



Agenda Item #: \_\_\_\_\_

# Staff Report

## City of Manhattan Beach

**TO:** Honorable Mayor Ward and Members of the City Council

**THROUGH:** Geoff Dolan, City Manager

**FROM:** Bruce Moe, Finance Director  
Russell J. Morreale, Assistant Finance Director  
Henry Mitzner, Controller

**DATE:** July 5, 2006

**SUBJECT:** Consideration of Utility Underground Assessment Districts 05-2 & 05-06 and Utility Undergrounding Assessment Deferment Program:

- a. Consideration of Resolutions Approving Financing Documents and Authorizing the Execution and Delivery of Limited Obligation Improvement Bonds for Districts 05-2 & 05-6, for an Amount Not-to-Exceed \$12,966,987 **ADOPT RESOLUTION NOS. (6040, 6041, 6042, 6043);**
- b. Status Report and Approval of the City's Utility Undergrounding Assessment Deferment Program **DISCUSS AND PROVIDE DIRECTION; ADOPT RESOLUTION NO. 6044**

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### **RECOMMENDATION:**

Staff recommends that the City Council:

- a. Adopt Resolution No.'s 6040 and 6041 determining unpaid assessments for each of the districts;
- b. Adopt Resolution No.'s 6042 and 6043 authorizing issuance of limited obligation improvement bonds, Series 2006, and the Execution and Delivery of a fiscal agent agreement, Continuing Disclosure Agreement, Bond Purchase Agreement, and an Official Statement, and Approving a Preliminary Official Statement for each district;
- c. Discuss and provide direction on the City's Utility Undergrounding Assessment Deferment Program
- d. Adopt Resolution No.6044 Approving the City's Deferment Program

### **FISCAL IMPLICATION:**

There are no fiscal implications for the City in adopting the bond resolutions. Costs associated with the formation and construction of the districts are paid by the property owners within the districts. The City will be reimbursed for the advanced funds expended to form the districts, including Assessment Engineer and utility engineering design costs.

The City’s Utility Undergrounding Assessment Deferment Program has been funded through the establishment of a \$1 million reserve in the FY 2006-2007 budget. As of June 26, 2006, we have received twenty-two preliminary applications with an estimated loan value of \$590,550. While there is no direct cost associated with the development of the loan program, significant staff time has been invested in its creation, and will continue for program administration.

**DISCUSSION:**

At its regular meeting of October 4, 2005 the City Council adopted resolutions which approved the proposed boundary maps of the Districts, declared its intent to finance the improvements through the levy of assessments and the issuance of bonds, and gave preliminary approval of the Engineer’s Reports. On November 21, 2005, the City Council conducted a public hearing and heard testimony either in support of or opposition to the Districts. After tabulating the assessment ballots, both Districts were approved and formed. Property owners were given a minimum of 30 days to pay their assessment during a cash collection period. The following is a summary of the cash collection period:

	Original Assessment	Cash Collection	Equivalent Cash Collection.	Bonding Capacity
District 05-2	\$8,061,023	\$747,555	\$850,377	<b>\$7,210,646</b>
District 05-6	\$6,652,236	\$787,525	\$895,895	<b>\$5,756,341</b>
<b>Totals</b>	<b>\$14,713,259</b>	<b>\$1,535,080</b>	<b>\$1,746,272</b>	<b>\$12,966,987</b>

Now that the cash collection period is completed, the City will sell bonds representing the unpaid assessments. Bond proceeds and prepayment funds will be used to finance the construction of the underground work. The bonds are secured by the unpaid assessments. The property owners make annual assessment installments over the life of the bonds to pay for the debt service on the bonds and administrative costs relating to the Districts.

It is important to note that the individual property owner assessments represent the improvement costs of the proposed project within the public right-of-way. The individual property owners are also responsible for the costs associated with work on private property to complete their respective service connection conversions to the new underground system.

Through the adoption of the subject Resolutions the amount of the unpaid assessments will be designated and the bonds representing such undergrounding component of the unpaid assessments will be approved. The bond authorizing resolution also approves certain bond documents.

*General Summary of Security:*

The assessment bonds are secured by unpaid assessments on the properties in the District and, ultimately, by the properties themselves. In addition, a reserve fund for each District is established from bond proceeds. The reserve fund can be used to pay debt service in the event that a property owner does not pay his/her assessments on time. If the reserve fund is depleted, the City has NO obligation to advance funds to pay the bonds. Each year assessments will be levied against the properties in each District as part of the County property tax bill. In the event a property owner

becomes delinquent on the property tax payment, the City covenants to initiate foreclosure proceedings provided the delinquency for such parcel is \$5,000 or more or if the overall District has a delinquency rate equal to or greater than 5%. This covenant is very important to bond owners, as the property itself is the ultimate security for the bonds.

Potential investors will look closely at the value of the property underlying the bonds relative to the assessment lien. Most industry professionals consider a 3:1 value to lien as a standard minimum for property securing an assessment bond issue. Based on the current assessed values of properties within each District, the aggregate value to lien for each of these bond series exceeds 27:1. The majority of the individual property value to lien ratios are strong, even though some properties haven't changed ownership recently and therefore have assessed values that may significantly understate their current market value.

*Fiscal Agent Agreement (one for each District) - Attachment "E"*

This is the key legal document that lays out the legal structure and terms of the financing. It specifies payment dates, maturity dates of the bonds; revenues and accounts specifically pledged to the repayment of the bonds; flow of funds, additional debt requirements; default and remedy provisions; defeasance provisions in the event the bonds are prepaid; and covenants of the City (including foreclosure covenants). It is drafted by Bond Counsel and executed by the City and Fiscal Agent. Each district will have its own agreement, however, in the interest of source reduction, only one copy is provided with this report.

*Official Statement (Attachment "F")*

This document describes the security and discloses potential risks to prospective investors. It will generally describe the sources of payment for the bonds, the nature of the improvement project, the value of the land ultimately securing the bonds, economic and demographic characteristics of the City, and inherent known risk factors associated with the security. It's important that this document not contain any material misstatements or omissions. The Preliminary Official Statement (often referred to as the "POS" – Attachment "F") is distributed by the underwriter to prospective investors prior to the bond sale so that they can make informed purchase decisions. The POS should be as close to final as possible with the actual terms of the pricing (interest rates and principal amounts) left necessarily blank. The Final Official Statement (OS) will be prepared shortly after the bond sale and must be available in time for bond closing. The POS and OS are drafted by Bond Counsel, acting as disclosure counsel and are executed by the City.

*Continuing Disclosure Agreement (located within POS) – Attachment "G"*

This agreement, attached as an appendix of the POS, outlines the updated information related to the security that the City will agree to provide to the bond markets. Disclosure is required annually, and on an exception basis for any major "material" event. This document is drafted by Bond Counsel and executed by the City and the Fiscal Agent.

*Bond Purchase Agreement – Attachment "H"*

This contract is executed on the day of the bond sale between the City and the Underwriter (UBS). It specifies the actual principal amounts, interest rates and prices of each bond series at which such series will be sold. In it, UBS commits to purchase the bonds at closing at the agreed upon prices and amounts subject to certain closing conditions. Closing conditions generally relate to the execution and validity of all required documents and the absence of material changes in the nature

of the security. It is drafted by Underwriter’s Counsel and reviewed by Bond Counsel and City Attorney and executed by the City and the Underwriter.

**Utility Undergrounding Assessment Deferment Program**

In response to the high cost of placing overhead utilities underground, and the potential to cause a severe financial burden on some of our residents, the City Council created an Assessment Deferment Program. In summary, the program is structured as a loan to allow homeowners age 62 or older, with a household income of less than \$100,000, to defer all or a portion of their underground assessment until the sale or transfer of their home (primary residence only). The amount of the loan available is coupled with income levels as defined in the following table:

Defined Taxable Income (DTI)*	Resident Pays	City Loans
\$24,000 or less	Resident qualifies for CA State Property Tax Postponement Program	
\$24,001 - \$40,000	\$0	Full Assessment Amount
\$40,001 - \$70,000	First 2% of DTI towards annual assessment	Balance of Annual Assessment
\$70,001 - \$80,000	First 3% of DTI towards annual assessment	
\$80,001 - \$90,000	First 4% of DTI towards annual assessment	
\$90,001 - \$100,000	First 5% of DTI towards annual assessment	

\*The Defined Taxable Income (DTI) is determined by the inclusion and exclusion of certain household income and expenses, as specified on the loan application.

In April, at the time the program was launched, we were uncertain of the demand and the amount of funding required. As a result, Council directed staff to solicit preliminary applications to provide us with an estimate of the number of homeowners and the amount of the assessments for which loans may be made. Program information and the preliminary applications were mailed to all residents in Districts 1, 2, 3, 5 and 6. Homeowners were given until June 23<sup>rd</sup> to respond.

As of June 26th, we have received 22 preliminary applications with a total potential loan value of \$590,550<sup>1</sup> (2 of the applications are from homeowners who do not currently qualify but who may file under the hardship exception). The breakdown is as follows:

<u>District No.</u>	<u>Applications</u>	<u>Potential Loan Value</u>
04-3	1	\$ 6,507
04-5	2	\$ 19,085
05-2	10	\$397,150
05-6	<u>9</u>	<u>\$167,808</u>
	22	<u>\$590,550</u>

<sup>1</sup> This is the net value including homeowner contributions required under the loan program. This also includes several applicants who may ultimately qualify for the State’s Property Tax Deferral Program, however that qualification cannot be determined without further documentation from the applicants (see discussion on Income Calculations below).

In addition to the assessment loans, virtually all applicants indicated a need for assistance with the hook-up costs. Staff has been researching the potential use of future Community Development Block Grant funds as a source of funding for this portion of the undergrounding expense, and will report back to Council at a future date with details.

#### Open Program Issues

During the course of the preliminary application process, several issues have arisen with the program that we would like to bring to your attention, and where applicable, modify the program:

#### *Income Calculations*

Because of differences in the method in which total income is calculated for the State Property Tax Deferral Program, and the City's loan program, some applicants for our program appear to qualify for the State's program when, in fact, they do not. This results in a situation where the homeowner qualifies for neither program, even though they are clearly in need of assistance<sup>2</sup>.

**Recommendation:** In order to rectify this inconsistency, staff recommends that we perform a cursory review of all applicable income tax related documents on each application against the criteria for the State program (we will already be requesting this information to complete the loan review). If the applicant appears to meet the State criteria, we will redirect the applicant to the State. If ultimately they do not qualify for the State program, we will accept a State program rejection letter as proof, and will admit the applicant to the City's program. In determining the amount of the City loan, we will apply the lowest tier of the City's program (\$24,001 - \$40,000) and provide a loan of 100% of the assessment.

#### *Fees Associated with Loans*

At the time the preliminary loan process was approved in April, Council deferred a discussion on processing and administrative charges for loan participants. Staff has spent hundreds of hours developing and creating the program, and will spend significant additional hours processing applications and administering the program once the loans are made. These activities include creation of the program, review of processes, legal review with bond counsel and the City Attorney, creation and processing of contract documents, appraisal and title report reviews, and administration of the loan for its duration. These actions are clearly above and beyond the administration of the bonds themselves for which some staff time has been allocated in the assessment to reimburse the City for these activities. Staff believes it is fair and equitable to add an administrative charge to each loan since these hours spent are dedicated to the discreet benefit of a few residents and not the entire community.

Given the amount of work expended in creation of the program, and the limited number of participants, it would be difficult to recover all costs<sup>3</sup>. However, some cost recovery seems in

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<sup>2</sup> The most common reason this occurs is that the State includes non-taxed Social Security income whereas our calculation excludes it. As a result, applicants for our program appear to have lower income and qualify for the State program, when in fact they do not.

<sup>3</sup> Staff has estimated the costs to date at approximately \$30,000.

order. In discussions with a local real estate loan broker, the typical loan processing fee for a residential loan application ranges from a low of \$325 to \$595 or more. Additionally, beyond the initial processing, staff has estimated that on-going staff time for annual statement preparation, accounting, loan payoff processing, etc. will cost approximately \$100 per loan per year.

Other costs associated with the loan process are the appraisal and title insurance. These are necessary to ensure that adequate equity is available in the property to secure the loan, as well as ensuring proper title. The estimated cost of an appraisal ranges from \$375 to \$900, with title insurance (costing is based on loan amount) estimated at \$500. These costs should be borne by the homeowner and not the general public. Council may choose to require advanced payment for these services, or can choose to roll the costs into the loan balance if preferred. It is staff's intention to negotiate a preferential rate for the group of loan participants in order to minimize costs for the homeowners.

**Recommendation:** Staff recommends that Council institute a one-time loan processing charge of \$375 which will then be added to the loan balance in year one. Additionally, we recommend implementing an annual administration fee of \$100 per loan, which should be sufficient in the near term to recover the costs of on-going administration. We also recommend that Council pass along the actual costs associated with title and appraisal, but provide the homeowner the option of prepaying these costs, as well as loan processing fees, in advance. Otherwise, we will add the costs to the loan balance in the first year.

*Homeowner Preference for City Program*

We have encountered situations where applicants that will qualify for the State Property Tax Deferral Program would prefer to utilize the City's loan program because the State program is an annual deferral subject to annual income qualification, whereas the City's program has a one-time income qualification and provides a guaranteed source. We have consistently advised those individuals that they do not qualify for the City's program, and that they cannot opt-in to the City's program as a preference. The rationale is that City funds should be reserved for those that have no other alternative source of funding. We bring this to your attention as an information item only, and do not recommend any changes in that policy.

Prepayment of Assessment Loans Versus Annual Loan Accruals

At the time the preliminary program was approved, a question arose as to whether we should simply pay the entire assessment for the qualified homeowner, or pay the annual assessment incrementally after issuing the improvement bonds. Staff, with the assistance of the entire financing team (Financial Advisor, Bond Counsel, Underwriter) analyzed the issues and determined that it is preferable to make annual assessment loans for a number of reasons. This issue was discussed with the Finance Subcommittee, who agreed with the staff conclusion.

*Bid and Bond Sale Timing:*

A decision to prepay all loan participants' assessments up front, will necessarily require the complete screening, evaluation, and processing of all related applications prior to the issuance of bonds. This includes review, appraisal and title reports, and contract signing for all program participants. Completing these steps thoroughly is critical because the bond financing model requires a full accounting of all required funding of construction dollars. If for any reason an

applicant does not qualify for the City program, and the City has already issued bonds, that homeowner's share of the costs will not be provided for, resulting in a shortage of funds for the improvements. The complete processing of UAD Deferral Loans up to signed contracts protects the City in the case that the subject applicant ultimately decides against committing to the loan after bonds are issued, again resulting in a possibility of a shortage in construction dollars. In such a case, if the homeowner refuses to obtain the loan, the City may then be forced to fund the work and attempt to lien the property.

With the compressed timelines under which bond issuance generally occurs, the possibility of processing loans within the required timeline is unlikely. This is especially true when one considers the construction cost bidding limitations that compel us to execute financing quickly. By way of example, the loan application process coincides with the cash collection period which typically starts immediately following district formation by Council, and lasts 30 days. Even if homeowners submit applications immediately, and staff addresses each and every application as it is received, another 30 days is required to order and receive the appraisal and title reports. These reports are important in determining eligibility for the program due to minimum owner equity in the property, as well as discovery of liens and title issues. Assuming the applications are in order, back up documentation is not required, and the owner has clean title and equity, we must then obtain the signatures prior to bond sale in order to secure the arrangement.

This process is occurring against the backdrop of contractual bid deadlines imposed upon us by Edison and Verizon in order to lock-in the cost of the work. This typically requires us to turn around the bond sale in short order after termination of the cash collection period so that funds may be deposited with Edison and bid prices secured.

Lastly, the bond market understandably requires full disclosure and accounting of the sources of funding for the project. This reassures the investors that sufficient funding to complete the project has been identified and secured. Unless the applicants are fully pre-approved prior to bond issuance, we cannot guarantee the availability of all necessary funds.

Based on these process timing issues, we believe it is not possible now, nor will it be with any future district, to process applications, make final determinations, and complete the documentation within the bond sale time frame. The only exception would be if the process were to commence prior to the formation of the district, but that may result in expended staff hours on a process that ultimately does not come to fruition if there are insufficient votes to form the district. Because our recommended approach to the loans results in little difference in cost to the homeowner-borrower, we do not see a benefit in advancing the process.

Beyond the timing and bid issues, several other significant policy issues lead us to bond the loans as opposed to prepaying the assessments. These include:

- ❖ **Financial Exposure** - By cash funding the entire amount of the assessment, the City's creditor position exposure is greater from day one than if we pay the annual assessment incrementally over the twenty year term. Most importantly, because the whole amount is outstanding from the start, the cost to the borrower is increased in the short term.
- ❖ **Future Ownership**. Paying the full assessment up front eliminates the option for a future homeowner (e.g., buyer, heir) to assume the debt incrementally for the remaining portion of the 20 years (via property taxes) should the property be sold or transferred. This is perhaps more important to heirs than non-family buyers due to the increased out-of-pocket expenses that would become due when transferring ownership without the

benefit of proceeds from a sale.

- ❖ **Partial Payments-** While the up-front cash payment may work well for those who qualify for 100% deferral, it is impractical for those who qualify for a lesser amount. We would need to require cash payment up front for their percentage contribution in order to meet the terms of the program since it would not be practical to bond for their contribution.
- ❖ **Sustainability-** Annual loans for the assessments, even if guaranteed for the 20 year life of the bonds, provide the City the opportunity to check the ownership status of the property before additional loan payments are made. This also limits the City's exposure to the sum of the annual payments outstanding, which will be less than if the total assessment is advanced.

One of the concerns with including loan participants in the bond issuance was that it would be financially detrimental on the homeowner when compared to the City prepaying the assessment in full. We have carefully analyzed the impacts of the various approaches to determine the net affect on the homeowner's finances under the two scenarios:

1. Homeowner obtains City loan and City prepays the entire assessment for the homeowner;
2. Homeowner obtains City loan and City loans the annual assessments over a 20 year period.

With a standard bond issue, the homeowners that prepay the entire assessment in advance receive a "discount" because they do pay any capitalized interest<sup>4</sup> (if applicable), do not pay into the legally required debt service reserve, and do not pay the Underwriters for their bond sale services. If the City were to prepay the entire assessment in advance for the homeowner, the homeowner would not pay any of these three items and would receive the "discount." If the homeowners' assessments go to bond and the City makes annual loans for the assessments, the homeowner would not get the "discount."

While on the surface it appears as though the bonding scenario costs the homeowner much more, ultimately the only difference is the cost of the Underwriter (1.25%). The debt service reserve earns interest that is applied to the benefit of the homeowner while it is on deposit. Those funds are ultimately used for homeowners' future bond payments in the final years as a credit against assessments.

To illustrate the comparison of cost to the homeowner between bonding and prepaying, we have prepared the attached spreadsheet (Attachment "J"). You will see in the first series the total cost if a lump sum loan is made on day one, with a reduced assessment from not paying into the debt service reserve and the Underwriter's fee. After twenty years, the homeowner will owe \$96,281.60. The second column illustrates the assessment being bonded with annual loans from the City. In this case, the funds deposited in the debt service reserve earn interest which is

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<sup>4</sup> Capitalized interest is collected from homeowners when bond holders are scheduled to be paid before assessments have been collected through property taxes. Because of the timing of the bond sale for 05-2 and 05-6, assessments will be collected before the first bond payment is due, therefore there is no capitalized interest.



credited to the homeowner. At the end of twenty years, the homeowner will owe \$97,610.37. The difference of \$1,328.77 is the future value of the Underwriter's discount (1.25%), which has a present value (today's cost) of \$477.54.

In either loan scenario, the homeowner is in a substantially similar financial position whether the loan is made as a lump sum up front or as an annual loan. Additionally, the annual loan plan results in less liability to the City in the short to intermediate term, and results in little added cost to the homeowner-borrower. Therefore, staff recommends that the loans be funded on an annual basis.

**CONCLUSION:**

Staff is requesting that Council take the following steps to proceed with Underground Utility Assessment Districts 05-2 and 05-6:

1. Approve Resolution No.'s 6040-6043 and related documents in order to issue bonds for the utility improvements;
2. Discuss, provide direction on the City's Utility Undergrounding Assessment Deferral Program, and adopt Resolution No. 6044 approving the program.

Attachments:

- A. Resolution No. 6040 - Unpaid assessments for District 05-2;
- B. Resolution No. 6041 – Unpaid assessments for District 05-6
- C. Resolution No. 6042 – Authorization to Issue Bonds et al for District 05-2
- D. Resolution No. 6043 – Authorization to Issue Bonds et al for District 05-6
- E. Fiscal Agent Agreement
- F. Preliminary Official Statement
- G. Continuing Disclosure Agreement
- H. Bond Purchase Agreement
- I. Resolution No. 6044 – Approval of Utility Undergrounding Assessment Deferral Program
- J. Comparison of Loan Funding Alternatives

RESOLUTION NO. 6040

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
MANHATTAN BEACH, CALIFORNIA, DETERMINING UNPAID  
ASSESSMENTS FOR UNDERGROUND UTILITY ASSESSMENT  
DISTRICT NO. 05-2

WHEREAS, the City Council (the "City Council") of the City of Manhattan Beach, California (the "City") has previously undertaken proceedings under the Municipal Improvement Act of 1913 (Division 12 of the California Streets and Highways Code, commencing with Section 10000) (as amended, the "1913 Act") and has confirmed assessments for the Underground Utility Assessment District No. 05-2 (the "Assessment District"), and an Assessment Diagram and Notice of Assessment has been recorded on November 21, 2005, in the office of the County Recorder of the County of Los Angeles; and

WHEREAS, such proceedings provide that bonds representing the unpaid assessments (the "Bonds") will be issued pursuant to the Improvement Bond Act of 1915, Division 10 of the California Streets and Highways Code, commencing with Section 8500 (as amended, the "1915 Act"); and

WHEREAS, the Assessment Engineer has filed with the City Clerk a list of unpaid assessments for the Assessment District, a copy of which list is attached hereto as Exhibit "A" and by this reference incorporated herein, certifying the amount of the assessments remaining unpaid as shown on Exhibit "A"; and

WHEREAS, this City Council wishes to establish \$7,210,646 as the amount of the unpaid assessments and to ratify \$7,210,646 as the not to exceed amount of the first series of limited obligation improvement bonds to be authorized and issued in these proceedings upon the security of said assessments.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The above recitals are all true and correct.

SECTION 2. The City hereby finds and determines, as set forth in Exhibit "A", that the amount of assessments remaining unpaid in the Assessment District is \$7,210,646, and, that by separate resolution, the City has authorized the issuance of the first series of limited obligation improvements bonds in an amount not to exceed \$7,210,646.

SECTION 3. The unpaid assessments shall be payable in the manner provided in Section 8680 *et seq.* of the 1915 Act, and shall be payable in the same manner and at the same time and in the same installments as the general taxes of the City on real property are payable. Pursuant to Section 8682 of the 1915 Act, a certified copy of this resolution and a copy of the list of unpaid assessments shall be filed by the City Clerk in the Office of the Auditor-Controller (the "County Auditor-Controller") of the County of Los Angeles, California ( the "County"). Said County Auditor-Controller is requested to proceed in accordance with Section 8682 of the 1915 Act in the collection of installments of these assessments and the interest thereon on the secured property tax assessment roll of the County.

SECTION 4. The actions taken and to be taken by the City Clerk, the City staff and consultants relating to the preparation of the list of unpaid assessments and the filing of the same with the County Auditor-Controller is hereby confirmed and ratified.

SECTION 5. This Resolution shall take effect upon its adoption by the City Council. The City Clerk shall certify to the passage and adoption of this Resolution, shall cause the same to be entered among the original resolutions of said City, and shall make a minute of the passage and adoption thereof in the records of the proceedings of the City Council of said City in the minutes of the meeting at which the same is passed and adopted.

PASSED, APPROVED AND ADOPTED this 5th day of July, 2006.

Ayes:  
Noes:  
Absent:  
Abstain:

\_\_\_\_\_  
Mayor, City of Manhattan Beach, California

ATTEST:

\_\_\_\_\_  
City Clerk

EXHIBIT A  
FORM OF  
CERTIFICATE OF PAID AND UNPAID ASSESSMENTS  
CITY OF MANHATTAN BEACH  
UNDERGROUND UTILITY ASSESSMENT DISTRICT NO. 05-2

I HEREBY CERTIFY that the attached list of Paid and Unpaid Assessments correctly reflects (1) that the total amount of assessments recorded on November 21, 2005, was \$8,061,023, (2) that the total amount of cash payments received by the City of Manhattan Beach, California (the "City") from property owners on account of assessments levied in the Underground Utility Assessment District No. 05-2 (the "Assessment District") prior to the expiration of the cash payment period on or about June 30, 2006, as reported to me by the Finance Director of the City, is \$747,555, representing \$850,377 of original assessment amount reduced by related prepayment discount, and (3) that, after deducting said amount of \$850,377 from the \$8,061,023 originally levied and recorded, the amount of the assessments remaining unpaid in the Assessment District is therefore \$7,210,646, of which \$6,230,420

is related to the facilities component of the assessment.

Executed at Manhattan Beach, California, on July 5, 2006.

\_\_\_\_\_  
City Clerk

RESOLUTION NO. 6041

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
MANHATTAN BEACH, CALIFORNIA, DETERMINING UNPAID  
ASSESSMENTS FOR UNDERGROUND UTILITY ASSESSMENT  
DISTRICT NO. 05-6

WHEREAS, the City Council (the "City Council") of the City of Manhattan Beach, California (the "City") has previously undertaken proceedings under the Municipal Improvement Act of 1913 (Division 12 of the California Streets and Highways Code, commencing with Section 10000) (as amended, the "1913 Act") and has confirmed assessments for the Underground Utility Assessment District No. 05-6 (the "Assessment District"), and an Assessment Diagram and Notice of Assessment has been recorded on November 21, 2005, in the office of the County Recorder of the County of Los Angeles; and

WHEREAS, such proceedings provide that bonds representing the unpaid assessments (the "Bonds") will be issued pursuant to the Improvement Bond Act of 1915, Division 10 of the California Streets and Highways Code, commencing with Section 8500 (as amended, the "1915 Act"); and

WHEREAS, the Assessment Engineer has filed with the City Clerk a list of unpaid assessments for the Assessment District, a copy of which list is attached hereto as Exhibit "A" and by this reference incorporated herein, certifying the amount of the assessments remaining unpaid as shown on Exhibit "A"; and

WHEREAS, this City Council wishes to establish \$5,756,341 as the amount of the unpaid assessments and to ratify \$5,756,341 as the not to exceed amount of the first series of limited obligation improvement bonds to be authorized and issued in these proceedings upon the security of said assessments.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The above recitals are all true and correct.

SECTION 2. The City hereby finds and determines, as set forth in Exhibit "A", that the amount of assessments remaining unpaid in the Assessment District is \$5,756,341, and, that by separate resolution, the City has authorized the issuance of the first series of limited obligation improvements bonds in an amount not to exceed \$5,756,341.

SECTION 3. The unpaid assessments shall be payable in the manner provided in Section 8680 *et seq.* of the 1915 Act, and shall be payable in the same manner and at the same time and in the same installments as the general taxes of the City on real property are payable. Pursuant to Section 8682 of the 1915 Act, a certified copy of this resolution and a copy of the list of unpaid assessments shall be filed by the City Clerk in the Office of the Auditor-Controller (the "County Auditor-Controller") of the County of Los Angeles, California ( the "County"). Said County Auditor-Controller is requested to proceed in accordance with Section 8682 of the 1915 Act in the collection of installments of these assessments and the interest thereon on the secured property tax assessment roll of the County.

SECTION 4. The actions taken and to be taken by the City Clerk, the City staff and consultants relating to the preparation of the list of unpaid assessments and the filing of the same with the County Auditor-Controller is hereby confirmed and ratified.

SECTION 5. This Resolution shall take effect upon its adoption by the City Council. The City Clerk shall certify to the passage and adoption of this Resolution, shall cause the same to be entered among the original resolutions of said City, and shall make a minute of the passage and adoption thereof in the records of the proceedings of the City Council of said City in the minutes of the meeting at which the same is passed and adopted.

PASSED, APPROVED AND ADOPTED this 5th day of July, 2006.

Ayes:  
Noes:  
Absent:  
Abstain:

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Mayor, City of Manhattan Beach, California

ATTEST:

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City Clerk

EXHIBIT A  
FORM OF  
CERTIFICATE OF PAID AND UNPAID ASSESSMENTS  
CITY OF MANHATTAN BEACH  
UNDERGROUND UTILITY ASSESSMENT DISTRICT NO. 05-6

I HEREBY CERTIFY that the attached list of Paid and Unpaid Assessments correctly reflects (1) that the total amount of assessments recorded on November 21, 2005, was \$6,652,236, (2) that the total amount of cash payments received by the City of Manhattan Beach, California (the "City") from property owners on account of assessments levied in the Underground Utility Assessment District No. 05-6 (the "Assessment District") prior to the expiration of the cash payment period on or about June 30, 2006, as reported to me by the Finance Director of the City, is \$787,525, representing \$895,895 of original assessment amount reduced by related prepayment discount, and (3) that, after deducting said amount of \$895,895 from the \$6,652,236 originally levied and recorded, the amount of the assessments remaining unpaid in the Assessment District is therefore \$5,756,341, of which \$4,959,724 is related to the facilities component of the assessment.

Executed at Manhattan Beach, California, on July 5, 2006.

\_\_\_\_\_  
City Clerk

RESOLUTION NO. 6042

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, AUTHORIZING THE ISSUANCE OF CITY OF MANHATTAN BEACH UNDERGROUND UTILITY ASSESSMENT DISTRICT NO. 05-2, LIMITED OBLIGATION IMPROVEMENT BONDS, SERIES 2006 AND THE EXECUTION AND DELIVERY OF A FISCAL AGENT AGREEMENT, CONTINUING DISCLOSURE AGREEMENT, BOND PURCHASE AGREEMENT, AND AN OFFICIAL STATEMENT AND APPROVING A PRELIMINARY OFFICIAL STATEMENT IN CONNECTION THEREWITH

WHEREAS, on October 4, 2005, the City Council (the "City Council") of the City of Manhattan Beach, California (the "City"), by adoption of a resolution (the "Resolution of Intention"), declared its intention to order the improvements for proposed Underground Utility Assessment District No. 05-2 (the "Assessment District") pursuant to the provisions of the Municipal Improvement Act of 1913 (Division 12 of the California Streets and Highways Code, commencing with Section 10000) (as amended, the "1913 Act") and as provided in Article XIID of the California Constitution, and ordered the Assessment Engineer, Hall & Foreman, Inc., to prepare and file a report (the "Engineer's Report") with the City Clerk in accordance with Section 10204 of the 1913 Act and Section 4 of Article XIID of the California Constitution; and

WHEREAS, on October 4, 2005, the City Council, by adoption of a resolution, preliminarily approved the Engineer's Report entitled "Preliminary Engineer's Report For Underground Utility Assessment District No. 05-2," which Engineer's Report is on file in the office of the City Clerk; and

WHEREAS, on November 21, 2005, following notice duly given in accordance with law, the City Council held a public hearing on the Resolution of Intention and the Engineer's Report and regarding protests and objections thereto and to the proposed improvements in connection with the Assessment District; and

WHEREAS, the City Council, by resolution, ordered the construction of the proposed improvements and confirmed the proposed assessment against parcels within the Assessment District; and

WHEREAS, notice to property owners of the recordation of the assessment shall be given; and

WHEREAS, the City Council, by a separate resolution, has determined and declared the amount of assessments remaining unpaid.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. Authorization. The City Council hereby authorizes the issuance of City of Manhattan Beach Underground Utility Assessment District No. 05-2, Limited Obligation Improvement Bonds, Series 2006 (the "Bonds") in an amount not to exceed to \$7,210,646.

SECTION 2. Approval of Fiscal Agent Agreement. The City Council hereby approves the Fiscal Agent Agreement in substantially the form presented to the City Council and on file with the City Clerk. Each of the Mayor, the City Manager, and the Finance Director (each a "Responsible Officer") is hereby authorized to execute the Fiscal Agent Agreement in substantially the form presented hereto, with such revisions, amendments and completions as shall be approved by any Responsible Officer, with the advice of Bond Counsel, such approval to be conclusively evidenced by the execution and delivery thereof by any Responsible Officer.

SECTION 3. Approval of the Continuing Disclosure Agreement. The City Council hereby approves the Continuing Disclosure Agreement in substantially the form presented to the City Council and on file with the City Clerk. Each Responsible Officer is hereby authorized to execute the



Continuing Disclosure Agreement in substantially the form presented hereto, with such revisions, amendments and completions as shall be approved by any Responsible Officer, with the advice of Bond Counsel, such approval to be conclusively evidenced and delivery thereof by any Responsible Officer.

SECTION 4. Approval of the Preliminary Official Statement and Official Statement. The City Council hereby approves the Preliminary Official Statement relating to the Bonds in substantially the form presented to the City Council and on file with the City Clerk, with such revisions, amendments and completions as shall be approved by any Responsible Officer with the advice of Bond Counsel, in order to make the Preliminary Official Statement final as of its date, except for the omission of certain information, as permitted by Section 240.15c2-12(b)(1) of Title 17 of the Code of Federal Regulations ("Rule 15c2-12"), and authorizes each Responsible Officer to execute and deliver a statement that the Preliminary Official Statement is a "deemed final" official statement (except for permitted omissions), by the Board as of its date for purposes of Rule 15-c2-12. Each Responsible Officer is authorized and directed to execute and deliver a final Official Statement in substantially the form hereby approved, with such additions and changes as may be approved by Bond Counsel and any Responsible Officer executing the same, such approval to be conclusively evidenced by the execution and delivery thereof. The City Council hereby approves and authorizes the use and distribution by the UBS Financial Services Inc. (the "Underwriter") of the Preliminary Official Statement and final Official Statement in connection with the offering and sale of the Bonds.

SECTION 5. Approval of the Bond Purchase Agreement. The City Council hereby approves the Bond Purchase Agreement, in substantially the form presented to the City Council and on file with the City Clerk. Each Responsible Officer is hereby authorized to execute the Bond Purchase Agreement, in substantially the form presented hereto, with such revisions, amendments and completions as shall be approved by any Responsible Officer, with the advice of Bond Counsel, such approval to be conclusively evidenced by the execution and delivery thereof by any Responsible Officer, provided that, the Bond Purchase Agreement shall provide for an average coupon not greater than 5.50%, and an underwriter's discount not greater than 1.3% of the aggregate principal amount of the Bonds.

SECTION 6. Official Actions. Each Responsible Officer and all other officers of the City are hereby authorized and directed, for and in the name and on behalf of the City, to do any and all things and take any and all other actions, including the obtaining of municipal bond insurance and the publication of any notices, necessary or desirable in connection with the sale of the Bonds and the execution and delivery of any and all assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance, warrants and other documents, which they, or any of them, deem necessary or advisable in order to consummate the lawful issuance and sale of the Bonds and the consummation of the transactions as described herein.

SECTION 7. Effective Date. This Resolution shall take effect upon its adoption by the City Council. The City Clerk shall certify to the passage and adoption of this Resolution, shall cause the same to be entered among the original resolutions of said City, and shall make a minute of the passage and adoption thereof in the records of the proceedings of the City Council of said City in the minutes of the meeting at which the same is passed and adopted.

PASSED, APPROVED AND ADOPTED this 5th day of July, 2006.

Ayes:  
Noes:  
Absent:  
Abstain:

\_\_\_\_\_  
Mayor, City of Manhattan Beach, California

ATTEST:

\_\_\_\_\_  
City Clerk

RESOLUTION NO. 6043

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, AUTHORIZING THE ISSUANCE OF CITY OF MANHATTAN BEACH UNDERGROUND UTILITY ASSESSMENT DISTRICT NO. 05-6, LIMITED OBLIGATION IMPROVEMENT BONDS, SERIES 2006 AND THE EXECUTION AND DELIVERY OF A FISCAL AGENT AGREEMENT, CONTINUING DISCLOSURE AGREEMENT, BOND PURCHASE AGREEMENT, AND AN OFFICIAL STATEMENT AND APPROVING A PRELIMINARY OFFICIAL STATEMENT IN CONNECTION THEREWITH

WHEREAS, on October 4, 2005, the City Council (the "City Council") of the City of Manhattan Beach, California (the "City"), by adoption of a resolution (the "Resolution of Intention"), declared its intention to order the improvements for proposed Underground Utility Assessment District No. 05-6 (the "Assessment District") pursuant to the provisions of the Municipal Improvement Act of 1913 (Division 12 of the California Streets and Highways Code, commencing with Section 10000) (as amended, the "1913 Act") and as provided in Article XIID of the California Constitution, and ordered the Assessment Engineer, Hall & Foreman, Inc., to prepare and file a report (the "Engineer's Report") with the City Clerk in accordance with Section 10204 of the 1913 Act and Section 4 of Article XIID of the California Constitution; and

WHEREAS, on October 4, 2005, the City Council, by adoption of a resolution, preliminarily approved the Engineer's Report entitled "Preliminary Engineer's Report For Underground Utility Assessment District No. 05-6," which Engineer's Report is on file in the office of the City Clerk; and

WHEREAS, on November 21, 2005, following notice duly given in accordance with law, the City Council held a public hearing on the Resolution of Intention and the Engineer's Report and regarding protests and objections thereto and to the proposed improvements in connection with the Assessment District; and

WHEREAS, the City Council, by resolution, ordered the construction of the proposed improvements and confirmed the proposed assessment against parcels within the Assessment District; and

WHEREAS, notice to property owners of the recordation of the assessment shall be given; and

WHEREAS, the City Council, by a separate resolution, has determined and declared the amount of assessments remaining unpaid.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. Authorization. The City Council hereby authorizes the issuance of City of Manhattan Beach Underground Utility Assessment District No. 05-6, Limited Obligation Improvement Bonds, Series 2006 (the "Bonds") in an amount not to exceed to \$5,756,341.

