

## **APPENDIX B**

### **SUMMARY OF CERTAIN PROVISIONS OF THE BOND ORDINANCE**

The following statements are summaries of certain provisions of the Bond Ordinance. Such statements do not purport to be complete and are qualified in their entirety by the provisions of and reference to the Bond Ordinance, copies of which are on file and available for examination at the principal office of the Commission.

#### **Certain Definitions**

Certain terms used in the Bond Ordinance are defined substantially as follows:

"Administration Expenses" means the expenses incurred in fixing and collecting the Fuel Taxes and the costs of administering and enforcing laws, rules and regulations pertaining thereto, including, without limitation, the deductions allowed by law to any dealer or user to cover his costs of collection of the taxes and of compliance with any law pertaining thereto, statute or ordinance, and the dealer's or user's handling costs occasioned by evaporation, spillage or other similar causes, not exceeding two percent (2%) of the amount thereby collected, the reasonable charges against the County or the State acting by or through the Department or otherwise to reimburse the State for the cost to it of rendering its services in the performance by it of all functions incident to the administration or operation of the Tax Ordinance, which charges have been initially fixed by contract between the County and the State in the amount not to exceed one percent (1%) as provided in NRS 373.080 of the gross tax collected pursuant to the Tax Ordinance, but which are subject to renegotiation and reestablishment at a different rate or different amount, and such charges incident to the administration or operation of the Tax Act to defray such administration and operation costs incurred by the State, and also so including any such administration costs pertaining to any Fuel Taxes other than the taxes presently imposed by the Tax Ordinance and by the Tax Act and now or hereafter subject to the pledge and lien to secure the payment of the 2018 Bonds; and the term may include at the County's option (except as limited by law), without limitation:

- (a) Auditing, legal and other overhead expenses of the County directly or indirectly related to the administration, operation and maintenance of the Fuel Taxes;
- (b) Property, liability and other insurance and fidelity bond premiums pertaining to the Pledged Revenues or the Facilities, or both, or a reasonably allocated share of a premium of any blanket policy or bond pertaining to the Pledged Revenues or the Facilities, or both;
- (c) The reasonable charges of any depository bank pertaining to the Fuel Taxes or any securities payable from the Pledged Revenues;
- (d) Any general taxes, assessments, excise taxes, or other charges which may be lawfully imposed on the County or its income or operations pertaining to the Fuel Taxes;
- (e) Ordinary and current rentals of equipment or other property pertaining to the Pledged Revenues, the Facilities or the Fuel Taxes, or any combination;

(f) The costs of making any refunds of any Pledged Revenues lawfully due to others;

(g) Expenses in connection with the issuance of bonds or other securities evidencing any loan to the County and payable from the Pledged Revenues;

(h) The expenses and compensation of any trustee or other fiduciary pertaining to any securities payable from any portion of the Pledged Revenues, the Pledged Revenues, the Facilities or the Fuel Taxes, or any combination;

(i) Contractual services, professional services required by the Bond Ordinance, salaries, labor and the cost of materials and supplies used for current operation pertaining to the Pledged Revenues, the Facilities or the Fuel Taxes, or any combination; and

(j) All other administrative, general and commercial expenses pertaining to the Fuel Taxes, but:

(i) Excluding any operation and maintenance expenses incurred in connection with the Facilities or other streets and highways in the County and not directly pertaining to the Fuel Taxes;

(ii) Excluding any allowance for depreciation or any amounts for capital replacements, renewals, major repairs and maintenance items (or any combination thereof);

(iii) Excluding any costs of the acquisition of any Facilities or any improvements thereto or any other costs pertaining to any other street or highway improvements, or any reserves therefor;

(iv) Excluding any reserves for operation, maintenance or repair of the Facilities or other streets and highways in the County;

(v) Excluding any allowance for the redemption of any bonds or other securities evidencing a loan, or the payment of any interest thereon, or any reserve therefor; and

(vi) Excluding liabilities incurred by the County as the result of its negligence in the operation and maintenance of the Facilities or any other streets and highways in the County or any other ground of legal liability not based on contract, or any reserve therefore.

"BAB Credit" means the credit provided in Section 6431 of the Tax Code which the County directly receives with respect to any Parity Securities or Subordinate Securities in lieu of any credit otherwise available to the holders of such Parity Securities or Subordinate Securities under Section 54AA(a) of the Tax Code, pursuant to an irrevocable election by the County that Section 54AA of the Tax Code shall apply to such Parity Securities or Subordinate Securities and that subsection (g) of Sections 54AA will also apply to such Parity Securities or Subordinate Securities.

"Board" or "Governing Body" means the Board of County Commissioners of Washoe County, Nevada, or its successors in function, if any.

"Bond Account" means the "Washoe County, Nevada, Highway Parity Revenue Bonds, Interest and Bond Retirement Fund," previously created by the County and continued in Section 401 of the Bond Ordinance.

