.** All advances, counsel fees and other expenses reasonably made or incurred by the Trustee in and about the execution of the trust hereby created and reasonable compensation to the Trustee for its services in the premises shall be paid by the District. On the later of the date of issuance of the Note or the execution of this Agreement, the Trustee shall be paid an acceptance fee. The Trustee shall also charge an annual administration fee which shall compensate and reimburse the Trustee in full for all services to be rendered and all fees and expenses to be incurred by the Trustee in the performance of its obligations under this Trust Agreement other than services, fees and expenses relating to a default or threatened default by the District, relating to any claim made by the Owner of the Note, relating to any intervention in a judicial proceeding by the Trustee pursuant to Section 6.08 hereof, relating to any investigation made or instigated by the Trustee pursuant to Section 6.09 hereof, or otherwise relating to matters not contemplated by this Trust Agreement to arise as a matter of course in the performance of the Trustee's duties hereunder.

**Section 6.12. Trustee May Hold Note.** The Trustee and its officers and directors may acquire and hold, or become the pledgee of, the Note and otherwise deal with the District in the same manner and to the same extent and with like effect as though it were not Trustee hereunder.

**Section 6.13. Appointment of Trustee.** There shall at all times be a trustee hereunder which shall be an association or corporation organized and authorized to conduct business under the laws of the United State of America or the State of Mississippi, authorized under such laws to exercise corporate trust powers, subject to supervision or examination by federal or state authority and in good standing under the federal or state authority under whose jurisdiction such association or corporation falls.

**Section 6.14. Merger of Trustee.** Any corporation or association into which the Trustee may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its trust business and assets as a whole or substantially as a whole, or any corporation or association, resulting from any such conversion, sale, merger, consolidation or transfer to which it is a party, ipso facto, shall be and become successor trustee hereunder and vested with all of the title to the trust estate and all the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any instrument or any further act, deed or conveyance on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

**Section 6.15. Resignation or Removal of Trustee.** The Trustee may resign and be discharged from the trusts created by this Trust Agreement by giving to the District thirty days' notice in writing, and to the Owner notice by certified or registered mail addressed to the Owner at his or her address as set forth on the Register, of such resignation, specifying a date when such resignation shall take effect. Such resignation shall take effect on the day specified in such notice (but in no event earlier than the date on which the appointment of a successor trustee shall take effect), unless previously a successor trustee shall have been appointed by the Owner as hereinafter provided, in

which event such resignation shall take effect immediately on the appointment of such successor trustee.

Any Trustee hereunder may be removed at any time by an instrument or instruments in writing, appointing a successor to the Trustee so removed, filed with the Trustee and executed by the Owners of a majority in principal amount of the Note hereby secured and then outstanding.

**Section 6.16. Appointment of Successor Trustee.** In case at any time the Trustee shall resign or shall be removed or otherwise shall become incapable of acting, or shall be adjudged a bankrupt or insolvent, or if a receiver of the Trustee or of its property shall be appointed, or if a public supervisory office shall take charge or control of the Trustee or of its property or affairs, a vacancy shall forthwith and ipso facto be created in the offices of such Trustee hereunder, and a successor may be appointed by the Owner of a majority in principal amount of the Note hereby secured and then outstanding, by an instrument or instruments in writing filed with the Trustee and executed by such Owner, notification thereof being given to the District, but until a new Trustee shall be appointed by the Owner as herein authorized, the District shall, subject to the provisions hereof, appoint a temporary Trustee to fill such vacancy. After any such appointment by the District, the temporary Trustee shall cause notice of such appointment to be published at least once, within thirty (30) days of such appointment, in a financial journal, but any temporary Trustee so appointed by the District shall immediately and without further act be superseded by a Trustee appointed in the manner provided above by the Owner of a majority in principal amount of the Note whenever such appointment by said Owner shall be made.

If, in a proper case, no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of this Section within one month after a vacancy shall have occurred in the office of the Trustee, the Owner the Note hereby secured or any retiring Trustee may apply to any court of competent jurisdiction to appoint a successor trustee. Said court may thereupon, after such notice, if any, as such court may deem proper and prescribe, appoint a successor trustee.

**Section 6.17. Transfer of Rights and Property to Successor Trustee.** Every successor trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to the District an instrument in writing accepting such appointment hereunder, and thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all the estates, properties, rights, powers, trusts, duties and obligations of its predecessor; but such predecessor shall, nevertheless, on the written request of the District or of its successor execute and deliver an instrument transferring to such successor all the estate, properties, rights, powers and trusts of such predecessor hereunder, and every predecessor trustee shall deliver all securities and moneys held by it as Trustee hereunder to its successor. Should any assignment, conveyance or instrument in writing from the District be required by a successor trustee to more fully and certainly vest in such successor trustee the estates, rights, powers and duties hereby vested or intended to be vested in the predecessor trustee, any and all such assignments, conveyances and instruments in writing shall, on request, be executed, acknowledged and delivered by the District.

## ARTICLE VII

### MISCELLANEOUS

**Section 7.01. Modification of Trust Agreement with Consent of Registered Owner.**

Subject to the terms and provisions contained in this Section, the Owner of not less than sixty-six and two thirds percent (66 2/3%) in aggregate principal amount of the Note then outstanding shall have the right, from time to time, to consent to and approve an amendment in writing among the District and the Trustee of the Trust Agreement, provided that no such amendment shall (a) extend or have the effect of extending the fixed maturity of the Note or reducing the interest rate with respect thereto or extending the time for payment of interest, or reducing the amount of principal thereof, without the express consent of the Owner of such Note, (b) reduce or have the effect of reducing the percentage of ownership required for the affirmative vote or written consent to an amendment or modification of the Note Resolution or (c) modify any of the rights or obligations of the Trustee without its written assent thereto. The Trust Agreement and Note Resolution may be amended by agreement among the respective parties thereto, without the consent of the Owner of the Note, but only for the purpose of (i) adding to the covenants and agreements of any party, additional covenants, or to surrender any right or power therein reserved to the District, (ii) curing any ambiguity, correcting defects, or supplementing any ambiguous provision contained therein and (iii) making any other change which shall not adversely affect the Owner.