SECTION 2. Approval of Fiscal Agent Agreement. The City Council hereby approves the Fiscal Agent Agreement in substantially the form presented to the City Council and on file with the City Clerk. Each of the Mayor, the City Manager, and the Finance Director (each a "Responsible Officer") is hereby authorized to execute the Fiscal Agent Agreement in substantially the form presented hereto, with such revisions, amendments and completions as shall be approved by any Responsible Officer, with the advice of Bond Counsel, such approval to be conclusively evidenced by the execution and delivery thereof by any Responsible Officer.

SECTION 3. Approval of the Continuing Disclosure Agreement. The City Council hereby approves the Continuing Disclosure Agreement in substantially the form presented to the City Council and on file with the City Clerk. Each Responsible Officer is hereby authorized to execute the

Continuing Disclosure Agreement in substantially the form presented hereto, with such revisions, amendments and completions as shall be approved by any Responsible Officer, with the advice of Bond Counsel, such approval to be conclusively evidenced and delivery thereof by any Responsible Officer.

SECTION 4. Approval of the Preliminary Official Statement and Official Statement. The City Council hereby approves the Preliminary Official Statement relating to the Bonds in substantially the form presented to the City Council and on file with the City Clerk, with such revisions, amendments and completions as shall be approved by any Responsible Officer with the advice of Bond Counsel, in order to make the Preliminary Official Statement final as of its date, except for the omission of certain information, as permitted by Section 240.15c2-12(b)(1) of Title 17 of the Code of Federal Regulations ("Rule 15c2-12"), and authorizes each Responsible Officer to execute and deliver a statement that the Preliminary Official Statement is a "deemed final" official statement (except for permitted omissions), by the Board as of its date for purposes of Rule 15-c2-12. Each Responsible Officer is authorized and directed to execute and deliver a final Official Statement in substantially the form hereby approved, with such additions and changes as may be approved by Bond Counsel and any Responsible Officer executing the same, such approval to be conclusively evidenced by the execution and delivery thereof. The City Council hereby approves and authorizes the use and distribution by the UBS Financial Services Inc. (the "Underwriter") of the Preliminary Official Statement and final Official Statement in connection with the offering and sale of the Bonds.

SECTION 5. Approval of the Bond Purchase Agreement. The City Council hereby approves the Bond Purchase Agreement, in substantially the form presented to the City Council and on file with the City Clerk. Each Responsible Officer is hereby authorized to execute the Bond Purchase Agreement, in substantially the form presented hereto, with such revisions, amendments and completions as shall be approved by any Responsible Officer, with the advice of Bond Counsel, such approval to be conclusively evidenced by the execution and delivery thereof by any Responsible Officer, provided that, the Bond Purchase Agreement shall provide for an average coupon not greater than 5.50%, and an underwriter's discount not greater than 1.3% of the aggregate principal amount of the Bonds.

SECTION 6. Official Actions. Each Responsible Officer and all other officers of the City are hereby authorized and directed, for and in the name and on behalf of the City, to do any and all things and take any and all other actions, including the obtaining of municipal bond insurance and the publication of any notices, necessary or desirable in connection with the sale of the Bonds and the execution and delivery of any and all assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance, warrants and other documents, which they, or any of them, deem necessary or advisable in order to consummate the lawful issuance and sale of the Bonds and the consummation of the transactions as described herein.

SECTION 7. Effective Date. This Resolution shall take effect upon its adoption by the City Council. The City Clerk shall certify to the passage and adoption of this Resolution, shall cause the same to be entered among the original resolutions of said City, and shall make a minute of the passage and adoption thereof in the records of the proceedings of the City Council of said City in the minutes of the meeting at which the same is passed and adopted.

PASSED, APPROVED AND ADOPTED this 5th day of July, 2006.

Ayes:  
Noes:  
Absent:  
Abstain:

\_\_\_\_\_  
Mayor, City of Manhattan Beach, California

ATTEST:

\_\_\_\_\_  
City Clerk

RESOLUTION NO. 6044

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
MANHATTAN BEACH, CALIFORNIA, ADOPTING A DEFERMENT  
PROGRAM FOR UNDERGROUND ASSESSMENTS

SECTION 1. The City Council hereby makes the following findings:

- A. The establishment of underground utility districts in various parts of the City will result in increased safety and aesthetics for those districts;
- B. However, for some property owners on limited incomes the underground assessment imposed may create a significant burden in some cases even resulting in displacement of long time residents and/or senior citizens who are an important resource to the community;
- C. In order to avoid having any resident property owner forced to move from the City or placed in financial distress as a result of the underground assessment imposed upon them the Manhattan Beach City Council finds that it is in the best interest of the public health, safety and welfare to establish an assessment deferral program which allows a property owner without the liquidity to afford the annual assessment an opportunity to defer payment until they no longer own the property.

SECTION 2. The City Council of the City of Manhattan Beach hereby authorizes a deferral program for all or part of assessments imposed through underground assessment districts within the City. The amount of the assessment deferred shall be secured by a lien on the property of the eligible property owner upon which the assessment is imposed. The deferred amount shall accrue interest at a rate which shall be equal to the bonds issued to fund construction of the underground improvements for which the assessment is imposed. Repayment of the deferred amount plus accrued interest shall not be required until the property is transferred or encumbered by contract, deed or the death of the last remaining property owner for whom the deferral was authorized.

SECTION 3. The following eligibility criteria shall be established for the underground assessment deferral program:

- (a). Homeowner, spouse or domestic partner as defined under California law must be 62 years of age or older;
- (b). Homeowners under 62 may qualify if blind or disabled in accordance with standards used by the Internal Revenue Service for tax return purposes;
- (c). The property for which the loan is to be made must be the homeowner's primary personal residence;
- (d). Homeowner's and Spouse's (and domestic partner's if applicable) combined assets may not exceed a total of \$1 million. This total excludes the market value of the primary personal residence for which the loan is being made, and the cash value of life insurance with a death benefit to age 100 at guaranteed rates. Assets in a revocable trust shall be considered owned by the applicant, spouse or domestic partner.
- (e). Homeowners who qualify for the State of California Property Tax deferral program shall not be eligible for the program established by this Resolution.

SECTION 4. The deferral loans provided under this resolution shall meet the following criteria:

- (a). The assessment loan, plus residential debt senior to the assessment loan, may not exceed 80% of the appraised value of the property.
- (b). An appraisal and title report shall be required to ensure adequate equity and proper ownership and title
- (c). A lien shall be placed upon the property for which the loan is being made.
- (d). The loans are designed to provide assistance to the homeowners for the annual assessment payments, and as such, bonds will be issued for those loan participants.

- (e). The City’s loan interest rate will be commensurate with the total interest cost (TIC) associated with the improvement bonds issued for the district.
- (f). Loans will be considered made on the date in which the City expends funds on behalf of the homeowners. Such expenditures will be made on a schedule determined by the City’s Finance Director . Interest will accrue from that date forward until the loan is repaid, and will be added to as additional loans are made for future assessments.

SECTION 5. The amount of the loan available is determined by income as follows:

The City’s loan program will provide varying levels of City support based on the applicant’s Defined Taxable Income (DTI). For example, a person with an income of between \$24,001 and \$40,000 will be eligible to defer 100% of the annual assessment (plus applicable utility hook up costs and program administration fees), while a person in the \$90,001 to \$100,000 range will be required to contribute 5% of his/her income towards the annual assessment (which in some cases may phase out any eligibility). The tiered loan program is as follows:

Income (DTI)	Program	Resident Contribution as a Percent (%) of Income
\$0 - \$24,000	State Program	N/A
\$24,001 - \$40,000	City Deferment	0%
\$40,001 - \$70,000	City Deferment	2%
\$70,001 - \$80,000	City Deferment	3%
\$80,001 - \$90,000	City Deferment	4%
\$90,001 - \$100,000	City Deferment	5%

As an example, if an applicant’s annual assessment is \$2,000, and his income is \$45,000, he would pay the first \$900 (2% of \$45,000) of the annual assessment and the City will loan the remaining \$1,100.

SECTION 6. Those who do not qualify under the parameters may submit a hardship application which will be reviewed and acted upon by the City’s standing Finance Subcommittee.

SECTION 7. The loans are designed to provide assistance to the homeowners for the annual assessment payments, and as such, bonds will be issued for those loan participants. The City’s loan interest rate will be commensurate with the total interest cost (TIC) associated with the improvement bonds issued for the district. Loans will be considered made on the date in which the City expends funds on behalf of the homeowners. Such expenditures will be made on a schedule determined by the City’s Finance Director . Interest will accrue from that date forward until the loan is repaid, and will be added to as additional loans are made for future assessments. The City Manager shall be empowered to make such administrative rules, regulations and policies and to create forms as may be necessary to implement the program authorized by this Resolution so long as they are consistent with the provisions herein.

SECTION 8. This resolution shall become effective immediately upon passage by the City Council.

SECTION 9. The City Clerk shall certify to the passage and adoption of this resolution; shall cause the same to be entered among the original resolutions of said City; and shall make a minute of the passage and adoption thereof in the records of the proceedings of the City Council of said City in the minutes of the meeting at which the same is passed and adopted.

PASSED, APPROVED and ADOPTED this 5<sup>th</sup> day of July, 2006.

Ayes:  
Noes:  
Absent:  
Abstain:

\_\_\_\_\_  
Mayor, City of Manhattan Beach, California

ATTEST:

\_\_\_\_\_  
City Clerk

FISCAL AGENT AGREEMENT

by and between the

CITY OF MANHATTAN BEACH

and

U.S. BANK NATIONAL ASSOCIATION

as Fiscal Agent

Dated as of July 1, 2006

Relating to

\$\_\_\_\_\_

City of Manhattan Beach  
Underground Utility Assessment District No. 05-2  
Limited Obligation Improvement Bonds, Series 2006

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Appendix A - Form of Bond

Appendix B - Form of Disbursement Request

## FISCAL AGENT AGREEMENT

**THIS FISCAL AGENT AGREEMENT** (this "Agreement") is made and entered into and dated as of July 1, 2006, by and between the CITY OF MANHATTAN BEACH, a general law city of the State of California (the "City"), and U.S. Bank National Association, a national banking association organized and existing under and by virtue of the laws of the United States of America, as fiscal agent (the "Fiscal Agent").

### WITNESSETH:

**WHEREAS**, on October 4, 2005 the City Council of the City passed and adopted Resolution No. \_\_\_\_ (the "Resolution of Intention") relating to the levy of assessments and issuance of limited obligation improvement bonds pursuant to the Municipal Improvement Act of 1913, Division 10 (commencing with Section 10000) of the Streets and Highways Code of California (as amended, the "Act") in and for the City's Underground Utility Assessment District No. 05-2 (the "Assessment District"), and by the Resolution of Intention, the City Council of the City provided that serial and/or term bonds would be issued thereunder pursuant to the provisions of the Improvement Bond Act of 1915, Division 10 of the Streets and Highways Code of California (as amended, the "Bond Law") and reference to the Resolution of Intention is hereby expressly made for further particulars; and

**WHEREAS**, under the provisions of the Act, on November 21, 2005, the City Council duly conducted a public hearing and thereafter adopted Resolution No. \_\_\_\_, which, among other matters, (1) confirmed the Assessments and ordered proposed improvements to be made in connection with the Assessment District and (2) directed a certified copy of the assessment diagram and assessments provided for in the report of the Assessment Consultant to be recorded in the office of the Superintendent of Streets; and

**WHEREAS**, under the provisions of the Act, on July 5, 2006, the City Council of the City adopted Resolution No. \_\_\_\_ (the "Resolution of Issuance"), which, among other matters, (1) authorized the issuance of limited obligation improvement bonds of the City designated "City of Manhattan Beach Underground Utility Assessment District No. 05-2, Limited Obligation Improvement Bonds, Series 2006 (the "Bonds") upon the security of the unpaid assessments, and (2) provided that said issuance would be in accordance with the Act and this Agreement, and authorized the execution hereof; and

**WHEREAS**, it is in the public interest and for the benefit of the City and the owners of the Bonds that the City enter into this Agreement to provide for (1) the issuance of the Bonds, (2) the disbursement of proceeds of the Bonds, (3) the administration and disposition of the assessments securing the Bonds and (4) the administration and payment of the Bonds; and

**WHEREAS**, the City has determined that all things necessary to cause the Bonds, when authenticated by the Fiscal Agent and issued as provided in the Act, the Resolution of Issuance and this Agreement, to be legal, valid and binding and limited obligations in accordance with their terms, and all things necessary to cause the creation, authorization, execution and delivery of this Agreement and the creation, authorization, execution and issuance of the Bonds, subject to the terms hereof, have in all respects been duly authorized;

**NOW, THEREFORE**, in consideration of the covenants and provisions herein set forth and for other valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties hereto do hereby agree as follows:

## ARTICLE I

### STATUTORY AUTHORITY AND DEFINITIONS

**Section 1.1. Authority for this Agreement.** This Agreement is entered into pursuant to the provisions of the Act and the Resolution of Issuance.

**Section 1.2. Definitions.** Unless the context otherwise requires, the terms defined in this Section 1.2 shall for all purposes of this Agreement, of any Supplemental Agreement and of any certificate, opinion or other document herein or therein mentioned, have the meanings herein specified.

**“Act”** means the Municipal Improvement Act of 1913, being Division 12 of the California Streets and Highways Code.

**“Additional Bonds”** means a future series of City of Manhattan Beach Underground Utility Assessment District No. 05-2 Limited Obligation Improvement Bonds, in an amount not to exceed \$\_\_\_\_\_, secured by the lien of the Assessments on a parity basis with the Bonds.

**“Administrative Expense Account”** means the account by that name established and held by the City pursuant to Section 5.3.

**“Agreement”** means this Fiscal Agent Agreement, as originally executed or as it may from time to time be amended or supplemented by any Supplemental Agreement.

**“Annual Debt Service”** means the total amount of principal and interest coming due and payable on the Bonds during any calendar year, as adjusted from time to time following any redemption of Bonds in advance of maturity.

**“Assessment”** means the individual assessments levied within the Assessment District by the City in proceedings taken pursuant to the Resolution of Intention and the Act and securing the Bonds and Additional Bonds, if any.

**“Assessment Consultant”** means Hall & Foreman, Inc., any other consultant or firm of consultants appointed by the City and who or each of whom: (a) is judged by the City to have experience with respect to the administration of assessment districts; (b) is in fact independent and not under the domination of the City; (c) does not have any substantial interest, direct or indirect, with the City; and (d) is not connected with the City as an officer or employee of the City, but who may be regularly retained to make reports to the City.

**“Assessment District”** means the area within the area designated “Underground Utility Assessment District No. 05-2,” formed by the City under the Act.

**“Assessment Revenue Fund”** means the “05-2 Assessment Revenue Fund” established and held by the Finance Director pursuant to the Resolution of Issuance and Section 6.1.

**“Auditor”** means the auditor/controller of Los Angeles County, or such other official at the County who is responsible for preparing property tax bills.

**“Authorized Representative”** means: (a) with respect to the City, its City Manager, Assistant City Manager, Finance Director, Treasurer, Public Works Director or any other Person designated as an Authorized Representative of the City in a Written Certificate of City filed with the

Fiscal Agent, and (b) with respect to the Fiscal Agent, any Senior Vice President, any Vice President, any Assistant Vice President or any Officer of the Fiscal Agent, and any other Person authorized to perform such act or sign any document by or pursuant to a resolution of the governing body of the Fiscal Agent or the by-laws of the Fiscal Agent.

**“Beneficial Owner”** means, whenever used with respect to a Bond, the person whose name is recorded as the beneficial owner of such Bond or a portion of such Bond by a Participant on the records of such Participant or such person’s subrogee.

**“Book-Entry Bonds”** means the Bonds registered in the name of the nominee of DTC, or any successor securities depository for the Bonds, as the registered owner thereof pursuant to the terms and provisions of Section 2.12 hereof.

**“Bonds”** means the City of Manhattan Beach Underground Utility Assessment District No. 05-2 Limited Obligation Improvement Bonds, Series 2006.

**“Bond Counsel”** means a firm of nationally recognized bond counsel selected by the City.

**“Bond Fund”** means the “05-2 Bond Fund” established and held by the Fiscal Agent pursuant to Section 5.4.

**“Bond Law”** means the Improvement Bond Act of 1915, as amended, Division 10 of the California Streets and Highways Code.

**“Bond Owner”** means any person shown on the registration books of the Fiscal Agent as an owner of a Bond or Bonds.

**“Bond Year”** means each twelve-month period beginning on September 3 in each year and extending to the next succeeding September 2, both dates inclusive; except that the first Bond Year shall begin on the Closing Date and end on September 2, 2006.

**“Business Day”** means a day which is not a Saturday, Sunday or legal holiday on which banking institutions in the State of California are closed or the city or cities in which the Office of the Fiscal Agent is closed.

**“Cede & Co.”** means Cede & Co., the nominee of DTC, and any successor nominee of DTC with respect to the Bonds.

**“City”** means the City of Manhattan Beach, Los Angeles County, California.

**“City Clerk”** means a person who is the duly appointed or elected and acting City Clerk of the City.

**“City Council”** means the legislative body of the City and the respective members thereof and their successors from time to time.

**“Closing Date”** means the date upon which the Bonds are delivered to the Original Purchaser.

**“Code”** means the Internal Revenue Code of 1986 as in effect on the date of issuance of the Bonds or (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the date of issuance of the Bonds.

**“Continuing Disclosure Agreement”** means the City Continuing Disclosure Agreement, dated as of July 1, 2006, between the City and U.S. Bank National Association, as Dissemination Agent, together with Exhibit A thereto, providing the means by which the City will provide for continuing disclosure in compliance with Rule 15c2-12(b)(5) of the United States Securities and Exchange Commission.

**“Costs of Issuance”** means all items of expense directly or indirectly payable by or reimbursable to the City relating to the authorization, issuance, sale and delivery of the Bonds, including but not limited to printing expenses, rating agency fees, filing and recording fees, initial fees, expenses and charges of the Fiscal Agent and its counsel, including the Fiscal Agent’s first annual administrative fee, fees and charges for establishing a continuing disclosure program respecting the Bonds, fees, charges and disbursements of attorneys, financial advisors, accounting firms, dissemination agents, engineering consultants and other professionals, fees and charges for preparation, execution and safekeeping of the Bonds and any other cost, charge or fee in connection with the original issuance of the Bonds.

**“Costs of Issuance Fund”** means the “05-2 Costs of Issuance Fund” established and held by the Fiscal Agent pursuant to Section 3.3.

**“County”** means the County of Los Angeles, State of California.

**“Dated Date”** means the dated date of the Bonds.

**“Disbursement Request of the City”** means such term as defined in Section 3.3.

**“DTC”** means The Depository Trust Company, a limited-purpose trust company organized under the laws of the State of New York, and its successors as securities depository for the Bonds, including any such successor appointed pursuant to Section 2.12 hereof.

**“Fair Market Value”** means the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm’s length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of section 1273 of the Code) and, otherwise, the term “fair market value” means the acquisition price in a bona fide arm’s length transaction (as referenced above) if (i) the investment is a certificate of deposit that is acquired in accordance with applicable regulations under the Code, (ii) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with applicable regulations under the Code, (iii) the investment is a United States Treasury Security -- State and Local Government Series that is acquired in accordance with applicable regulations of the United States Bureau of Public Debt, or (iv) the investment is the Local Agency Investment Fund of the State of California but only if at all times during which the investment is held in such fund its yield is reasonably expected to be equal to or greater than the yield on a reasonably comparable direct obligation of the United States. The Fiscal Agent shall have no duty in connection with the determination of Fair Market Value other than to follow the written investment directions of an Authorized Representative of the City.

**“Federal Securities”** means any of the following which at the time of investment are legal investments under the laws of the State of California for the funds proposed to be invested therein:



(a) direct general obligations of the United States of America (including obligations issued or held in book entry form on the books of the Department of the Treasury of the United States of America), and (b) obligations of any agency, department or instrumentality of the United States of America the timely payment of principal of and interest on which are fully guaranteed by the United States of America including pre-refunded municipal obligations.

**“Finance Director”** means the person who is the duly appointed and acting Finance Director of the City and any successor thereto.

**“Fiscal Agent”** means U.S. Bank National Association, a national banking association organized and existing under the laws of the United States of America, or any successor thereto as Fiscal Agent hereunder, appointed as provided herein.

**“Fiscal Year”** means the period beginning on July 1 of each year and ending on the next succeeding June 30, or any other twelve-month period hereafter selected and designated as the official fiscal year period of the City designated in a Written Certificate of the City delivered to the Fiscal Agent.

**“Improvement Fund”** means the “05-2 Improvement Fund” established and held by the Fiscal Agent pursuant to the Resolution of Issuance and Section 3.4.

**“Information Services”** means Bloomberg Municipal Repository, 100 Business Park Drive, Skillman, NJ 08558, Phone: (609) 279-3225, Fax: (609) 279-5962; DPC Data Inc., One Executive Drive , Fort Lee, NJ 07024, Phone: (201) 346-0701, Fax: (201) 947-0107; FT Interactive Data, Attn: NRMSIR, 100 William Street, 15th Floor, New York, NY 10038, Phone: 212-771-6999; 800-689-8466, Fax: 212-771-7390; Standard & Poor's Securities Evaluations, Inc., 55 Water Street, 45th Floor, New York, NY 10041, Phone: (212) 438-4595, Fax: (212) 438-3975; and, in accordance with then current guidelines of the Securities and Exchange Commission, such other addresses and/or such services providing information with respect to called bonds as the City may designate in a Written Certificate of the City delivered to the Fiscal Agent.

**“Interest Payment Dates”** means March 2 and September 2 of each year, commencing March 2, 2007 so long as any Bonds remain Outstanding.

**“List of Unpaid Assessments”** means the list on file with the Finance Director showing the amounts of the unpaid individual Assessments secured by liens upon the respective parcels in the Assessment District.

**“Maximum Annual Debt Service”** means the highest amount of Annual Debt Service for any remaining Bond Year.

**“Moody’s”** means Moody’s Investors Service, a corporation duly organized and existing under and by virtue of the laws of the State of Delaware, and its successors and assigns, except that if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, then the term “Moody’s” shall be deemed to refer to any other nationally recognized securities rating agency selected by the City.

**“Office”** means the principal corporate trust office of the Fiscal Agent in Los Angeles, California, or such other office as may be specified to the City by the Fiscal Agent in writing, except that with respect to presentation of Bonds for payment or for registration of transfer and exchange such term shall mean the office or agency of the Fiscal Agent at which, at any particular time, its corporate agency business shall be conducted.

**“Original Purchaser”** means UBS Securities LLC, as the original Purchaser of the Bonds.

**“Outstanding”** when used as of any particular time with reference to Bonds, means (subject to the provisions of Section 11.9) all Bonds theretofore, or thereupon being, authenticated and delivered by the Fiscal Agent under this Agreement except:

(a) Bonds theretofore canceled by the Fiscal Agent or surrendered to the Fiscal Agent for cancellation;

(b) Bonds with respect to which all liability of the City shall have been discharged in accordance with Section 10.1, including Bonds (or portions of Bonds) disqualified under Section 11.9; and

(c) Bonds for the transfer or exchange of or in lieu of or in substitution for which other Bonds shall have been authenticated and delivered by the Fiscal Agent pursuant to this Agreement.

**“Participant”** means any entity which is recognized as a participant by DTC in the book-entry system of maintaining records with respect to Book-Entry Bonds.

**“Participating Underwriter”** has the meaning ascribed thereto in the Continuing Disclosure Agreement.

**“Permitted Investments”** means the following, but only to the extent that the same are acquired at Fair Market Value:

(a) Federal Securities;

(b) Any money market fund which purchases and holds exclusively Federal Securities including funds for which the Fiscal Agent, its parent holding company, if any, or any affiliates or subsidiaries of the Fiscal Agent or such holding company provide investment advisory or other management services;

(c) The following obligations, provided that such obligations are secured by a pledge of the full faith and credit of the United States Government or are unconditionally guaranteed by the United States Government:

(i) obligations issues by federal land banks, federal home loan banks or the Federal Home Loan Bank Board;

(ii) obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association; and

(iii) obligations, participations, or other instruments of or issued by a federal agency.

(d) Nonnegotiable certificates of deposit issued by a nationally chartered bank, including affiliates of the Fiscal Agent, a bank chartered by the State of California or a foreign banking corporation authorized pursuant to Section 1756 of the California Financial Code to transact business in the State of California by accepting deposits, or a State of California or federal savings and loan association, provided that such certificates of deposit are fully collateralized in the manner required for



collateralization of trust funds, and provided that such certificates of deposit shall be limited to those issued by financial institutions whose long-term unsecured general obligations are rated “Aa” or better by Moody’s Investors Service and “AA” or better by Standard and Poor’s.

(e) Deposits of any bank or savings and loan association (including the Fiscal Agent and its affiliates), provided that deposits are fully insured by the Federal Deposit Insurance Corporation.

(f) The Local Agency Investment Fund (LAIF).

“**Person**” means an individual, corporation, firm, association, partnership, trust, or other legal entity or group of entities, including a governmental entity or any agency or political subdivision thereof.

“**Prepayment Account**” means the “05-2 Prepayment Account” established and held by the Fiscal Agent pursuant to Section 5.5.

“**Project**” means, generally, the conversion of existing overhead and above-ground utility facilities to underground facilities, together with appurtenant work and improvements more particularly described in the Resolution of Intention, or any portion of the Project.

“**Record Date**” means: (a) the 15th calendar day of the month preceding each Interest Payment Date, whether or not such day is a Business Day, and (b) any date established by the Fiscal Agent pursuant to Section 2.2(c) as a Record Date for the payment of defaulted interest on the Bonds, if any.

“**Redemption Price**” means the aggregate amount of principal of and premium (if any) on the Bonds upon the redemption thereof pursuant hereto.

“**Registered Owner**” means any Person entered on the Registration Books as a Bond Owner.

“**Registration Books**” means the records maintained by the Fiscal Agent for the registration of ownership and registration of transfer of the Bonds pursuant to Section 2.4.

“**Representation Letter**” means the Letter of Representations from the City to DTC, or any successor securities depository for the Bonds, in which the City makes certain representations with respect to issues of its securities for deposit by DTC or such successor depository.

“**Reserve Fund**” means the “05-2 Reserve Fund” established and held by the Fiscal Agent pursuant to Section 5.6.

“**Reserve Requirement**” means, as of the date of any calculation, which calculation shall be made by the City, an amount equal to the least of (i) 100% of the Maximum Annual Debt Service on the Bonds for that or any subsequent Bond Year, (ii) 10% of the issue price (within the meaning of section 148 of the Code) of the Bonds or (iii) 125% of average Annual Debt Service on the Bonds for that and any subsequent Bond Year.

“**Resolution of Intention**” means Resolution No. \_\_\_\_, adopted by the City Council of the City on October 4, 2005.

**“Resolution of Issuance”** means Resolution No. \_\_\_\_\_, adopted by the City Council of the City on \_\_\_\_\_, authorizing the issuance of the Bonds and approving this Fiscal Agent Agreement.

**“S&P”** means Standard & Poor’s, a division of McGraw-Hill, Inc., a corporation duly organized and existing under and by virtue of the laws of the State of New York, and its successors and assigns, except that if such entity shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, then the term “S&P” shall be deemed to refer to any other nationally recognized securities rating agency selected by the City.

**“Securities Depositories”** means The Depository Trust Company, 55 Water Street, 50<sup>th</sup> Floor, New York, New York, 10041-0099, Attention: Call Notification Department, Fax (212) 855-7232; and, in accordance with then current guidelines of the Securities and Exchange Commission, such other addresses and/or such other securities depositories as the City may designate in a Written Certificate of the City delivered to the Fiscal Agent.

**“Supplemental Agreement”** means any agreement amendatory of or supplemental to this Agreement, but only if and to the extent that such Supplemental Agreement is specifically authorized hereunder.

**“Tax Certificate”** means the Tax Certificate dated as of the Closing Date concerning certain matters pertaining to the use and investment of proceeds of the Bonds, executed by and delivered to the City on the date of issuance of the Bonds, including any and all exhibits attached thereto

**“Tax Regulations”** means the United States Treasury Regulations promulgated pursuant to sections 103 and 141 through 150 of the Code.

**“Treasurer”** means the City Treasurer of the City.

**“Written Certificate”** and **“Written Request”** of the City mean, respectively, a written certificate or written request signed in the name of the City by its Authorized Representative. Any such certificate or request may, but need not, be combined in a single instrument with any other instrument, opinion or representation, and the two or more so combined shall be read and construed as a single instrument.

**Section 1.3. Interpretation.**

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

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

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

**Section 1.4. Agreement Constitutes Contract.** In consideration of the purchase and acceptance of any and all of the Bonds issued hereunder by those who shall hold the same from time to time, this Agreement shall be deemed to be and shall constitute a contract among the City, the Fiscal Agent and the Bond Owners. The pledge made in this Agreement and the provisions, covenants and agreements herein set forth to be performed by or on behalf of the City shall be for the equal benefit, protection and security of the Bond Owners. All of the Bonds, without regard to the time or times of their issuance or maturity, shall be of equal rank without preference, priority or distinction of any of the Bonds over any other thereof, except as expressly provided in or permitted by this Agreement.

**ARTICLE II**

**THE BONDS**

**Section 2.1. Authorization of Bonds.** The City hereby authorizes the issuance of the Bonds under and subject to the terms of the Resolution of Issuance and this Agreement, the Act, the Bond Law and other applicable laws of the State of California for the purpose of providing moneys to pay certain authorized costs and expenses of acquisition and construction of the Project. Additional Bonds in the amount not to exceed \$\_\_\_\_\_ may be issued if required to complete the Project.

**Section 2.2. Terms of Bonds.**

(a) The Bonds shall be designated “City of Manhattan Beach Underground Utility Assessment District No. 05-2, Limited Obligation Improvement Bonds, Series 2006,” and shall be secured by and payable from the Assessments and other moneys pledged hereunder.

(b) The Bonds shall be issued in fully registered form without coupons in denominations of \$5,000 or any integral multiple thereof, except for one odd bond, if any, so long as no Bond shall have more than one maturity date. The Bonds shall be dated as of their Dated Date, shall be issued in the aggregate principal amount of \$\_\_\_\_\_, shall mature on the dates and shall bear interest (calculated on the basis of a 360-day year comprised of twelve 30-day months) at the rates specified below.

Maturity Date <u>(September 2)</u>	Principal <u>Amount</u>	Interest <u>Rate</u>
	\$	%

(c) Interest on the Bonds shall be payable from the Interest Payment Date next preceding the date of authentication thereof unless (i) a Bond is authenticated as of an Interest Payment Date, in which event interest with respect thereto will be payable from such Interest Payment Date; (ii) it is authenticated after a Record Date and before the following Interest Payment Date, in which event interest with respect thereto will be payable from such Interest Payment Date; or (iii) it is authenticated on or before February 15, 2007, in which event interest with respect thereto will be payable from the date of delivery; provided, however, that if, as of the date of authentication of any Bond, interest with respect to any Outstanding Bond is in default, interest represented by such Bond will be payable from the Interest Payment Date to which interest has previously been paid or made available for payment with respect to the Outstanding Bonds. Interest shall be paid in lawful money of the United States on each Interest Payment Date to the Persons in whose names the ownership of the Bonds is registered on the Registration Books at the close of business on the immediately preceding Record Date, except as provided below. Interest on any Bond which is not punctually paid or duly provided for on any Interest Payment Date shall

be payable to the Person in whose name the ownership of such Bond is registered on the Registration Books at the close of business on a special Record Date to be established by the Fiscal Agent for the payment of such defaulted interest to be fixed by the Fiscal Agent, notice of which shall be given to such Owner by first class mail not less than ten days prior to such special Record Date. Interest shall be paid by check of the Fiscal Agent mailed by first class mail, postage prepaid, on each Interest Payment Date to the Bond Owners at their respective addresses shown on the Registration Books as of the close of business on the preceding Record Date; provided, however, that at the written request of Cede & Co. or an Owner of at least \$1,000,000 in aggregate principal amount of Outstanding Bonds filed with the Fiscal Agent prior to any Record Date, interest on such Bonds shall be paid to such Owner on each succeeding Interest Payment Date (unless such request has been revoked in writing) by wire transfer of immediately available funds to an account in the United States designated in such written request.

(d) The principal of the Bonds shall be payable in lawful money of the United States of America upon presentation and surrender thereof upon maturity or earlier redemption at the Office of the Fiscal Agent. Payment of principal of any Bond shall be made only upon presentation and surrender of such Bond at the Office of the Fiscal Agent.

(e) The Bonds shall be subject to redemption as provided in Article IV.

(f) The Bonds shall be in substantially the form set forth in Exhibit A hereto, with appropriate or necessary insertions, omissions and variations as permitted or required hereby.

**Section 2.3. Transfer and Exchange of Bonds.** Any Bond may, in accordance with its terms, be transferred upon the Registration Books by the Person in whose name it is registered, in person or by his duly authorized attorney, upon surrender of such Bond for cancellation, accompanied by delivery of a written instrument of transfer, duly executed in a form acceptable to the Fiscal Agent. Whenever any Bond or Bonds shall be surrendered for transfer, the City shall execute and the Fiscal Agent shall authenticate and shall deliver a new Bond or Bonds for a like aggregate principal amount, in any authorized denomination. The Fiscal Agent shall require the Bond Owner requesting such transfer to pay any tax or other governmental charge required to be paid with respect to such transfer. The cost of printing Bonds and any services rendered or expenses incurred by the Fiscal Agent in connection with any transfer shall be paid by the City.

The Bonds may be exchanged at the Office of the Fiscal Agent for a like aggregate principal amount of Bonds of other authorized denominations. The Fiscal Agent shall require the payment by the Bond Owner requesting such exchange of any tax or other governmental charge required to be paid with respect to such exchange. The cost of printing Bonds and any services rendered or expenses incurred by the Fiscal Agent in connection with any exchange shall be paid by the City.

The Fiscal Agent shall not be obligated to make any transfer or exchange of Bonds pursuant to this Section 2.3 during the period established by the Fiscal Agent for the selection of Bonds for redemption, or with respect to any Bonds selected for redemption.

**Section 2.4. Registration Books.** The Fiscal Agent will keep or cause to be kept, at the Office of the Fiscal Agent, sufficient records for the registration and transfer of ownership of the Bonds, which shall be open to inspection during regular business hours and upon reasonable prior notice by the City; and, upon presentation for such purpose, the Fiscal Agent shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on such records, the ownership of the Bonds as hereinbefore provided.

**Section 2.5. Execution of Bonds.** The Bonds shall be executed in the name and on behalf of the City with the manual or facsimile signature of the Treasurer attested by the manual or facsimile signature of the City Clerk. The City's seal or a facsimile thereof, may be reproduced, imprinted or impressed on the Bonds. The Bonds shall then be delivered to the Fiscal Agent for authentication by it. In case any of the officers who shall have signed or attested any of the Bonds shall cease to be such officer or officers of the City before the Bonds so signed or attested shall have been authenticated or delivered by the Fiscal Agent, or issued by the City, such Bonds may nevertheless be authenticated, delivered and issued and, upon such authentication, delivery and issue, shall be as binding upon the City as though those who signed and attested the same had continued to be such officers of the City, and also any Bonds may be signed and attested on behalf of the City by such Persons as at the actual date of execution of such Bonds shall be the proper officers of the City although at the nominal date of such Bonds any such Person shall not have been such officer of the City.

**Section 2.6. Authentication of Bonds.** Only such of the Bonds as shall bear thereon a certificate of authentication substantially in the form set forth in Exhibit A hereto, manually executed by the Fiscal Agent, shall be valid or obligatory for any purpose or entitled to the benefits of this Agreement, and such certificate of or on behalf of the Fiscal Agent shall be conclusive evidence that the Bonds so authenticated have been duly executed, authenticated and delivered hereunder and are entitled to the benefits of this Agreement.

**Section 2.7. Temporary Bonds.** The Bonds may be issued in temporary form exchangeable for definitive Bonds when ready for delivery. Any temporary Bonds may be printed, lithographed or typewritten shall be of such authorized denominations as may be determined by the City, shall be in fully registered form without coupons and may contain such reference to, any of the provisions of this Agreement as may be appropriate. Every temporary Bond shall be executed by the City and authenticated by the Fiscal Agent upon the same conditions and in substantially the same manner as the definitive Bonds. If the City issues temporary Bonds, it will execute and deliver definitive Bonds as promptly thereafter as practicable, and thereupon the temporary Bonds may be surrendered, for cancellation, at the Office of the Fiscal Agent and the Fiscal Agent shall authenticate and deliver in exchange for such temporary Bonds an equal aggregate principal amount of definitive Bonds of authorized denominations. Until so exchanged, the temporary Bonds shall be entitled to the same benefits under this Agreement as definitive Bonds authenticated and delivered hereunder.