"Bond Requirements" means the principal of, any prior redemption premiums due, if any, in connection with, and the interest on the 2018 Bonds and any additional bonds or other securities payable from the Pledged Revenues, or such part of such securities as may be designated. For the purposes of computing the Bond Requirements of variable interest rate Parity Securities, the interest rate used in the determination shall be the prevailing interest rate on the variable interest rate bonds at the time of calculation, but neither greater than any maximum interest rate pertaining to such variable interest rate nor less than any minimum interest rate pertaining to such variable interest rate. Any such computation shall be made by the Assistant County Manager unless otherwise expressly provided.

In the case of any calculation of the Bond Requirements in the future on the 2018 Bonds and any Parity Securities with respect to which the County expects to receive a BAB Credit or RZEDB Credit, "interest" should be treated as the amount of interest to be paid by the County on the 2018 Bonds and any Parity Securities less the amount of BAB Credit or RZEDB Credit, as the case may be, then expected to be paid by the United States with respect to interest payments on the 2018 Bonds and any Parity Securities and required by the Bond Ordinance or the ordinance or other instrument authorizing those Parity Securities to be used to pay interest on the 2018 Bonds or any Parity Securities, respectively, or to reimburse the County for amounts already used to pay interest on the 2018 Bonds and any Parity Securities. If the BAB Credit or RZEDB Credit, as the case may be, is not expected to be received as of the date of such calculation, "interest" shall be the total amount of interest to be paid by the County on the 2018 Bonds and any Parity Securities without a deduction of the BAB Credit or RZEDB Credit, as the case may be. The Assistant County Manager may certify in writing the expected amount and the expected date of receipt of any BAB Credit or RZEDB Credit, as the case may be, and that certificate shall be conclusive for purposes of the Bond Ordinance.

"Bond Year" means, for the purposes of the Bond Ordinance, the twelve (12) months commencing on the second day of February of any calendar year and ending on the first day of February of the next succeeding calendar year.

"2009 Bonds" means the Washoe County, Nevada, Highway Revenue (Motor Vehicle Fuel Tax) Bonds, Series 2009.

"2010A Bonds" means the Washoe County, Nevada, Highway Revenue (Motor Vehicle Fuel Tax) Bonds, Series 2010A (Tax-Exempt).

"2010B Bonds" means the Washoe County, Nevada, Highway Revenue (Motor Vehicle Fuel Tax) Bonds, Series 2010B (Taxable Direct Pay Build America Bonds).

"2010C Bonds" means the Washoe County, Nevada, Highway Revenue (Motor Vehicle Fuel Tax) Bonds, Series 2010C (Taxable Recovery Zone Economic Development Bonds).

"2010D Bonds" means the Washoe County, Nevada, Highway Revenue (Fuel Tax) Bonds, Series 2010D (Tax-Exempt).

"2010E Bonds" means the Washoe County, Nevada, Highway Revenue (Fuel Tax) Bonds, Series 2010E (Taxable Direct Pay Build America Bonds).

"2010F Bonds" means the Washoe County, Nevada, Highway Revenue (Fuel Tax) Bonds, Series 2010F (Taxable Recovery Zone Economic Development Bonds).

"2013 Bonds" means the securities designated as the Washoe County, Nevada, Highway Revenue (Fuel Tax) Bonds, Series 2013.

"2018 Bonds" or "Bonds" means the securities issued pursuant to the Bond Ordinance and designated as the Washoe County, Nevada, Highway Revenue (Fuel Tax) Refunding Bonds, Series 2018.

"Combined Maximum Annual Principal and Interest Requirements" means the maximum sum of the principal of and interest on the Outstanding 2018 Bonds, and any other designated securities payable from the Net Pledged Revenues (except for purposes of the definition of Minimum Bond Reserve unless otherwise provided in the Bond Ordinance or in an ordinance authorizing the issuance of Parity Securities), to be paid during any one Bond Year for the period beginning with the Bond Year in which such computation is made and ending with the Bond Year in which any 2018 Bond last becomes due at maturity or on a date on which any 2018 Bond thereafter maturing has been called for prior redemption, but excluding any reserve requirements to secure such payments unless otherwise expressly provided. Any such computation shall be made by the Assistant County Manager, the Chief Financial Officer of the Commission or an Independent Accountant unless otherwise expressly provided.

In the case of any calculation of the combined maximum annual principal and interest requirements to be paid in the future on any Parity Securities or Subordinate Securities with respect to which the County expects to receive a BAB Credit or an RZEDB Credit, "interest" for any Bond Year should be treated as the amount of interest to be paid by the County on those Parity Securities or Subordinate Securities in that Bond Year less the amount of BAB Credit or RZEDB Credit, as the case may be, then expected to be paid by the United States with respect to interest payments on those Parity Securities or Subordinate Securities in that Bond Year and required by the ordinance or other instrument authorizing those Parity Securities or Subordinate Securities to be used to pay interest on those Parity Securities or Subordinate Securities in that Bond Year or to reimburse the County for amounts already used to pay interest on those Parity Securities or Subordinate Securities in that Bond Year. If the BAB Credit or RZEDB Credit, as the case may be, is not expected to be received as of the date of such calculation, "interest" shall be the total amount of interest to be paid by the County on the Parity Securities or Subordinate Securities without a deduction of the BAB Credit or the RZEDB Credit, as the case may be. The Assistant County Manager may certify in writing the expected amount and the expected date of receipt of any BAB Credit or RZEDB Credit, as the case may be, and that certificate shall be conclusive for purposes of the Bond Ordinance.