**Section 7.02. Counterparts.** This Trust Agreement may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument.

*[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]*

IN WITNESS WHEREOF, the District has caused this Trust Agreement to be signed in its name by its Superintendent of Schools and \_\_\_\_\_, as Trustee, to evidence its acceptance of the trust hereby created, has caused the Trust Agreement to be signed in the name of the Trustee by authorized officers of the Trustee, under the corporate seal of the Trustee, all as of the day and year first above written.

TUPELO PUBLIC SCHOOL DISTRICT

By: \_\_\_\_\_  
Superintendent

\_\_\_\_\_, Trustee

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

Its: \_\_\_\_\_

**EXHIBIT "A"**

**SINKING FUND ACCOUNT**

**Deposit Schedule**

| <b><u>DATE</u></b> | <b><u>SINKING FUND<br/>ACCOUNT BALANCE</u></b> | <b>MAXIMUM PERMITTED<br/>SINKING FUND<br/><u>ACCOUNT BALANCE</u></b> |
|--------------------|--|--|
| 12/1/11            | \$   | \$ 200,000   |
| 12/1/12            |  | 400,000  |
| 12/1/13            |  | 600,000  |
| 12/1/14            |  | 800,000  |
| 12/1/15            |  | 1,000,000  |
| 12/1/16            |  | 1,200,000  |
| 12/1/17            |  | 1,400,000  |
| 12/1/18            |  | 1,600,000  |
| 12/1/19            |  | 1,800,000  |
| 12/1/20            |  | 2,000,000  |
| 12/1/21            |  | 2,200,000  |
| 12/1/22            |  | 2,400,000  |
| 12/1/23            |  | 2,600,000  |
| 12/1/24            |  | 2,800,000  |
| 12/1/25            |  | 3,000,000  |



## **EXHIBIT "B"**

### **FAIR MARKET VALUE OF INVESTMENTS**

“Nonpurpose Investment” means any investment acquired with gross proceeds, and which is not acquired to carry out the governmental purpose of the Note. No Nonpurpose Investment, as defined in the Code, shall be directly purchased for an amount in excess of its fair market value. No Nonpurpose Investment shall be sold or otherwise disposed of for an amount less than its fair market value.

Nonpurpose Investments shall be valued in accordance with Regulation Section 1.148-5(d). For purposes of Section 301, the fair market value of a Nonpurpose Investment is generally the price at which a willing buyer would purchase the investment from a willing seller in a bona-fide, arm's length transaction and is determined on the date on which a contract to purchase or sell the Nonpurpose Investment becomes binding. Except as otherwise provided in Regulation Section 1.148-5(d)(6), an investment that is not of a type traded on an established securities market, within the meaning of Section 1273 of the Code, is rebuttably presumed to be acquired or disposed of for a price that is not equal to its fair market value. The fair market value of a United States Treasury obligation that is purchased directly from the United States Treasury is its purchase price.

Any Nonpurpose Investment for which there is not an established market shall be rebuttably considered acquired for an amount in excess of the fair market value of the Nonpurpose Investment except as follows:

(a) Amounts may be invested in certificates of deposit of banks or savings and loan associations only if the certificate of deposit has a fixed interest rate, a fixed payment schedule, and a substantial penalty for early withdrawal. In addition, the yield on the certificate of deposit must not be less than the yield on reasonably comparable direct obligations of the United States, and not less than the highest yield that is published or posted by the provider to be currently available from the provider on comparable certificates of deposit offered to the public.

(b) The purchase price of a guaranteed investment contract ("GIC") is treated as its fair market value on the purchase date only if the following requirements are satisfied: (1) a bona fide solicitation for a specified GIC (i.e., bid specifications are in writing and are timely forwarded to potential providers; bid specifications include all material terms of the bid and the bid specifications include a statement that submission of a bid is a representation by the bidder that it did not consult with other potential bidders, it has no formal or in formal agreement with the District, and the bid

was not submitted solely as a courtesy to the District or any other person) is made and at least three bona fide bids are received from providers that have no material financial interest in the Note (e.g., as underwriters or brokers); (2) the terms of the GIC, including the collateral security requirements, are reasonable; (3) the determination of the terms of the GIC takes into account as a significant factor the reasonably expected drawdown schedule for the funds to be invested, exclusive of amounts deposited in debt service funds and/or reasonably required reserve or replacement funds; (4) all bidders for the GIC have an equal opportunity to bid so that, for example, no bidder is given the opportunity to review another's bid (a last look) before bidding; (5) bids for the GIC are solicited from at least three reasonably competitive providers of investments of the type purchased; (6) at least three bids are received from persons that have no material financial interest in the issue; (7) at least one bid from a reasonably competitive provider is received; (8) if an agent conducts the bidding process, the agent does not bid to provide the GIC; (9) the obligor on the GIC certifies the administrative costs that it is paying (or expects to pay) to third parties in connection with the GIC; and (10) the District retains copies of the following items until three years after the Note matures or is redeemed: (i) a copy of the GIC; (ii) a record of amounts paid by the District for the GIC, including administrative costs and the certification thereof; (iii) for each bid submitted the name of the person and entity submitting the bid, the time and date of each bid and the amount and the results of the bidding; and (iv) the bid solicitation form and, if it has been modified, a written statement explaining the deviation and its purpose.