**Section 2.8. Bonds Mutilated, Lost, Destroyed or Stolen.** If any Bond shall become mutilated, the City, at the expense of the Owner of said Bond, shall execute, and the Fiscal Agent shall thereupon authenticate and deliver, a new Bond of like tenor in exchange and substitution for the Bond so mutilated, but only upon surrender to the Fiscal Agent of the Bond so mutilated. Every mutilated Bond so surrendered to the Fiscal Agent shall be canceled by it and delivered to, or upon the order of, the City. If any Bond shall be lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Fiscal Agent and, if such evidence and indemnity satisfactory to the Fiscal Agent shall be given, the City, at the expense of the Owner, shall execute, and the Fiscal Agent shall thereupon authenticate and deliver, a new Bond of like series and tenor in lieu of and in replacement for the Bond so lost, destroyed or stolen (or if any such Bond shall have matured or shall have been called for redemption, instead of issuing a replacement Bond, the Fiscal Agent may pay the same without surrender thereof). The City may require payment by the Owner of a sum not exceeding the actual cost of preparing each replacement Bond issued under this Section and of the expenses which may be incurred by the City and the Fiscal Agent. Any Bond issued under the provisions of this Section in lieu of any Bond alleged to be lost, destroyed or stolen shall constitute an original additional contractual obligation on the part of the City whether or not the Bond so alleged to be lost, destroyed or stolen be at any time enforceable by anyone, and shall be entitled to the benefits of this Agreement with all other Bonds secured by this Agreement.



**Section 2.9. Limited Obligation.** All obligations of the City under this Agreement and the Bonds with regard to the Bond Owners shall be limited obligations, payable solely from the Assessments and the moneys pledged therefor hereunder. Pursuant to Section 8769 of the Streets and Highways Code, the City will not obligate itself to advance available funds from the City treasury to cure any deficiency which may occur in the Bond Fund. Neither the faith and credit of the City, the County of Los Angeles nor of the State of California or any political subdivision thereof is pledged to the payment of the Bonds. The Bonds are “Limited Obligation Improvement Bonds” as provided in Section 11.1 hereof.

**Section 2.10. No Acceleration.** The principal of the Bonds shall not be subject to acceleration hereunder. Nothing in this Section shall in any way prohibit the redemption of Bonds under Article IV hereof, or the defeasance of the Bonds and discharge of this Agreement under Article X hereof.

**Section 2.11. Refunding of Bonds.** The Bonds may be refunded by the City under Divisions 11 or 11.5 of the California Streets and Highways Code or as otherwise permitted by law upon the conditions set forth in proceedings therefor, all as determined by the City Council.

**Section 2.12. Book-Entry Bonds.**

(a) Except as provided in subparagraph (c) of this Section 2.12, the Registered Owner of all of the Bonds shall be DTC and the Bonds shall be registered in the name of Cede & Co., as nominee for DTC. Notwithstanding anything to the contrary contained in this Agreement, payment of interest with respect to any Bond registered as of each Record Date in the name of Cede & Co. shall be made by wire transfer of same-day funds to the account of Cede & Co. on the payment date for the Bonds at the address indicated on the Record Date for Cede & Co. in the Registration Books or as otherwise provided in the Representation Letter.

(b) The Bonds shall be initially issued in the form of separate single fully registered Bonds in the amount of each separate stated maturity of the Bonds. Upon initial issuance, the ownership of such Bonds shall be registered in the Registration Books in the name of Cede & Co., as nominee of DTC. The Fiscal Agent and the City may treat DTC (or its nominee) as the sole and exclusive Owner of the Bonds registered in its name for the purposes of payment of the principal, Redemption Price or interest with respect to the Bonds, selecting the Bonds or portions thereof to be redeemed, giving any notice permitted or required to be given to owners of Bonds under this Agreement, registering the transfer of Bonds, obtaining any consent or other action to be taken by Owners of Bonds and for all other purposes whatsoever and neither the Fiscal Agent nor the City shall be affected by any notice to the contrary. Neither the Fiscal Agent nor the City shall have any responsibility or obligation to any Participant, any person claiming a beneficial ownership interest in the Bonds under or through DTC or any Participant, or any other person which is not shown on the Registration Books as being an Owner, with respect to the accuracy of any records maintained by DTC or any Participant; the payment by DTC or any Participant of any amount in respect of the principal Redemption Price or interest with respect to the Bonds; any notice which is permitted or required to be given to Owners of Bonds under this Agreement; the selection by DTC or any Participant of any person to receive payment in the event of a partial redemption of the Bonds; or any consent given or other action taken by DTC as Owner of Bonds. The Fiscal Agent shall pay all principal, premium, if any, and interest with respect to the Bonds, only to DTC, and all such payments shall be valid and effective to fully satisfy and discharge the City’s obligations with respect to the principal, premium, if any, and interest with respect to the Bonds to the extent of the sum or sums so paid. Except under the conditions of (c) below, no person other than DTC shall receive an executed Bond for each separate stated maturity. Upon delivery by DTC to the Fiscal Agent of written notice to the effect that DTC has determined to substitute a new nominee in place of

Cede & Co., and subject to the provisions herein with respect to record dates, the term "Cede & Co." in this Agreement shall refer to such new nominee of DTC.

(c) In the event (i) DTC, including any successor as securities depository for the Bonds, determines not to continue to act as securities depository for the Bonds or (ii) the City determines that the incumbent securities depository shall no longer so act, and delivers a written certificate to the Fiscal Agent to that effect, then the City will discontinue the book-entry system with the incumbent securities depository for the Bonds. If the City determines to replace the incumbent securities depository for the Bonds with another qualified securities depository, the City shall prepare or direct the preparation of a new single, separate fully registered Bond for the aggregate outstanding principal amount of Bonds of each maturity, registered in the name of such successor or substitute qualified securities depository, or its nominee, or make such other arrangement acceptable to the City, the Fiscal Agent and the successor securities depository for the Bonds as are not inconsistent with the terms of this Agreement. If the City fails to identify another qualified successor securities depository of the Bonds to replace the incumbent securities depository, then the Bonds shall no longer be restricted to being registered in the Registration Books in the name of the incumbent securities depository or its nominee, but shall be registered in whatever name or names the incumbent securities depository for the Bonds, or its nominee, shall designate. In such event the Fiscal Agent shall authenticate and deliver a sufficient quantity of Bonds as to carry out the transfers and exchanges provided in sections 2.3, 2.7 and 2.8. All such Bonds shall be in fully registered form in denominations authorized by this Agreement.

(d) Notwithstanding any other provision of this Agreement to the contrary, so long as any Bond is registered in the name of DTC, or its nominee, all payments with respect to the principal, premium, if any, and interest with respect to such Bond and all notices with respect to such Bond shall be made and given, respectively, as provided in the Representation Letter.

(e) In connection with any notice or other communication to be provided to Owners of Book-Entry Bonds pursuant to this Agreement by the City or the Fiscal Agent with respect to any consent or other action to be taken by Owners, the City or the Fiscal Agent, as the case may be, shall establish a record date for such consent or other action and give DTC notice of such record date not less than 15 calendar days in advance of such record date to the extent possible.

### ARTICLE III

#### ISSUANCE OF BONDS

**Section 3.1. Issuance of Bonds.** Concurrently with the execution of this Agreement, the City shall execute and the Fiscal Agent shall authenticate the Bonds and deliver the Bonds to the Original Purchaser or in accordance with the Original Purchaser's directions in the aggregate principal amount of \$\_\_\_\_\_.

**Section 3.2. Application of Proceeds of the Bonds.** On the Closing Date, the proceeds of the sale of the Bonds, in the amount of \$\_\_\_\_\_ shall be paid to the Fiscal Agent and shall be transferred or deposited by the Fiscal Agent as follows:

(a) The Fiscal Agent shall deposit the amount of \$\_\_\_\_\_ in the Reserve Fund, constituting the full amount of the Reserve Requirement.

(b) The Fiscal Agent shall deposit the amount of \$\_\_\_\_\_ in the Costs of Issuance Fund.

(c) The Fiscal Agent shall deposit the amount of \$\_\_\_\_\_ in the Improvement Fund to be established held and administered by the Fiscal Agent hereunder to pay the cost and expense of the Project.

The Fiscal Agent is hereby authorized to establish and maintain for so long as is necessary, one or more temporary funds and accounts under this Agreement.

**Section 3.3. Costs of Issuance Fund.** There is hereby established a separate fund to be known as the “05-2 Costs of Issuance Fund,” which shall be held by the Fiscal Agent. On the Closing Date there shall be deposited in the Costs of Issuance Fund the amount specified in Section 3.2(b).

The moneys in the Costs of Issuance Fund shall be used and withdrawn by the Fiscal Agent from time to time to pay the Costs of Issuance upon submission of a Disbursement Request of the City, substantially in the form of Exhibit B hereto, stating (a) the Person to whom payment is to be made, (b) the amount to be paid, (c) the purpose for which the obligation was incurred, (d) that such payment is a proper charge against the Costs of Issuance Fund, and (e) that such amounts have not been the subject of a prior disbursement from the Costs of Issuance Fund; in each case together with a statement or invoice for each amount requested thereunder. On or before sixty (60) days following the issuance of the Bonds, the Fiscal Agent shall transfer all amounts (if any) remaining in the Costs of Issuance Fund to the Bond Fund.

**Section 3.4. Improvement Fund.** There is hereby established a separate fund to be known as the “05-2 Improvement Fund,” which shall be established, held and administered by the Fiscal Agent. The Fiscal Agent shall disburse or transfer all amounts in the Improvement Fund, except as otherwise provided in this Section 3.4, for the payment or reimbursement of costs of the Project.

Disbursement from the Improvement Fund shall be made by the Fiscal Agent upon receipt of a Written Certificate (which may be in the form of a facsimile confirmed promptly in writing), substantially in the form of Exhibit B hereto, which shall:

(a) set forth the amount required to be disbursed, state the purpose for which the disbursement is to be paid, and state that such disbursement is for a Project cost; and

(b) certify that no portion of the amount then being requested to be disbursed was set forth in any Written Certificate previously filed requesting disbursement.

Each such Certificate and Disbursement Request shall be sufficient evidence to the Fiscal Agent of the facts stated therein and the Fiscal Agent shall have no duty to confirm the accuracy of such facts.

Moneys in the Improvement Fund shall be invested and deposited by the Fiscal Agent in accordance with Section 5.7 hereof. Following completion of the Project, interest earnings and profits from such investment and deposit shall be transferred to the Bond Fund, unless directed by the City that all or a portion thereof shall be transferred to the Administrative Expense Account to the extent of any shortfall or anticipated shortfall therein.

Upon the filing of a Written Certificate that all costs of the Project have been paid or are not required to be paid from the Improvement Fund, the Fiscal Agent shall transfer the amount, if any, remaining in the Improvement Fund as instructed by a Written Certificate, which instruction shall be consistent with the provisions of Section 10427 of the Act, and the Improvement Fund shall be closed. The Fiscal Agent may conclusively rely on such Written Certificate.



**ARTICLE IV**

**REDEMPTION OF BONDS**

**Section 4.1. Optional Redemption.** The Bonds shall be subject to optional redemption by the City prior to maturity, as a whole or in part in the denomination of \$5,000 each or in any integral multiple thereof on any Interest Payment Date, upon at least forty-five (45) days' written notice from the City to the Fiscal Agent and upon at least thirty (30) days' written notice to the Bondowner, from any moneys deposited in the Bond Fund from any source for such purpose by the City, including but not limited to moneys which are prepayments of Assessments by property owners deposited in the Prepayment Account, surplus moneys in the Improvement Fund upon completion of the Project, or from investment earnings on funds or accounts established under the Fiscal Agent Agreement, at the redemption price equal to the principal amount thereof, together with a redemption premium equal to the following amounts on the following dates (expressed as a percentage of the principal amount redeemed) plus accrued interest thereon to the date of redemption:

<u>Redemption Dates</u>	<u>Redemption Premium</u>
Interest Payment Dates Through March 2, 20__	%
September 2, 20__ and March 2, 20__	
September 2, 20__ and March 2, 20__	
September 2, 20__ and thereafter	

The provisions of Part 11.1 of the Bond Law are applicable to the advance payment of Assessments and to the calling of the Bonds.

**Section 4.2. Notice of Redemption.** The Fiscal Agent on behalf and at the expense of the City shall mail (by first class mail) notice of any redemption to the respective Owners of any Bonds designated for redemption at their respective addresses appearing on the Registration Books, and to the Securities Depositories and to one or more Information Services, at least 30 but not more than sixty 60 days prior to the date fixed for redemption. Such notice shall state the date of the notice, the redemption date, the redemption place and the Redemption Price and shall designate the CUSIP numbers, the Bond numbers and the maturity or maturities (except in the event of redemption of all of the Bonds of such maturity or maturities in whole) of the Bonds to be redeemed, and shall require that such Bonds be then surrendered at the Office of the Fiscal Agent for redemption at the Redemption Price, giving notice also that further interest on such Bonds will not accrue from and after the date fixed for redemption and with regard to optional redemption in the event that funds required to pay the redemption price are not on deposit under the Fiscal Agent Agreement at the time the notice of redemption is sent, a statement to the effect that the redemption is conditioned upon the receipt of the appropriate funds required to pay the redemption price by the Fiscal Agent on or prior to the redemption date. Neither the failure to receive any notice so mailed, nor any defect in such notice, shall affect the sufficiency of the proceedings for the redemption of the Bonds or the cessation of accrual of interest thereon from and after the date fixed for redemption. The City has the right to rescind any optional redemption from prepayments of unpaid assessments by written notice to the Fiscal Agent on or prior to the date fixed for redemption. Any notice of redemption shall be canceled and annulled if for any reason funds are not available on the date fixed for redemption for the payment in full of the Bonds then called for redemption, and such cancellation shall not constitute an Event of Default hereunder. The Fiscal Agent shall mail notice of rescission of redemption in the same manner notice of redemption was originally provided.

**Section 4.3. Selection of Bonds for Redemption.** Whenever provision is made in this Agreement for the redemption of less than all of the Bonds, the Fiscal Agent shall select the Bonds to

be redeemed from all Bonds not previously called for redemption, by lot in any manner which the Fiscal Agent in its sole discretion shall deem appropriate and fair, subject to compliance with Section 8768 of the Streets and Highways Code as specified in a Written Certificate of the City. For purposes of such selection, all Bonds shall be deemed to be comprised of separate \$5,000 denominations and such separate denominations shall be treated as separate Bonds which may be separately redeemed.

**Section 4.4. Partial Redemption of Bonds.** Upon surrender of any Bonds redeemed in part only, the City shall execute and the Fiscal Agent shall authenticate and deliver to the Owner thereof, at the expense of the City, a new Bond or Bonds of authorized denominations equal in aggregate principal amount representing the unredeemed portion of the Bonds surrendered.

**Section 4.5. Effect of Notice of Redemption.** Notice having been mailed as aforesaid, and moneys for the redemption (including the interest to the applicable date fixed for redemption and including any applicable premium), having been set aside in the Bond Fund or Prepayment Account, as applicable, the Bonds shall become due and payable on said date, and, upon presentation and surrender thereof at the Office of the Fiscal Agent, said Bonds shall be paid at the Redemption Price thereof, together with interest accrued and unpaid to said date.

If, on said date fixed for redemption, moneys for the redemption of all the Bonds to be redeemed, together with interest to said date, shall be held by the Fiscal Agent so as to be available therefor on such date, and, if notice of redemption thereof shall have been mailed as aforesaid and not canceled, then, from and after said date, interest on said Bonds shall cease to accrue and become payable. All moneys held by or on behalf of the Fiscal Agent for the redemption of Bonds shall be held in trust for the account of the Owners of the Bonds so to be redeemed.

All Bonds paid at maturity or redeemed prior to maturity pursuant to the provisions hereof shall be canceled upon surrender thereof, and a certificate of destruction pertaining thereto shall be delivered to the City upon request.

## ARTICLE V

### SECURITY OF BONDS; FLOW OF FUNDS; INVESTMENTS

**Section 5.1. Pledge and Assignment.** Subject only to the provisions of this Agreement permitting the application thereof for the purposes and on the terms and conditions set forth herein, all of the Assessments and any other amounts (including proceeds of the sale of the Bonds) held in any fund or account established pursuant to this Agreement are hereby pledged by the City to secure the payment of the principal of and interest on the Bonds in accordance with their terms, the provisions of this Agreement and the Bond Law. Said pledge shall constitute a first lien on and security interest in such moneys.

**Section 5.2. Assessment Revenue Fund.** The City shall establish a separate fund to be known as the "05-2 Assessment Revenue Fund," which shall be established, held and administered by the Finance Director. All moneys received by the City on account of installment payments respecting unpaid assessments, including administrative charges, late charges and penalties, if any, paid in connection with reinstatement of delinquent assessment installments, proceeds of foreclosure sale payable to the City resulting from foreclosure of the lien of delinquent assessments and proceeds of payments made to discharge unpaid assessments, whether in whole or in part, shall be deposited in the Assessment Revenue Fund. On or about February 1 and May 1 of each year, the Finance Director shall deposit the portion of the Assessments representing the administrative charges into the Administrative Expense Account. On or prior to the 15<sup>th</sup> day of February and August of each year, the Finance Director shall

transfer to the Fiscal Agent for deposit into the Bond Fund, moneys on deposit in the Assessment Revenue Fund (exclusive of amounts in the Administrative Expense Account) in the amounts, as required hereunder, to pay the principal of and the interest and redemption premiums, if any, on the Bonds.

On August 5 of each year or as soon thereafter as practicable, any moneys remaining in the Assessment Revenue Fund (other than the Administrative Expense Account) after the deposits described above for such year have been funded shall either (i) if there are sufficient moneys to redeem Bonds, be transferred by the City to the Fiscal Agent for deposit in the Prepayment Account of the Bond Fund and used to redeem Bonds as provided in Section 4.1, or (ii) be retained in the Assessment Revenue Fund and utilized by the City to provide a credit against the Assessment installments otherwise billable on account of each unpaid Assessment, said credits to be determined for each unpaid Assessment in the same proportion as such unpaid Assessment bears to the total amount of all unpaid Assessments. To the extent that moneys in the Assessment Revenue Fund, following the payment in full of the Bonds, exceed the amount required by the Act, the Bond Law or this Agreement to meet all obligations of the City with respect to the Bonds and the administrative costs associated therewith, said moneys may be withdrawn by the Finance Director and applied to any lawful purpose of the City.

**Section 5.3. Administrative Expense Account.** The Finance Director shall establish and maintain a special account within the Assessment Revenue Fund designated the “05-2 Administrative Expense Account.” The Finance Director shall deposit in the Administrative Expense Account amounts attributable to the administrative costs of the prepayment of Assessments and any amounts collected by the City pursuant to Section 10204(f) of the Act and Sections 8682.1 and 8682 of the Bond Law.

Amounts in the Administrative Expense Account shall be disbursed by the Finance Director upon receipt of an appropriate Disbursement Request therefor, in the form of Exhibit B hereto, signed by an Authorized Representative of the City. Nothing in this Section 5.3 shall prohibit the City from paying directly the amount of any such administrative costs, including disbursements directly to any appropriate fund or account of the City for reimbursement to the City for its costs and expenses, including the costs attributable to staff time spent in the administration of the Assessments and the Bonds.

**Section 5.4. Bond Fund.**

(a) The Fiscal Agent shall establish, maintain and hold in trust a special fund designated the “05-2 Bond Fund.” Except as otherwise provided in Section 5.5 respecting prepayments of Assessments, the Fiscal Agent shall deposit in the Bond Fund all Assessments received from the City, and any other amounts received from the City which are required to be deposited therein by this Agreement or the Bond Law. The Fiscal Agent shall be deemed to have complied with the Bond Law if it follows the directions of the City.

(b) On or before each Interest Payment Date, the Fiscal Agent shall withdraw from the Bond Fund for payment to the Owners of the Bonds the principal, if any, of and interest then due and payable on the Bonds. Five (5) Business Days prior to each Interest Payment Date, the Fiscal Agent shall determine if the amounts then on deposit in the Bond Fund are sufficient to pay the principal, if any, of and interest due on the Bonds on such Interest Payment Date. In the event that amounts in the Bond Fund are insufficient for such purpose, the Fiscal Agent, on or before such Interest Payment Date, shall withdraw from the Reserve Fund to the extent of any funds therein the amount of such insufficiency, and shall transfer any amounts so withdrawn to the Bond Fund. Amounts so withdrawn from the Reserve Fund and deposited in the Bond Fund shall be applied to the payment of the interest and principal due on the Bonds. If, after the foregoing transfer, there are insufficient funds in the Bond Fund to pay the principal, if any, of and interest on the Bonds, the Fiscal Agent shall apply the available funds first to the

payment of interest on the Bonds, then to the payment of principal of the Bonds as prescribed by the Bond Law.

**Section 5.5. Prepayment Account.** The Fiscal Agent shall establish and maintain a special account within the Bond Fund designated the “05-2 Prepayment Account.” The Fiscal Agent shall deposit in the Prepayment Account the proceeds of the prepayment of any Assessment, with respect to which the Prepayment Account shall be administered by the Fiscal Agent as provided in this Agreement. Additionally, the Fiscal Agent shall deposit in the Prepayment Account amounts received from the City in connection with the City’s exercise of its rights to optionally redeem Bonds pursuant to Section 4.1.

Amounts in the Prepayment Account shall be disbursed therefrom for the payment of the Redemption Price of Bonds redeemed pursuant to Section 4.1. Any surplus amounts remaining in the Prepayment Account shall be disbursed according to written instructions of the City.

**Section 5.6. Reserve Fund.**

(a) The Fiscal Agent shall establish, maintain and hold in trust a special fund designated the “05-2 Reserve Fund.” The Fiscal Agent shall deposit in the Reserve Fund the amount specified in Section 3.2(a). Additional deposits shall be made as provided in the Bond Law.

The City shall cause the Reserve Fund to be administered in accordance with Part 16 of the Bond Law; provided that proceeds from redemption or sale of properties, with respect to which payment of delinquent Assessments and interest thereon was made from the Reserve Fund, shall be credited to the Reserve Fund.

(b) Except as otherwise provided in this Section, all amounts deposited in the Reserve Fund shall be used and withdrawn by the Fiscal Agent solely for the purpose of making transfers to the Bond Fund in the event of any deficiency at any time in the Bond Fund of the amount then required for payment of the principal of and interest on the Bonds or, in accordance with the provisions of this Section, for the purpose of redeeming Bonds from the Bond Fund.

(c) Transfers shall be made from the Reserve Fund to the Bond Fund in the event of a deficiency in the Bond Fund, in accordance with Section 5.4(b).

(d) Whenever, after the issuance of the Bonds, an Assessment is prepaid, in whole or in part, as provided in the Bond Law, the Fiscal Agent, pursuant to a Written Request of the City, shall transfer from the Reserve Fund to the Prepayment Account an amount, specified in such Written Request, equal to the product of the ratio of the original amount of the Assessment so paid to the original amount of all unpaid Assessments, times the initial Reserve Requirement; provided, however, no such transfer shall be made if after the transfer the amounts in the Reserve Fund then remaining will not equal the Reserve Requirement. The Fiscal Agent may conclusively rely upon the City’s determination that the remaining funds equal the Reserve Requirement.

(e) So long as no Event of Default shall have occurred and be continuing any amount in the Reserve Fund in excess of the Reserve Requirement on February 15 and August 15 of each year shall be withdrawn from the Reserve Food by the Fiscal Agent and shall be deposited in the Bond Fund.

(f) Whenever the balance in the Reserve Fund is sufficient to retire all the Outstanding Bonds, whether by advance retirement or otherwise, collection of the principal and interest on the Assessments shall be discontinued and the Reserve Fund liquidated by the Fiscal Agent in retirement of the Outstanding Bonds, as directed by a Written Request of the City. In the event that the

balance in the Reserve Fund at the time of liquidation exceeds the amount required to retire all of the Outstanding Bonds, the excess shall, after payment of amounts due to the Fiscal Agent, be transferred to the City to be used in accordance with the Act and the Bond Law.

(g) All amounts remaining in the Reserve Fund in the year in which the last Assessments become due and payable shall be credited toward said Assessments and transferred to the Bond Fund pursuant to a Written Request of the City.

(h) All or a portion of the Reserve Requirement may be satisfied by the provision of one or more policies of municipal bond insurance or surety bonds issued by a municipal bond insurer or by a letter of credit issued by a bank, the obligations insured by which insurer or issued by which bank, as the case may be, having ratings at the time of issuance of such policy or surety bond or letter of credit equal to "AA" or higher assigned by Fitch or "Aa" or higher assigned by Moody's or "AA" or higher assigned by Standard & Poor's.

**Section 5.7. Investment of Moneys.** Except as otherwise provided herein, all moneys in any of the funds or accounts established pursuant to this Agreement shall be invested by the Fiscal Agent solely in Permitted Investments as directed in writing by the City at least two (2) Business Days in advance of the making of such investments. In the absence of any such written direction, the Fiscal Agent shall invest such moneys in money market funds which qualify under item (b) of the definition of Permitted Investments.

Subject to the provisions of Section 3.4, all interest, profits and other income received from the investment of moneys in any fund or account established pursuant to this Agreement shall be deposited by the Fiscal Agent in the Bond Fund; provided, however, that all interest or gain from the investment of amounts in the Reserve Fund shall be retained therein to the extent necessary to restore the balance on deposit in said Reserve Fund to the Reserve Requirement and thereafter as provided in this paragraph.

Permitted Investments acquired as an investment of moneys in any fund established under this Agreement shall be credited to such fund. For the purpose of determining the amount in any fund, all Permitted Investments credited to such fund shall be valued at the Fair Market Value thereof, such valuation to be performed not less frequently than semiannually on or before each Interest Payment Date. The Fiscal Agent may utilize computerized securities pricing services that may be available to it, including those available through its regular accounting system. The Fiscal Agent may conclusively rely on such systems as to the Fair Market Value of such funds.

The Fiscal Agent or any of its affiliates may act as principal or agent in the making or disposing of any investment. The Fiscal Agent shall sell or present for redemption any Permitted Investments so purchased whenever it shall be necessary to provide moneys to meet any required payment, transfer, withdrawal or disbursement from the fund to which such Permitted Investments is credited, and the Fiscal Agent shall not be liable or responsible for any loss resulting from any investment made or sold pursuant to this Section. For purposes of investment, the Fiscal Agent may commingle moneys in any of the funds and accounts established hereunder.

The City acknowledges that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the City the right to receive brokerage confirmations of security transactions as they occur, the City specifically waives receipt of such confirmations to the extent permitted by law. The Fiscal Agent will furnish the City periodic cash transaction statements which include detail for all investment transactions made by the Fiscal Agent hereunder.



The Fiscal Agent or any of its affiliates may act as agent, sponsor or advisor in connection with any investment made by the Fiscal Agent hereunder.

## ARTICLE VI

### COLLECTION AND APPLICATION OF ASSESSMENTS; PARTICULAR COVENANTS

#### Section 6.1. Collection and Application of Assessments.

(a) The City shall comply with all requirements of the Act, the Bond Law, the Resolution of Issuance and this Agreement to assure the timely collection of the Assessments, including, without limitation, the enforcement of delinquent assessments. Any funds received by the City in and for the Assessment District, including, but not limited to, collections of Assessments upon the secured tax rolls or otherwise, collections of delinquent Assessments and penalties thereon, through foreclosure proceedings or otherwise, and the prepayment of Assessments or portions thereof, shall be deposited in the Assessment Revenue Fund, to be established and maintained by the Finance Director for such purpose. The Finance Director shall make disbursements from the Assessment Revenue Fund to the Fiscal Agent of amounts required to be deposited in the Bond Fund and the Prepayment Account within the Bond Fund, as the case may be, as provided in Sections 5.4 and 5.5 hereof, not later than the 15<sup>th</sup> day of the preceding month before such amounts are required by the Fiscal Agent to make the deposits and transfers prescribed by said Sections 5.4 and 5.5.

(b) The Assessments as set forth on the List of Unpaid Assessments on file with the Finance Director, together with the interest thereon, shall be payable in annual series corresponding in number to the number of years of maturity of the Bonds issued. An annual proportion of each Assessment shall be payable in each year preceding the date of maturity of each of the several series of Bonds issued sufficient to pay the Bonds when due and such proportion of each Assessment coming due in any year, together with the annual interest thereon, shall be payable in the same manner and at the same time and in the same installments as the general taxes on real property are payable, and become delinquent at the same times and in the same proportionate amounts and bear the same proportionate penalties and interest after delinquency as do the general taxes on real property. All sums received from the collection of the Assessments and of the interest and penalties thereon shall be placed in the Assessment Revenue Fund. Any prepayments of Assessments shall be deposited in the Prepayment Account of the Bond Fund by the Fiscal Agent as directed in writing by the City, except that amounts attributable to the administrative costs of the prepayment of Assessments shall be deposited in the Administrative Expense Account, as directed in writing by the City.

(c) The Finance Director shall, before the final date on which the Auditor will accept the transmission of the Assessments for the parcels within the Assessment District for inclusion on the next tax roll, prepare or cause the Assessment Consultant to prepare, and shall transmit to the Auditor, such data as the Auditor requires to include the installments of the Assessments on the next secured tax roll of the County. For purposes of determining the Assessment for any particular parcel within the Assessment District, the Finance Director or the Assessment Consultant, as the case may be, shall take into consideration any amounts on deposit in the Assessment Revenue Fund with respect to such parcel as of the date of calculation.

**Section 6.2. Covenant to Foreclose.** The City covenants with and for the benefit of the Bond Owner that it will order, and cause to be commenced, and thereafter diligently prosecute an action in the superior court to foreclose the lien of any Assessment or installment thereof that is delinquent, as provided in Section 8680 of the Act, pursuant to and as provided in Sections 8830 through 8835 of the Act. The Finance Director shall commence, or cause to be commenced, such foreclosure

proceedings and is authorized to employ counsel to conduct any such foreclosure proceedings. The following conditions shall apply to the foreclosure proceedings, which shall be commenced not later than the October 1 following the Fiscal Year:

(a) If the Finance Director determines that there is a cumulative delinquency of an Assessment of \$5,000 or more for one or more prior Fiscal Year(s), for any single parcel of land in the Assessment District, foreclosure shall be commenced against such parcel of land in the Assessment District.

(b) If the Finance Director determines that the total amount of delinquent Assessments for the prior Fiscal Year for the entire Assessment District exceeds five percent (5%) of the total Assessments due and payable in the prior Fiscal Year, foreclosure shall be commenced against such parcel of land in the Assessment District with a cumulative delinquency of \$1,000 or more.

The City shall issue notices of delinquency against all parcels within delinquent Assessments, regardless of amount, within 60 days after the Finance Director has received the Auditor's Report for July of that Bond Year showing such delinquent Assessments.

**Section 6.3. Punctual Payment.** The City shall punctually pay or cause to be paid the principal, premium (if any) and interest to become due in respect of all the Bonds, in strict conformity with the terms of the Bonds and of this Agreement, according to the true intent and meaning thereof, but only out of Assessments and other moneys pledged for such payment as provided in this Agreement and received by the City or the Fiscal Agent hereunder.

**Section 6.4. Extension of Payment of Bonds.** The City shall not directly or indirectly extend or assent to the extension of the maturity of any of the Bonds or the time of payment of any claims for interest by the purchase of such Bonds or by any other arrangement, and in case the maturity of any of the Bonds or the time of payment of any such claims for interest shall be extended, such Bonds or claims for interest shall not be entitled, in case of any default hereunder, to the benefits of this Agreement, except subject to the prior payment in full of the principal of all of the Bonds then Outstanding and of all claims for interest thereon which shall not have been so extended. Nothing in this Section shall be deemed to limit the right of the City to issue Bonds for the purpose of refunding any Outstanding Bonds, and such issuance shall not be deemed to constitute an extension of maturity of the Bonds.

**Section 6.5. Against Encumbrances.** The City shall not create, or permit the creation of, any pledge, lien, charge or other encumbrance upon the Assessments and other assets pledged or assigned under this Agreement (other than Additional Bonds) while any of the Bonds are Outstanding.

**Section 6.6. Power to Issue Bonds and Make Pledge and Assignment.** The City is duly authorized pursuant to the Act and the Bond Law to issue the Bonds and to enter into this Agreement and to pledge and assign the Assessments and other assets purported to be pledged and assigned, respectively, under this Agreement in the manner and to the extent provided in this Agreement. The Bonds and the provisions of this Agreement are and will be the legal, valid and binding obligations of the City in accordance with their terms, and the City shall at all times, to the extent permitted by law, defend, preserve and protect said pledge and assignment of Assessments and other moneys and all the rights of the Bond Owners under this Agreement against all claims and demands of all Persons whomsoever.

**Section 6.7. Accounting Records and Financial Statements.** The Fiscal Agent shall at all times keep, or cause to be kept, proper books of record and account, prepared in accordance with industry standards, in which complete and accurate entries shall be made of all transactions relating

to the proceeds of the Bonds, the Assessments and all funds and accounts established by it pursuant to this Agreement. Such books of record and account shall be available for inspection by the City, during regular business hours and upon reasonable prior notice and under reasonable circumstances as agreed to by the Fiscal Agent. Not later than the 15th day of each month, the Fiscal Agent shall render to the City detailed monthly statements of the transactions and ending balances as of the end of the preceding month for each of the funds and accounts established and held by the Fiscal Agent pursuant to this Agreement.

**Section 6.8. Waiver of Laws.** The City shall not at any time insist upon or plead in any manner whatsoever, or claim or take the benefit or advantage of, any stay or extension law now or at any time hereafter in force that may affect the covenants and agreements contained in this Agreement or in the Bonds, and all benefit or advantage of any such law or laws is hereby expressly waived by the City to the extent permitted by law.

**Section 6.9. Tax Covenants.** Notwithstanding any other provision of this Agreement, absent an opinion of Bond Counsel that the exclusion from gross income of interest on the Bonds will not be adversely affected for federal income tax purposes, the City covenants to comply with all applicable requirements of the Code and the Tax Regulations necessary to preserve such exclusion from gross income and specifically covenants, without limiting the generality of the foregoing, as follows:

(a) **Private Activity.** The City will not take or omit to take any action or allow any use of the proceeds of the Bonds or of any other moneys or property which would cause the Bonds to be “private activity bonds” within the meaning of Section 141 of the Code and the Tax Regulations.

(b) **Arbitrage.** The City will not allow any use of the proceeds of the Bonds or of any other amounts or property, regardless of the source, or take or omit to take any action which would cause the Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Code and the Tax Regulations.

(c) **Federal Guarantee.** The City will not allow any use of the proceeds of the Bonds or take or omit to take any action that would cause the Bonds to be “federally guaranteed” within the meaning of Section 149(b) of the Code and the Tax Regulations.

(d) **Information Reporting.** The City will take or cause to be taken all necessary actions to comply with the informational reporting requirements of Section 149(e) of the Code and the Tax Regulations.

(e) **Compliance with Tax Certificate.** The City will take action inconsistent with its expectations stated in any tax certificate executed with respect to the Bonds and will comply with the covenants and requirements stated therein and incorporated by reference herein. In furtherance of the foregoing tax covenants of this Section 6.9 the City will comply with the provisions of the Tax Certificate, which is incorporated herein as if fully set forth herein. These covenants shall survive payment in full or defeasance of the Bonds.

(f) **Rebate of Arbitrage Profits.** Except to the extent otherwise provided in Section 148(f) of the Code and the Tax Regulations:

(1) The City shall account for all Gross Proceeds (including all receipts, expenditures and investments thereof) on its books of account separately and apart from all other funds (and receipts, expenditures and investments thereof) and shall retain all records of accounting for at least six years after the day on which the last Bond is discharged. However, to the extent permitted by law, the City may commingle Gross Proceeds of Bonds with its other



monies, provided that it separately accounts for each receipt and expenditure of Gross Proceeds and the obligations acquired therewith.

(2) Not less frequently than each Computation Date, the City shall calculate the Rebate Amount in accordance with rules set forth in Section 148(f) of the Code and the Tax Regulations and rulings thereunder. The City shall maintain a copy of the calculation with its official transcript of proceedings relating to the issuance of the Bonds until six years after the final Computation Date. The Fiscal Agent may rely conclusively upon the City's determinations, calculations and certifications required by this Section 6.9. The Fiscal Agent shall have no responsibility to independently make any calculation or determination or to review the City's calculations hereunder.

(3) In order to assure the excludability pursuant to Section 103(a) of the Code of the interest on the Bonds from the gross income of the owners thereof for federal income tax purposes, within 60 days of each Computation Date the City shall pay to the United States the amount that when added to the future value of previous rebate payments made for the Bonds equals (i) in the case of the Final Computation Date as defined in Section 1.148-3(e)(2) of the Tax Regulations, one hundred percent (100%) of the Rebate Amount on such date; and (ii) in the case of any other Computation Date, ninety percent (90%) of the Rebate Amount on such date. In all cases, such rebate payments shall be made by the City at the times and in the amounts as are or may be required by Section 148(f) of the Code and the Tax Regulations and rulings thereunder, and shall be accompanied by Form 8038-T prepared by the City or such other forms and information as is or may be required by Section 148(f) of the Code and the Tax Regulations and rulings thereunder for execution and filing by the City.

The Fiscal Agent shall conclusively be deemed to have complied with the provisions of this Section 6.9 if it follows the directions of the City and shall not be required to take any actions thereunder in the absence of written instructions from the City.

This Section 6.9 and the covenants set forth herein shall not be applicable to, and nothing contained herein shall be deemed to prevent the City from issuing, bonds the interest on which has been determined by Bond Counsel to be subject to federal income taxation. For the purposes of this Section 6.9, any capitalized word or term used but not defined herein is used as defined in the Tax Certificate.