"Cost of Issuance Account" means the account created in the Bond Ordinance and designated as the "Washoe County, Nevada, Highway Revenue (Fuel Tax) Refunding Bonds, Series 2018, Cost of Issuance Account".

"Department of Taxation" or "Department" means the Nevada Department of Taxation created by section 11, chapter 748, Statutes of Nevada 1975.

"Direct Distributions" means the shares of the unrefunded balance of the Fuel Taxes levied and collected pursuant to the Project Act and Tax Ordinance, which are subject to refund by reason of the use of such taxed fuel as aviation fuel, and allocated to the local governments which own or control any airports, landing areas and air navigation facilities within the County, pursuant to NRS 373.150.

"Escrow Account" means the special account designated as the Washoe County, Nevada, Highway Revenue (Fuel Tax) Refunding Bonds, Series 2018 Escrow Account to be held by the Escrow Bank and administered according to the provisions of the Escrow Agreement to pay off the Refunded Bonds.

"Escrow Agreement" means the escrow agreement between the Escrow Bank and the County relating to the Refunded Bonds.

"Escrow Bank" means Wells Fargo Bank, National Association, its successors and assigns.

"Facilities" means the properties comprising the street and highway system embraced by the Plan, as from time to time amended, consisting of all properties real, personal, mixed, or otherwise, now owned or hereafter acquired by the County, the State, and any other political subdivision of the State (other than the County), through purchase, construction, or otherwise, and used in connection with the street and highways system within the Plan, as so amended, and in any way pertaining thereto.

"Assistant County Manager" means the de jure or de facto Assistant County Manager of the County, as chief financial officer of the County, or successor in functions, if any.

"Fiscal Year" means the twelve (12) months commencing on the first day of July of any calendar year and ending on the last day of June of the next succeeding calendar year.

"Fuel Taxes" means the excise taxes collected for use by the County in connection with the privilege of selling, using or distributing motor vehicle fuel and certain special fuels in the County or the State, as the case may be, so long as the 2018 Bonds remain Outstanding, the proceeds of which taxes now or hereafter are authorized to be pledged by the Board for the payment of the 2018 Bonds, whether levied by the County, the State, or otherwise, subject to the exempt sales and to the other exempt transactions provided by law, and subject to the credits and refunds authorized by law and pertaining thereto except those defrayed as Administration Expenses. Such taxes are not necessarily limited to any type or types of motor vehicle fuel in use when the 2018 Bonds are issued; and, subject to such exempt sales and to such other exempt transactions, such taxes now consist:

- (a) Of a tax levied by the County by the Tax Ordinance pursuant to the Project Act of nine cents (\$.09) per gallon on all motor vehicle fuel sold, distributed or used in the County as provided by the Tax Ordinance, except as therein otherwise provided, and

(b) Of a tax levied by the County by the Tax Ordinance pursuant to paragraph (d) of subsection 1 of NRS 373.065 on all motor vehicle fuel sold, distributed or used in the County as provided by the Tax Ordinance, except as therein otherwise provided;

(c) Of a tax levied by the County by the Tax Ordinance pursuant to paragraphs (d) to (m), inclusive, of subsection 1 of section 3 of Chapter 501, Statutes of Nevada 2009 on certain special fuels sold, distributed or used in the County as provided by the Tax Ordinance, except as therein otherwise provided; and

(d) Not of any portion of any such excise tax otherwise now levied by the State;

and such taxes may hereafter consist of any excise taxes pertaining to motor vehicle fuel or such certain special fuels of at least an equivalent value and pledged in lieu of such present taxes by the Board or by statute or of any such excise tax of any value pledged in supplementation thereof.

"Gross Pledged Revenues" or "gross income" means all income and revenues directly or indirectly by the County from the Fuel Taxes, or any part thereof, whether resulting from excise taxes pertaining to motor vehicle fuel authorized to be pledged by the Board to the 2018 Bonds, or otherwise, and includes all revenues received for use by the County or any political corporation succeeding to the rights of the County from the Fuel Taxes, but:

(a) Excluding any moneys received as grants, appropriations or gifts from the United States, the State, or other sources, the use of which is limited by the grantor or donor to the construction of capital improvements for the County, and

(b) Excluding any other moneys which are not authorized by statute heretofore or hereafter adopted to be pledged to the payment of the 2018 Bonds.

"Highway Fund" means the Regional Highway Fund in the treasury of the County, which fund (formerly designated the Regional Street and Highway Fund) was created by the Tax Ordinance, pursuant to NRS 373.110.

"holder", "Holder" or "owner" or any similar term, when used in connection with any bonds, or any other designated securities, means the Person in possession and the apparent owner of the designated item, if such obligation is registered to bearer or is not registered, and the term means the registered owner of any 2018 Bond or other security which is fully registered for payment as to both principal and interest otherwise than to bearer.

"Improvements" means those Facilities acquired or improved by the Refunded Bonds.

"Independent Accountant" means any certified public accountant, or firm of such certified public accountants, as from time to time determined by the Board, duly licensed to practice and practicing as such under the laws of the State, appointed and compensated by the Board on behalf of and in the name of the County:

(a) who is, in fact, independent and not under the domination of the County;

(b) who does not have any substantial interest, direct or indirect, with the County; and

(c) who is not connected with the County as an officer or employee thereof, but who may be regularly retained to make annual or similar audits of any books or records of the County.

"Insurer" means the entity, if any, or any successor thereof, which insures the 2018 Bonds and whose policy of municipal bond insurance is delivered at the time of delivery of the 2018 Bonds.

"Minimum Bond Reserve" means, with respect to the 2009 Bonds, the 2010A Bonds, the 2010B Bonds, the 2010C Bonds, the 2010D Bonds, the 2010E Bonds, the 2010F Bonds, and the 2018 Bonds, the lesser of: (a) 125% of the combined average annual principal and interest requirements; (b) 100% of the Combined Maximum Annual Principal and Interest Requirements; or (c) an amount determined by adding the amount of the Minimum Bond Reserve in effect immediately prior to the issuance of 2018 Bonds to an amount equal to 10% of the proceeds of the 2018 Bonds, and is required to be deposited, accumulated and maintained as provided in Section 506 of the Bond Ordinance. For this purpose, the term "proceeds" means the aggregate stated principal amount of the 2018 Bonds, unless there is more than a de minimis amount of original issue discount or premium (as defined in Section 1.148-1(b) of the Treasury Regulations), in which case "proceeds" means issue price.

In the case of any calculation of the combined average annual principal and interest requirements to be paid in the future on any Parity Securities with respect to which the County expects to receive a BAB Credit or RZEDB Credit, "interest" for any Bond Year should be treated as the amount of interest to be paid by the County on those Parity Securities in that Bond Year less the amount of BAB Credit or RZEDB Credit, as the case may be, then expected to be paid by the United States with respect to interest payments on those Parity Securities in that Bond Year and required by the ordinance or other instrument authorizing those Parity Securities to be used to pay interest on those Parity Securities in that Bond Year or to reimburse the County for amounts already used to pay interest on those Parity Securities in that Bond Year. If the BAB Credit or RZEDB Credit, as the case may be, is not expected to be received as of the date of such calculation, "interest" shall be the total amount of interest to be paid by the County on the Parity Securities without a deduction of the BAB Credit or RZEDB Credit, as the case may be. The Assistant County Manager may certify in writing the expected amount and the expected date of receipt of any BAB Credit or RZEDB Credit, as the case may be, and that certificate shall be conclusive for purposes of the Bond Ordinance.

"Net Pledged Revenues" means the Gross Pledged Revenues, after the deduction of the Administration Expenses and Direct Distributions.

"2009 Ordinance" means the ordinance adopted by the County on March 24, 2009 authorizing the issuance of the 2009 Bonds.

"2010ABC Ordinance" means the ordinance adopted by the County on February 9, 2010 authorizing the issuance of the 2010A Bonds, the 2010B Bonds and the 2010C Bonds.

"2010DEF Ordinance" means the ordinance adopted by the County on November 9, 2010 authorizing the issuance of the 2010D Bonds, the 2010E Bonds and the 2010F Bonds.

"2013 Ordinance" means the ordinance adopted by the County on March 12, 2013 authorizing the issuance of the 2013 Bonds.

"Outstanding" when used with reference to the 2018 Bonds or any other designated securities and as of any particular date means all the 2018 Bonds or any such other securities payable from the Pledged Revenues in any manner theretofore or thereupon being executed and delivered:

(a) Except any 2018 Bond or other security canceled by the County or otherwise on the County's behalf, at or before such date;

(b) Except any 2018 Bond or other security for the payment of the redemption of which cash at least equal to the Bond Requirements to the date of maturity or the redemption date, shall have theretofore been deposited with a trust bank in escrow or in trust for that purpose, as provided in the Bond Ordinance; and

(c) Except any 2018 Bond in lieu of or in substitution for which another bond shall have been duly executed and delivered.

"Parity Securities" means in either case bonds or securities payable from the Pledged Revenues on a parity with the 2018 Bonds.

"Plan" means the Land Use and Transportation Element of the Comprehensive Regional Plan of Washoe County, Nevada, approved and adopted by resolution of the Board, as from time to time amended and supplemented.

"Pledged Revenues" means all or a portion of the proceeds of the gross Fuel Taxes, i.e., the Gross Pledged Revenues. The term indicates a source of revenues and does not necessarily indicate all or any portion or other part of such revenues in the absence of further qualification.

"Project Act" means the act originally adopted as chapter 470, Statutes of Nevada 1965, designated as NRS 373.010 through 373.200, as from time to time amended, and cited in NRS 373.010, as the County Fuel Tax Law.

"Rebate Account" means the account designated as the "Washoe County, Nevada, Highway Revenue (Fuel Tax) Bonds, Series 2018, Rebate Account."

"Redemption Date" means a date fixed for the redemption prior to their respective maturities of any bonds or other designated securities payable from Pledged Revenues in any notice of prior redemption or otherwise fixed and designated by the County.

"Refunded Bonds" means the portion of the Outstanding 2009 Bonds and 2013 Bonds as set forth in the Escrow Agreement.