**Section 6.10. Continuing Disclosure.** The City hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Agreement. Notwithstanding any other provision of this Fiscal Agent Agreement, failure of the City to comply with the Continuing Disclosure Agreement shall not be considered an Event of Default; however, any Bond Owner may and the Fiscal Agent shall, at the written direction of any Participating Underwriter or the Owners of at least 25% aggregate principal amount of Outstanding Bonds (but only to the extent funds in an amount satisfactory to the Fiscal Agent have been provided to it or it has been otherwise indemnified to its satisfaction from any cost, liability, expense or additional charges of the Fiscal Agent whatsoever, including, without limitation, fees and expenses of its attorneys), take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the City to comply with its obligations under this Section 6.10.

## ARTICLE VII

### EVENTS OF DEFAULT AND REMEDIES OF BOND OWNERS

**Section 7.1. Events of Default.** The following events shall be Events of Default:

(a) Failure to pay any installment of principal of any Bonds when and as the same shall become due and payable, whether at maturity as therein expressed, by proceedings for redemption or otherwise.

(b) Failure to pay any installment of interest on any Bonds when and as the same shall become due and payable.

(c) Failure by the City to observe and perform any of the other covenants, agreements or conditions on its part in this Agreement or in the Bonds contained, if such failure shall have continued for a period of 60 days after written notice thereof, specifying such failure and requiring the same to be remedied, shall have been given to the City by the Fiscal Agent or the Owners of not less than 25% in aggregate principal amount of the Bonds at the time Outstanding; provided, however, if in the reasonable opinion of the City the failure stated in the notice can be corrected, but not within such 60 day period, such failure shall not constitute an Event of Default if corrective action is instituted by the City within such 60 day period and the City shall thereafter diligently and in good faith cure such failure in a reasonable period of time.

(d) Commencement by the City of a voluntary case under Title 11 of the United States Code or any substitute or successor statute.

**Section 7.2. Other Remedies of Bond Owners.** Subject to the provisions of Section 7.7, any Bond Owner shall have the right, for the equal benefit and protection of all Bond Owners similarly situated:

(a) by mandamus, suit, action or proceeding, to compel the City and its officers, agents or employees to perform each and every term, provision and covenant contained in this Agreement and in the Bonds, and to require the carrying out of any or all such covenants and agreements of the City and the fulfillment of all duties imposed upon it by the Bond Law;

(b) by suit, action or proceeding in equity, to enjoin any acts or things which are unlawful, or the violation of any of the Bond Owners' rights; or

(c) upon the happening of any Event of Default, by suit, action or proceeding in any court of competent jurisdiction, to require the City and its officers and employees to account as if it and they were the trustees of an express trust.

**Section 7.3. Application of Assessments and Other Funds After Default.** If an Event of Default shall occur and be continuing, all Assessments, including any penalties, costs, fees and other charges accruing under the Bond Law, and any other funds then held or thereafter received by the Fiscal Agent under any of the provisions of this Agreement shall be applied by the Fiscal Agent as follows and in the following order:

(a) To the payment of any payment of reasonable fees, charges and expenses of the Fiscal Agent (including reasonable fees and disbursements of its counsel) incurred in and about the performance of its powers and duties under this Agreement;

(b) To the payment of any expense (including legal fees) incurred by the Bond Owners in enforcing this Agreement;

(c) To the payment of the principal of and interest then due with respect to the Bonds (upon presentation of the Bonds to be paid, and stamping thereon of the payment if only partially paid, or surrender thereof if fully paid) subject to the provisions of this Agreement, as follows:

First: To the payment to the Persons entitled thereto of all installments of interest then due in the order of the maturity of such installments, and, if the amount available shall not be sufficient to pay in full any installment or installments maturing on the same date, then to the payment thereof ratably, according to the amounts due thereon, to the Persons entitled thereto, without any discrimination or preference; and

Second: To the payment to the Persons entitled thereto of the unpaid principal of any Bonds which shall have become due, whether at maturity or by call for redemption, with interest on the overdue principal at the rate borne by the respective Bonds on the date of maturity or redemption, and, if the amount available shall not be sufficient to pay in full all the Bonds, together with such interest, then to the payment thereof ratably, according to the amounts of principal due on such date to the Persons entitled thereto, without any discrimination or preference.

(d) Any remaining funds shall be transferred by the Fiscal Agent to the Bond Fund.

**Section 7.4. Absolute Obligation of City.** Nothing in Section 7.7 or in any other provision of this Agreement or in the Bonds contained shall affect or impair the obligation of the City, which is absolute and unconditional, to pay the principal of and interest on the Bonds to the respective Owners of the Bonds at their respective dates of maturity, or upon call for redemption, as herein provided, but only out of the Assessments and other moneys herein pledged therefor and received by the City or the Fiscal Agent, or affect or impair the right of such Owners, which is also absolute and unconditional, to enforce such payment by virtue of the contract embodied in the Bonds.

**Section 7.5. Termination of Proceedings.** In case any proceedings taken by anyone or more Bond Owners on account of any Event of Default shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Bond Owners, then in every such case the City, and the Bond Owners, subject to any determination in such proceedings, shall be restored to their former positions and rights hereunder, severally and respectively, and all rights, remedies, powers and duties of the City, and the Bond Owners shall continue as though no such proceedings had been taken.

**Section 7.6. Remedies Not Exclusive.** No remedy herein conferred upon or reserved to the Fiscal Agent or to the Bond Owners is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

**Section 7.7. No Waiver of Default.** No delay or omission of any Bond Owner of the Bonds to exercise any right or power arising upon the occurrence of any default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Agreement to the Bond Owners may be exercised from time to time and as often as may be deemed expedient.

## ARTICLE VIII

### FISCAL AGENT

#### Section 8.1. Duties and Liabilities of Fiscal Agent.

(a) *Duties of Fiscal Agent Generally.* The Fiscal Agent shall perform such duties and only such duties as are expressly and specifically set forth in this Agreement.

(b) *Removal of Fiscal Agent.* The City may upon 30 days prior written notice remove the Fiscal Agent at any time, and shall remove the Fiscal Agent if at any time requested to do so by an instrument or concurrent instruments in writing signed by the Bond Owners of not less than a majority in aggregate principal amount of the Bonds then Outstanding (or their attorneys duly authorized in writing) or if at any time the Fiscal Agent shall cease to be eligible in accordance with subsection (e) of this Section, or shall become incapable of acting, or shall be adjudged a bankrupt or insolvent, or a receiver of the Fiscal Agent or its property shall be appointed, or any public officer shall take control or charge of the Fiscal Agent or of its property or affairs for the purpose of rehabilitation, conservation or liquidation, in each case by giving written notice of such removal to the Fiscal Agent and thereupon shall appoint a successor Fiscal Agent by an instrument in writing.

(c) *Resignation of Fiscal Agent.* The Fiscal Agent may at any time resign by giving written notice of such resignation by first class mail, postage prepaid, to the City, and to the Bond Owners notice of such resignation at the respective addresses shown on the Registration Books. Upon receiving such notice of resignation, the City shall promptly appoint a successor Fiscal Agent by an instrument in writing. The Fiscal Agent shall not be relieved of its duties until such successor Fiscal Agent has accepted appointment.

(d) *Appointment of Successor Fiscal Agent.* Any removal or resignation of the Fiscal Agent and appointment of a successor Fiscal Agent shall become effective upon acceptance of appointment by the successor Fiscal Agent; provided, however, that under any circumstances the successor Fiscal Agent shall be qualified as provided in subsection (e) of this Section. If no qualified successor Fiscal Agent shall have been appointed and have accepted appointment within 45 days following giving notice of removal or notice of resignation as aforesaid, the resigning Fiscal Agent or any Bond Owner (on behalf of himself and all other Bond Owners) may petition any court of competent jurisdiction for the appointment of a successor, Fiscal Agent, and such court may thereupon, after such notice (if any) as it may deem proper, appoint such successor Fiscal Agent. Any successor Fiscal Agent appointed under this Agreement shall signify its acceptance of such appointment by executing and delivering to the City and to its predecessor Fiscal Agent a written acceptance thereof, and to the predecessor Fiscal Agent an instrument indemnifying the predecessor Fiscal Agent for any costs or claims arising during the time the successor Fiscal Agent serves as Fiscal Agent hereunder, and after payment by the City of all unpaid fees and expenses of the predecessor Fiscal Agent, the successor Fiscal Agent, without any further act, deed or conveyance, shall become vested with all the moneys, estates, properties, rights, powers, trusts, duties and obligations of such predecessor Fiscal Agent, with like effect as if originally named Fiscal Agent herein; but, nevertheless at the Written Request of the City or the request of the successor Fiscal Agent, such predecessor Fiscal Agent shall execute and deliver any and all instruments of conveyance or further assurance and do such other things as may reasonably be required for more fully and certainly vesting in and confirming to such successor Fiscal Agent all the right, title and interest of such predecessor Fiscal Agent in and to any property held by it under this Agreement and shall pay over, transfer, assign and deliver to the successor Fiscal Agent any money or other property subject to the trusts and conditions herein set forth. Upon request of the successor Fiscal Agent, the City shall execute and deliver any and all instruments as may be reasonably required for more fully and

certainly vesting in and confirming to such successor Fiscal Agent all such moneys, estates, properties, rights, powers, duties and obligations. Upon acceptance of appointment by a successor Fiscal Agent as provided in this subsection, the City shall mail or cause the successor Fiscal Agent to mail, by first class mail postage prepaid, a notice of the succession of such Fiscal Agent hereunder to each rating agency which then maintains a rating on the Bonds and to the Bond Owners at the addresses shown on the Registration Books. If the City fails to mail such notice within 15 days after acceptance of appointment by the successor Fiscal Agent, the successor Fiscal Agent shall cause such notice to be mailed at the expense of the City.

(e) *Qualifications To Act As Fiscal Agent Hereunder.* Any Successor Fiscal Agent appointed under the provisions of this Section 8.1 in succession to the Fiscal Agent shall be a trust company, bank or corporation having the powers of a trust company, having a combined capital and surplus of at least fifty million dollars (\$50,000,000), and subject to supervision or examination by federal or state agency. If such bank, corporation or trust company publishes a report of condition at least annually, pursuant to law or to the requirements of any supervising or examining agency above referred to, then for the purpose of this subsection the combined capital and surplus of such bank, corporation or trust company shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

In case at any time the Fiscal Agent shall cease to be eligible in accordance with the provisions of this subsection (e), the Fiscal Agent shall resign immediately in the manner and with the effect specified in this Section.

**Section 8.2. Merger or Consolidation.** Any bank, corporation or trust company into which the Fiscal Agent may be merged or converted or with which it may be consolidated or any bank, corporation or trust company resulting from any merger, conversion or consolidation to which it shall be a party or any bank corporation or trust company to which the Fiscal Agent may sell or transfer all or substantially all of its corporate trust business, provided such bank, corporation or trust company shall be eligible under subsection (e) of Section 8.1 shall be the successor to such Fiscal Agent, without the execution or filing of any paper or any further act, anything herein to the contrary notwithstanding.

**Section 8.3. Liability of Fiscal Agent.**

(a) The recitals of facts herein and in the Bonds contained shall be taken as statements of the City, and the Fiscal Agent shall not assume responsibility for the correctness of the same, or make any representations as to the validity or sufficiency of this Agreement or of the Bonds or shall incur any responsibility in respect thereof, other than as expressly stated herein in connection with the respective duties or obligations herein or in the Bonds assigned to or imposed upon it. The Fiscal Agent shall, however, be responsible for its representations contained in its certificate of authentication on the Bonds. The Fiscal Agent makes no representations as to the validity or sufficiency of the Agreement or of any Bonds, or in respect of the security afforded by the Agreement and the Fiscal Agent shall incur no responsibility in respect thereof. The Fiscal Agent shall be under no responsibility or duty with respect to: (i) the issuance of the Bonds for value; (ii) the application of the proceeds thereof except to the extent that such proceeds are received by it in its capacity as Fiscal Agent; or (iii) the application of any moneys paid to the City or others in accordance with the Agreement except as the application of any moneys paid to it in its capacity as Fiscal Agent. The Fiscal Agent shall not be liable in connection with the performance of its duties hereunder, except for its own negligence or willful misconduct. The Fiscal Agent shall not be liable for any action taken or omitted by it in good faith and believed by it to be authorized or within the discretion or rights or powers conferred upon it by the Agreement. The Fiscal Agent may become the Bond Owner with the same rights it would have if it were not Fiscal Agent, and, to the extent permitted by law, may act as depository for and permit any of its officers or directors to act



as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Bond Owners, whether or not such committee shall represent the Bond Owners of a majority in aggregate principal amount of the Bonds then Outstanding.

(b) The Fiscal Agent shall not be liable for any error of judgment made in good faith by a responsible officer, unless it shall be proved that the Fiscal Agent was negligent in ascertaining the pertinent facts.

(c) The Fiscal Agent 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 Bond Owners of not less than a majority in aggregate principal amount of the Bonds at the time outstanding relating to the time, method and place of conducting or exercising any trust or power conferred upon the Fiscal Agent under this Agreement.

(d) The Fiscal Agent assumes no responsibility or liability for any information, statement or recital in any official statement or offering memorandum or other disclosure material prepared and distributed with respect to the Bonds.

(e) No provision of this Agreement shall require the Fiscal Agent to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties hereunder.

(f) The Fiscal Agent may rely upon a facsimile transmission with regard to any requisition or instruction for any transfer, disbursement or investment of funds held by the Fiscal Agent. The City shall confirm such transmission promptly in writing by mail.

**Section 8.4. Right to Rely on Documents.** The Fiscal Agent shall be protected in acting upon any notice, resolution, request, consent, order, certificate, report, opinion, bonds or other paper or document reasonably believed by it to be genuine and to have been signed or presented by the proper party or parties. The Fiscal Agent may consult with counsel, who may be counsel of or to the City, with regard to legal questions, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance therewith; provided, however, the Fiscal Agent shall in no event delay any payment with respect to the Bonds in anticipation of any such opinion.

Whenever in the administration of the duties imposed upon it by this Agreement the Fiscal Agent shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively proved and established by a Written Certificate of the City, and such Written Certificate shall be full warrant to the Fiscal Agent for any action taken or suffered in good faith under the provisions of this Agreement in reliance upon such Written Certificate, but in its discretion the Fiscal Agent may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as it may deem reasonable.

**Section 8.5. Preservation and Inspection of Documents.** All documents received by the Fiscal Agent under the provisions of this Agreement shall be retained in its possession and shall be subject during business hours and upon reasonable notice to the inspection of the City, the Bond Owners and their agents and representatives duly authorized in writing.

**Section 8.6. Compensation and Indemnification.** The City shall pay to the Fiscal Agent from time to time all reasonable compensation for all services rendered under this Agreement, and also all reasonable expenses, charges, legal and consulting fees and other disbursements and those of its

attorneys, agents and employees, reasonably incurred in and about the performance of their powers and duties under this Agreement. The City further agrees, to the extent permitted by law, to indemnify and save the Fiscal Agent harmless against any costs, claims, expenses or liabilities whatsoever, including fees and expenses of its attorneys which it may reasonably incur in the exercise and performance of its powers and duties hereunder and under any related documents, including the defense of any suit, and which are not due to its own negligence or its willful misconduct. The duty of the City to indemnify the Fiscal Agent shall survive the termination and discharge of this Agreement and the resignation or removal of the Fiscal Agent.

## ARTICLE IX

### MODIFICATION OR AMENDMENT

#### Section 9.1. Amendments Permitted.

(a) This Agreement and the rights and obligations of the City, the Bond Owners and the Fiscal Agent may be modified or amended from time to time and at any time by a Supplemental Agreement, which the City and the Fiscal Agent may enter into with the written consent of the Bond Owners of a majority in aggregate principal amount of all Bonds then Outstanding, which shall have been filed with the Fiscal Agent. No such modification or amendment shall (i) extend the fixed maturity of any Bonds, or reduce the amount of principal thereof, or extend the time of payment, without the consent of the Bond Owner of each Bond so affected, or (ii) reduce the aforesaid percentage of Bonds the consent of the Bond Owners of which is required to effect any such modification or amendment, or (iii) permit the creation of any lien on the Assessments and other assets pledged under this Agreement prior to or on a parity with the lien created by this Agreement or deprive the Bond Owners of the lien created by this Agreement on such Assessments and other assets (except as expressly provided in this Agreement), without the consent of the Bond Owners of all of the Bonds then Outstanding. It shall not be necessary for the consent of the Bond Owners to approve the particular form of any Supplemental Agreement, but it shall be sufficient if such consent shall approve the substance thereof. Promptly after the execution by the City and the Fiscal Agent of any Supplemental Agreement pursuant to this subsection (a), the Fiscal Agent shall mail a notice (the form of which shall be furnished to the Fiscal Agent by the City), by first class mail postage prepaid, setting forth in general terms the substance of such Supplemental Agreement, to the Bond Owners at the respective addresses shown on the Registration Books. Any failure to give such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such Supplemental Agreement.

This Agreement and the rights and obligations of the City, of the Fiscal Agent and the Bond Owners may also be modified or amended from time to time and at any time by a Supplemental Agreement, which the City and the Fiscal Agent may enter into without the consent of any Bond Owners for any one or more of the following purposes:

(i) to add to the covenants and agreements of the City in this Agreement other covenants and agreements thereafter to be observed, to pledge or assign additional security for the Bonds (or any portion thereof), or to surrender any right or power herein reserved to or conferred upon the City;

(ii) to make such provisions for the purpose of curing any ambiguity, inconsistency or omission, or of curing or correcting any defective provision contained in this Agreement;

(iii) to modify, amend or supplement this Agreement in such manner as to permit the qualification hereof under the Trust Indenture Act of 1939, as amended, or any similar federal

statute hereafter in effect, and to add such other terms, conditions and provisions as may be permitted by said act or similar federal statute;

(iv) to make provision for the issuance of Additional Bonds;

(v) to modify, amend or supplement this Agreement in such manner as to cause interest on the Bonds to be excludable from gross income for purposes of federal income taxation by the United States of America; and

(vi) in any other respect whatsoever as the City may deem necessary or desirable, provided that such modification or amendment does not materially adversely affect the interests of the Bond Owners hereunder, in the opinion of Bond Counsel filed with the City and the Fiscal Agent.

**Section 9.2. Effect of Supplemental Agreement.** Upon the execution of any Supplemental Agreement pursuant to this Article, this Agreement shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties and obligations under this Agreement of the City, the Fiscal Agent and all Bond Owners of the Bonds Outstanding shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modification and amendment, and all the terms and conditions of any such Supplemental Agreement shall be deemed to be part of the terms and conditions of this Agreement for any and all purposes. The rights and obligations of the Fiscal Agent shall not be modified without the prior written approval of the Fiscal Agent.

**Section 9.3. Endorsement of Bonds: Preparation of New Bonds.** Bonds delivered after the execution of any Supplemental Agreement pursuant to this Article may, and if the City so determines shall, bear a notation by endorsement or otherwise in form approved by the City as to any modification or amendment provided for in such Supplemental Agreement, and, in that case, upon demand of the Bond Owner of any Bonds Outstanding at the time of such execution and presentation of his Bonds for the purpose at the Office of the Fiscal Agent a suitable notation shall be made on such Bonds. If the Supplemental Agreement shall so provide, new Bonds so modified as to conform, in the opinion of the City to any modification or amendment contained in such Supplemental Agreement, shall be prepared and executed by the City and authenticated by the Fiscal Agent, and upon demand of the Bond Owners of any Bonds then outstanding shall be exchanged at the Office of the Fiscal Agent, without cost to any Bond Owner, for Bonds then Outstanding, upon surrender for cancellation of such Bonds, in equal aggregate principal amount of the same interest rate and maturity.

**Section 9.4. Amendment of Particular Bonds.** The provisions of this Article shall not prevent any Bond Owner from accepting any amendment as to the particular Bonds held by such Bond Owner.

## ARTICLE X

### DEFEASANCE

**Section 10.1. Discharge of Agreement.** The Bonds may be paid by the City in any of the following ways, provided that the City also pays or causes to be paid any other sums payable hereunder by the City:

(a) by paying or causing to be paid the principal of and interest and premium (if any) on the Bonds, as and when the same become due and payable;



(b) by depositing with the Fiscal Agent, in trust (pursuant to an escrow agreement), at or before maturity, money or securities in the necessary amount (as provided in Section 10.2) to pay or redeem all Bonds then Outstanding; or

(c) by delivering to the Fiscal Agent, for cancellation by it, all of the Bonds then Outstanding.

If the City shall also pay or cause to be paid all other sums payable hereunder by the City including without limitation any compensation due and owing the Fiscal Agent hereunder, then and in that case, at the election of the City (evidenced by a Written Certificate of the City, filed with the Fiscal Agent, signifying the intention of the City to discharge all such indebtedness and this Agreement), and notwithstanding that any Bonds shall not have been surrendered for payment, this Agreement and the pledge of Assessments and other assets made under this Agreement and all covenants, agreements and other obligations of the City under this Agreement shall cease, terminate, become void and be completely discharged and satisfied. In such event, upon the Written Request of the City, and upon receipt of a Written Certificate of an Authorized Representative of the City and an opinion of Bond Counsel, each to the effect that all conditions precedent herein provided for relating to the discharge and satisfaction of the obligations of the City have been satisfied, the Fiscal Agent shall cause an accounting for such period or periods as may be requested by the City to be prepared and filed with the City and shall execute and deliver to the City all such instruments provided to it as may be necessary or desirable to evidence such discharge and satisfaction, and the Fiscal Agent shall after payment of all fees and expenses of the Fiscal Agent pay over, transfer, assign or deliver all moneys or securities or other property held by it pursuant to this Agreement, which are not required for the payment or redemption of Bonds not theretofore surrendered for such payment or redemption, to the City.

**Section 10.2. Deposit of Money or Securities with Fiscal Agent.** Whenever in this Agreement it is provided or permitted that there be deposited with or held in trust by the Fiscal Agent money or securities in the necessary amount to pay or redeem any Bonds, the money or securities so to be deposited or held may include money or securities held by the Fiscal Agent in the funds and accounts established pursuant to this Agreement and shall be:

(a) Lawful money of the United States of America, in an amount equal to the principal amount of such Bonds and all unpaid interest thereon to maturity, except that, in the case of Bonds which are to be redeemed prior to maturity and in respect of which notice of such redemption shall have been given as provided in Article IV or provision satisfactory to the Fiscal Agent shall have been made for the giving of such notice, the amount to be deposited or held shall be the principal amount of such Bonds, premium (if any) and all unpaid interest thereon to the redemption date; or

(b) Non-callable Federal Securities, the principal of and interest on which when due, in the opinion or report of an independent accountant selected by the City, will provide money sufficient to pay the principal of, premium (if any) and all unpaid interest to maturity, or to the redemption date, as the case may be, on the Bonds to be paid or redeemed, as such principal and interest become due, provided that in the case of Bonds which are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given as provided in Article IV or provision satisfactory to the Fiscal Agent shall have been made for the giving of such notice; provided, in each case, that the Fiscal Agent shall have been irrevocably instructed (by the terms of this Agreement or by Written Request of the City) to apply such funds to the payment of such principal and interest with respect to such Bonds.

**Section 10.3. Payment of Bonds After Discharge of Agreement.** Notwithstanding any provisions of this Agreement, any moneys held by the Fiscal Agent in trust for the payment of the principal of, premium, if any or interest on, any Bonds and remaining unclaimed for two (2) years after

the principal of all of the Bonds has become due and payable (whether at maturity or upon call for redemption), if such moneys were so held at such date, or two (2) years after the date of deposit of such moneys if deposited after said date when all of the Bonds became due and payable, shall be repaid to the City free from the trusts created by this Agreement upon receipt of an indemnification agreement acceptable to the City and the Fiscal Agent indemnifying the Fiscal Agent with respect to claims of Bond Owners that have not yet been paid, and all liability of the Fiscal Agent with respect to such moneys shall thereupon cease; provided, however, that before the repayment of such moneys to the City as aforesaid, the Fiscal Agent may (at the cost of the City) first mail, by first class mail postage prepaid, to the Bond Owners that have not yet been paid, at the respective addresses shown on the Registration Books, a notice, in such form as may be deemed appropriate by the Fiscal Agent with respect to the Bonds so payable and not presented and with respect to the provisions relating to the repayment to the City of the moneys held for the payment thereof.

## ARTICLE XI

### MISCELLANEOUS

**Section 11.1. Limited Obligation.** All obligations of the City under this Agreement (except for the City's obligation under Section 8.6 herein) and the Bonds shall not be general obligations of the City, but shall be limited obligations, payable solely from the Assessments and the other moneys pledged therefor hereunder. Neither the faith and credit of the City nor of the State of California or any political subdivision thereof is pledged to the payment of the Bonds. The Bonds are "Limited Obligation Improvement Bonds" and are payable solely from and secured solely by the Assessments and the other assets pledged hereunder. Notwithstanding any other provision of this Agreement, and pursuant to paragraph (b) of Section 8769 of the Bond Law, the City is not obligated to advance available funds from the City treasury to cure any deficiency in the Bond Fund.

**Section 11.2. Successor Is Deemed Included in All References to Predecessor.** Whenever in this Agreement either the City or the Fiscal Agent is named or referred to, such reference shall be deemed to include the successors or assigns thereof, and all the covenants and agreements in this Agreement contained by or on behalf of the City or the Fiscal Agent shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

**Section 11.3. Limitation of Rights to Parties and Bond Owners.** Nothing in this Agreement or in the Bonds expressed or implied is intended or shall be construed to give to any Person other than the Fiscal Agent, the City and the Bond Owners, any legal or equitable right, remedy or claim under or in respect of this Agreement or any covenant, condition or provision therein or herein contained; and all such covenants, conditions and provisions are and shall be held to be for the sole and exclusive benefit of the Fiscal Agent, the City and the Bond Owners.

**Section 11.4. Waiver of Notice; Requirement of Mailed Notice.** Whenever in this Agreement the giving of notice by mail or otherwise is required, the giving of such notice may be waived in writing by the Person entitled to receive such notice and in any such case the giving or receipt of such notice shall not be a condition precedent to the validity of any action taken in reliance upon such waiver. Whenever in this Agreement any notice shall be required to be given by mail, such requirement shall be satisfied by the deposit of such notice in the United States mail, postage prepaid, by first class mail.

**Section 11.5. Destruction of Bonds.** Whenever in this Agreement provision is made for the cancellation by the Fiscal Agent and the delivery to the City of any Bonds, the Fiscal Agent may, upon the Written Request of the City, in lieu of such cancellation and delivery, destroy such Bonds (in the

presence of an officer of the City, if the City shall so require) as may be allowed by law, and deliver a certificate of such destruction to the City.

**Section 11.6. Severability of Invalid Provisions.** If any one or more of the provisions contained in this Agreement or in the Bonds shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions contained in this Agreement and such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, and this Agreement shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein. The City hereby declares that it would have entered into this Agreement and each and every other Section, paragraph, sentence, clause or phrase hereof and authorized the issuance of the Bonds pursuant thereto irrespective of the fact that any one or more Sections, paragraphs, sentences, clauses or phrases of this Agreement may be held illegal, invalid or unenforceable.

**Section 11.7. Notices.** All notices or communications herein required or permitted to be given to the City or the Fiscal Agent shall be in writing and shall be deemed to have been sufficiently given or served for all purposes by being delivered or sent by telecopy (confirmed promptly in writing) or by being deposited, postage prepaid, in a post office letter box, addressed as follows:

If to the City:                      City of Manhattan Beach  
   1400 Highland Avenue  
   Manhattan Beach, California 90266  
   Attention: Finance Director

If to the Fiscal Agent:      U.S. Bank National Association  
   633 West Fifth Street, 24th Floor  
   Los Angeles, California 90071  
   Attention: Corporate Trust Department

**Section 11.8. Evidence of Rights of Bond Owners.** Any request, consent or other instrument required or permitted by this Agreement to be signed and executed by Bond Owners may be in any number of concurrent instruments of substantially similar tenor and shall be signed or executed by such Bond Owners in Person or by an agent or agents duly appointed in writing. Proof of the execution of any such request, consent or other instrument or of a writing appointing any such agent, or of the holding by any Person of Bonds transferable by delivery, shall be sufficient for any purpose of this Agreement and shall be conclusive in favor of the Fiscal Agent and the City if made in the manner provided in this Section.

The fact and date of the execution by any Person of any such request, consent or other instrument or writing may be proved by the certificate of any notary public or other officer of any jurisdiction, authorized by the laws thereof to take acknowledgments of deeds, certifying that the Person signing such request, consent or other instrument acknowledged to him the execution thereof, or by an affidavit of a witness of such execution duly sworn to before such notary public or other officer.

The ownership of Bonds shall be proved by the Registration Books.

Any request, consent, or other instrument or writing of the Bond Owner shall bind every future Bond Owner of the same Bond and the Bond Owner of every Bond issued in exchange therefor or in lieu thereof, in respect of anything done or suffered to be done by the Fiscal Agent or the City in accordance therewith or reliance thereon.

**Section 11.9. Disqualified Bonds.** In determining whether the Bond Owners of the requisite aggregate principal amount of Bonds have concurred in any demand, request, direction, consent or waiver under this Agreement, Bonds which are known by the Fiscal Agent to be owned or held by or for the account of the City, or by any Person directly or indirectly controlling or controlled by, or under direct or indirect common control with, the City, shall be disregarded and deemed not to be Outstanding for the purpose of any such determination unless all Bonds are owned by the City. Bonds so owned which have been pledged in good faith may be regarded as Outstanding for the purposes of this Section if the pledgee shall establish to the satisfaction of the Fiscal Agent the pledgee's right to vote such Bonds and that the pledgee is not a Person directly or indirectly controlling or controlled by, or under direct or indirect common control with, the City or any other obligor on the Bonds. In case of a dispute as to such right, any decision by the Fiscal Agent taken upon the advice of counsel shall be final and binding on the Fiscal Agent. Upon request of the Fiscal Agent, the City shall specify to the Fiscal Agent those Bonds disqualified pursuant to this Section.

**Section 11.10. Money Held for Particular Bonds.** The money held by the Fiscal Agent for the payment of the interest, principal or premium due on any date with respect to particular Bonds (or portions of Bonds in the case of Bonds redeemed in part only) shall, on and after such date and pending such payment, be set aside on its books and held in trust by it for the Bond Owners of the Bonds entitled thereto, subject, however, to the provisions of Section 10.2 but without any liability for interest thereon.

**Section 11.11. Funds and Accounts.** Any fund or account required by this Agreement to be established and maintained by the Fiscal Agent may be established and maintained in the accounting records of the Fiscal Agent, either as a fund or an account, and may, for the purposes of such records, any audits thereof and any reports or statements with respect thereto, be treated either as a fund or as an account; but all such records with respect to all such funds and accounts shall at all times be maintained in accordance with industry standards to the extent practicable, and with due regard for the requirements of Section 6.7 and for the protection of the security of the Bonds and the rights of every Bond Owner thereof.

**Section 11.12. Payment on Non-Business Days.** In the event any payment is required to be made hereunder on a day which is not a Business Day, such payment shall be made on the next succeeding Business Day with the same effect as if made on such non-Business Day.

**Section 11.13. Waiver of Personal Liability.** No member, officer, agent or employee of the City shall be individually or personally liable for the payment of the principal of or premium or interest on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof; but nothing herein contained shall relieve any such officer, agent or employee from the performance of any official duty provided by law or by this Agreement.

**Section 11.14. Conflict with Act or Bond Law.** In the event of any conflict between any provision of this Agreement and any provision of the Act or the Bond Law, the provision of the Act or the Bond Law, respectively, shall prevail over the provision of this Agreement.

**Section 11.15. Conclusive Evidence of Regularity.** Bonds issued pursuant to this Agreement shall constitute evidence of the regularity of all proceedings under the Act relative to their issuance and the levy of the Assessments.

**Section 11.16. Execution in Several Counterparts.** This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an

original; and all such counterparts, or as many of them as the City and the Fiscal Agent shall preserve undestroyed, shall together constitute but one and the same instrument.

**Section 11.17. Governing Laws.** This Agreement shall be governed by and construed in accordance with the laws of the State of California.

IN WITNESS WHEREOF, the City has caused this Agreement to be signed in its name by its officer thereunto duly authorized, and the Fiscal Agent, in token of its acceptance of the duties of the Fiscal Agent created hereunder, has caused this Agreement to be signed in its corporate name by its officer thereunto duly authorized, all as of the day and year first above written.

CITY OF MANHATTAN BEACH

By \_\_\_\_\_  
City Manager

ATTEST:

By \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

By \_\_\_\_\_  
City Attorney

U.S. Bank National Association  
as Fiscal Agent

By \_\_\_\_\_  
Authorized Officer

**EXHIBIT A**  
**FORM OF BOND**

NO.

\$

**CITY OF MANHATTAN BEACH**  
**UNDERGROUND UTILITY ASSESSMENT DISTRICT NO. 05-2**  
**LIMITED OBLIGATION IMPROVEMENT BOND, SERIES 2006**

INTEREST RATE                      MATURITY DATE                      DATED DATE                      CUSIP NO.

REGISTERED OWNER:

PRINCIPAL AMOUNT:

Under and by virtue of the Improvement Act of 1915, Division 10 of the Streets and Highways Code of California (the "Bond Law"), the City of Manhattan Beach, County of Los Angeles, State of California (the "City"), will, out of the redemption fund for the payment of the bonds issued upon the unpaid portion of assessments levied for the bonds more fully described in proceedings taken pursuant a resolution adopted by the City Council of the City on November 21, 2005, pay to the Registered Owner identified above or registered assigns (the "Registered Owner"), on the Maturity Date identified above or on any earlier redemption date, the Principal Amount identified above in lawful money of the United States of America; and to pay interest thereon at the Interest Rate identified above in like lawful money from the date hereof payable semiannually on March 2 and September 2 in each year, commencing March 2, 2006, (the "Interest Payment Dates") until payment of such Principal Amount in full. Interest on the Bonds shall be payable from the Interest Payment Date next preceding the date of execution thereof unless (i) Bond is executed as of an Interest Payment Date, in which event interest with respect thereto will be payable from such Interest Payment Date; (ii) it is executed after a Record Date and before the following Interest Payment Date, in which event interest with respect thereto will be payable from such Interest Payment Date; or (iii) it is executed on or before February 15, 2006, in which event interest with respect thereto, will be payable from the Dated Date; provided, however, that if, as of the date of execution of any Bond, interest with "respect to any Outstanding Bond is in default, interest represented by such Bond will be payable from the Interest Payment Date to which interest has previously been paid or made available for payment with respect to the Outstanding Bonds. The Principal Amount hereof is payable upon surrender hereof upon maturity or earlier redemption at the principal corporate trust office (the "Office") of U.S. Bank National Association, as fiscal agent (the "Fiscal Agent"), in Los Angeles, California or such other place as designated by the Fiscal Agent. Interest hereon is payable by check of the Fiscal Agent mailed by first class mail on each Interest Payment Date to the Registered Owner hereof at the address of the Registered Owner as it appears on the Registration Books of the Fiscal Agent as of the close of business on the fifteenth calendar day of the month preceding such Interest Payment Date; provided, however, that at the written request of Cede & Co. or a Registered Owner of at least \$1,000,000 in aggregate principal amount of Outstanding Bonds filed with the Fiscal Agent prior to any Record Date, interest on such Bonds shall be paid to such Registered Owner on each succeeding Interest Payment Date (unless such request has been revoked in writing) by wire transfer of immediately available funds to an account in the United States designated in such written request.

This Bond shall not be entitled to any benefit under the Bond Law, the Resolution authorizing the issuance of the bonds, adopted by the City Council of the City on August 3, (the "Resolution of Issuance") or the Fiscal Agent Agreement, dated as of July 1, 2006, (the "Agreement"), by and between the City and the Fiscal Agent, executed pursuant to the Resolution of Issuance, or become

valid or obligatory for any purpose, until the certificate of authentication hereon shall have been dated and signed by the Fiscal Agent.

IN WITNESS WHEREOF, said City has caused the Bond to be signed in its name and on its behalf by the manual or facsimile signatures of its Treasurer and City Clerk and has caused its corporate seal to be reproduced directly or in facsimile hereon all as of the Dated Date identified above.

CITY OF MANHATTAN BEACH

By \_\_\_\_\_  
Treasurer

(SEAL)

Attest:

By \_\_\_\_\_  
City Clerk

CERTIFICATE OF AUTHENTICATION

This is one of the Bonds described in the within mentioned Agreement and registered on the Registration Books.

Date: \_\_\_\_\_

U.S. Bank National Association  
as Fiscal Agent

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



**ADDITIONAL PROVISIONS OF THE BOND**

This Bond is one of several annual series of City of Manhattan Beach Underground Utility Assessment District No. 05-2, Limited Obligation Improvement Bonds, Series 2006 (the “Bonds”) of like date, tenor and effect, but differing in amounts, maturities and interest rates, issued by said City under the Bond Law and the Agreement for the purpose of paying for a portion of the authorized public improvement costs, together with certain costs of the legal proceedings and costs of issuance of the Bonds, as more particularly described in said proceedings, and is secured by the moneys in the redemption fund (entitled the “Bond Fund” in the Agreement) and the Reserve Fund and by the unpaid portion of said assessments made for the payment of said improvement costs, and, including principal and interest, is payable exclusively out of said fund. Additional Bonds in a principal amount not to exceed \$\_\_\_\_\_ may be issued and secured by the Assessments on a parity with the Bonds.