"Refunding Project" means the refunding of the Refunded Bonds, as set forth in the Escrow Agreement, funding the Reserve Account and paying the costs of issuance of the 2018 Bonds.



"Reserve Account" means the "Washoe County, Nevada, Highway Revenue Combined Bond Reserve Account" created by the Bond Ordinance for the equal and ratable benefit of the 2009 Bonds, the 2010A Bonds, the 2010B Bonds, the 2010C Bonds, the 2010D Bonds, the 2010E Bonds, the 2010F Bonds, the 2013 Bonds and the 2018 Bonds (and any additional Parity Securities that the County may elect in the ordinance authorizing their issuance to be secured by the Reserve Account, provided an additional deposit, if necessary, is made to the Reserve Account in order to fund the Reserve Account to an amount equal to the Minimum Bond Reserve then applicable to a combined reserve) and designated as such in the Bond Ordinance.

"Reserve Account Surety Bond" means any insurance policy or surety bond deposited in or credited to the Reserve Account as provided in the Bond Ordinance in lieu of or in partial substitution for cash or investment obligations on deposit in the Reserve Account. Any such insurance policy or surety bond must be issued by an entity whose claims paying ability is rated in one of the two highest rating categories assigned by any nationally recognized rating agency.

"RZEDB Credit" means the credit provided in Sections 1400U-2 and 6431(b) of the Tax Code which the County directly receives with respect to any Parity Securities or Subordinate Securities in lieu of any credit otherwise available to the holders of such Parity Securities or Subordinate Securities under Section 54AA(a) of the Tax Code, pursuant to an irrevocable election by the County that Section 54AA of the Tax Code shall apply to such Parity Securities or Subordinate Securities and a designation of any such Parity Securities or Subordinate Securities as "Recovery Zone Economic Development Bonds" for purposes of Section 1400U-2 of the Tax Code so that the County will directly receive the credit provided in Sections 1400U-2 and 6431(b) of the Tax Code with respect to such Parity Securities or Subordinate Securities.

"Subordinate Securities" means in either case bonds or other securities payable from the Pledged Revenues and junior to the lien thereon of the 2018 Bonds.

"Superior Securities" means in either case bonds or securities payable from the Pledged Revenues and senior to the lien thereon of the 2018 Bonds which are prohibited by the Bond Ordinance as long as the 2018 Bonds are Outstanding.

"Tax Act" means section NRS 365.010 through 365.090 and all laws amendatory thereof.

"Tax Code" means the Internal Revenue Code of 1986, as amended to the date of delivery of the 2018 Bonds.

"Tax Ordinance" means Ordinance Nos. 132, 430, 520, 1149 and 1416 of the County, duly adopted by the Board on June 15, 1965 as amended from time to time, and which ordinance, as amended, is also cited as Sections 20.321 through 20.433 of the Washoe County Code and the amendments of Ordinance No. 1416 adopted on August 25, 2009 and effective as of January 1, 2010.

## **Application of Proceeds**

The net proceeds of the Bonds will be deposited into the Bond Account, the Reserve Account, the Escrow Account and the Cost of Issuance Account. First, if not needed for the

Refunding Project, there shall be credited to the Bond Account all moneys, if any, received as accrued interest on the Bonds from their sale by the County from the date of the Bonds to the date of their delivery to the Underwriters of the Bonds, to apply to the payment of interest on the Bonds as the same becomes due after their delivery. Second, there shall be deposited from the proceeds of the Bonds (or other available moneys of the County) into the Reserve Account moneys, which, when combined with the amounts currently on deposit in (i) the reserve account established in the 2009 Ordinance for the 2009 Bonds (the "2009 Reserve Account"), (ii) the reserve account established in the 2010ABC Ordinance for the 2010A Bonds, the 2010B Bonds, and the 2010C Bonds (the "2010ABC Reserve Account"), and (iii) the reserve account established in the 2010DEF Ordinance for the 2010D Bonds, the 2010E Bonds, and the 2010F Bonds (the "2010DEF Reserve Account"), and (iv) the reserve account established in the 2013 Ordinance for the 2013 Bonds (the "2013 Reserve Account") equals the Minimum Bond Reserve. The Assistant County Manager is authorized by the Bond Ordinance, but not required by the Bond Ordinance, to consolidate the moneys in the 2009 Reserve Account, the 2010ABC Reserve Account, the 2010DEF Reserve Account and the 2013 Reserve Account into the Reserve Account established in the Bond Ordinance so that all of such funds are held in one account. Third, there shall be deposited from the proceeds of the Bonds (or other available moneys of the County) into the Escrow Account, an amount sufficient to refund, pay and discharge the Refunded Bonds to be held by the Escrow Bank and administered according to the provisions of the Escrow Agreement. After all incidental expenses have been paid, any unexpended balance of 2018 Bond proceeds (or, unless otherwise required by law, any other moneys) remaining in the Escrow Account shall be deposited into the Bond Account for the payment of the Bond Requirements on the 2018 Bonds

### **Flow of Funds**

The proceeds of the Gross Pledged Revenues (with certain exceptions) shall be deposited into the Highway Fund. Payments from the Highway Fund shall be made in the following order:

- (a) To pay Administration Expenses and to make Direct Distributions;
- (b) To the Bond Account:
  - (i) In monthly installments, commencing on each interest payment date, an amount sufficient to pay one-sixth of the next maturing installment of interest on the Outstanding Parity Securities, and in monthly installments commencing on each principal payment date, to pay one-twelfth of the next maturing installment of principal of the Outstanding Parity Securities, except to the extent any other moneys are available.
  - (ii) Concurrently with the payments provided in (b)(i) above, in equal monthly installments, commencing on the first day of the month immediately succeeding delivery of the 2018 Bonds and any Parity Securities hereafter issued: (1) an amount sufficient to pay the next installment of interest on the Outstanding 2018 Bonds and any Outstanding Parity Securities hereafter issued, and monthly thereafter, commencing on each interest payment date, one-sixth of the amount necessary to pay the next maturing installment of interest on the Outstanding 2018 Bonds and any Outstanding Parity Securities hereafter issued, except to the extent any other moneys are available; and (2) an amount to pay the next maturing

installment of principal of the 2018 Bonds and any Outstanding Parity Securities hereafter issued, and monthly thereafter, commencing on each principal payment date, one-twelfth of the next maturing installment of principal of the 2018 Bonds and any Outstanding Parity Securities hereafter issued, except to the extent any other moneys are available.

(c) To the Reserve Account monthly, concurrently with the payments to the Bond Account made pursuant to (b) above (except as otherwise provided in the Bond Ordinance), commencing on the first day of the month on which the moneys accounted for in the Reserve Account for any reason are less than the Minimum Bond Reserve, such amounts in substantially equal monthly installments on the first day of each month to accumulate or reaccumulate the Minimum Bond Reserve by not more than 60 such monthly payments;

(d) Subsequent to the payments summarized in (b) and (c) above, there must be deposited, into the Rebate Account the amount required pursuant to Section 148 of the Tax Code and the regulations thereunder;

(e) Subsequent to the payments summarized in (b), (c) and (d) above, there may be paid out of any moneys remaining in the Highway Fund the payment of Bond Requirements of additional Subordinate Securities payable from the Net Pledged Revenues and hereafter authorized to be issued; and

(f) The balance remaining in the Highway Fund may be used for one or any combination of lawful purposes, as the Commission and the County may from time to time determine.

## **Reserve Account**

The County has elected in the Bond Ordinance that the Reserve Account shall be a combined Reserve Account solely for the equal and ratable benefit of the 2009 Bonds, the 2010A Bonds, the 2010B Bonds, the 2010C Bonds, the 2010D Bonds, the 2010E Bonds, the 2010F Bonds, and the 2018 Bonds; provided, however, that the County may elect, but is not required, to provide for a combined reserve account in the ordinance authorizing the issuance of any additional Parity Securities (and may do so by electing to secure such additional Parity Securities with the combined Reserve Account created herein, provided an additional deposit, if necessary, is made to the Reserve Account in order to fund the Reserve Account to an amount equal to the Minimum Bond Reserve then applicable to a combined reserve) or may elect, but is not required, to provide for a separate reserve account for any additional Parity Securities or may not provide a reserve account in connection with additional Parity Securities. Payments into similar reserve funds or accounts for any additional Parity Securities shall be made concurrently with payments into the Reserve Account. After making the required deposits into the Bond Account, the County must deposit into the Reserve Account, from the proceeds of the 2018 Bonds, an amount which, when combined with the amounts on deposit in the 2009 Reserve Account, the 2010ABC Reserve Account, and the 2010DEF Reserve Account, equals the Minimum Bond Reserve. The Reserve Account is required to be maintained in an amount equal to the Minimum Bond Reserve. The County is required to make deposits into the Reserve Account sufficient to bring the balance in the Reserve Account to an amount equal to the Minimum Bond Reserve following the issuance of a series of additional Parity Securities, or if for any other reason the Reserve

Account does not equal the Minimum Bond Reserve, in 60 equal monthly payments. The Minimum Bond Reserve may be funded from cash or Federal Securities, a Reserve Account Surety Bond, or a combination of the above. A Reserve Account Surety Bond may also be substituted for all or any part of the cash or Federal Securities at any time on deposit in the Reserve Account, or cash or Federal Securities may be substituted for all or any part of a Reserve Account Surety Bond. Any Reserve Account Surety Bond on deposit in the Reserve Account shall be valued at the amount available to be drawn on it. Repayments to the provider of any Reserve Account Surety Bond will have the same priority as payments into the Reserve Account.

### **Parity Bonds**

The County may issue additional bonds or other securities (other than refunding bonds, which are permitted subject to the conditions described below) payable from Pledged Revenues and constituting a lien on Pledged Revenues on a parity with the lien of the Outstanding 2018 Bonds if:

(a) at the time of the adoption of the supplemental instrument authorizing the issuance of such additional securities, the County is not in default in making any payments required to be made to the various accounts designated in the Bond Ordinance; and

(b) the Net Pledged Revenues derived in any twelve consecutive months of the last eighteen months of the Fiscal Year immediately preceding the date of the issuance of such additional Parity Securities were at least sufficient to pay an amount equal to 125% of the Combined Maximum Annual Principal and Interest Requirements of the Outstanding 2018 Bonds and any other Outstanding Parity Securities and the Parity Securities proposed to be issued.

The above earnings test is subject to the following adjustments:

(a) if any Fuel Tax constituting supplemental Pledged Revenues had not accrued and been payable for the full Fiscal Year immediately preceding the date of the issuance of any such additional Parity Securities, any amount of Net Pledged Revenues which was actually collected for the designated Fiscal Year may be increased to an amount which it is estimated would have been collected if such Fuel Tax had accrued and been payable for the full Fiscal Year designated based upon the known collections of Net Pledged Revenues preceding such adjustment;

(b) the amount of the Pledged Revenues for the twelve consecutive months of the last eighteen months of the Fiscal Year immediately preceding the date of the issuance shall be decreased by, and may be increased by, the amount of any loss or gain conservatively estimated by the Assistant County Manager of the County or the Chief Financial Officer of the Commission making the computations under the above earnings test (with an annual inflation factor for gains not to exceed 3%), which loss or gain results from any change in the rate of the levy of that part of the Fuel Taxes constituting a part of the Pledged Revenues which change took effect during the twelve consecutive months of the last eighteen months of the Fiscal Year immediately preceding the date of the issuance or shall take effect during any succeeding Fiscal Year prior to or following the issuance of such Parity Securities, as if such modified rate shall have been in effect

during the entire twelve consecutive months of the last eighteen months of the Fiscal Year immediately preceding the date of the issuance and as if such change shall have been made before the computation of the designated earnings test; and

(iii) the amount of annual payments on the Outstanding 2018 Bonds, any other Outstanding Parity Securities and the additional Parity Securities proposed to be issued is required to be reduced to the extent moneys are held for their payment in trust or escrow, in accordance with the provisions of the Bond Ordinance.

The 2018 Bonds and any Outstanding Parity Securities are not entitled to any priority one over the other in the application of the Pledged Revenues, regardless of the time or times of the issuance of the parity bonds and any other such parity securities.

### **Refunding Bonds; Subordinate Bonds**

The Bond Ordinance provides that refunding securities may be issued only if the securities to be refunded will mature at the time or times of their required surrender for payment or be then callable for prior redemption at the County's option for the purpose of refunding them, unless the holders of all such securities consent to such surrender and payment. Except in certain events (absences of increase in principal and interest requirements, subordination of the lien of such refunding bonds, or meeting of the requirements for additional Parity Securities), partial refunding of an issue requires consent of the holders of the unrefunded portion of the Outstanding securities payable from Pledged Revenues.

The Bond Ordinance provides that the County may issue Subordinate Securities.

### **Investments**

Any moneys in any account designated in the Bond Ordinance (except the Reserve Account) and not required for immediate use may be invested or reinvested by the County Treasurer, by deposit in one or more commercial banks or in bills, certificates of indebtedness, notes, bonds, or similar securities which are permitted under State law and permitted by any Insurer of the Bonds, except that moneys on deposit in the Reserve Account may only be invested in securities set forth in the Bond Ordinance provided such securities are permitted under State law ("Permitted Securities"). The Permitted Securities so purchased as an investment or reinvestment of moneys in any such account will be deemed at all times to be a part of the account and held in trust therefore. Except as otherwise provided in the Bond Ordinance, any interest or other gain in any account from any investments and reinvestment in Permitted Securities and from any deposits of moneys in any such bank will be credited to the account and any loss in any account resulting from any such investments and reinvestments in Permitted Securities and from any such deposits will be debited to the account; but any gain from any investments, reinvestments and deposits of moneys accounted for in the Reserve Account in excess of Minimum Bond Reserve may be transferred to the Bond Account.

### **Tax Covenant**

The County covenants for the benefit of the registered owners of the 2018 Bonds that it will not take any action or omit to take any action with respect to the 2018 Bonds, the proceeds thereof, any other funds of the County or any facilities financed or refinanced with the proceeds

of the 2018 Bonds if such action or omission (a) would cause the interest on the 2018 Bonds to lose its exclusion from gross income for federal income tax purposes under Section 103 of the Tax Code, or (b) would cause interest on the 2018 Bonds to lose its exclusion from alternative minimum taxable income as defined in Section 55(b)(2) of the Tax Code except to the extent that such interest is required to be included in calculating the adjusted current earnings adjustment applicable to corporations for purposes of computing corporate alternative minimum taxable income for taxable years of corporations beginning before January 1, 2018. The foregoing covenant shall remain in full force and effect notwithstanding the payment in full or defeasance of the 2018 Bonds until the date on which all obligations of the County in fulfilling the above covenant under the Tax Code have been met.

### **Rebate Account**

The Bond Ordinance creates the Rebate Account to be held as a separate account by the County. After all the payments required to be made into the Bond Account and the Reserve Account, the County is required to deposit Net Pledged Revenues into the Rebate Account as required under Section 148 of the Tax Code and regulations promulgated thereunder. Any money in the Rebate Account not needed for such purpose shall be transferred to the Highway Fund. Payments into similar rebate accounts for additional parity bonds shall be made concurrently with payments into the Rebate Account.