Reference is hereby made to the Agreement and all agreements supplemental thereto for a description of the rights thereunder of the owners of the Bonds, of the nature and extent of the Assessments (as that term is defined in the Agreement), of the rights, duties and immunities of the Fiscal Agent and of the rights and obligations of the City thereunder; and all of the terms of the Agreement are hereby incorporated herein and constitute a contract between the City and the Registered Owner hereof, and to all of the provisions of which Agreement the Registered Owner hereof, by acceptance hereof, assents and agrees.

The Bonds are subject to optional redemption by the City prior to maturity, as a whole or in part in the denomination of \$5,000 each or in any integral multiple thereof on any Interest Payment Date, from any moneys deposited in the Bond Fund from any source for such purpose by the City, including but not limited to moneys which are prepayments of Assessments by property owners deposited in the Prepayment Account, surplus moneys in the Improvement Fund upon completion of the Project, or from investment earnings on funds or accounts established under the Fiscal Agent Agreement, at the redemption price equal to the principal amount thereof, together with a redemption premium equal to the following amounts on the following dates (expressed as a percentage of the principal amount redeemed) plus accrued interest thereon to the date of redemption (accrued interest to the redemption date is mailed separately):

<u>Redemption Dates</u>	<u>Redemption Premium</u>
Interest Payment Dates Through March 2, 20__	%
September 1, 20__ and March 2, 20__	
September 1, 20__ and March 2, 20__	
September 1, 20__ and thereafter	

The provisions of Part 11.1 of the Bond Law are applicable to the advance payment of Assessments and to the calling of the Bonds.

The Fiscal Agent on behalf and at the expense of the City shall mail (by first class mail) notice of any redemption to the respective owners of any Bonds designated for redemption, at their respective addresses appearing on the Registration Books maintained by the Fiscal Agent, at least 30 but not more than 60 days prior to the redemption date; provided, however, that neither failure to receive any such notice so mailed nor any defect therein shall affect the validity of the proceedings for the redemption of such Bonds or the cessation of the accrual of interest thereon. The redemption price of the Bonds to be redeemed shall be paid only upon presentation and surrender thereof at the Office of the Fiscal Agent or such other place as designated by the Fiscal Agent. From and after the date fixed for redemption of any Bonds, interest on such Bonds will cease to accrue.

The Bonds are issuable as fully registered Bonds without coupons in denominations of \$5,000 or any integral multiple thereof. Subject to the limitations and upon payment of the charges, if any, provided in the Agreement, fully registered Bonds may be exchanged at the Office of the Fiscal Agent or such other place as designated by the Fiscal Agent for a like aggregate principal amount and maturity of fully registered Bonds of other authorized denominations.

This Bond is transferable by the Registered Owner hereof, in person or by his attorney duly authorized in writing, at the Office of the Fiscal Agent or such other place as designated by the Fiscal Agent, but only in the manner, subject to the limitations and upon payment of the charges provided in the Agreement, and upon surrender and cancellation of this Bond. Upon such transfer a new fully registered Bond or Bonds, of authorized denomination or denominations, for the same aggregate principal amount and of the same maturity will be issued to the transferee in exchange herefor. The City and the Fiscal Agent may treat the Registered Owner hereof as the absolute owner hereof for all purposes, and the City and the Fiscal Agent shall not be affected by any notice to the contrary.

The Agreement and the rights and obligations of the City and of the owners of the Bonds and of the Fiscal Agent may be modified or amended from time to time and at any time in the manner, to the extent, and upon the terms provided in the Agreement; provided that no such modification or amendment shall (a) extend the maturity of or reduce the interest rate on any Bond or the amount of principal thereof without the express written consent of the owner of such Bond, (b) reduce the percentage of Bonds required for the written consent to any such amendment or modification, or (c) permit the creation of any lien on the Assessments and other assets pledged under the Agreement other than Additional Bonds authorized under the proceedings, or deprive the Bonds owners of the lien created under the Agreement on the Assessments and such other assets, without the consent of the owners of all outstanding Bonds.

The Bonds are Limited Obligation Bonds because, under the Agreement, the City is not obligated to advance funds from the City treasury to cure any deficiency which may occur in the redemption fund for the Bonds; provided, however, the City is not prevented, in its sole discretion, from so advancing funds.

**ASSIGNMENT**

For value received the undersigned hereby sells, assigns and transfers unto whose address and social security or other tax identifying number is \_\_\_\_\_, the within mentioned Bond and hereby irrevocably constitute (s) and appoint (s) attorney, to transfer the same on the registration books of the Fiscal Agent with full power of substitution in the premises.

Dated:

Signature Guaranteed:

---

Note: Signature(s) must be guaranteed by an eligible guarantor.

---

Note: The signature(s) on this Assignment must correspond with the name(s) as written on the face of the within Bond in every particular without alteration or enlargement or any change whatsoever.

**EXHIBIT B**

**DISBURSEMENT REQUEST NO. \_\_\_\_\_**

*The undersigned hereby states and certifies that:*

(i) I am either the duly appointed, qualified and acting Public Works Director or the duly appointed, qualified and acting Finance Director of the City of Manhattan Beach, a California general law city and a political subdivision of the State of California (the "City") and as such am familiar with the facts herein certified and am authorized to certify the same; or

(ii) I am one of the Authorized Representatives, as such term is defined in that certain Fiscal Agent Agreement, dated as of July 1, 2006 (the "Fiscal Agent Agreement"), by and between the City and U.S. Bank National Association as fiscal agent (the "Fiscal Agent"); and

(iii) Pursuant to Section 3.3, 3.4 or Section 5.3 of the Fiscal Agent Agreement, the undersigned hereby requests and authorizes the Fiscal Agent or the Finance Director to disburse from the specified account established under the Fiscal Agent Agreement to the payee(s) designated on Schedule A attached hereto and by this reference incorporated herein, the amount (s) set forth opposite such payee. The disbursement from the Improvement Fund is for a Project cost.

(iv) No portion of the amount(s) now being requested to be disbursed was set forth in any Disbursement Request requesting disbursement previously filed with you.

Dated:

City of Manhattan Beach

By \_\_\_\_\_  
(Name)

By \_\_\_\_\_  
(Title)

**SCHEDULE A**

<u>Payee Name and Address</u>	<u>Purpose of Obligation</u>	<u>Amount</u>
A.	<u>Costs of Issuance Fund</u>	
B.	<u>Administrative Expense Account</u>	
C.	<u>Improvement Fund</u>	

This Preliminary Official Statement and the information contained herein are subject to completion or amendment without notice. Under no circumstances shall this Preliminary Official Statement constitute an offer to buy nor shall there be any sale of these securities in any jurisdiction in which such offer, solicitation, or sale would be unlawful prior to registration or qualification under the securities laws of such jurisdiction.

PRELIMINARY OFFICIAL STATEMENT DATED JULY 6, 2006

NEW ISSUE-FULL BOOK-ENTRY

RATING  
S&P: "\_\_\_\_"  
(See "RATINGS" herein.)

In the opinion of Hawkins Delafield & Wood LLP, Bond Counsel to the City, under existing statutes and court decisions and assuming continuing compliance with certain tax covenants described herein, (i) interest on the Bonds is excluded from gross income for Federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), and (ii) interest on the Bonds is not treated as a preference item in calculating the alternative minimum tax imposed on individuals and corporations under the Code; such interest, however, is included in the adjusted current earnings of certain corporations for purposes of calculating the alternative minimum tax imposed on such corporations. In addition, in the opinion of Bond Counsel to the City, under existing statutes, interest on the Bonds is exempt from personal income taxes imposed by the State of California. See "TAX MATTERS" herein.

CITY OF MANHATTAN BEACH

\$[7,080,000]\*  
UNDERGROUND UTILITY  
ASSESSMENT DISTRICT NO. 05-2  
Limited Obligation Improvement Bonds,  
Series 2006

\$[5,660,000]\*  
UNDERGROUND UTILITY  
ASSESSMENT DISTRICT NO. 05-6  
Limited Obligation Improvement Bonds,  
Series 2006

Dated: Date of Delivery

Due: September 2, as shown on inside cover

Pursuant to the provisions of the Improvement Bond Act of 1915 (Division 10 of the California Streets and Highways Code) (as amended, the "1915 Act"), the City of Manhattan Beach, California (the "City"), is issuing two separate bond issues, the City of Manhattan Beach Underground Utility Assessment District No. 05-2 Limited Obligation Improvement Bonds, Series 2006 (the "05-2 Bonds") and the City of Manhattan Beach Underground Utility Assessment District No. 05-6 Limited Obligation Improvement Bonds, Series 2006 (the "05-6 Bonds") (collectively, the "Bonds" and, individually, a "Series of Bonds"), for the purpose of financing the undergrounding of existing overhead utility facilities (each a "Project" and collectively, the "Projects") within the City's Underground Utility Assessment District No. 05-2 (the "05-2 District"), and Underground Utility Assessment District No. 05-6 (the "05-6 District") (collectively, the "Districts" and individually, a "District"), respectively and pay costs of issuance of the Bonds.

Interest on the Bonds is payable on March 2, 2007, and semiannually thereafter on March 2 and September 2 of each year. Each Series of Bonds is issued as fully registered bonds, registered in the name of Cede & Co. as nominee of The Depository Trust Company, New York, New York ("DTC"), and will be available to ultimate purchasers in the denomination of \$5,000 or any integral multiple thereof, plus one odd Bond amount, under the book-entry system maintained by DTC. Ultimate purchasers of the Bonds will not receive physical certificates representing their interest in the Bonds. U.S. Bank National Association, Los Angeles, California, the fiscal agent, registrar, and transfer agent for the Bonds (the "Fiscal Agent") will make payments of the principal of, premium, if any, and interest on the Bonds directly to DTC, or its nominee, Cede & Co., so long as DTC or Cede & Co. is the registered owner of the Bonds. Disbursements of such payments to the Beneficial Owners of the Bonds is the responsibility of DTC's Participants and Indirect Participants, as more fully described herein. See APPENDIX E – "THE BOOK-ENTRY SYSTEM".

Each Series of Bonds is issued upon and secured by a portion of the Outstanding Assessments (as defined hereinafter) levied on parcels within its corresponding District. The Bonds are special limited obligations of the City and are not payable from the City's general fund. Outstanding Assessments installments of principal and interest sufficient to meet annual debt service on each Series of Bonds are to be included on the regular Los Angeles County tax bills sent to owners of property against which there are Outstanding Assessments. These annual assessment installments are to be used to pay debt service on their corresponding Series of Bonds as they become due. To provide funds for payment of each Series of Bonds and the interest thereon as a result of any delinquent installments, the City will establish a separate Reserve Fund for each Series of Bonds from its corresponding Bond proceeds, as described herein. See "SECURITY FOR THE BONDS" herein.

Property in the 05-2 District subject to the Outstanding Assessments is comprised of 174 residential parcels owned by various homeowners. Property in the 05-6 District subject to the Outstanding Assessments is comprised of 262 residential parcels owned by various homeowners, and one parcel zoned as commercial. See "THE DISTRICTS" herein.

The Bonds are subject to optional redemption as more fully described herein. See "THE BONDS – Redemption" herein. Transfers of property ownership and other similar circumstances could result in prepayment of all or part of the Outstanding Assessments. Such prepayment would result in redemption of a portion of a Series of Bonds prior to their stated maturities.

THE BONDS ARE LIMITED OBLIGATION IMPROVEMENT BONDS AND ARE SECURED SOLELY BY THE OUTSTANDING ASSESSMENTS AND THE AMOUNTS IN THE RESPECTIVE BOND FUNDS AND RESERVE FUNDS OF

\* Preliminary, subject to change.

EACH SERIES OF BONDS. THE BONDS ARE NOT SECURED BY THE GENERAL TAXING POWER OF THE CITY OF MANHATTAN BEACH, THE COUNTY OF LOS ANGELES (THE "COUNTY"), OR THE STATE OF CALIFORNIA (THE "STATE") OR ANY POLITICAL SUBDIVISION OF THE STATE. NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE CITY, THE COUNTY, THE STATE OF CALIFORNIA OR ANY POLITICAL SUBDIVISION THEREOF IS PLEDGED TO THE PAYMENT OF THE BONDS. THE INFORMATION SET FORTH IN THIS OFFICIAL STATEMENT, INCLUDING INFORMATION UNDER THE HEADING "SPECIAL RISK FACTORS," SHOULD BE READ IN ITS ENTIRETY.

This cover page contains certain information for general reference only. It is not a summary of this issue. Investors are advised to read the entire Official Statement to obtain information essential to the making of an informed investment decision.

*The Bonds are offered when, as, and if issued by the City and received by the Underwriter, subject to approval by Hawkins Delafield & Wood LLP, Sacramento, California, Bond Counsel. Certain legal matters will be passed upon for the City by the City Attorney and by Hawkins Delafield & Wood LLP, Los Angeles, California, Disclosure Counsel. Certain legal matters will be passed upon for the Underwriter by its counsel Orrick, Herrington & Sutcliffe LLP, Los Angeles, California. Gardner, Underwood & Bacon LLC, Los Angeles, California is serving as Financial Advisor to the City. It is anticipated that the Bonds in book-entry form will be available for delivery in New York, New York, through the facilities of DTC, on or about July 27, 2006.*

## **UBS Investment Bank**

**Dated: July \_\_, 2006**

## MATURITY SCHEDULE\*

### 05-2 BONDS

(Base CUSIP: \_\_\_\_\_)

[\$7,080,000]\* Serial 05-2 Bonds\*

<u>Maturity</u> <u>September 2</u>	<u>Principal</u> <u>Amount*</u>	<u>Interest</u> <u>Rate</u>	<u>Price</u>	<u>CUSIP</u> <u>No.†</u>	<u>Maturity</u> <u>September 2</u>	<u>Principal</u> <u>Amount*</u>	<u>Interest</u> <u>Rate</u>	<u>Price</u>	<u>CUSIP</u> <u>No.†</u>
2007	\$195,000				2017	\$350,000			
2008	235,000				2018	365,000			
2009	245,000				2019	380,000			
2010	255,000				2020	400,000			
2011	265,000				2021	420,000			
2012	280,000				2022	440,000			
2013	290,000				2023	465,000			
2014	305,000				2024	490,000			
2015	320,000				2025	510,000			
2016	330,000				2026	540,000			

### 05-6 BONDS

(Base CUSIP: \_\_\_\_\_)

[\$5,660,000]\* Serial 05-6 Bonds

<u>Maturity</u> <u>September 2</u>	<u>Principal</u> <u>Amount*</u>	<u>Interest</u> <u>Rate</u>	<u>Price</u>	<u>CUSIP</u> <u>No.†</u>	<u>Maturity</u> <u>September 2</u>	<u>Principal</u> <u>Amount*</u>	<u>Interest</u> <u>Rate</u>	<u>Price</u>	<u>CUSIP</u> <u>No.†</u>
2007	\$155,000				2017	\$280,000			
2008	190,000				2018	290,000			
2009	195,000				2019	305,000			
2010	205,000				2020	320,000			
2011	215,000				2021	335,000			
2012	220,000				2022	355,000			
2013	230,000				2023	370,000			
2014	245,000				2024	390,000			
2015	255,000				2025	410,000			
2016	265,000				2026	430,000			

\* Preliminary, subject to change.

† CUSIP data, copyright 2006, American Bankers Association. CUSIP data herein are provided for convenience of reference only. Neither the City nor the Underwriter assume any responsibility for the accuracy of such data.



**CITY OF MANHATTAN BEACH**

**City Council**

Mitch Ward, *Mayor*  
Nick Tell, *Mayor Pro-Tem*  
Jim Aldinger, *Councilmember*  
Richard Montgomery, *Councilmember*  
Joyce Fahey, *Councilmember*

Tim Lilligren, *City Treasurer*

**City Staff**

Geoff Dolan, *City Manager*  
Robert V. Wadden, Jr., *City Attorney*  
Bruce Moe, *Finance Director*  
Neil C. Miller, *Public Works Director*  
Dana Greenwood, *City Engineer*  
Stephanie Katsouleas, *Senior Civil Engineer*  
Russell J. Morreale, *Assistant Finance Director*  
Henry Mitzner, *Controller*  
Liza Tamura, *City Clerk*

\*\*\*\*\*

**PROFESSIONAL SERVICES**

**Bond Counsel and Disclosure Counsel**

Hawkins Delafield & Wood LLP  
*Los Angeles, California*

**Financial Advisor**

Gardner, Underwood & Bacon LLC  
*Los Angeles, California*

**Trustee**

U.S. Bank National Association  
*Los Angeles, California*

**Assessment Engineer**

Hall & Foreman, Inc.  
*Irvine, California*

No dealer, broker, salesperson or other person has been authorized by the Underwriter or the City to give any information or to make any representations other than as contained in this Official Statement, and if given or made, such other information or representations must not be relied upon as having been authorized by any of the foregoing.

The Underwriter has provided the following sentence for inclusion in this Official Statement. The Underwriter has reviewed the information in this Official Statement in accordance with its responsibilities to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Underwriter does not guarantee the accuracy or completeness of such information.

This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy, nor shall there be any sale of the Bonds by any person, in any jurisdiction in which it is unlawful for such person to make such offer, solicitation or sale. This Official Statement is not to be construed as a contract with the purchasers of the Bonds. Statements contained in this Official Statement which involve estimates, forecasts or matters of opinion, whether or not expressly so described herein, are intended solely as such and are not to be construed as representations of fact.

The information set forth herein has been obtained from sources which are believed to be reliable. The information and expressions of opinion stated herein are subject to change without notice; and neither the delivery of this Official Statement nor any sale made hereunder shall, under any circumstances, create any implication that there has been no change in the affairs of the City or the property owners in the Districts, or in the condition of the Improvements or the property in the Districts, since the date hereof.

The summaries and references to the Fiscal Agent Agreements, the 1913 Act, the 1915 Act and to other statutes and documents referred to herein do not purport to be comprehensive or definitive and are qualified in their entirety by reference to each such statute and document. This Official Statement including any amendment or supplement hereto is intended to be deposited with one or more depositories.

IN CONNECTION WITH THIS OFFERING, THE UNDERWRITER MAY OVERALLOT OR EFFECT TRANSACTIONS WHICH STABILIZE OR MAINTAIN THE MARKET PRICE OF THE BONDS AT A LEVEL ABOVE THAT WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME. THE UNDERWRITER MAY OFFER AND SELL THE BONDS TO CERTAIN DEALERS AND DEALER BANKS AND BANKS ACTING AS AGENT AT PRICES LOWER THAN THE PUBLIC OFFERING PRICE STATED ON THE COVER PAGE HEREOF AND SAID PUBLIC OFFERING PRICE MAY BE CHANGED FROM TIME TO TIME BY THE UNDERWRITER.

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## OFFICIAL STATEMENT

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### CITY OF MANHATTAN BEACH

\$[7,080,000]* <b>UNDERGROUND UTILITY ASSESSMENT DISTRICT NO. 05-2 Limited Obligation Improvement Bonds, Series 2006</b>	\$[5,660,000 ]* <b>UNDERGROUND UTILITY ASSESSMENT DISTRICT NO. 05-6 Limited Obligation Improvement Bonds, Series 2006</b>
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#### INTRODUCTION

*The description and summaries of various documents hereinafter set forth do not purport to be comprehensive or definitive, and reference is made to each document for the complete details of all terms and conditions. All statements herein are qualified in their entirety by reference to each document. All capitalized terms used in this Official Statement and not otherwise defined herein have the same meaning as in the Fiscal Agent Agreements (defined below).*

This Official Statement sets forth certain information concerning the issuance and sale by the City of Manhattan Beach, California (the “City”) of (a) \$[7,080,000]\* in principal amount of its Underground Utility Assessment District No. 05-2 Limited Obligation Improvement Bonds, Series 2006 (the “05-2 Bonds”), and (b) \$[5,660,000 ]\* in principal amount of its Underground Utility Assessment District No. 05-6 Limited Obligation Improvement Bonds, Series 2006 (the “05-6 Bonds”) (the 05-2 Bonds and the 05-6 Bonds are referred to herein collectively as, the “Bonds” and individually, as a “Series of Bonds”). The Bonds are issued pursuant to the Improvement Bond Act of 1915, being Division 10 of the California Streets and Highways Code (as amended, the “1915 Act”), a Resolution (the “Resolution”) approving the issuance of the Bonds adopted by the City Council of the City on July 5, 2006 and two separate Fiscal Agent Agreements dated as of July 1, 2006 (collectively, the “Fiscal Agent Agreements”), each by and between the City and U.S. Bank National Association, as fiscal agent, registrar, and transfer agent (the “Fiscal Agent”).

#### Creation of the Assessment Districts

The Underground Utility Assessment District No. 05-2 (the “05-2 District”) and the Underground Utility Assessment District No. 05-6 (the “05-6 District”) (collectively, the “Districts” and individually, a “District”) were formed in accordance with the Municipal Improvement Act of 1913, being Division 12 of the California Streets and Highways Code (as amended, the “1913 Act”), upon petition of certain owners of the property in the Districts for the purpose of financing the undergrounding of existing overhead utility facilities in their respective neighborhoods.

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\* Preliminary, subject to change.

## **The Improvement Assessments**

To finance the costs of each Project (herein defined), Improvement Assessments (the “Improvement Assessments”) were levied in accordance with the provisions of the 1913 Act, Article XIID of the Constitution of the State of California, and the Proposition 218 Omnibus Implementation Act, following the affirmative vote of the requisite portion of affected property owners within each District. Property owners were provided an opportunity to pay all or any part of the Improvement Assessments in cash during a cash collection period. Improvement Assessments that remained unpaid after the expiration of the cash collection period are referred to as the “Outstanding Assessments.”

## **Use of Proceeds of the Bonds**

Proceeds of the Bonds will primarily be used to pay for the infrastructure improvements, as described in the Engineer’s Reports (described herein) necessary for the undergrounding of utilities in fully developed residential neighborhoods in the Districts, and pay costs of issuance of the Bonds. See “THE DISTRICTS” and “THE PROJECTS” herein.

## **Source of Payment of the Bonds**

Each Series of Bonds is issued upon and secured by the Outstanding Assessments on properties within each District relating to the construction of the undergrounding project for such District and, together with interest thereon, constitute a trust fund for the redemption and payment of the principal of its corresponding Series of Bonds and the interest thereon. Under the provisions of the 1915 Act, Outstanding Assessments installments sufficient to meet annual debt service on a Series of Bonds are to be collected on the regular property tax bills sent to owners of property within the corresponding District against which there are Outstanding Assessments for such District. These annual installments are to be paid into an Assessment Revenue Fund (the “Assessment Revenue Fund”) for each District, which will be held by the City pursuant to the applicable Fiscal Agent Agreement (as described herein) and used to pay Bond principal and interest for such District as it becomes due.

### *Property Subject to the Outstanding Assessments*

05-2 District. Property in the 05-2 District subject to Outstanding Assessments for such District is comprised of 178 single family residential homes, not including 16 parcels which elected to prepay the Improvement Assessments for the construction of the undergrounding Project prior to the issuance of bonds. See “THE DISTRICTS.”

05-6 District. Property in the 05-6 District subject to Outstanding Assessments for such District is comprised of [99] single family residential homes, [3] apartment units, [48] condominium units, [107] duplex units, [15] triplex units, not including 31 parcels which elected to prepay the Improvement Assessments for the construction of the undergrounding Project prior to the issuance of bonds. See “THE DISTRICTS.”

## **Security for the Bonds**

Pursuant to the 1913 Act, the Outstanding Assessment relating to each respective parcel in each District constitutes a lien on such parcel. The 2005-06 Los Angeles County assessed valuation of property in the 05-2 District subject to Outstanding Assessments is approximately \$190.2 million. Based upon this assessed valuation and an aggregate principal amount of 05-2 Bonds of \$[7,080,000]\*, the

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\* Preliminary, subject to change.

aggregate value-to-assessment ratio for property in the 05-2 District subject to Outstanding Assessments is approximately 26 to 1. The 2005-06 Los Angeles County assessed valuation of property in the 05-6 District subject to Outstanding Assessments is approximately \$232.3 million. Based upon this assessed valuation and an aggregate principal amount of 05-6 Bonds of \$[5,660,000 ]\*, the aggregate value-to-assessment ratio for property in the 05-6 District subject to Outstanding Assessments is approximately 39 to 1. See “THE DISTRICT - County Assessed Valuation of Property in the District” herein.

The Outstanding Assessments represent fixed liens on the parcels of land assessed under the proceedings and failure to pay the Outstanding Assessments when due could result in proceedings to foreclose title to the delinquent property. The Outstanding Assessments do not constitute the personal indebtedness of the owners of assessed parcels and no proceedings to collect directly from an owner are permitted. See “SECURITY FOR THE BONDS” herein.

### **Reserve Funds**

The City will direct the Fiscal Agent to establish a Reserve Fund for each District (collectively, the “Reserve Funds” and, individually, a “Reserve Fund”) in the amounts of \$\_\_\_\_\_ for the 05-2 District from 05-2 Bond proceeds and \$\_\_\_\_\_ for the 05-6 District from 05-6 Bond proceeds, which amounts will be transferred to their respective Bond Funds in the event of delinquencies in the payment of any Outstanding Assessments installments to the extent of such delinquencies. Each Reserve Fund will be maintained separately from available Outstanding Assessments payments within its District, in an amount equal to its Reserve Requirement, as defined herein. See “SECURITY FOR THE BONDS — Establishment of Special Funds — Reserve Funds.” A Reserve Fund for one District will not be available to make up a deficiency in the Reserve Fund of another District. If there are additional delinquencies after depletion of funds in any Reserve Fund, the City is not obligated to transfer into the corresponding Assessment Revenue Fund (as defined hereinafter) the amount of such delinquencies out of any other available monies of the City, including the Reserve Funds of another District.

### **Forward-Looking Statements**

Certain statements included or incorporated by reference in the following information constitute “forward-looking statements.” Such statements are generally identifiable by the terminology used such as “plan,” “expect,” “budget” or other similar words. The achievement of certain results or other expectations contained in such forward-looking statements involve known and unknown risks, uncertainties and other factors which may cause actual results, performance or achievements described to be materially different from any future results, performance or achievements expressed or implied by such forward-looking statements. No assurance is given that actual results will meet the City’s forecasts in any way, regardless of the level of optimism communicated in the information.

### **Limited Obligations of the City**

**The Bonds are not payable from or secured by the general fund of the City. The Bonds are not secured by the general taxing power of the City, the County, or the State of California (the “State”) or any political subdivision of the State, and neither the City, the County, nor the State nor any political subdivision of the State has pledged its full faith and credit for the payment of the Bonds.**

### **Summary of Information**

Included herein are brief descriptions of the Bonds, the Districts, the Projects, the Improvements, the City, the Fiscal Agent Agreements, and certain other matters. Such descriptions and the discussions

and information contained herein do not purport to be comprehensive or definitive. All references in this Official Statement to documents, the Bonds, and the assessment proceedings are qualified in their entirety by references to the actual documents and the City’s resolutions setting forth the terms thereof. Copies of the Fiscal Agent Agreements and other documents described in this Official Statement may be obtained from the City.

## THE FINANCING PLAN

### The Projects

The Districts have been formed and the Bonds are being issued to finance the cost of the undergrounding of existing overhead utility facilities and removal of the existing poles and related above-ground facilities currently serving the property in the two Districts (collectively, the “Projects” and individually a “Project”). The specific improvements that compromise the Projects are described herein under the caption “THE PROJECTS” herein.

### Estimated Sources and Uses of Funds

The proceeds of the sale of a Series of Bonds will be deposited with U.S. Bank National Association, Los Angeles, California, the fiscal agent, registrar, and transfer agent for the Bonds (the “Fiscal Agent”) in trust pursuant to the terms of the respective Fiscal Agent Agreements in the amounts set forth below. The moneys in the Improvement Funds established for the Bonds will be held by the Fiscal Agent and will be used to acquire or otherwise finance the Projects and to pay certain costs associated with the issuance and delivery of the Bonds. A portion of the net proceeds of the Bonds will be deposited in the Reserve Funds.

A summary of the estimated sources and uses of funds associated with the sale of the Bonds follows:

	<u>05-2 BONDS</u>	<u>05-6 BONDS</u>
<u>Estimated Sources of Funds:</u>		
Principal Amount of Bonds	\$ _____	\$ _____
Total	\$ _____	\$ _____
<u>Estimated Uses of Funds:</u>		
Deposit to Improvement Fund	\$	\$
Deposit to Reserve Fund		
Deposit to Costs of Issuance Fund <sup>(1)</sup>		
Total	\$ _____	\$ _____

<sup>(1)</sup> Includes legal fees, Underwriter’s discount, initial fees, expenses and charges of the Fiscal Agent, printing costs, administrative fees of the City and other costs of issuance.



## THE BONDS

### Authority For Issuance

The two District proceedings were conducted pursuant to the 1913 Act and a resolution of intention adopted by the City Council of the City. Each Series of Bonds, which represent the Outstanding Assessments levied against privately owned property within its corresponding District, is issued pursuant to the provisions of the 1915 Act and its corresponding Fiscal Agent Agreement.

On December 1, 2005, three residents of the Districts (the “Plaintiffs”) brought an action against the City, challenging the legality of the proceedings relating to the establishment of the Assessments. Among other things, the Plaintiffs asserted that the methodology for the calculation of the amount of assessment levied against particular properties was flawed. On April 17, 2006, the Los Angeles Superior Court ruled against the Plaintiffs, and upheld the legality of the proceedings. On May 16, 2006, the City and the Plaintiffs entered into a Settlement Agreement, pursuant to which the Plaintiffs agreed not to appeal the Superior Court ruling.

### Registration

Each Series of Bonds is being issued as fully registered bonds, registered in the name of Cede & Co. as nominee of The Depository Trust Company, New York, New York (“DTC”) and will be available to ultimate purchasers in the denomination of \$5,000 or any integral multiple thereof, plus one odd Bond amount, under the book-entry system maintained by DTC. Each Series of Bonds will be dated the date of delivery, and will bear interest at the rates per annum, will mature on the dates and in the amounts set forth on the inside front cover of this Official Statement. While the Bonds are subject to the book-entry system, the principal, interest and any redemption premium with respect to a Bond will be paid by the Trustee to DTC, which in turn is obligated to remit such payment to its DTC Participants for subsequent disbursement to Beneficial Owners of the Bonds as described herein. See “APPENDIX E — The Book-Entry System” below.

### Payment

Interest on the Bonds is payable on March 2, 2006, and semiannually thereafter on March 2 and September 2 of each year (each an “Interest Payment Date”). The Bonds shall bear interest from the Interest Payment Date next preceding the date of authentication and registration thereof, unless (i) its date of authentication is an Interest Payment Date, in which event the Bond shall bear interest from such Interest Payment Date, (ii) its date of authentication is after the fifteenth (15<sup>th</sup>) day of the month preceding an Interest Payment Date (a “Record Date”), and before the following Interest Payment Date, in which event the Bond shall bear interest from such Interest Payment Date or (iii) its date of authentication is before the close of business on the first Record Date, in which event the bond shall bear interest from the Dated Date. Interest on the Bonds shall be calculated on the basis of a 360-day year, consisting of twelve 30-day months.

Payments of interest on the Bonds due on or before the maturity or prior redemption thereof will be made only to the person whose name appears in the Registration Books relating to the Series of Bonds as the registered owner thereof at the close of business on a Record Date. Such interest will be paid by first class mail, postage prepaid, on the Interest Payment Date to such registered owner at his address as it appears on such Registration Books, except that in the case of Cede & Co. or an Owner of one million dollars or more in aggregate principal amount of a Series of Bonds, upon written request of such Owner to the Fiscal Agent, in form satisfactory to the Fiscal Agent, received not later than the Record Date, such interest shall be paid on the Interest Payment Date in immediately available funds by wire transfer to an

account in the United States designated in such written request. Payment of the principal of and redemption premiums, if any, on the Bonds shall be made only to the person whose name appears in the Registration Books as the registered owner thereof, upon the surrender of the Bonds at the Office of the Fiscal Agent at maturity or on redemption prior to maturity.

**Redemption**

**Optional Redemption.**\* Each Series of Bonds is subject to optional redemption by the City prior to maturity, as a whole or in part in the denomination of \$5,000 each or in any integral multiple thereof on any Interest Payment Date, upon at least forty-five (45) days’ written notice from the City to the Fiscal Agent and upon at least thirty (30) days’ written notice to the Bondowner of such Series of Bonds, from any moneys deposited in the Bond Fund for such Series of Bonds from any source for such purpose by the City, including but not limited to moneys which are prepayments of Assessments by property owners deposited in the Prepayment Account of such Series of Bonds, surplus moneys in the Improvement Fund for such Series of Bonds upon completion of its corresponding Project, proceeds of refunding bonds, or from investment earnings on funds or accounts established under its Fiscal Agent Agreement, at the redemption price equal to the principal amount thereof, together with a redemption premium equal to the following amounts on the following dates (expressed as a percentage of the principal amount redeemed) plus accrued interest thereon to the date of redemption: [TO BE CONFIRMED]

<u>Redemption Dates</u>	<u>Redemption Premium</u>
Interest Payment Dates Through September 2, 2014	3%
March 2, 2015 and September 2, 2015	2
March 2, 2016 and September 2, 2016	1
March 2, 2017 and thereafter	0

**Effect of Redemption.** If, on the date fixed for redemption, moneys for the redemption of all the Bonds to be redeemed, together with interest to said date, are held by the Fiscal Agent so as to be available therefor on such date, and, if notice of redemption thereof has been mailed and not canceled, then, from and after said date, interest on such Bonds shall cease to accrue and become payable and such Bonds or portions of Bonds shall be defeased and shall cease to be entitled to any benefit or security under its corresponding Fiscal Agent Agreement (other than the right to receive payment of the redemption price and interest). All moneys held by or on behalf of the Fiscal Agent for the redemption of such Bonds shall be held in trust for the account of the Owners of the Bonds so to be redeemed.

Receipt of notice of redemption by the owner of a Bond shall not be a condition precedent to redemption and failure by the owner of a Bond to actually receive such notice of redemption shall not affect the sufficiency of the proceedings for the redemption of such Bond or the cessation of interest.

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\* Preliminary, subject to change.

**Debt Service Schedules**

Set forth below is the debt service schedule for the 05-2 Bonds and the 05-6 Bonds.

**TABLE 1A**  
**Underground Utility Assessment District No. 05-2**  
**Annual Bond Debt Service\***

<b>Year Ending September 2</b>	<b>Principal Amount*</b>	<b>Interest</b>	<b>Total Bond Debt Service</b>
2007	\$ 195,000	\$	\$
2008	230,000		
2009	240,000		
2010	250,000		
2011	260,000		
2012	275,000		
2013	285,000		
2014	295,000		
2015	310,000		
2016	325,000		
2017	340,000		
2018	355,000		
2019	370,000		
2020	390,000		
2021	410,000		
2022	430,000		
2023	450,000		
2024	470,000		
2025	495,000		
2026	520,000		
Total	\$7,080,000	\$ _____	\$ _____

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\* Preliminary, subject to change.

**TABLE 1B**  
**Underground Utility Assessment District No. 05-6**  
**Annual Bond Debt Service\***

Year Ending September 2	Principal Amount*	Interest	Total Bond Debt Service
2007	\$ 155,000	\$	\$
2008	185,000		
2009	190,000		
2010	200,000		
2011	205,000		
2012	215,000		
2013	225,000		
2014	235,000		
2015	245,000		
2016	255,000		
2017	270,000		
2018	280,000		
2019	295,000		
2020	310,000		
2021	325,000		
2022	340,000		
2023	355,000		
2024	375,000		
2025	390,000		
2026	410,000		
Total	\$5,660,000	\$ _____	\$ _____

\* Preliminary, subject to change.

## SECURITY FOR THE BONDS

### Outstanding Assessments

Each Series of Bonds is issued upon and secured by the Outstanding Assessments against the properties within the corresponding District, together with interest thereon. For each Series of Bonds, the Outstanding Assessments, together with interest thereon, constitute a trust fund for the redemption and payment of the principal of such Series of Bonds and the interest thereon. Each Series of Bonds is further secured by the monies in the corresponding Bond Fund and the Reserve Fund created pursuant to the assessment proceedings. Principal of and interest and redemption premiums, if any, on such Series of Bonds is payable exclusively out of its corresponding Bond Fund.

The Outstanding Assessments and each installment thereof and any interest and penalties thereon constitute a lien against the parcels of land on which the Outstanding Assessments are levied until the same are paid. Such lien is subordinate to all fixed special assessment liens previously imposed upon the same property, but has priority over all existing and future private liens and over all fixed special assessment liens which may thereafter be created against the property. Such lien is coequal to and independent of the lien for general property taxes.

**The Bonds are not secured by the general taxing power of the City, the County, or the State or any political subdivision of the State, and neither the City, the County, the State nor any political subdivision of the State has pledged its full faith and credit for the payment thereof.**

Although the Outstanding Assessments constitute fixed liens on the parcels assessed, they do not constitute the personal indebtedness of the owners of said parcels. Furthermore, there can be no assurance as to the ability or the willingness of such owners to pay Outstanding Assessments. In addition, there can be no assurance that the present owners will continue to own their parcels.

The Outstanding Assessments will be collected in annual installments, together with interest on the declining balance, on the Los Angeles County tax roll on which general taxes on real property are collected, and are payable and become delinquent at the same time and in the same proportionate amounts and bear the same proportionate penalties and interest after delinquency as do said general taxes. The property upon which the Improvement Assessments were levied is subject to foreclosure, sale and redemption if the Outstanding Assessment installments are not paid when due. These annual installments for a District are to be paid into its corresponding Assessment Revenue Fund (each an "Assessment Revenue Fund") held by the City, for transfer into its corresponding Bond Fund, which will be held by the Fiscal Agent and used to pay the principal of and interest on the Series of Bonds for such District as they become due. The Outstanding Assessments installments billed against all of the parcels of property in a District subject to Outstanding Assessments will be equal to the total principal and interest coming due on all of the Series of Bonds for such District that year, plus, with respect to each parcel in such District, an amount to cover the administrative charges of the City related to such Series of Bonds and such Outstanding Assessments.