### **Events of Default and Remedies of Bondholders**

Each of the following events is defined in the Bond Ordinance as an "event of default":

(a) the County fails to pay when due the principal of the 2018 Bonds or any prior redemption premium in connection therewith or to pay any installment of interest when due;

(b) the County is rendered incapable of fulfilling its obligations under the Bond Ordinance;

(c) the County fails to perform (or in good faith to begin the performance of) all acts and things required to be carried out or to be performed by it under any contract relating to the Pledged Revenues or otherwise (including the Bond Ordinance), and such failure continues for 60 days after receipt of notice of such failure from either the Underwriters of the 2018 Bonds or from the owners of 10 percent in principal amount of the 2018 Bonds then Outstanding;

(d) an order or decree is entered with the acquiescence or consent of the County appointing a receiver or receivers for the Pledged Revenues and any other moneys subject to the lien to secure the payment of the 2018 Bonds, or such a decree is entered without the consent of the County and is not vacated, discharged, or stayed on appeal within 60 days after entry; or

(e) the County makes any default in the due and punctual performance of any other of the representations, covenants, conditions, agreements, and other provisions contained in the 2018 Bonds or in the Bond Ordinance on its part to be performed, and such default continues for 60 days after written notice specifying such default and

requiring the same to be remedied has been given to the County by either the Underwriters of the 2018 Bonds or the owners of 10 percent in principal amount of the 2018 Bonds then Outstanding.

Upon the happening and continuance of an Event of Default, the owners of 10 percent in aggregate principal amount of the 2018 Bonds then Outstanding may proceed against the County and its agents, officers, and employees to protect and enforce the rights of the bondholders under the Bond Ordinance by mandamus or other suit, action, or special proceedings, in equity or at law, either for the appointment of a receiver or for the specific performance of any covenant or agreement contained therein or by an award of execution of any power granted in the Bond Ordinance for the enforcement of any proper legal or equitable remedy, as such bondholders may deem most effectual to protect and enforce such rights, or to enjoin any act or thing which may be unlawful or in violation of any right of any holder of any 2018 Bond, or to require the County to act as if it were the trustee of an express trust, or any combination of such remedies. The remedies do not include the right to declare the then outstanding principal amount of 2018 Bonds immediately due and payable. The United States Bankruptcy Code and similar statutes may limit the rights granted under the Bond Ordinance.

Notwithstanding the foregoing, upon the occurrence and continuance of an event of default and so long as the Insurer, if any, is not in default with respect to its payment obligations with respect to the 2018 Bonds, the Insurer, if any, will be entitled to control and direct the enforcement of all rights and remedies granted to the owners of the 2018 Bonds for the benefit of the owners of the 2018 Bonds under the Bond Ordinance.

### **Defeasance**

When all principal, interest, and any prior redemption premiums due in connection with any 2018 Bond have been duly paid or provision made therefore in accordance with the Bond Ordinance, the pledge and lien and all obligations under the Bond Ordinance as to that 2018 Bond will thereby be discharged, and the 2018 Bond will no longer be deemed to be Outstanding within the meaning of the Bond Ordinance. The County may provide for such payment by placing in escrow or in trust with a trust bank an amount sufficient, together with the known minimum yield available therefore from any initial investments in Federal Securities, to meet all requirements of principal, interest, and any prior redemption premiums as the same become due to the final maturity of the 2018 Bond or upon any prior redemption date as of which the County has exercised or obligated itself to exercise its prior redemption option by a call of the Bond for payment.

### **Amendment of the Bond Ordinance**

The Bond Ordinance may be amended or supplemented by instruments adopted by the Board in accordance with the laws for the State without the consent of or notice to the holders of the Bonds for the purpose of curing any ambiguity or formal defect or omission therein and in connection with any other amendment upon the written consent of the Insurer or the holders of not less than 66 percent in aggregate principal amount of the 2018 Bonds and any Parity Securities which are Outstanding at the time of the adoption of such amendatory or supplemental instrument; but no such instrument may permit, without the consent of 100 percent of the owners adversely affected, the following: (i) a change in the maturity or in the terms of redemption of the principal of or any installment of interest on any 2018 Bond or any Parity Securities; (ii) a

reduction of the principal, interest rate, or prior redemption premium of any 2018 Bond or any Parity Securities; (iii) the creation of a lien upon or a pledge of revenues ranking prior to the lien or to the pledge created by the Bond Ordinance; (iv) a reduction of the principal amount or percentages or otherwise affecting the description of the 2018 Bonds or Parity Securities or the consent of the holders required for any such modification or amendment; (v) the establishment of priorities between 2018 Bonds and Parity Securities; or (vi) any change materially and prejudicially modifying or otherwise materially and prejudicially affecting the rights or privileges of the holders of less than all of the 2018 Bonds and Parity Securities then Outstanding.

Notwithstanding the forgoing, as to any 2018 Bonds the payment of which is insured by any Insurer, the written consent of such Insurer, if any, in lieu of the written consent of the Owners of the 2018 Bonds, must be obtained in order for such 2018 Bonds to be counted toward the amount required to consent to an amendment of the Bond Ordinance.