### Establishment of Special Funds and Accounts

The following funds and accounts will be established pursuant to each of the Fiscal Agent Agreements for a particular District for administering the proceeds of the sale of the Series of Bonds for such District and for paying the interest of and principal on such Series of Bonds:

*Improvement Fund.* The moneys in the Improvement Fund for a Series of Bonds will be held by the Fiscal Agent and disbursed for the purpose of paying or reimbursing the cost of acquiring and

constructing the Project financed with proceeds of such Series of Bonds. Amounts to pay the costs of the acquisition or construction of a Project for a District will be paid from the Improvement Fund for such District, upon receipt by the Fiscal Agent of written directions from the City's Finance Director (the "Finance Director") or the City's Public Works Director (the "Public Works Director"). In accordance with Southern California Edison requirements, all of the costs relating to design and construction services to be provided by Southern California Edison will be paid prior to commencement of the Project.

Pursuant to the terms of the Fiscal Agent Agreements, interest earnings and profits from investment of funds in an Improvement Fund will be retained therein until the completion of the Project, whereupon interest earnings and profits from such investment will be transferred by the Fiscal Agent to the Bond Fund, unless the Fiscal Agent is directed by the City that all or a portion thereof will be transferred to the Administrative Expense Account to the extent of any shortfall or anticipated shortfall therein.

If, after completion of a Project and the payment of all claims from the related Improvement Fund, the City determines that a surplus remains in such Improvement Fund and the accounts therein, the Fiscal Agent shall be directed in writing by the City to distribute any such surplus pursuant to Section 10427 of the 1913 Act, as provided by the Resolution of Intention. Section 10427 of the 1913 Act provides that surplus will be used for one or more of the following purposes: (a) for transfer to the general fund of the city, provided that the amount transferred will not exceed the lesser of \$1,000 or 5% of the total amount expended from the Improvement Fund, (b) as a credit upon the assessment and any supplemental assessment, (c) for the maintenance of the improvement and (d) to call Bonds.

*Assessment Revenue Fund.* For the Series of Bonds, the City will establish a separate fund to be known as the "05-2 Assessment Revenue Fund" or "05-6 Assessment Revenue Fund," as applicable, which will be established, held and administered by the Finance Director. All moneys received by the City on account of installment payments respecting Outstanding Assessments within a particular District, including administrative charges, late charges and penalties, if any, paid in connection with reinstatement of delinquent Outstanding Assessments installments, proceeds of foreclosure sale payable to the City resulting from foreclosure of the lien of delinquent Outstanding Assessments, and proceeds of payments made to discharge unpaid Assessments, whether in whole or in part, will be deposited in the corresponding Assessment Revenue Fund. For each Series of Bonds, on or about February 1 and May 1 of each year, the Finance Director will deposit the portion of the Outstanding Assessments representing the administrative charges for such Series of Bonds, into the corresponding Administrative Expense Account. For each Series of Bonds, on or prior to the 15<sup>th</sup> day of February and August of each year, the Finance Director will transfer to the Fiscal Agent for deposit into the corresponding Bond Fund, moneys on deposit in the corresponding Assessment Revenue Fund (exclusive of amounts in the corresponding Administrative Expense Account) in the amounts, as required hereunder, to pay the principal of and the interest and redemption premiums, if any, on such Series of Bonds.

For each Series of Bonds, on August 5 of each year or as soon thereafter as practicable, any moneys remaining in its Assessment Revenue Fund (other than its Administrative Expense Account) after the deposits described above for such year have been funded will either (i) if there are sufficient moneys to redeem such Series of Bonds, be transferred by the City to the Fiscal Agent for deposit in the Prepayment Account of its corresponding Bond Fund and used to redeem such Series of Bonds, or (ii) be retained in its Assessment Revenue Fund and utilized by the City to provide a credit against the Outstanding Assessments installments otherwise billable on account of the Outstanding Assessments for such District, said credits to be determined for the Outstanding Assessments in the same proportion as such Outstanding Assessments bear to the total amount of all Outstanding Assessments for such District. To the extent that moneys in an Assessment Revenue Fund, following the payment in full of its corresponding Bonds, exceed the amount required by the 1913 Act, the 1915 Act or the Fiscal Agent

Agreement for such Series of Bonds to meet all obligations of the City with respect to such Series of Bonds and the administrative costs associated therewith, said moneys may be withdrawn by the Finance Director and applied to any lawful purpose of the City.

*Administrative Expense Account.* For the Series of Bonds, there will be established and maintained by the City a special account within an Assessment Revenue Fund designated the “05-2 Administrative Expense Account” or “05-6 Administrative Expense Account,” as applicable. The City shall deposit in an Administrative Expense Account amounts attributable to the administrative costs of the prepayment of Outstanding Assessments within a District and amounts collected by the City pursuant to Section 10204(f) of the 1913 Act and Sections 8682.1 and 8682 of the 1915 Act for such District.

Amounts in an Administrative Expense Account will be disbursed by the Fiscal Agent to persons specified by the City upon receipt of an appropriate Disbursement Request therefor, signed by an Authorized Representative of the City.

*Bond Fund.* For the Series of Bonds, the Fiscal Agent will establish, maintain and hold in trust a special fund designated the “05-2 Bond Fund” or “05-6 Bond Fund,” as applicable. Except as otherwise provided in a Fiscal Agent Agreement respecting prepayments of Outstanding Assessments, the Fiscal Agent will deposit in the corresponding Bond Fund all Outstanding Assessments installments received from the City within a particular District, and any other amounts required to be deposited therein by such Fiscal Agent Agreement or the 1915 Act. The Fiscal Agent will deposit the amounts in the Bond Fund at the time and in the priority and manner set forth in each Fiscal Agent Agreement until all required Assessments are paid in full or until such date as the Bonds are no longer Outstanding. Within the Bond Fund, the Fiscal Agent will establish and maintain the Capitalized Interest Account until the date all amounts are transferred therefrom in accordance with each Fiscal Agent Agreement.

For each Series of Bonds, on or before each Interest Payment Date, the Fiscal Agent will shall withdraw from the corresponding Bond Fund for payment to the Owners of such Series of Bonds the principal, if any, of and interest then due and payable on such Series of Bonds. Five Business Days prior to each Interest Payment Date, the Fiscal Agent will determine if the amounts then on deposit in such Bond Fund are sufficient to pay the principal, if any, of and interest due on such Series of Bonds on such Interest Payment Date. In the event that amounts in such Bond Fund are insufficient for such purpose, the Fiscal Agent, on or before such Interest Payment Date, will withdraw from the corresponding Reserve Fund to the extent of any funds therein the amount of such insufficiency, and transfer any amounts so withdrawn to such Bond Fund. Amounts so withdrawn from such Reserve Fund and deposited in such Bond Fund will be applied to the payment of the interest and principal on such Series of Bonds. If, after the foregoing transfer, there are insufficient funds in such Bond Fund to pay the principal, if any, of and interest on such Series of Bonds, the Fiscal Agent will apply the available funds for such District first to the payment of interest on such Series of Bonds, then to the payment of principal of such Series of Bonds as prescribed by the 1915 Act.

*Prepayment Account.* For the Series of Bonds, the Fiscal Agent will establish and maintain a special account within its Bond Fund designated the “05-2 Prepayment Account” or “05-6 Prepayment Account,” as applicable. The Fiscal Agent will deposit in such Prepayment Account the proceeds of the prepayment of any Outstanding Assessments of the corresponding District, with respect to which such Prepayment Account shall be administered by the Fiscal Agent as provided in the related Fiscal Agent Agreement. Additionally, the Fiscal Agent will deposit in such Prepayment Account amounts received from the City in connection with the City’s exercise of its rights to optionally redeem such Series of Bonds pursuant to such Fiscal Agent Agreement.

Amounts in such Prepayment Account will be disbursed therefrom for the payment of the Redemption Price of Bonds of such Series redeemed pursuant to such Fiscal Agent Agreement.

*Costs of Issuance Fund.* For each Series of Bonds, a portion of the proceeds of such Series of Bonds shall be deposited into a Costs of Issuance Fund and will be applied to pay Costs of Issuance related to such Series of Bonds. Any amount remaining in a Costs of Issuance Fund on the date 60 days following the issuance of such Series of Bonds will be transferred to the corresponding Bond Fund.

*Reserve Fund.* For each Series of Bonds, the Fiscal Agent will establish and maintain a fund separate from any other fund established and maintained under each Fiscal Agent Agreement designated as the "05-2 Reserve Fund" or "05-6 Reserve Fund," as applicable. See "SECURITY FOR THE BONDS-Reserve Fund".

### **Reserve Funds**

\$\_\_\_\_\_ of the proceeds from the sale of the 05-2 Bonds will be deposited into the 05-2 Reserve Fund and \$\_\_\_\_\_ of the 05-6 Bond proceeds will be deposited into the 05-6 Reserve Fund. Each Reserve Fund will be held by the Fiscal Agent and shall constitute a trust fund for the benefit of the holders of such Series of Bonds. The Reserve Funds shall be maintained in an amount equal to the Reserve Requirement. "Reserve Requirement" is defined in each Fiscal Agent Agreement to be, as of any date of calculation, an amount equal to the least of (i) 100% of the Maximum Annual Debt Service on the Series of Bonds for that or any subsequent Bond Year, (ii) 10% of the issue price (within the meaning of section 148 of the Code) of the Series of Bonds or (iii) 125% of average Annual Debt Service on the Series of Bonds for that and any subsequent Bond Year, as determined by the City and specified in writing from time to time to the Fiscal Agent; provided, that such requirement (or any portion thereof) may be satisfied by the provision of one or more policies of municipal bond insurance or surety bonds issued by a municipal bond insurer or by a letter of credit issued by a bank, the obligations insured by which insurer or issued by which bank, as the case may be, having ratings at the time of issuance of such policy or surety bond or letter of credit equal to "AA" or higher assigned by Fitch or "Aa" or higher assigned by Moody's or "AA" or higher assigned by Standard & Poor's.

Except as otherwise provided below relating to prepayments, all amounts deposited in a Reserve Fund will be used and withdrawn by the Fiscal Agent solely for the purpose of making transfers to its corresponding Bond Fund in the event of any deficiency at any time in such Bond Fund of the amount then required for payment of the principal of and interest on the corresponding Series of Bonds or for the purpose of redeeming Bonds from such Bond Fund.

Whenever an Outstanding Assessment is prepaid, in whole or in part, as provided in the 1915 Act, the Fiscal Agent, pursuant to a Written Request of the City, will transfer from the applicable Reserve Fund to its Prepayment Account an amount, specified in such Written Request, equal to the product of the ratio of the original amount of the Outstanding Assessments so paid to the original amount of all Outstanding Assessments for such District, times the initial Reserve Requirement for the Series of Bonds; provided, however, no such transfer will be made if after the transfer the amounts in such Reserve Fund then remaining will not equal its Reserve Requirement.

So long as no event of default has occurred and is continuing, any amount in a Reserve Fund in excess of its Reserve Requirement will be withdrawn from such Reserve Fund and deposited in the corresponding Bond Fund by the Fiscal Agent [as directed in writing by the City].

Whenever the balance in a Reserve Fund is sufficient to retire all the Outstanding Bonds of a Series, whether by advance retirement or otherwise, collection of the principal and interest on the Bond



Liens for such District will be discontinued and such Reserve Fund liquidated by the Fiscal Agent in retirement of the Outstanding Bonds of such Series, as directed by a Written Request of the City. In the event that the balance in a Reserve Fund at the time of liquidation exceeds the amount required to retire all of the Outstanding Bonds of such Series, the excess will, after payment of amounts due to the Fiscal Agent, be transferred to the City to be used in accordance with the 1913 Act and the 1915 Act.

All amounts remaining in a Reserve Fund in the year in which the last Outstanding Assessments for a District become due and payable will be credited toward said Outstanding Assessments and transferred to the corresponding Bond Fund.

### **Covenant to Commence Foreclosure**

The City covenants with and for the benefit of the Bond Owners that it will order, and cause to be commenced, and thereafter diligently prosecute an action in the superior court to foreclose the lien of any Outstanding Assessment, pursuant to and as provided in Section 8830 through 8836 of the 1915 Act, or installment thereof that is delinquent, as provided in Section 8680 of the 1915 Act. The Finance Director will commence, or cause to be commenced, such foreclosure proceedings no later than October 1: (a) if the Finance Director determines that there is a cumulative delinquency of Outstanding Assessments of \$5,000 or more for one or more prior Fiscal Year(s), for any single parcel of land in a District, then foreclosure will be commenced against such parcel of land in such District; (b) if the Finance Director determines that the total amount of delinquent Outstanding Assessments for the prior Fiscal Year for an entire District exceeds five percent (5%) of the total Outstanding Assessments due and payable in the prior Fiscal Year for such District, then foreclosure will be commenced against such parcels of land in such District with a cumulative delinquency of \$1,000 or more.

The City will issue notices of delinquency against all parcels with delinquent Outstanding Assessments, regardless of amount, within 60 days after the Finance Director has received the Auditor's Report for July of that Bond Year showing such delinquent Outstanding Assessments.

### **Priority of Lien**

Each Outstanding Assessment and each installment thereof, and any interest and penalties thereon, constitutes a lien against the parcel of land on which it was imposed until the same is paid. Such a lien is subordinate to all fixed special assessment liens previously imposed upon the same property, but has priority over all private liens and over all fixed special assessment liens which may thereafter be created against the property. Such a lien is coequal to and independent of the lien for general property taxes and special taxes, including, without limitation, special taxes created pursuant to the "Mello-Roos Community Facilities Act of 1982" (being Chapter 2.5, Part 1, Division 2, Title 5 of the Government Code of the State of California), whenever created against the property.

### **Investments**

Except as otherwise provided in the Fiscal Agent Agreements, all moneys in any of the funds or accounts established pursuant to a Fiscal Agent Agreement shall be invested by the Fiscal Agent solely in Permitted Investments as directed in writing by the City at least two (2) Business Days in advance of the making of such investments. In the absence of any such written direction, the Fiscal Agent shall invest such moneys in money market funds which qualify under item (b) of the definition of Permitted Investments.

Subject to the provisions of the Fiscal Agent Agreements, all interest, profits and other income received from the investment of moneys in any fund or account established pursuant to a Fiscal Agent Agreement shall be deposited by the Fiscal Agent in the corresponding Bond Fund; provided, however,

that all interest or gain from the investment of amounts in the related Reserve Fund shall be retained therein to the extent necessary to restore the balance on deposit in said Reserve Fund to its Reserve Requirement and thereafter as provided in the applicable Fiscal Agent Agreement.

The Fiscal Agent or any of its affiliates may act as principal or agent in the making or disposing of any investment. The Fiscal Agent shall sell or present for redemption any Permitted Investments so purchased whenever it shall be necessary to provide moneys to meet any required payment, transfer, withdrawal or disbursement from the fund to which such Permitted Investments is credited, and the Fiscal Agent shall not be liable or responsible for any loss resulting from any investment made or sold pursuant to the Fiscal Agent Agreements. For purposes of investment, the Fiscal Agent may commingle moneys in any of the funds and accounts established under a particular Fiscal Agent Agreement.

### **Tax Covenants**

The City has covenanted that it will not take any action, or fail to take any action, if such action or failure to take such action would adversely affect the exclusion from gross income of the interest payable on the Bonds under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"). The City has covenanted that it will comply with the requirements of the Tax Certificate delivered by the City, dated the date of issuance of the Bonds, as originally executed and as may be amended from time to time (the "Tax Certificate") and the Fiscal Agent Agreements. These covenants shall survive payment in full or defeasance of any Series of Bonds.

### **Limited Obligations; No Required Advances from Available Surplus Funds**

The Bonds are limited obligation improvements bonds under the 1915 Act. Notwithstanding any other provision of any Fiscal Agent Agreement, the City is not obligated to advance available surplus funds from the City treasury to cure any deficiency in any Assessment Revenue Fund or any Reserve Fund; provided, however, that nothing shall affect the right of the City under the 1915 Act to make advances to cure any deficiencies.

### **Further Assurance**

The City will adopt, make, execute and deliver and any all such further resolutions, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of the Fiscal Agent Agreements, and for the better assuring and confirming to the Bondowners the rights and benefits provided by the Fiscal Agent Agreements.

## **THE PROJECTS**

### **The Projects**

Proceeds of the Bonds will be used, in part, to pay for a portion of the cost of the undergrounding of utility lines currently serving the properties within the two Districts (collectively, the "Projects" and individually, a "Project" as described below) of benefit to the property within the Districts, as described in an Amended Engineer's Report pertaining to each District (collectively, the "Engineer's Reports" and, individually, an "Engineer's Report") prepared by Hall & Foreman, Inc., Irvine, California (the "Assessment Engineer"). The following description of the improvements to be funded, in part, by each of the Series of Bonds, taken from the Engineer's Reports, consists of 1) removal of existing power and telephone poles, 2) removal of overhead resident service drops, 3) construction of mainline underground power and telephone conduit, with all appurtenant manholes and pullboxes, and 4) construction of service

conduit and appurtenances (the “Improvements”). See APPENDIX A “ENGINEER’S REPORTS INCLUDING ASSESSMENT ROLLS AND ASSESSMENT DIAGRAMS” hereto.

**Cost of the Projects**

According to the Engineer’s Report, the cost of construction of the undergrounding portion of the Project that is to be financed with the 05-2 Bond proceeds is \$[7,396,682.86]. The remaining \$707,088.14 of Project construction costs for the 05-2 District is expected to be funded by the prepaid Improvement Assessments. According to the Engineer’s Report, cost of construction of the undergrounding portion of the Project to be financed with the 05-6 Bond proceeds is \$[5,960,286.15]. The remaining \$691,949.85 of Project construction costs for the 05-6 District, is expected to be funded by prepaid Improvement Assessments.

The cost of each of the Projects as summarized in the Engineer’s Reports is as follows:

**TABLE 2  
COST ESTIMATE**

<b>Description</b>	<b>05-2 District</b>	<b>05-6 District</b>
Design and Construction Costs	\$6,677,541	\$5,461,774
Construction Cost Contingency	330,457	269,863
Incidental Costs	115,913	115,913
Bond Costs	333,566	273,831
Reserve Fund	<u>646,294</u>	<u>530,855</u>
<b>TOTAL ESTIMATED PROJECT COSTS</b>	<b>\$8,103,771</b>	<b>\$6,652,236</b>

*Source: Engineer’s Reports.*

Owners of 16 parcels in the 05-2 District elected to prepay all or a portion of the Improvement Assessment on their property, reducing the amount of 05-2 Bonds that are required to be issued to finance the 05-2 Project to \$[7,396,682.86], the principal amount of the 05-2 Bonds.

Owners of 31 parcels in the 05-6 District elected to prepay all or a portion of the Improvement Assessment on their property, reducing the amount of 05-6 Bonds that are required to be issued to finance the 05-6 Project to \$[5,960,286.15], the principal amount of the 05-6 Bonds.

**Allocation of Districts Costs**

The objective of the Improvement Assessment spread for each District is to distribute costs over the area within such District in proportion to the special benefits that are derived by each parcel from such District improvement work. The Assessment Engineer determined that the properties in each District shared, to varying degrees, two benefits from the construction of the Project for that district: (i) improved public safety and reliability of service, and (ii) neighborhood aesthetic view enhancement. The total Improvement Assessment levied against each parcel in a District is a proportional allocation of these benefits and is composed of the parcel’s assigned share of such District’s improvement construction costs, plus the proportional share of such District’s contingencies and incidental expenses. See APPENDIX A – “ENGINEER’S REPORTS, INCLUDING ASSESSMENT ROLLS AND ASSESSMENT DIAGRAMS” herein.

05-2 District. The cost of the 05-2 Project was allocated among the 193 parcels within the 05-2 District by the Assessment Engineer and the allocation and methodology for such allocation resulted in an average Improvement Assessment for parcels in the 05-2 District of \$41,772.02, with the per parcel Improvement Assessment ranging from \$4,687.56 to \$57,963.69 (including parcels receiving partial utility undergrounding). Owners of 16 parcels in the 05-2 District elected to prepay the Improvement Assessment on their property, reducing the amount bonds that are required to be issued to finance the 05-2 Project. After adjustment for prepayments, the average Outstanding Assessment for parcels in the 05-2 District is \$40,749.41, with the per parcel Outstanding Assessments ranging from \$4,687.56 to \$57,963.69. See “THE DISTRICTS - Ownership and Value of Property in the Districts” herein.

05-6 District. The cost of the 05-6 Project was allocated among the 304 parcels (plus one parcel which was found to have no benefit and was not assessed) within the 05-6 District by the Assessment Engineer and the allocation and methodology for such allocation resulted in an average Improvement Assessment for parcels in the 05-6 District of \$21,954.59, with the per parcel Improvement Assessment ranging from \$7,413.32 to \$29,087.75 (including parcels receiving partial utility undergrounding). Owners of 31 parcels in the 05-6 District elected to prepay the Improvement Assessment on their property, reducing the amount bonds that are required to be issued to finance the 05-6 Project. After adjustment for prepayments, the average Outstanding Assessment for parcels in the 05-6 District is \$21,163.03, with the per parcel Outstanding Assessments ranging from \$7,413.32 to \$29,087.75. See “THE DISTRICTS - Ownership and Value of Property in the Districts” herein.

City Loan Program. In order to minimize the financial impact of the Improvement Assessments on certain owners of property within the Districts, on July 5, 2006, the City Council approved the Utility Underground Assessment Deferment Program (the “City Deferment Program”). Pursuant to the City Deferment Program, the City intends to agree to lend moneys to owners of property within the Districts over the age of 62 with a household income of less than \$100,000 defer all or a portion of their Improvement Assessment, the portion to be deferred being determined in accordance with certain guidelines. Qualifying property owners may borrow up to 100% of the installments due on the Assessments each year. The deferments must be repaid upon any transfer of the subject property, including transfers resulting from sales or operation of law (including transfers resulting from the death of the property owner). The obligation of such property owners to pay the City for such deferments will be subordinate to the lien of the Improvement Assessments and any other borrowings currently secured by the subject property. The City Council has appropriated \$\_\_\_\_\_ to fund the City Deferment Program, which amount will be deposited into a special fund established for that purpose.

As of the date hereof, [3] residents of District 05-02 have submitted applications for loans, and [9] residents of District 05-06 have submitted applications for loans pursuant to the City Deferment Program. The City is currently considering such applications. There can be no assurances that the City will not discontinue the City Deferment Program, or that sufficient funds will be available to make loans to all qualifying residents of the Districts.

### **Construction of the Projects**

Construction of the Projects financed by the Bond proceeds will be performed by various utility service providers pursuant to a contract with the City resulting from a bidding process. Construction is expected to commence in Spring 2006. Upon issuance of the Bonds, all of the moneys in each Improvement Fund will be used to pay for the cost of the Projects.

## THE DISTRICTS

### The City of Manhattan Beach

The City of Manhattan Beach is a general law city located in the South Bay area of Los Angeles County on the shores of the Pacific Ocean surrounded by El Segundo to the north, Hawthorne, Lawndale and Redondo Beach to the east and Hermosa Beach to the south. The City was incorporated on December 12, 1912.

The City encompasses approximately 2,492 acres or 3.9 square miles that is essentially fully developed consisting primarily of residential development, with commercial development along the major arterials and some light industrial development in the northeast portion of the City. The terrain is characterized by rolling hills that slope to the Pacific Ocean. See APPENDIX B – “THE CITY OF MANHATTAN BEACH” herein.

### Location of the Districts

The Districts are adjacent to each other and are located entirely within the northwestern portion of the City and encompasses primarily residential properties, with few commercial parcels. The western boundaries of the 05-2 and 05-6 Districts border the Pacific Ocean.

### Property in the Districts

General. The Districts are in the beach residential area of the City. The location is commonly considered as desirable for residential use due to its proximity to the Pacific Ocean. Many of the homes in the Districts have views of the Pacific Ocean to the west.

Homes in and near the Districts are bought, sold and remodeled from time to time. Home values of recently sold homes in the area generally have been assessed at or above \$1 million. See “THE DISTRICTS-Ownership and Value of Property in the Districts” herein.

05-2 District. The 05-2 District is comprised of 193 residential parcels improved with 193 single family homes. Owners of 16 parcels elected to prepay the Improvement Assessment on their property.

At least sixty percent (60%) of the property owners within the 05-2 District signed petitions for the formation of the 05-02 District. Improvement Assessments were levied in accordance with the provisions of the 1913 Act, Article XIID of the Constitution of the State of California, and the Proposition 218 Omnibus Implementation Act, following the affirmative vote of the requisite portion of affected property owners within the 05-2 District. Property owners responsible for approximately 59% of the Improvement Assessments for 05-2 District, on a weighted basis, voted in favor of levying Improvement Assessments to finance the Project for the 05-02 District.

05-6 District. The 05-6 District is comprised of 303 residential parcels, consisting of 124 single family homes, 3 apartment unit, 54 condominium units, 108 duplex units, and 15 triplex units, and one parcel zoned “Local Commercial.” Owners of 31 parcels elected to prepay of the Improvement Assessment on their property.

At least sixty percent (60%) of the property owners within the 05-6 District signed petitions for the formation of the 05-2 District. Improvement Assessments were levied in accordance with the provisions of the 1913 Act, Article XIID of the Constitution of the State of California, and the Proposition 218 Omnibus Implementation Act, following the affirmative vote of the requisite portion of affected property owners within the 05-6 District. Property owners responsible for approximately 63% of

the Improvement Assessments for 05-6 District, on a weighted basis, voted in favor of levying Improvement Assessments to finance the Project for the 05-2 District.

### **Ownership and Value of Property in the Districts**

#### *Ownership.*

05-2 District. [174] parcels within the 05-2 District subject to Outstanding Assessments are owned by different residential property owners.

05-6 District. [262] parcels within the 05-6 District subject to Outstanding Assessments are owned by different residential property owners.

*Neither the Bonds nor the Outstanding Assessments are personal obligations of any person or entity owning property within the Districts or having any interest in such property at the present time or at any time in the future, including the homeowners. An owner of land in the Districts can elect at any time to not pay the Outstanding Assessments, and allow the property to be foreclosed and in doing so, such owner will incur no personal liability for the Outstanding Assessments.*

*Assessed Valuation and Value to Assessment Ratios.* The valuation of real property in the City is established by the Los Angeles County Assessor. Assessed valuations are reported at 100% of the full value of the property, as defined in Article XIII A of the California Constitution. Article XIII A of the California Constitution defines “full cash value” as the appraised value as of March 1, 1975, plus adjustments not to exceed 2% per year to reflect inflation, and requires assessment of “full cash value” upon change of ownership or new construction. Accordingly, the gross assessed valuation presented in this Official Statement may not necessarily be representative of the actual market value of certain property in a District, as real property in the City has often increased in market value by an amount in excess of 2% per year.

The City has obtained the 2005-06 assessed valuation of the parcels within the Districts from the County. The following tables summarize the assessed value to Outstanding Assessment ratio for parcels in the Districts, based on County assessed valuation and the Outstanding Assessment, after prepayments of Improvement Assessments made prior to issuance of bonds.

05-2 District. The fiscal year 2005-06 assessed valuations of the 174 parcels within the 05-2 District securing the 05-2 Bonds range from \$69,459 to \$3,769,078 [CONFIRM AFTER PREPAYMENTS] per parcel and collectively equal \$184,160,039. . The cumulative assessed value to Outstanding Assessments ratio for 05-2 District is approximately 25 to 1.

**Table 3A**  
**City of Manhattan Beach**  
**Underground Utility District No. 05-2**  
**Value to Outstanding Assessments Information**

Value to Lien Ratio	No. of Parcels	FY05-06 Assessed Value	Outstanding Assessments	% of Outstanding Assessments	Average AV to Outstanding Assessments
Greater than 100:1 but Less than 200:1	1	\$ 3,467,267	\$ 24,428	0.34%	141:1
Greater than 50:1 but Less than 100:1	33	88,792,918	1,424,984	20.00	63:1
Greater than 15:1 but Less than 50:1	65	77,167,004	2,659,508	36.88	28:1
Greater than 10:1 but Less than 15:1	12	6,296,615	505,835	7.02	13:1
Less than 10:1	63	8,436,235	2,595,891	36.00	3:1
Aggregate Value to Outstanding Assessments <sup>(1)</sup>	<b>174</b>	<b>\$184,160,039</b>	<b>\$7,210,646</b>	<b>100%</b>	

*Source: Extrapolated from Engineer's Report.*

<sup>(1)</sup> Totals may not equal the sum of the line items due to rounding.

05-6 District. The fiscal year 2005-06 assessed valuations of the 262 parcels within the 05-6 District securing the 05-6 Bonds range from \$67,742 to \$7,945,501 [CONFIRM AFTER PREPAYMENTS] per parcel and collectively equal \$216,963,588. The cumulative assessed value to Outstanding Assessments ratio for the 05-6 District is 38 to 1.

**Table 3B**  
**City of Manhattan Beach**  
**Underground Utility District No. 05-6**  
**Value to Outstanding Assessment Information**

Value to Lien Ratio	No. of Parcels	FY05-06 Assessed Value	Outstanding Assessments	% of Outstanding Assessments	Average AV to Outstanding Assessments
Greater than 200:1	2	\$ 14,164,075	\$ 52,182	0.91%	271:1
Greater than 100:1 but Less than 200:1	13	26,437,307	221,821	3.90	121:1
Greater than 50:1 but Less than 100:1	62	90,096,279	1,314,278	22.83	68:1
Greater than 15:1 but Less than 50:1	105	70,487,956	2,320,518	40.31	31:1
Greater than 10:1 but Less than 15:1	25	7,318,564	583,351	10.10	13:1
Less than 10:1	55	8,459,407	1,262,194	22.00	6:1
Aggregate Value to Outstanding Assessments <sup>(1)</sup>	<b>262</b>	<b>216,963,588</b>	<b>5,756,344</b>	<b>100%</b>	

*Source: Extrapolated from Engineer's Report.*

<sup>(1)</sup> Totals may not equal the sum of the line items due to rounding.

Economic and other factors beyond the property owners' control, such as economic recession, deflation of land values, financial difficulty or bankruptcy by one or more property owners, or the complete or partial destruction of taxable property caused by, among other possibilities, earthquake, flood, fire or other natural disaster, could cause a reduction in the assessed value within the Districts.

In comparing the aggregate value of the real property within a District and the principal amount of the Series of Bonds for such District, it should be noted that only the real property upon which there is a delinquent Outstanding Assessment can be foreclosed upon, and the real property within such District cannot be foreclosed upon as a whole to pay delinquent Outstanding Assessments of the owners of such parcels within such District unless all of the property is subject to Outstanding Assessments. In any

event, individual parcels may be foreclosed upon to pay delinquent installments of the Outstanding Assessments levied against such parcels. The principal amount of the Bonds of a Series will not be allocated pro-rata among the parcels within such District; rather, the total Outstanding Assessments for such District has been allocated among the parcels within such District according to the applicable Engineer's Report.

Other public agencies whose boundaries overlap those of the Districts could, without the consent of the City and in certain cases without the consent of the owners of the land within the Districts, impose additional taxes or assessment liens on the land within the Districts in order to finance additional regional or local public improvements or services. The lien created on property within the Districts through the levy of such additional taxes or assessments may be on a parity with the lien of the Outstanding Assessments. See "THE PROJECTS- Allocation of Districts Cost" herein.

*Recent Sales.* In considering the estimates of value evidenced by the County assessed valuation of property in the Districts subject to Outstanding Assessments, it should be noted that the County assessed valuation is based upon an amount established when a property is sold or improved and is allowed to be increased by an amount not in excess of 2% per year. Assessed values determined by the County Assessor are often less than actual market values, particularly for properties that have not transferred ownership for many years. Likewise, in a declining real estate market the assessed valuation can be more than actual market value. Accordingly, County assessed values often do not reflect the amount that a property might sell for or would be bid for at a foreclosure sale. See "SPECIAL RISK FACTORS - Land Value." herein.

Shown below is a listing of sales of selected property in the Districts during 2005 and 2006, including sale prices computed based upon County tax records.

**TABLE 4A**  
**City of Manhattan Beach**  
**Underground Utility District No. 05-2**  
**Recent Sales**

Address	Previous AV (as of FY05-06)	Sale Date	Sale Price
828 8 <sup>th</sup> Street	\$ 186,725.00	5/3/2005	\$4,750,047
823 6 <sup>th</sup> Street	100,852.00	3/11/2005	3,500,035
864 8 <sup>th</sup> Street	81,190.00	3/7/2006	1,500,015
853 6 <sup>th</sup> Street	80,670.00	4/8/2005	1,800,018
863 6 <sup>th</sup> Street	2,933,384.00	4/1/2005	4,500,045
718 N. Poinsettia Ave.	88,604.00	9/30/2005	1,850,018
504 N. Poinsettia Ave.	2,701,512.00	2/28/2005	3,199,031
864 6 <sup>th</sup> Street	2,642,865.00	7/15/2004	3,700,037
852 6 <sup>th</sup> Street	2,099,536.00	4/12/2006	3,469,034
877 5 <sup>th</sup> Street	998,106.00	8/10/2004	2,600,026
818 6 <sup>th</sup> Street	2,225,630.00	10/12/2005	3,460,034
812 6 <sup>th</sup> Street	3,049,897.00	7/23/2004	3,500,035
812 5 <sup>th</sup> Street	1,415,000.00	3/14/2006	4,250,042
400 John Street	669,252.00	9/27/2005	3,600,036
853 3 <sup>rd</sup> Street	1,886,487.00	3/10/2005	3,500,035
877 8 <sup>th</sup> Street	1,018,262.00	10/14/2005	3,000,030

*Source: County of Los Angeles data provided to City Planning Department.*



**TABLE 4B**  
**City of Manhattan Beach**  
**Underground Utility District No. 05-6**  
**Recent Sales**

Address	Previous AV (as of FY05-06)	Sale Date	Sale Price
132 17 <sup>th</sup> Street	\$1,935,472.00	6/29/2005	\$3,055,030
1620 The Strand	540,190.00	10/24/2004	6,000,060
222 17 <sup>th</sup> Street	2,181,990.00	8/20/2004	2,600,026
209 16 <sup>th</sup> Place	678,150.00	3/24/2005	2,535,025
132 18 <sup>th</sup> Street	438,683.00	10/21/2004	3,000,030
201 18 <sup>th</sup> Street	238,874.00	1/21/2005	3,650,036
1422 The Strand	797,960.00	10/21/2005	2,440,024
204 16 <sup>th</sup> Street	540,621.00	2/20/2006	2,900,029
120 16 <sup>th</sup> Street	2,355,000.00	5/9/2005	4,200,042
133 15 <sup>th</sup> Street	1,178,267.00	8/20/2004	2,074,020
210 15 <sup>th</sup> Place	104,644.00	4/18/2005	1,050,010
204 15 <sup>th</sup> Place	1,039,000.00	3/3/2006	1,475,014

*Source: County of Los Angeles data provided to City Planning Department.*

### SPECIAL RISK FACTORS

*The following information should be considered by prospective investors in evaluating the Bonds. The information below, however, does not purport to be an exhaustive listing of risks and other considerations that may be relevant to a decision to invest in the Bonds. Furthermore, the order in which the following information is presented is not intended to reflect the relative importance of any such risks.*

#### General

Under the provisions of the 1915 Act, Outstanding Assessments installments, from which funds for the payment of annual installments of principal of and interest on a Series of Bonds are derived, will be billed to properties against which there are Outstanding Assessments on the regular property tax bills sent to owners of such properties. Such Outstanding Assessments installments are due and payable, and bear the same penalties and interest for non-payment, as do regular property tax installments. Therefore, the unwillingness or inability of a property owner to pay regular property tax bills as evidenced by property tax delinquencies may also indicate an unwillingness or inability to make regular property tax payments and Outstanding Assessments installment payments in the future.

In order to pay debt service on a Series of Bonds, it is necessary that Outstanding Assessments installments on property within the corresponding District are paid in a timely manner. Should the installments not be paid on time, the City has established a Reserve Fund for such District which is required to be maintained in the amount of the Reserve Requirement, to cover delinquencies in the payment of the Outstanding Assessments. Outstanding Assessments are secured by liens on the parcels of land and the City can institute foreclosure proceedings to sell land in a District with delinquent Outstanding Assessments installments for the amount of such delinquent installments in order to obtain funds to pay debt service on the related Series of Bonds.

Failure by owners of the parcels to pay Outstanding Assessments installments when due, depletion of a Reserve Fund, or the inability of the City to sell parcels which have been subject to

foreclosure proceedings for amounts sufficient to cover the delinquent installments of Outstanding Assessments levied against such parcels may result in the inability of the City to make full or punctual payments of debt service on the related Series of Bonds, and Bond Owners for such Series of Bonds would therefore be adversely affected.

The Bonds are not secured by the general taxing power of the City, the County, or the State or any political subdivision of the State, and neither the City, the County, nor the State nor any political subdivision of the State has pledged its full faith and credit for the payment thereof.

Outstanding Assessments do not constitute a personal indebtedness of the owners of the parcels and parcels within a District. There is no assurance the owners will be able to pay the Outstanding Assessments installments or that they will pay such installments even though financially able to do so.

### **Enforceability of Remedies**

The remedies available to the Fiscal Agent, the City, or the Owners of the Bonds upon any nonpayment of Assessment installments are in many respects dependent upon judicial actions, which are often subject to discretion and delay. Under existing constitutional and statutory law and judicial decisions, including specifically Title 11 of the United States Code (the federal bankruptcy code) and relevant banking and insurance law, the remedies provided in the 1915 Act and the 1913 Act may not be readily available or may be limited. The various legal opinions to be delivered concurrently with the delivery of the Bonds, including Bond Counsel's approving legal opinion, will be qualified as to the enforceability of the various legal instruments by limitations imposed by bankruptcy, reorganization, insolvency, or other similar laws affecting the rights of creditors generally, to the application of equitable principles, to the exercise of judicial discretion in appropriate cases, and to the limitations on legal remedies in the State of California.

### **Limited Obligation of the City Upon Delinquency**

If a delinquency occurs in the payment of any Outstanding Assessments installment, the City has a duty only to cause the transfer into the corresponding Bond Fund the amount of the delinquency out of the corresponding Reserve Fund and to undertake judicial foreclosure proceedings to recover such delinquencies. This duty of the City is continuing during the period of delinquency, until reinstatement, redemption, or sale of the delinquent property. There is no assurance that funds will be available for this purpose and if, during the period of delinquency, there are insufficient funds in such Reserve Fund, a delay may occur in payments to the owners of the Bonds of such Series related to the delinquency. If there are additional delinquencies after exhaustion of funds in such Reserve Fund, the City is not obligated to transfer into the applicable Bond Fund the amount of such delinquency out of any other available moneys of the City. **The City's legal responsibilities with respect to such delinquent installments are limited to advancing the amount thereof solely from any available moneys in such Reserve Fund and to undertaking judicial foreclosure proceedings to recover such delinquencies. This duty of the City to advance funds continues during the period of delinquency only to the extent of funds available from such Reserve Fund, until reinstatement, redemption, or sale of the delinquent property. In accordance with Section 8769(b) of the 1915 Act, the City has determined that it will not advance funds from its treasury to cure any deficiency in a Bond Fund.**

### **Unavailability of City Funds**

As discussed in the section "SECURITY FOR THE BONDS," if a delinquency occurs in the payment of any Outstanding Assessments, the City has the duty to cause the transfer of the amount of such delinquent Assessment from the applicable Reserve Fund into the related Bond Fund. If there are

additional delinquencies after exhaustion of such Reserve Fund, the City has no direct or contingent liability for payment of the Series of Bonds related to the delinquency in the event of default in the payment of an Outstanding Assessments installment but does have the duty to undertake judicial foreclosure as provided in the applicable Fiscal Agent Agreement.

### **Bankruptcy and Foreclosure**

The payment of property owners' Outstanding Assessments and the ability of the City to foreclose the lien of a delinquent unpaid Outstanding Assessments installment pursuant to the foreclosure covenant, may be limited by bankruptcy, insolvency, or other laws generally affecting creditors' rights or by the laws of the State relating to judicial foreclosure. See "SECURITY FOR THE BONDS" herein.

The various legal opinions to be delivered concurrently with the delivery of the Bonds (including Bond Counsel's approving legal opinion) will be qualified, as to the enforceability of the various legal remedies, by bankruptcy, reorganization, insolvency or other similar laws affecting the rights of creditors generally.

Although bankruptcy proceedings would not cause the Outstanding Assessments to become extinguished, bankruptcy of a property owner could result in a delay in procuring Superior Court foreclosure proceedings. Such delay would increase the likelihood of a delay or default in payment of the principal of, and interest on, a Series of Bonds and the possibility of delinquent Outstanding Assessments installments not being paid in full.

Such a delay would increase the likelihood of a delay or default in payment of the principal of and interest on the Bonds.

### **Price Realized Upon Foreclosure**

Pursuant to the 1915 Act, in the event any delinquency in the payment of the Outstanding Assessments installment occurs, the City may commence an action in superior court to foreclose the lien of the Outstanding Assessments therefor within the specified time limits. In such an action, the real property subject to the unpaid amount may be sold at judicial foreclosure sale. Such judicial foreclosure action is not mandatory. Amendments to the 1915 Act enacted in 1988 and effective January 1, 1989 provide that under certain circumstances property may be sold upon foreclosure at a lesser Minimum Price or without a Minimum Price. "Minimum Price" as used in the 1915 Act is the amount equal to the delinquent installments of principal or interest of the assessment or reassessment, together with all interest penalties, costs, fees, charges and other amounts more fully detailed in the 1915 Act. The court may authorize a sale at less than the Minimum Price if the court determines that sale at less than Minimum Price will not result in an ultimate loss to the applicable Bondowners or, under certain circumstances, if owners of 75% or more of the outstanding Bonds consent to such sale. However, there can be no assurance that foreclosure proceedings will occur in a timely manner so as to avoid a delay in payments of debt service on a Series of Bonds. The City has covenanted for the benefit of the owners of the Bonds that the City will commence foreclosure upon the occurrence of a delinquency as provided in the Fiscal Agent Agreements, and thereafter diligently prosecute, an action in the superior court to foreclose the lien against parcels of land in the Districts for which any Outstanding Assessment installment has been billed but has not been paid, and will diligently prosecute and pursue such foreclosure proceedings to judgment and sale, all as provided in the Fiscal Agent Agreements. See "SECURITY FOR THE BONDS—Covenant to Commence Foreclosure" herein. In the event that sales or foreclosure of property are necessary, there could be a delay in payments to holders of the applicable Series of Bonds pending such sales or the prosecution of foreclosure proceedings and receipt by the City of the proceeds of sale if the

other sources of payment for such Series of Bonds, as set forth in the applicable Fiscal Agent Agreement, are depleted. See “SPECIAL RISK FACTORS - Bankruptcy and Foreclosure” herein.

### **Property Value**

The value property within a District is an important factor in determining the investment quality of a Series of Bonds. If a property owner is delinquent in the payment of Outstanding Assessment installments, the City’s only remedy is to commence foreclosure proceedings in an attempt to obtain funds to pay the delinquent Outstanding Assessments installments.

The property values may be affected by changes in the general economic conditions, fluctuations in the real estate market, earthquakes, floods, stricter land use regulations and other factors. Prospective purchasers of a Series of Bonds should not assume that the property within a District could be sold for the County assessed value at a foreclosure sale for delinquent Outstanding Assessments installment payments.

### **No Acceleration Provision**

The Bonds do not contain a provision allowing for the acceleration of the Bonds in the event of a payment default or other default under the terms of the Bonds.

### **Proposition 218**

On November 5, 1996, the voters of the State approved Proposition 218, the so-called “Right to Vote on Taxes Act.” Proposition 218 added Articles XIIC and XIID to the State Constitution, which contain a number of provisions affecting the ability to the City to levy and collect both existing and future taxes, assessments and property related fees and charges.

Article XIID requires that, beginning July 1, 1997, the proceedings for the levy of any assessment by the City (including, if applicable, any increase in such assessment or any supplemental assessment) must be conducted in conformity with the provisions of Section 4 of Article XIID. The City has conducted its proceedings with respect to the levy of the assessment within the Districts in a manner which it reasonably believes complies with the new requirements.

Article XIIC removes limitations on the initiative power in matters of local taxes, assessments, fees and charges. Article XIIC does not define the term “assessment,” and it is unclear whether this term is intended to include assessments levied under the 1913 Act. In the case of the unpaid assessments which are pledged as security for payment of a Series of Bonds, the laws of the State provide a mandatory, statutory duty of the City and the County Auditor to post installments on account of the unpaid assessments to the property tax roll of the County each year while any of such Series of Bonds are outstanding, in amounts equal to the principal of and interest on such Series of Bonds coming due in the succeeding calendar year.

The interpretation and application of Proposition 218 will ultimately be determined by the courts with respect to a number of the matters discussed above, and it is not possible at this time to predict with certainty the outcome of such determination.

### **Geologic, Topographic and Climatic Conditions**

The value of the property in a District in the future can be adversely affected by a variety of additional factors, particularly those which may affect infrastructure and other public improvements and private improvements on property and the continued habitability and enjoyment of such private

improvements. Such additional factors include, without limitation, geologic conditions such as earthquakes, topographic conditions such as earth movements, landslides and floods and climatic conditions such as droughts. The occurrence of seismic activity in a District could result in substantial damage to properties in such District which, in turn, could substantially reduce the value of such properties and could affect the ability or willingness of the property owners to pay the assessments on their property. One or more of the conditions identified in this paragraph may occur and could result in damage to improvements of varying seriousness. The value of property in a District may depreciate or disappear as a result of one or more of such conditions.

### **Parity Taxes and Special Assessments**

The ability or willingness of a property owner in a District to pay the Outstanding Assessments installments could be affected by the existence of other taxes and assessments imposed upon the property. The City has no control over the ability of other entities and districts to issue indebtedness secured by special taxes or assessments payable from all or a portion of the property in such District. In addition, the City is not prohibited itself from establishing assessment districts, community facilities districts or other districts which might impose assessments or taxes against property in such District. The imposition of additional liens on a parity with the lien of the Outstanding Assessments, could reduce the ability or willingness of the owners of parcels in a District to pay the Outstanding Assessments installments and increases the possibility that foreclosure proceeds will not be adequate to pay delinquent Outstanding Assessments installments or the principal of and interest on the related Series of Bonds when due.

### **Refunding Bonds**

Pursuant to the Refunding Act of 1984 for the 1915 Act Improvement Bonds, the City may issue refunding bonds for the purpose of redeeming a Series of Bonds. After the making of certain required findings by the City Council, the City may issue and sell refunding bonds without giving notice to and conducting a hearing for the owners of property in a District, or giving notice to the owners of such Bonds. Upon issuing refunding bonds, the City Council could require that a Series of Bonds be exchanged for refunding bonds on any basis that the City Council determines is for the City's benefit, if the Bond Owners consent to the exchange. As an alternative to exchanging the refunding bonds for such Series of Bonds, the City could sell the refunding bonds and use the proceeds to pay the principal of and interest and redemption premium, if any, on such Series of Bonds as they become due, or advance the maturity of such Series of Bonds and pay the principal of and interest and redemption premium thereon.

### **Loss of Tax Exemption**

As discussed under "TAX MATTERS," interest on the Bonds could fail to be excluded from the gross income of the owners thereof for purposes of federal income taxation retroactive to the date the Bonds were issued as a result of future acts or omissions of the City in violation of its covenants contained in the Fiscal Agent Agreements. Should such an event of taxability occur, the Bonds are not subject to special redemption or any increase in interest rate and will remain outstanding until maturity or until redeemed under one of the redemption provisions contained in the Fiscal Agent Agreements.

## **CONTINUING DISCLOSURE**

The City has covenanted for the benefit of owners of the Bonds to provide certain financial information and operating data relating to the City by not later than 9 months after the end of the City's fiscal year (which fiscal year presently ends June 30) in each year commencing with its report for the 2004-05 fiscal year (the "Annual Report") and to provide notices of the occurrence of certain enumerated events. The Annual Report will be filed by the Paying Agent on behalf of the City with each Nationally

Recognized Municipal Securities Information Repository. The notices of material events will be filed by the Fiscal Agent on behalf of the City with the Municipal Securities Rulemaking Board. These covenants have been made in order to assist the Underwriter in complying with Securities Exchange Commission Rule 15c2-12(b)(5). The specific nature of the information to be contained in the Annual Report or the notices of material events by the City is summarized in "APPENDIX D - FORM OF CONTINUING DISCLOSURE AGREEMENT." The City has never failed to comply in all material respects with any previous undertakings with regard to the Rule to provide annual reports or notices of material events.

## **NO LITIGATION**

There is no controversy or litigation now pending against the City, or, to the knowledge of its officers, threatened, restraining, or enjoining the issuance, sale, execution, or delivery of the Bonds or in any way contesting or affecting the validity of the Bonds.

## **TAX MATTERS**

### **Opinion of Bond Counsel**

In the opinion of Hawkins Delafield & Wood LLP, Bond Counsel to the City, under existing statutes and court decisions and assuming continuing compliance with certain tax covenants described herein, (i) interest on the Bonds is excluded from gross income for Federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), and (ii) interest on the Bonds is not treated as a preference item in calculating the alternative minimum tax imposed on individuals and corporations under the Code; such interest, however, is included in the adjusted current earnings of certain corporations for purposes of calculating the alternative minimum tax imposed on such corporations. In rendering its opinion, Bond Counsel has relied on certain representations, certifications of fact, and statements of reasonable expectations made by the City and others in connection with the Bonds, and Bond Counsel has assumed compliance by the City and others with certain ongoing covenants to comply with applicable requirements of the Code to assure the exclusion of interest on the Bonds from gross income under Section 103 of the Code.

In addition, in the opinion of Bond Counsel to the City, under existing statutes, interest on the Bonds is exempt from personal income taxes imposed by the State of California.

Bond Counsel expresses no opinion regarding any other Federal or state tax consequences with respect to the Bonds. Bond Counsel renders its opinion under existing statutes and court decisions as of the issue date, and assumes no obligation to update its opinion after the issue date to reflect any future action, fact or circumstance, or change in law or interpretation, or otherwise. Bond Counsel expresses no opinion on the effect of any action hereafter taken or not taken in reliance upon an opinion of other counsel on the exclusion from gross income for Federal income tax purposes of interest on the Bonds, or under state and local tax law.

### **Certain Ongoing Federal Tax Requirements and Covenants**

The Code establishes certain ongoing requirements that must be met subsequent to the issuance and delivery of the Bonds in order that interest on the Bonds be and remain excluded from gross income under Section 103 of the Code. These requirements include, but are not limited to, requirements relating to use and expenditure of gross proceeds of the Bonds, yield and other restrictions on investments of gross proceeds, and the arbitrage rebate requirement that certain excess earnings on gross proceeds be rebated to the Federal government. Noncompliance with such requirements may cause interest on the Bonds to become included in gross income for Federal income tax purposes retroactive to their issue date,

irrespective of the date on which such noncompliance occurs or is discovered. The City has covenanted to comply with certain applicable requirements of the Code to assure the exclusion of interest on the Bonds from gross income under Section 103 of the Code.

### **Certain Collateral Federal Tax Consequences**

The following is a brief discussion of certain collateral Federal income tax matters with respect to the Bonds. It does not purport to address all aspects of Federal taxation that may be relevant to a particular owner of a Bond. Prospective investors, particularly those who may be subject to special rules, are advised to consult their own tax advisors regarding the Federal tax consequences of owning and disposing of the Bonds.

Prospective owners of the Bonds should be aware that the ownership of such obligations may result in collateral Federal income tax consequences to various categories of persons, such as corporations (including S corporations and foreign corporations), financial institutions, property and casualty and life insurance companies, individual recipients of Social Security and railroad retirement benefits, individuals otherwise eligible for the earned income tax credit, and taxpayers deemed to have incurred or continued indebtedness to purchase or carry obligations the interest on which is excluded from gross income for Federal income tax purposes. Interest on the Bonds may be taken into account in determining the tax liability of foreign corporations subject to the branch profits tax imposed by Section 884 of the Code.

### **[Original Issue Discount]**

"Original issue discount" ("OID") is the excess of the sum of all amounts payable at the stated maturity of a Bond (excluding certain "qualified stated interest" that is unconditionally payable at least annually at prescribed rates) over the issue price of that maturity. In general, the "issue price" of a maturity means the first price at which a substantial amount of the Bonds of that maturity was sold (excluding sales to bond houses, brokers, or similar persons acting in the capacity as underwriters, placement agents, or wholesalers). In general, the issue price for each maturity of Bonds is expected to be the initial public offering price set forth on the cover page of the Official Statement. Bond Counsel further is of the opinion that, for any Bonds having OID (a "Discount Bond"), OID that has accrued and is properly allocable to the owners of the Discount Bonds under Section 1288 of the Code is excludable from gross income for Federal income tax purposes to the same extent as other interest on the Bonds.

In general, under Section 1288 of the Code, OID on a Discount Bond accrues under a constant yield method, based on periodic compounding of interest over prescribed accrual periods using a compounding rate determined by reference to the yield on that Discount Bond. An owner's adjusted basis in a Discount Bond is increased by accrued OID for purposes of determining gain or loss on sale, exchange, or other disposition of such Bond. Accrued OID may be taken into account as an increase in the amount of tax-exempt income received or deemed to have been received for purposes of determining various other tax consequences of owning a Discount Bond even though there will not be a corresponding cash payment.

Owners of Discount Bonds should consult their own tax advisors with respect to the treatment of original issue discount for Federal income tax purposes, including various special rules relating thereto, and the state and local tax consequences of acquiring, holding, and disposing of Discount Bonds.

### **Bond Premium**

In general, if an owner acquires a Bond for a purchase price (excluding accrued interest) or otherwise at a tax basis that reflects a premium over the sum of all amounts payable on the Bond after the acquisition date (excluding certain "qualified stated interest" that is unconditionally payable at least

annually at prescribed rates), that premium constitutes "bond premium" on that Bond (a "Premium Bond"). In general, under Section 171 of the Code, an owner of a Premium Bond must amortize the bond premium over the remaining term of the Premium Bond, based on the owner's yield over the remaining term of the Premium Bond determined based on constant yield principles (in certain cases involving a Premium Bond callable prior to its stated maturity date, the amortization period and yield may be required to be determined on the basis of an earlier call date that results in the lowest yield on such bond). An owner of a Premium Bond must amortize the bond premium by offsetting the qualified stated interest allocable to each interest accrual period under the owner's regular method of accounting against the bond premium allocable to that period. In the case of a tax-exempt Premium Bond, if the bond premium allocable to an accrual period exceeds the qualified stated interest allocable to that accrual period, the excess is a nondeductible loss. Under certain circumstances, the owner of a Premium Bond may realize a taxable gain upon disposition of the Premium Bond even though it is sold or redeemed for an amount less than or equal to the owner's original acquisition cost. Owners of any Premium Bonds should consult their own tax advisors regarding the treatment of bond premium for Federal income tax purposes, including various special rules relating thereto, and state and local tax consequences, in connection with the acquisition, ownership, amortization of bond premium on, sale, exchange, or other disposition of Premium Bonds.

## **Legislation**

Legislation affecting municipal bonds is regularly under consideration by the United States Congress. There can be no assurance that legislation enacted or proposed after the date of issuance of the Bonds will not have an adverse effect on the tax-exempt status or market price of the Bonds.

## **RATINGS**

Standard & Poor's ("S&P") has assigned a rating of "\_\_\_\_" to the Bonds. Such rating reflects only the views of such organization and any desired explanation of the significance of such rating may be obtained from S&P. Generally, a rating agency bases its rating on the information and materials furnished to it and on investigations, studies and assumptions of its own. There is no assurance such ratings will continue for any given period of time or that such ratings will not be revised downward or withdrawn entirely by the rating agencies, if in the judgment of such rating agencies, circumstances so warrant. Any such downward revision or withdrawal of such ratings may have an adverse effect on the market price of the Bonds.

## **APPROVAL OF LEGALITY**

The validity of the Bonds and certain other legal matters are subject to the approving opinion of Hawkins Delafield & Wood LLP, Bond Counsel. A complete copy of the proposed form of Bond Counsel opinion to be used for each Series of Bonds is contained in APPENDIX C hereto. Certain matters will be passed upon for the City by the City Attorney of the City of Manhattan Beach and for the Underwriter by Orrick, Herrington & Sutcliffe LLP.

## **UNDERWRITING**

UBS Securities LLC (the "Underwriter") has agreed to purchase the Bonds if and when issued pursuant to a contract of purchase by and between the City and the Underwriter for the following amounts (a) for the 05-2 Bonds, \$\_\_\_\_\_, (representing the aggregate principal amount of the 05-2 Bonds, less an underwriter's discount of \$\_\_\_\_\_) and (b) for the 05-6 Bonds, \$\_\_\_\_\_, (representing the aggregate principal amount of the 05-6 Bonds, less an underwriter's discount of



\$\_\_\_\_\_). The purchase contract pursuant to which the Underwriter is purchasing the Bonds provides that the Underwriter will purchase all of the Bonds if any are purchased. The obligation of the Underwriter to make such purchase is subject to certain terms and conditions set forth in such contract of purchase.

The Underwriter may offer and sell the Bonds to certain dealers and others at prices different from the prices stated on the cover page of this Official Statement. The offering prices may be changed from time to time by the Underwriter.

**FINANCIAL ADVISOR**

Gardner, Underwood & Bacon LLC, Los Angeles, California, is employed as Financial Advisor to the City in connection with the issuance of the Bonds.

**MISCELLANEOUS**

The foregoing summaries or descriptions of provisions of the Bonds, the Fiscal Agent Agreements, and all references to other materials not purporting to be quoted in full are only brief outlines of some of the provisions thereof and do not purport to summarize or describe all of the provisions thereof, and reference is made to said documents for full and complete statements of their provisions. The appendices hereto are a part of this Official Statement.

Any statements in this Official Statement involving matters of opinion, whether or not expressly so stated, are intended as such and not as representations of fact. The Official Statement is not to be construed as a contract or agreement between the City and the purchasers or Owners of any of the Bonds.

Certain general information concerning the City is included herein as APPENDIX D hereto. **THE GENERAL FUND OF THE CITY IS NOT LIABLE FOR THE PAYMENT OF THE BONDS OR THE INTEREST THEREON, AND THE TAXING POWER OF THE CITY IS NOT PLEDGED FOR THE PAYMENT OF THE BONDS OR THE INTEREST THEREON.**

The execution and delivery of this Official Statement has been duly authorized by the City.

CITY OF MANHATTAN BEACH

By: \_\_\_\_\_  
City Manager

**APPENDIX A**  
**ENGINEER'S REPORTS**  
**INCLUDING**  
**ASSESSMENT ROLLS AND ASSESSMENT DIAGRAMS**

## APPENDIX B

### THE CITY OF MANHATTAN BEACH

#### History

The City of Manhattan Beach is a general law city located in the South Bay area of Los Angeles County on the shores of the Pacific Ocean surrounded by El Segundo to the north, Hawthorne, Lawndale and Redondo Beach to the east and Hermosa Beach to the south. The City was incorporated on December 12, 1912.

The City encompasses approximately 2,492 acres or 3.9 square miles which is essentially fully developed consisting primarily of residential development, with commercial development along the major arterials and some light industrial development in the northeast portion of the City. The terrain is characterized by rolling hills that slope to the Pacific Ocean. Elevations vary from sea level to approximately 200 feet above sea level. The City has a mild Mediterranean type climate.

#### Municipal Government

The City Council, consisting of five members who are elected at large for four-year terms, is comprised of the following individuals:

Title	Member	Vocation	Term Expires
Mayor	Mitch Ward	Computer Consultant	March 2007
Mayor Pro Tem	Nick Tell	Businessman/Investor	March 2009
Councilperson	Jim Aldinger	Aerospace Engineer	March 2009
Councilperson	Joyce Fahey	LA County Superior Court Judge	March 2007
Councilperson	Richard Montgomery	Small Business Owner	March 2009

The City Treasurer is elected at-large and serves a four year term. The City Treasurer is Tim Lilligren. Mr. Lilligren was elected in March 2005 and his current term expires in March 2009.

Appointed staff members serving the City are:

Geoff Dolan	City Manager
Robert V. Wadden, Jr.	City Attorney
Bruce Moe	Finance Director
Neil C. Miller	Public Works Director
Dana Greenwood	City Engineer
Stephanie Katsouleas	Senior Civil Engineer
Russell J. Morreale	Assistant Finance Director
Henry Mitzner	Controller
Liza Tamura	City Clerk

**Population**

The City has a population of approximately 36,503 residents. The City is basically “built out.” The following table lists population figures for the City, the County and the State of California for the last five calendar years.

**TABLE 1  
Population Estimates  
Calendar Years 2001 through 2005**

<b>Calendar Year</b>	<b>City of Manhattan Beach</b>	<b>County of Los Angeles</b>	<b>State of California</b>
2001	34,578	9,663,243	33,441,561
2002	35,477	9,829,115	35,088,671
2003	36,275	9,979,472	35,691,472
2004	36,524	10,088,934	36,245,016
2005	36,623	10,166,417	36,728,196
2006	36,503	10,245,572	37,172,015

*Source: State Department of Finance estimates (as of January 1)*

**Employment**

The following table shows major employers in the City as reported by the Manhattan Beach Chamber of Commerce.

**TABLE 2**  
**City of Manhattan Beach**  
**Major Employers**

Name of Company	Products/Services	Estimated No. of Employees
Northrop Grumman	Space and Electronics	2,222
Manhattan Beach Unified School District	Education	775
Skechers	Footwear	434
City of Manhattan Beach	Municipality	263
Macy's	Department Store	250
Target	Department Store	250
Fry's Electronics	Electronics Store	246
Manhattan Beach Marriott	Hotel	233
Kinecta Federal Credit Union	Credit Union	220
Manhattan Beach Toyota/Lincoln-Mercury	Auto Sales	160
Ralph's Grocery	Grocery Store	153
Belamar Hotel	Hotel	150
Olive Garden	Restaurant	136
Bristol Farms	Grocery Store	129
Houston's	Restaurant	115
California Pizza Kitchen	Restaurant	106

*Source: Manhattan Beach Chamber of Commerce.*

The table below outlines the labor force information for the City and the Los Angeles/Long Beach statistical area.

**TABLE 3**  
**Employment Rates and Employment by Industry**

	2001	2002	2003	2004	2005
<b><u>MANHATTAN BEACH</u></b>					
Civilian Labor Force	22,730	21,720	22,100	22,200	22,600
Employment	22,320	21,250	21,600	21,700	22,200
Unemployment	410	470	500	500	400
Unemployment Rate	1.8%	2.2%	2.2%	2.1%	1.7%
<b><u>LOS ANGELES-LONG BEACH PSA</u></b>					
<b><u>Wage &amp; Salary Employment</u></b>					
Total All Industries	4,082,000	4,034,600	3,990,800	4,004,100	4,024,100
Agriculture	8,400	7,800	7,800	7,600	7,500
Mining	3,800	3,700	3,800	3,800	3,700
Construction	136,800	134,500	134,600	140,200	148,200
Manufacturing	577,900	534,800	500,000	483,600	470,400
Transportation, Public Utilities	175,600	167,200	161,500	161,100	161,900
Wholesale Trade	219,400	217,300	214,100	215,100	218,100
Retail Trade	394,800	398,200	399,300	405,400	412,700
Information	226,300	207,300	202,300	211,900	209,600
Finance, Insurance, Real Estate	228,900	232,600	239,800	241,600	243,700
Services	1,511,900	1,525,200	1,528,400	1,546,900	1,564,600
Government	598,300	606,100	599,300	587,100	583,800

Source: State of California Employment Development Department.

**Construction Trends**

The following table shows residential and commercial construction activity in the City for each of the last five fiscal years:

**TABLE 4**  
**City of Manhattan Beach**  
**Construction Values**  
**(Fiscal Years 2001-2005)**

Fiscal Year	Residential Construction		Commercial Construction	
	Number of Permits	Total Value	Number of Permits	Total Value
2000-2001	1,432	\$82,222,320	128	\$14,296,840
2001-2002	1,217	68,645,537	147	8,401,778
2002-2003	1,364	79,160,539	166	8,171,475
2003-2004	1,448	88,135,971	93	18,566,460
2004-2005	1,288	75,991,664	131	14,884,520

Source: City of Manhattan Beach Community Development Department.

## Taxable Transactions

Revenues from taxable sales have steadily increased over the last five years. According to the City, the most consistent revenue generators are Fry's Electronics, Macy's, Manhattan Beach Toyota/Lincoln Mercury, Mercedes Benz of South Bay, Northrop-Grumman, Old Navy, Ralph's Grocery Store, REI, Sav-On Drug Store and Target. Below is a table of the taxable sales for the City for the calendar years 2001 through 2004 and the first quarter of 2005.

**TABLE 5**  
**City of Manhattan Beach**  
**Taxable Sales**  
**(taxable transactions in \$000s)**

	2001		2002		2003		2004		2005*	
	No. of Permits	Taxable Trans.	No. of Permits	Taxable Trans.	No. of Permits	Taxable Trans.	No. of Permits	Taxable Trans.	No. of Permits	Taxable Trans.
<b>Retail Sales</b>										
Apparel stores	49	\$ 39,985	57	\$ 41,442	65	\$ 53,746	73	\$64,613	76	31,576
Gen. merchandise stores	13	118,406	12	116,144	11	120,649	14	123,766	16	61,620
Food stores	21	31,968	20	31,158	19	31,118	18	32,798	19	16,888
Eating and drinking places	131	98,833	129	98,767	133	108,697	138	117,340	138	61,236
Home furniture & appliances	33	6,588	41	9,923	47	13,944	44	15,784	54	7,097
Bldg. matrl./ farm implements	4	1,450	4	1,454	6	--	6	--	6	--
Auto dealers & auto supplies	9	59,981	11	64,458	13	--	17	55,070	19	30,242
Service stations	8	22,473	8	70,878	8	24,343	7	29,263	7	16,062
Other retail stores	199	79,022	231	82,603	271	120,428	269	84,408	281	42,365
Retail Stores Totals	<u>467</u>	<u>458,709</u>	<u>513</u>	<u>466,827</u>	<u>573</u>	<u>472,925</u>	<u>586</u>	<u>523,042</u>	<u>616</u>	<u>262,086</u>
All Other Outlets	<u>757</u>	<u>180,922</u>	<u>757</u>	<u>165,015</u>	<u>757</u>	<u>163,697</u>	<u>729</u>	<u>160,069</u>	<u>744</u>	<u>75,910</u>
Total All Outlets	<u>1,224</u>	<u>\$639,628</u>	<u>1,270</u>	<u>\$631,842</u>	<u>1,330</u>	<u>\$636,622</u>	<u>1,315</u>	<u>\$683,111</u>	<u>1,360</u>	<u>\$339,996</u>

\* Through Second Quarter

Source: California State Board of Equalization.

## Transportation

The City is located 3 miles south of the Los Angeles International Airport (LAX). The City is served by Metropolitan Transportation Authority (MTA) buses. MTA's train service, Metrolink is within 2 miles of the City.

The City offers a shared-ride, curb to curb bus service for senior (age 55 and older) and disabled citizens called Dial-a-Ride. The City has approximately 120 miles of paved streets.

## Public Utilities

Electrical service is provided by Southern California Edison; The Gas Company provides natural gas. The City is served by Verizon for communications purposes and Adelphia Communications for cable. Adelphia is in the process of being acquired by Time Warner and Comcast.

Water and wastewater services are provided by the City. The City's water system currently consists of four pump stations, two storage reservoirs, one elevated storage tank, two water supply wells and approximately 112 miles of water distribution pipelines. The City wastewater system includes gravity lines, manholes, pumping stations and force mains and serves the majority of the area within the City.

## **Education**

The City's 6,260 students are served by the Manhattan Beach Unified School District presided over by a separately elected board. The public school system includes five elementary schools, one middle school and one high school. There are also six private elementary schools within the City.

The City is located near several colleges and universities, including University of Southern California, UCLA, Pepperdine University, Chapman University (LA Academic Center), Loyola-Marymount University, California State Universities, Dominguez Hills and Long Beach, El Camino Community College and Los Angeles Harbor Community College.

## **Community Facilities**

There are forty acres of recreational beach area and a pier along the shoreline of the City. Three community centers are available within the City. The Parks & Recreation Department provides an array of facilities that include athletic fields, tennis, paddle tennis, volleyball and basketball courts, jogging and bike paths, swimming pool, and dozens of sports programs and fitness classes. Throughout the City there are 11 parks providing 80 acres of parkland within the community including 18 ball fields, 5 batting cages, 18 tennis courts (including 2 paddle tennis courts), 4 (Pay & Play) racquetball courts, 3 basketball courts, 2 par courses, a 1.7-mile jogging path, a 9-hole golf course and a large recreational pool. At Mira Costa High School, in addition to athletic fields and tennis courts, facilities available for public use include a gymnasium and track. Also located within the City is a 2-mile walking and jogging path that runs parallel to a bike path along the beach. Stretching along the beach spanning north and south of the Manhattan Beach Pier are over 150 volleyball courts which are also available for private or public use.

The County of Los Angeles maintains the beaches and one library.

## **Public Safety**

The City provides police and fire services to the community. There are two fire stations within the City and 30 sworn positions. There is one police station serving the City with 61 sworn personnel.

Street and highway maintenance is under the supervision of the City's Public Works department. Building inspection and code enforcement services are provided by the City. The City currently has 372 part-time, exempt or full-time employees.



**APPENDIX C**  
**FORM OF OPINION OF BOND COUNSEL**

## APPENDIX D

### FORM OF CONTINUING DISCLOSURE AGREEMENT

THIS CONTINUING DISCLOSURE AGREEMENT (the “Disclosure Agreement”) dated as of July 1, 2006, is by and between the City of Manhattan Beach, a general law city organized and existing under and by virtue of the laws of the State of California (the “City”), and U.S. Bank National Association, a national banking association duly organized and validly existing under the laws of the United States, in its capacity as Dissemination Agent (the “Dissemination Agent”).

#### WITNESSETH:

WHEREAS, the City of Manhattan Beach, California (the “City”) has issued \$\_\_\_\_\_ in principal amount of its City of Manhattan Beach Underground Utility Assessment District No. 05-\_\_ Limited Obligation Improvement Bonds, Series 2006 (the “Bonds”) pursuant to the Improvement Bond Act of 1915, being Division 10 of the California Streets and Highways Code (as amended, the “1915 Act”) and a Fiscal Agent Agreement dated as of July 1, 2006 (the “Fiscal Agent Agreement”) by and between the City and U.S. Bank National Association, as Fiscal Agent, registrar, and transfer agent (the “Fiscal Agent”); and

WHEREAS, this Disclosure Agreement is being executed and delivered by the City and the Dissemination Agent for the benefit of the Holders and Beneficial Owners of the Bonds and in order to assist the Participating Underwriter of the Bonds in complying with United States Securities and Exchange Commission Rule 15c2-12(b)(5);

NOW, THEREFORE, for and in consideration of the mutual promises and covenants herein contained, the parties hereto agree as follows:

**SECTION 1. Definitions.** In addition to the definitions set forth in the Indenture, which apply to any capitalized term used in this Disclosure Agreement unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

“Annual Report” shall mean any Annual Report provided by the City pursuant to, and as described in, Sections 2 and 3 of this Disclosure Agreement.

“Beneficial Owner” shall mean any person which (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries), or (b) is treated as the owner of any Bonds for federal income tax purposes.

“Disclosure Representative” shall mean the designees of the City to act as the disclosure representative.

“Dissemination Agent” shall initially mean U.S. Bank National Association and thereafter shall mean any successor Dissemination Agent designated in writing by the City and who has accepted such designation.

“Listed Events” shall mean any of the events listed in Section 4(a) of this Disclosure Agreement and any other event legally required to be reported pursuant to the Rule.

“National Repository” shall mean any Nationally Recognized Municipal Securities Information Repository for purposes of the Rule, as they may be designated from time to time pursuant to the Rule.

“Official Statement” means the Official Statement relating to the Bonds.

“Participating Underwriter” shall mean any of the original underwriters of the Bonds required to comply with the Rule in connection with offering of the Bonds.

“Repository” shall mean each National Repository and each State Repository.

“Rule” shall mean Rule 15c2-12(b)(5) adopted by the United States Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

“State” shall mean the State of California.

“State Repository” shall mean any public or private repository or entity designated by the State as a state repository for the purpose of the Rule and recognized as such by the United States Securities and Exchange Commission. As of the date of this Disclosure Agreement, there is no State Repository.

## **SECTION 2. Provision of Annual Reports.**

(a) The City shall, or by providing written direction to the Dissemination Agent, shall cause the Dissemination Agent to, not later than the April 1<sup>st</sup> after the end of the City’s fiscal year, commencing with the fiscal year ending June 30, 2005, provide to each Repository an Annual Report which is consistent with the requirements of Section 3 of this Disclosure Agreement. The Annual Report may be submitted as a single document or as separate documents comprising a package, and may include by reference other information as provided in Section 3 of this Disclosure Agreement. Not later than fifteen (15) Business Days prior to the end of such ninth month, the City shall provide the Annual Report to the Dissemination Agent.

(b) If by fifteen (15) Business Days prior to the date specified in subsection (a) for providing the Annual Report to the Repository, the Dissemination Agent has not received the Annual Report, the Dissemination Agent shall contact the City to determine if the City is in compliance with subsection (a).

(c) If the Dissemination Agent is unable to verify that an Annual Report has been provided to the Repository by the date required in subsection (a), the Dissemination Agent shall send a notice to the Municipal Securities Rulemaking Board in substantially the form attached as Exhibit A.

(d) The Dissemination Agent shall:

- (i) determine each year prior to the date for providing the Annual Report the name and address of each National Repository and the State Repository, if any; and
- (ii) to the extent appropriate information is available to it, file a report with the City certifying that the Annual Report has been provided pursuant to this Disclosure Agreement, stating the date it was provided and listing all the Repositories to which it was provided.

(e) Any filing under this Disclosure Agreement may be made (i) solely by transmitting such filing to the Texas Municipal Advisory Council (the “MAC”) as provided at <http://www.disclosureusa.org> unless the United States Securities and Exchange Commission has withdrawn the interpretive advice in its

letter to the MAC dated September 7, 2004, or (ii) by filing the same with any dissemination agent or conduit, including any “central post office” or similar entity, assuming or charged with responsibility for accepting notices, documents or information for transmission to such National Repository or State Repository, to the extent permitted by the United States Securities and Exchange Commission or United States Securities and Exchange Commission staff or required by the United States Securities and Exchange Commission. For this purpose, permission shall be deemed to have been granted by the United States Securities and Exchange Commission staff if and to the extent the agent or conduit has received an interpretive letter, which has not been withdrawn, from the United States Securities and Exchange Commission staff to the effect that using the agent or conduit to transmit information to the National Repository and the State Repository will be treated for purposes of the Rule as if such information were transmitted directly to the National Repository and the State Repository.

**SECTION 3. Content of Annual Reports.** The City’s Annual Report shall contain or include by reference the following:

(a) Audited financial statements prepared in accordance with generally accepted accounting principles as promulgated to apply to governmental entities from time to time by the Governmental Accounting Standards Board. If the City’s audited financial statements are not available by the time the Annual Report is required to be filed pursuant to Section 2(a), the Annual Report shall contain unaudited financial statements in a format similar to that used for the City’s audited financial statements, and the audited financial statements shall be filed in the same manner as the Annual Report when they become available; provided, that in each Annual Report or other filing containing the City’s financial statements, the following statement shall be included in bold type:

**THE CITY’S ANNUAL FINANCIAL STATEMENT IS PROVIDED SOLELY TO COMPLY WITH THE SECURITIES EXCHANGE COMMISSION STAFF’S INTERPRETATION OF RULE 15C2-12. NO FUNDS OR ASSETS OF THE CITY ARE REQUIRED TO BE USED TO PAY DEBT SERVICE ON THE BONDS AND THE CITY IS NOT OBLIGATED TO ADVANCE AVAILABLE FUNDS FROM THE CITY TREASURY TO COVER ANY DELINQUENCIES. INVESTORS SHOULD NOT RELY ON THE FINANCIAL CONDITION OF THE CITY IN EVALUATING WHETHER TO BUY, HOLD OR SELL THE BONDS.**

(b) The following information, as of the end of the prior fiscal year:

1. Principal amount of Bonds outstanding;
2. Balance in the Improvement Fund;
3. Balance in debt service reserve fund, and statement of the reserve fund requirement. Statement of projected reserve fund draw, if any; and
4. The delinquency rate, total amount of delinquencies, number of parcels delinquent in payment of the Outstanding Assessments.

Any or all of the items listed above may be included by specific reference to other documents, including official statements of debt issues with respect to which the City is an “obligated person” (as defined by the Rule), which have been filed with each of the Repositories or the United States Securities and Exchange Commission. If the document included by reference is a final official statement, it must be available from the Municipal Securities Rulemaking Board. The City shall clearly identify each such other document so included by reference.

#### **SECTION 4. Reporting of Significant Events.**

(a) Pursuant to the provisions of this Section 4, the City shall give notice as provided herein of the occurrence of any of the following events with respect to the Bonds, if material:

1. Principal and interest payment delinquencies;
2. Non-payment related defaults;
3. Modifications to rights of Bondholders;
4. Optional, contingent or unscheduled Bond calls;
5. Defeasances;
6. Rating changes;
7. Adverse tax opinions or events affecting the tax-exempt status of the Bonds;
8. Unscheduled draws on the debt service reserves, if any, reflecting financial difficulties;
9. Unscheduled draws on credit enhancements reflecting financial difficulties;
10. Substitution of credit or liquidity providers, or their failure to perform; and
11. Release, substitution, or sale of property securing repayment of the Bonds.

(b) Whenever the City obtains knowledge of the occurrence of a Listed Event, the City shall as soon as possible determine if such event would constitute material information for holders of Bonds, provided, that any event under subsection (a)(6) will always be deemed material.

(c) If the City has determined that knowledge of the occurrence of a Listed Event would be material under applicable Federal securities laws, the City shall promptly notify the Dissemination Agent. Such notice shall instruct the Dissemination Agent to report the occurrence pursuant to subsection (e).

(d) If the City determines that the Listed Event would not be material under applicable federal securities laws, the City shall refrain from notifying the Dissemination Agent, or so notify the Dissemination Agent and instruct the Dissemination Agent not to report the occurrence.

(e) If the Dissemination Agent has been instructed by the City to report the occurrence of a Listed Event, the Dissemination Agent shall file a notice of such occurrence with the Repository.

**SECTION 5. Termination of Reporting Obligation.** The obligations of the City and the Dissemination Agent under this Disclosure Agreement shall terminate upon the legal defeasance, prior redemption or payment in full of all of the Bonds. If such termination occurs prior to the final maturity of the Bonds, the City shall give notice of such termination in the same manner as for a Listed Event under Section 4(e) hereof. If the City's obligations under the Fiscal Agent Agreement are assumed in full by some other entity, such person shall be responsible for compliance with this Disclosure Agreement in the same manner as if it were the City, and the original City shall have no further responsibility hereunder.

**SECTION 6. Amendment; Waiver.** Notwithstanding any other provision of this Disclosure Agreement, the City and the Dissemination Agent may amend this Disclosure Agreement (and the Dissemination Agent shall agree to any amendment so requested by the City, provided no amendment increasing or affecting the obligations or duties of the Dissemination Agent shall be made without the consent of such party) and any provision of this Disclosure Agreement may be waived if such amendment or waiver is supported by an opinion of counsel expert in federal securities laws acceptable to the City and the Dissemination Agent to the effect that such amendment or waiver would not, in and of itself, cause the undertakings herein to violate the Rule if such amendment or waiver had been effective on the date hereof but taking into account any subsequent change in or official interpretation of the Rule.

**SECTION 7. Additional Information.** Nothing in this Disclosure Agreement shall be deemed to prevent the City from disseminating any other information, using the means of dissemination set forth in this Disclosure Agreement or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Agreement. If the City chooses to include any information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is specifically required by this Disclosure Agreement, the City shall have no obligation under this Agreement to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

**SECTION 8. Default.** In the event of a failure of the City to comply with any provision of this Disclosure Agreement, the Dissemination Agent shall at the written direction of any Participating Underwriter or the holders of at least 25% aggregate principal amount of outstanding Bonds (but only to the extent indemnified to its satisfaction from any cost, liability or expense, including without limitation fees and expenses of its attorneys) take such actions, or any holder or Beneficial Owner of the Bonds may take such actions, as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the City to comply with its obligations under this Disclosure Agreement. A default under this Disclosure Agreement shall not be deemed an Event of Default under the Fiscal Agent Agreement, and the sole remedy under this Disclosure Agreement in the event of any failure of the City to comply with this Disclosure Agreement shall be an action to compel performance.

**SECTION 9. Duties and Compensation of Dissemination Agent.** The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Agreement. The Dissemination Agent shall be paid compensation by the City for its services provided hereunder in accordance with its schedule of fees as amended from time to time, and all expenses, legal fees and advances made or incurred by the Dissemination Agent in the performance of its duties hereunder. The Dissemination Agent shall have no duty or obligation to review any information provided to it hereunder and shall not be deemed to be acting in any fiduciary capacity for the City, the Bondholders, or any other party. The obligations of the City under this Section shall survive resignation or removal of the Dissemination Agent and payment of the Bonds. The Dissemination Agent may resign at any time by providing at least 30 days' notice in writing to the City. In acting hereunder, the Dissemination Agent shall be entitled to the protections, limitations from liability, immunities and indemnities provided to the Fiscal Agent set forth in the Fiscal Agent Agreement which are incorporated by reference herein. The Dissemination Agent shall have no duty or obligation to review the Annual Report or to prepare the Annual Report nor shall the Dissemination Agent be responsible for filing any Annual Report not provided to it by the City in a timely manner in a form suitable for filing. The City agrees to indemnify and hold the Dissemination Agent harmless from and against any cost, claim, expense, cost or liability related to or arising from the acceptance of and performance of the duties of the Dissemination Agent hereunder, provided the Dissemination Agent shall not be indemnified to the extent of its negligence or willful misconduct.

**SECTION 10. Beneficiaries.** This Disclosure Agreement shall inure solely to the benefit of the City, the Dissemination Agent, the Participating Underwriter and Holders and Beneficial Owners from time to time of the Bonds, and shall create no rights in any other person or entity.

**SECTION 11. Governing Law.** This Disclosure Agreement shall be governed by the laws of the State of California (other than with respect to conflicts of laws).

**SECTION 12. Counterparts.** This Disclosure Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Disclosure Agreement as of the date first above written.

CITY OF MANHATTAN BEACH

By: \_\_\_\_\_  
Finance Director

U.S. Bank National Association, as Dissemination Agent

By: \_\_\_\_\_  
Authorized Officer

**EXHIBIT A**

**NOTICE TO REPOSITORIES OF FAILURE TO FILE ANNUAL REPORT**

Name of Issuer: City of Manhattan Beach

Name of Bond Issue: \$\_\_\_\_\_ City of Manhattan Beach Underground Utility Assessment District  
No. 05-\_\_ Limited Obligation Improvement Bonds, Series 2006

Date of Issuance: July 27, 2006

NOTICE IS HEREBY GIVEN that the City of Manhattan Beach (the "City") on behalf of City of Manhattan Beach Underground Utility Assessment District No. 05-\_\_ has not provided an Annual Report with respect to the above-named Bonds as required by the Fiscal Agent Agreement, dated as of \_\_\_\_\_ 1, 2006 (the "Fiscal Agent Agreement") by and between the City and U.S. Bank National Association. The City anticipates that the Annual Report will be filed by \_\_\_\_\_.

Dated: \_\_\_\_\_

U.S. Bank National Association,  
as Dissemination Agent

By: \_\_\_\_\_  
Authorized Officer

cc: City of Manhattan Beach



## APPENDIX E

### BOOK-ENTRY SYSTEM

The information in this section concerning The Depository Trust Company (“DTC”), New York, New York, and DTC’s book-entry system has been obtained from DTC and the City and the Underwriter take no responsibility for the completeness or accuracy thereof. The City and the Underwriter cannot and do not give any assurances that DTC, DTC Participants or Indirect Participants will distribute to the Beneficial Owners (a) payments of interest, principal or premium, if any, with respect to the Bonds, (b) certificates representing ownership interest in or other confirmation or ownership interest in the Bonds, or (c) redemption or other notices sent to DTC or Cede & Co., its nominee, as the registered owner of the Bonds, or that they will do so on a timely basis, or that DTC, DTC Participants or DTC Indirect Participants will act in the manner described in this Appendix G. The current “Rules” applicable to DTC are on file with the U.S. Securities and Exchange Commission and the current “Procedures” of DTC to be followed in dealing with DTC Participants are on file with DTC.

DTC will act as securities depository for the Bonds. The Bonds will be issued as fully-registered securities registered in the name of Cede & Co. (DTC’s partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully registered bond certificate will be issued for the Bonds, each in the aggregate principal amount of such Bonds, and will be deposited with DTC.

DTC is a limited-purpose trust company organized under the New York Banking Law, a “banking organization” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code, and a “clearing agency” registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 2.2 million issues of U.S. and non- U.S. equity issues, corporate and municipal debt issues, and money market instruments from over 100 countries that DTC’s participants (“Direct Participants”) deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants’ accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non- U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation (“DTCC”). DTCC, in turn, is owned by a number of Direct Participants of DTC and Members of the National Securities Clearing Corporation, Fixed Income Clearing Corporation and Emerging Markets Clearing Corporation (respectively, “NSCC,” “FICC,” and “EMCC,” also subsidiaries of DTCC), as well as by the New York Stock Exchange, Inc., the American Stock Exchange LLC, and the National Association of Securities Dealers, Inc. Access to the DTC system is also available to others such as both U.S. and non- U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (“Indirect Participants”). DTC has Standard & Poor’s highest rating: AAA. The DTC Rules applicable to its Participants are on file with the U.S. Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com).

Purchases of the Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Bonds on DTC’s records. The ownership interest of each actual purchaser of each Security (“Beneficial Owner”) is in turn to be recorded on the Direct and Indirect Participants’ records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the

Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in the Bonds, except in the event that use of the book-entry system for the Bonds is discontinued. To facilitate subsequent transfers, all Bonds deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of the Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of the Bonds may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Bonds, such as redemptions, tenders, defaults, and proposed amendments to the Bond documents. For example, Beneficial Owners of the Bonds may wish to ascertain that the nominee holding the Bonds for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of notices be provided directly to them.

Redemption notices shall be sent to DTC. The conveyance of notices and other communications by DTC to DTC Participants, by DTC Participants to Indirect Participants and by DTC Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Any failure of DTC to advise any DTC Participant, or of any DTC Participant or Indirect Participant to notify a Beneficial Owner, of any such notice and its content or effect will not affect the validity of the redemption of the Bonds called for redemption or of any other action premised on such notice. Redemption of portions of the Bonds by the City will reduce the outstanding principal amount of the Bonds held by DTC. In such event, DTC will implement, through its book-entry system, redemption by lot of interests in the Bonds held for the account of DTC Participants in accordance with its own rules or other agreements with DTC Participants and then DTC Participants and Indirect Participants will implement redemption of the Bonds for the Beneficial Owners.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to the Bonds unless authorized by a Direct Participant in accordance with DTC's Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the City as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts the Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Payments of principal of, premium, if any, and interest on the Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from the City or the Fiscal Agent, on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC (nor its nominee), the Fiscal Agent, or the City, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of principal of, premium, if any, and interest on the Bonds to Cede &

Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the City or the Fiscal Agent, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

NONE OF THE CITY, THE UNDERWRITER OR THE FISCAL AGENT WILL HAVE ANY RESPONSIBILITY OR OBLIGATION TO DTC PARTICIPANTS, INDIRECT PARTICIPANTS OR BENEFICIAL OWNERS WITH RESPECT TO THE PAYMENTS OR THE PROVIDING OF NOTICE TO DTC PARTICIPANTS, INDIRECT PARTICIPANTS OR BENEFICIAL OWNERS OR THE SELECTION OF BONDS FOR PREPAYMENT.

DTC may discontinue providing its services as depository with respect to the Bonds at any time by giving reasonable notice to the City or the Fiscal Agent. Under such circumstances, in the event that a successor depository is not obtained, bond certificates are required to be printed and delivered. The City may decide to discontinue use of the system of book-entry transfers through DTC (or a successor securities depository). In that event, bond certificates will be printed and delivered.

The City may decide to discontinue use of the system of book-entry transfers through DTC (or a successor securities depository). In that event, bond certificates will be printed and delivered. In the event that the book-entry system is discontinued as described above, the requirements of the Fiscal Agent Agreement will apply. The foregoing information concerning DTC concerning and DTC's book-entry system has been provided by DTC, and none of the City, the Underwriter or the Fiscal Agent take any responsibility for the accuracy thereof.

None of the City, the Underwriter or the Fiscal Agent can or do give any assurances that DTC, the Participants or others will distribute payments of principal, interest or premium, if any, on the Bonds paid to DTC or its nominee as the registered owner, or will distribute any redemption notices or other notices, to the Beneficial Owners, or that they will do so on a timely basis or will serve and act in the manner described in this Official Statement. None of the City, the Underwriter or the Fiscal Agent are responsible or liable for the failure of DTC or any Participant to make any payment or give any notice to a Beneficial Owner with respect to the Bonds or an error or delay relating thereto.

**CONTINUING DISCLOSURE AGREEMENT**  
**City of Manhattan Beach Underground Utility Assessment District No. 05-2**

THIS CONTINUING DISCLOSURE AGREEMENT (the “Disclosure Agreement”) dated as of July 1, 2006, is by and between the City of Manhattan Beach, a general law city organized and existing under and by virtue of the laws of the State of California (the “City”), and U.S. Bank National Association, a national banking association duly organized and validly existing under the laws of the United States, in its capacity as Dissemination Agent (the “Dissemination Agent”).

**WITNESSETH:**

WHEREAS, the City of Manhattan Beach, California (the “City”) has issued \$\_\_\_\_\_ in principal amount of its City of Manhattan Beach Underground Utility Assessment District No. 05-2 Limited Obligation Improvement Bonds, Series 2006 (the “Bonds”) pursuant to the Improvement Bond Act of 1915, being Division 10 of the California Streets and Highways Code (the “1915 Act”) and a Fiscal Agent Agreement dated as of July 1, 2006 (the “Fiscal Agent Agreement”) by and between the City and U.S. Bank National Association, as Fiscal Agent, registrar, and transfer agent (the “Fiscal Agent”); and

WHEREAS, this Disclosure Agreement is being executed and delivered by the City and the Dissemination Agent for the benefit of the Holders and Beneficial Owners of the Bonds and in order to assist the Participating Underwriter of the Bonds in complying with the Rule (herein defined);

NOW, THEREFORE, for and in consideration of the mutual promises and covenants herein contained, the parties hereto agree as follows:

SECTION 1. Definitions. In addition to the definitions set forth in the Indenture, which apply to any capitalized term used in this Disclosure Agreement unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

“Annual Report” shall mean any Annual Report provided by the City pursuant to, and as described in, Sections 2 and 3 of this Disclosure Agreement.

“Beneficial Owner” shall mean any person which (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries), or (b) is treated as the owner of any Bonds for federal income tax purposes.

“Disclosure Representative” shall mean the designees of the City to act as the disclosure representative.

“Dissemination Agent” shall initially mean U.S. Bank National Association and thereafter shall mean any successor Dissemination Agent designated in writing by the City and who has accepted such designation.

“Listed Events” shall mean any of the events listed in Section 4(a) of this Disclosure Agreement and any other event legally required to be reported pursuant to the Rule.

“National Repository” shall mean any Nationally Recognized Municipal Securities Information Repository for purposes of the Rule, as they may be designated from time to time pursuant to the Rule.

“Official Statement” means the Official Statement, dated July \_\_, 2006, relating to the Bonds.

“Participating Underwriter” shall mean any of the original underwriters of the Bonds required to comply with the Rule in connection with offering of the Bonds.

“Repository” shall mean each National Repository and each State Repository.

“Rule” shall mean Rule 15c2-12(b)(5) promulgated by the SEC under the Securities Exchange Act of 1934, as in effect on the date of this Disclosure Agreement, including any official interpretations thereof issued either before or after the effective date of this Disclosure Agreement which are applicable to this Disclosure Agreement.

“SEC” shall mean the United States Securities and Exchange Commission.

“State” shall mean the State of California.

“State Repository” shall mean any public or private repository or entity designated by the State as a state repository for the purpose of the Rule and recognized as such by the SEC. As of the date of this Disclosure Agreement, there is no State Repository.

## SECTION 2. Provision of Annual Reports.

(a) The City shall, or by providing written direction to the Dissemination Agent, shall cause the Dissemination Agent to, not later than the April 1st after the end of the City’s fiscal year, commencing with the fiscal year ending June 30, 2006 [confirm the 2005 audited financials will be attached to the Official Statement], provide to each Repository an Annual Report which is consistent with the requirements of Section 3 of this Disclosure Agreement. The Annual Report may be submitted as a single document or as separate documents comprising a package, and may include by reference other information as provided in Section 3 of this Disclosure Agreement. Not later than fifteen (15) Business Days prior to the end of such ninth month, the City shall provide the Annual Report to the Dissemination Agent.

(b) If by fifteen (15) Business Days prior to the date specified in subsection (a) for providing the Annual Report to the Repository, the Dissemination Agent has not received the Annual Report, the Dissemination Agent shall contact the City to determine if the City is in compliance with subsection (a).

(c) If the Dissemination Agent is unable to verify that an Annual Report has been provided to the Repository by the date required in subsection (a), the Dissemination Agent shall

send a notice to the Municipal Securities Rulemaking Board in substantially the form attached as Exhibit A.

- (d) The Dissemination Agent shall:
  - (i) determine each year prior to the date for providing the Annual Report the name and address of each National Repository and the State Repository, if any; and
  - (ii) to the extent appropriate information is available to it, file a report with the City certifying that the Annual Report has been provided pursuant to this Disclosure Agreement, stating the date it was provided and listing all the Repositories to which it was provided.

(e) Any filing under this Disclosure Agreement may be made (i) solely by transmitting such filing to the Texas Municipal Advisory Council (the “MAC”) as provided at <http://www.disclosureusa.org> unless the SEC has withdrawn the interpretive advice in its letter to the MAC dated September 7, 2004, or (ii) by filing the same with any dissemination agent or conduit, including any “central post office” or similar entity, assuming or charged with responsibility for accepting notices, documents or information for transmission to such National Repository or State Repository, to the extent permitted by the SEC or SEC staff or required by the SEC. For this purpose, permission shall be deemed to have been granted by the SEC staff if and to the extent the agent or conduit has received an interpretive letter, which has not been withdrawn, from the SEC staff to the effect that using the agent or conduit to transmit information to the National Repository and the State Repository will be treated for purposes of the Rule as if such information were transmitted directly to the National Repositories and the State Repository.

SECTION 3. Content of Annual Reports. The City’s Annual Report shall contain or include by reference the following:

(a) Audited financial statements prepared in accordance with generally accepted accounting principles as promulgated to apply to governmental entities from time to time by the Governmental Accounting Standards Board. If the City’s audited financial statements are not available by the time the Annual Report is required to be filed pursuant to Section 2(a), the Annual Report shall contain unaudited financial statements in a format similar to that used for the City’s audited financial statements, and the audited financial statements shall be filed in the same manner as the Annual Report when they become available; provided, that in each Annual Report or other filing containing the City’s financial statements, the following statement shall be included in bold type:

**THE CITY’S ANNUAL FINANCIAL STATEMENT IS PROVIDED SOLELY TO COMPLY WITH THE SECURITIES EXCHANGE COMMISSION STAFF’S INTERPRETATION OF RULE 15C2-12. NO FUNDS OR ASSETS OF THE CITY ARE REQUIRED TO BE USED TO PAY DEBT SERVICE ON THE BONDS AND THE CITY IS NOT OBLIGATED TO ADVANCE AVAILABLE FUNDS FROM THE CITY TREASURY TO COVER ANY DELINQUENCIES. INVESTORS SHOULD NOT RELY**

**ON THE FINANCIAL CONDITION OF THE CITY IN EVALUATING WHETHER TO BUY, HOLD OR SELL THE BONDS.**

(b) The following information:

1. Principal amount of Bonds outstanding.
2. Balance in the Improvement Fund.
3. Balance in debt service reserve fund, and statement of the reserve fund requirement. Statement of projected reserve fund draw, if any.
4. The delinquency rate, total amount of delinquencies, number of parcels delinquent in payment of the Bond Lien.

Any or all of the items listed above may be included by specific reference to other documents, including official statements of debt issues with respect to which the City is an “obligated person” (as defined by the Rule), which have been filed with each of the Repositories or the SEC. If the document included by reference is a final official statement, it must be available from the Municipal Securities Rulemaking Board. The City shall clearly identify each such other document so included by reference.

**SECTION 4. Reporting of Significant Events.**

(a) Pursuant to the provisions of this Section 4, the City shall give notice as provided herein of the occurrence of any of the following events with respect to the Bonds, if material:

1. Principal and interest payment delinquencies.
2. Non-payment related defaults.
3. Modifications to rights of Bondholders.
4. Optional, contingent or unscheduled Bond calls.
5. Defeasances.
6. Rating changes.
7. Adverse tax opinions or events affecting the tax-exempt status of the Bonds.
8. Unscheduled draws on the debt service reserves, if any, reflecting financial difficulties.
9. Unscheduled draws on credit enhancements reflecting financial difficulties.
10. Substitution of credit or liquidity providers, or their failure to perform.

11. Release, substitution, or sale of property securing repayment of the Bonds.

(b) Whenever the City obtains knowledge of the occurrence of a Listed Event, the City shall as soon as possible determine if such event would constitute material information for holders of Bonds, provided, that any event under subsection (a)(6) will always be deemed material.

(c) If the City has determined that knowledge of the occurrence of a Listed Event would be material under applicable Federal securities laws, the City shall promptly notify the Dissemination Agent. Such notice shall instruct the Dissemination Agent to report the occurrence pursuant to subsection (e).

(d) If the City determines that the Listed Event would not be material under applicable federal securities laws, the City shall refrain from notifying the Dissemination Agent, or so notify the Dissemination Agent and instruct the Dissemination Agent not to report the occurrence.

(e) If the Dissemination Agent has been instructed by the City to report the occurrence of a Listed Event, the Dissemination Agent shall file a notice of such occurrence with the Repository.

SECTION 5. Termination of Reporting Obligation. The obligations of the City and the Dissemination Agent under this Disclosure Agreement shall terminate upon the legal defeasance, prior redemption or payment in full of all of the Bonds. If such termination occurs prior to the final maturity of the Bonds, the City shall give notice of such termination in the same manner as for a Listed Event under Section 4(e) hereof. If the City's obligations under the Fiscal Agent Agreement are assumed in full by some other entity, such person shall be responsible for compliance with this Disclosure Agreement in the same manner as if it were the City, and the original City shall have no further responsibility hereunder.

SECTION 6. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Agreement, the City and the Dissemination Agent may amend this Disclosure Agreement (and the Dissemination Agent shall agree to any amendment so requested by the City, provided no amendment increasing or affecting the obligations or duties of the Dissemination Agent shall be made without the consent of such party) and any provision of this Disclosure Agreement may be waived if such amendment or waiver is supported by an opinion of counsel expert in federal securities laws acceptable to the City and the Dissemination Agent to the effect that such amendment or waiver would not, in and of itself, cause the undertakings herein to violate the Rule if such amendment or waiver had been effective on the date hereof but taking into account any subsequent change in or official interpretation of the Rule.

SECTION 7. Additional Information. Nothing in this Disclosure Agreement shall be deemed to prevent the City from disseminating any other information, using the means of dissemination set forth in this Disclosure Agreement or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Agreement. If the City chooses to include any information in any Annual Report or notice of occurrence of a Listed Event, in addition to



that which is specifically required by this Disclosure Agreement, the City shall have no obligation under this Agreement to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

SECTION 8. Default. In the event of a failure of the City to comply with any provision of this Disclosure Agreement, the Dissemination Agent shall at the written direction of any Participating Underwriter or the holders of at least 25% aggregate principal amount of outstanding Bonds (but only to the extent indemnified to its satisfaction from any cost, liability or expense, including without limitation fees and expenses of its attorneys) take such actions, or any holder or Beneficial Owner of the Bonds may take such actions, as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the City to comply with its obligations under this Disclosure Agreement. A default under this Disclosure Agreement shall not be deemed an Event of Default under the Fiscal Agent Agreement, and the sole remedy under this Disclosure Agreement in the event of any failure of the City to comply with this Disclosure Agreement shall be an action to compel performance.

SECTION 9. Duties and Compensation of Dissemination Agent. The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Agreement. The Dissemination Agent shall be paid compensation by the City for its services provided hereunder in accordance with its schedule of fees as amended from time to time, and all expenses, legal fees and advances made or incurred by the Dissemination Agent in the performance of its duties hereunder. The Dissemination Agent shall have no duty or obligation to review any information provided to it hereunder and shall not be deemed to be acting in any fiduciary capacity for the City, the Bondholders, or any other party. The obligations of the City under this Section shall survive resignation or removal of the Dissemination Agent and payment of the Bonds. The Dissemination Agent may resign at any time by providing at least 30 days' notice in writing to the City. In acting hereunder, the Dissemination Agent shall be entitled to the protections, limitations from liability, immunities and indemnities provided to the Fiscal Agent set forth in the Fiscal Agent Agreement which are incorporated by reference herein. The Dissemination Agent shall have no duty or obligation to review the Annual Report or to prepare the Annual Report nor shall the Dissemination Agent be responsible for filing any Annual Report not provided to it by the City in a timely manner in a form suitable for filing. The City agrees to indemnify and hold the Dissemination Agent harmless from and against any cost, claim, expense, cost or liability related to or arising from the acceptance of and performance of the duties of the Dissemination Agent hereunder, provided the Dissemination Agent shall not be indemnified to the extent of its negligence or willful misconduct.

SECTION 10. Beneficiaries. This Disclosure Agreement shall inure solely to the benefit of the City, the Dissemination Agent, the Participating Underwriter and Holders and Beneficial Owners from time to time of the Bonds, and shall create no rights in any other person or entity.

SECTION 11. Governing Law. This Disclosure Agreement shall be governed by the laws of the State of California (other than with respect to conflicts of laws).

SECTION 12. Counterparts. This Disclosure Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Disclosure Agreement as of the date first above written.

CITY OF MANHATTAN BEACH

By: \_\_\_\_\_  
Finance Director

U.S. BANK NATIONAL ASSOCIATION, as  
Dissemination Agent

By: \_\_\_\_\_  
Authorized Officer

**EXHIBIT A**

**NOTICE TO REPOSITORIES OF FAILURE TO FILE ANNUAL REPORT**

Name of Issuer: City of Manhattan Beach

Name of Bond Issue: \$\_\_\_\_\_ City of Manhattan Beach Underground Utility Assessment  
District No. 05-2 Limited Obligation Improvement Bonds, Series 2006

Date of Issuance: July 27, 2006

NOTICE IS HEREBY GIVEN that the City of Manhattan Beach (the "City") on behalf of City of Manhattan Beach Underground Utility Assessment District No. 05-2 has not provided an Annual Report with respect to the above-named Bonds as required by the Fiscal Agent Agreement, dated as of July 1, 2006 (the "Fiscal Agent Agreement") by and between the City and U.S. Bank National Association. The City anticipates that the Annual Report will be filed by

Dated: \_\_\_\_\_

U.S. BANK NATIONAL ASSOCIATION

By: \_\_\_\_\_  
Authorized Officer

cc: City of Manhattan Beach

**CITY OF MANHATTAN BEACH**

\$ \_\_\_\_\_  
**UNDERGROUND UTILITY  
ASSESSMENT DISTRICT NO. 05-2  
LIMITED OBLIGATION  
IMPROVEMENT BONDS,  
SERIES 2006**

\$ \_\_\_\_\_  
**UNDERGROUND UTILITY  
ASSESSMENT DISTRICT NO. 05-6  
LIMITED OBLIGATION  
IMPROVEMENT BONDS,  
SERIES 2006**

**BOND PURCHASE AGREEMENT**

July \_\_, 2006

City of Manhattan Beach  
Manhattan Beach, California

Ladies and Gentlemen:

The undersigned, UBS Securities LLC (the "Underwriter"), offers to enter into this Bond Purchase Agreement (this "Purchase Agreement") with the City of Manhattan Beach (the "City"), for the purchase of its City of Manhattan Beach Underground Utility Assessment District No. 05-2 Limited Obligation Improvement Bonds, Series 2006 (the "District 05-02 Bonds") and City of Manhattan Beach Underground Utility Assessment District No. 05-6 Limited Obligation Improvement Bonds, Series 2006 (the "District 05-06 Bonds" and, together with the District 05-02 Bonds, the "Bonds" and each, a "Series of Bonds"), which upon acceptance will be binding upon the Underwriter and the City. This offer is made subject to the City's acceptance by the execution of this Purchase Agreement and its delivery to the Underwriter on the date hereof, and, if not so accepted, will be subject to withdrawal by the Underwriter upon notice delivered to the City at any time prior to the acceptance hereof by the City. All capitalized terms used herein, which are used and not otherwise defined herein, shall have the meanings ascribed to such terms in two separate Fiscal Agent Agreements, one for each Series of Bonds, each dated as of July 1, 2006 (collectively, the "Fiscal Agent Agreements"), each by and between the City and U.S. Bank National Association, as fiscal agent (the "Fiscal Agent").

The above-captioned Bonds will be issued pursuant to separate resolutions, one for each Series of Bonds, of the City Council of the City adopted on July 5, 2006 (collectively, the "Resolutions") and under the provisions of the Municipal Improvement Act of 1913, Division 10 (commencing with Section 10000) of the Streets and Highways Code of California (the "Act") relating to the levy of assessments and issuance of limited obligation improvement bonds and the Improvement Bond Act of 1915, Division 10 of the Streets and Highways Code of California (the "Bond Law"). Each Series of Bonds is being issued for the purpose of financing the undergrounding of existing overhead utility facilities (each a "Project" and collectively, the "Projects") within the City's Underground Utility Assessment District No. 05-2 (the "05-2 District"), and Underground Utility Assessment District No. 05-6 (the "05-6 District")

(collectively, the “Districts” and individually, a “District”), respectively, and pay costs of issuance of the Bonds.

1. Purchase, Sale and Delivery of the Bonds.

(a) Subject to the terms and conditions, and in reliance upon the representations, warranties and agreements set forth herein, the Underwriter hereby agrees to purchase from the City, and the City hereby agrees to sell to the Underwriter, all (but not less than all) of each Series of Bonds, dated their date of delivery, bearing interest at the rates and maturing on the dates and in the principal amounts set forth in Exhibit A hereto.

The purchase price for the Bonds shall be (a) for the 05-2 Bonds, \$\_\_\_\_\_ (representing the aggregate principal amount of the 05-2 Bonds of \$\_\_\_\_\_.00, less an underwriter’s discount of \$\_\_\_\_\_) and (b) for the 05-6 Bonds, \$\_\_\_\_\_ (representing the aggregate principal amount of the 05-6 Bonds of \$\_\_\_\_\_.00, less an underwriter’s discount of \$\_\_\_\_\_). The Bonds with respect to each Assessment District shall be substantially in the form described in, shall be executed and delivered and secured under the provisions of the Fiscal Agent Agreements.

(b) Pursuant to the authorization of the City and the Underwriter has distributed copies of the Preliminary Official Statement dated July \_\_, 2006, relating to the Bonds, which, together with the cover page and appendices thereto, is herein called the “Preliminary Official Statement.” By its acceptance of this Purchase Agreement, the City hereby ratifies the use by the Underwriter of the Preliminary Official Statement; and the City agrees to execute a final official statement relating to the Bonds (the “Official Statement”) which will consist of the Preliminary Official Statement with such changes as may be made thereto, with the approval of Hawkins Delafield & Wood LLP, Los Angeles, California, as Bond Counsel (“Bond Counsel”), and the Underwriter, and to provide copies thereof to the Underwriter as set forth in Section 2(o) hereof. The City hereby authorizes the Underwriter to use and promptly distribute, in connection with the offer and sale of the Bonds, the Preliminary Official Statement, the Official Statement and any supplement or amendment thereto. The City further authorize the Underwriter to use and distribute, in connection with the Purchase Agreement and all information contained herein, all other documents, certificates and statements furnished by or on behalf of the City to the Underwriter in connection with the transactions contemplated by this Purchase Agreement.

(c) Except as the Underwriter and the City may otherwise agree, the City will deliver to the Underwriter, at the offices of Bond Counsel or at such other location as may be mutually agreed upon by the Underwriter and the City, the documents hereinafter mentioned and the City will deliver to the Underwriter at the offices of The Depository Trust Company (“DTC”) in New York, New York or to the Fiscal Agent, if the closing will occur under DTC’s “FAST” program, the Bonds, in definitive form (all Bonds bearing CUSIP numbers), duly executed by the City and authenticated by the Fiscal Agent in the manner provided for in the Fiscal Agent Agreements at 8:00 a.m. California time, on July \_\_, 2006 (the “Closing Date”), and the Underwriter will accept such delivery and pay the aggregate purchase price of the Bonds as set forth in paragraph (a) of this Section, in immediately available funds (such delivery and payment being herein referred to as the “Closing”). The Bonds shall be made available to the Underwriter

for inspection not later than two Business Days prior to the Closing Date. The Bonds shall be in fully registered book-entry form (which may be typewritten) and shall be registered in the name of Cede & Co., as nominee of DTC.

(d) The Underwriter agrees to make a bona fide public offering of all the Bonds initially at the public offering prices (or yields) set forth in Exhibit A attached hereto and incorporated herein by reference. Subsequent to the initial public offering, the Underwriter reserves the right to change such initial offering price or prices as the Underwriter shall deem necessary in connection with the marketing of the Bonds and to offer and sell the Bonds to certain dealers (including dealers depositing the Bonds into investment trusts) and others at prices lower than the initial offering price or prices set forth in the Official Statement. The Underwriter also reserves the right (i) to over-allot or effect transactions which stabilize or maintain the market price of the Bonds at a level above that which might otherwise prevail in the open market, and (ii) to discontinue such stabilizing, if commenced at any time.

2. Representations, Warranties and Agreements of the City.

(a) The City is a general law city duly organized and existing under the laws of the State of California (the "State"), with full right, power and authority to enter into and perform its duties under this Purchase Agreement, the Fiscal Agent Agreements, the Resolutions and the Continuing Disclosure Agreements (as defined below) (collectively, the "City Documents"), and, when executed and delivered by the respective parties thereto, the City Documents will constitute the legal, valid and binding obligations of the City enforceable in accordance with their respective terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws or equitable principles relating to or affecting creditors' rights generally, or by the exercise of judicial discretion and the limitations on legal remedies against water districts in the State. The City has complied, and will at the Closing Date be in compliance, in all respects with the City Documents.

(b) The City has duly recorded Notice of Assessment with respect to each of Assessment Districts 05-2 and 05-6 in the office of the County Recorder of the County of Los Angeles.

(c) By all necessary official action of the City, prior to or concurrently with the acceptance hereof, including by the Resolutions, the City has duly authorized and approved the execution and delivery of, and the performance by the City of the obligations on its part contained in the City Documents and the consummation by it of all other transactions contemplated by the Official Statement.

(d) The information contained in the Preliminary Official Statement is true, correct and complete in all material respects and does not, and on the Closing Date such information will not, contain any untrue statement of a material fact or omit to state any material fact which is necessary to make such statements and information therein, in light of the circumstances under which they were made, not misleading in any material respect (except this representation does not include information relating to DTC or its book-entry only system).

(e) To the best knowledge of the City, the execution and delivery of the City Documents and compliance with the provisions on the City's part contained herein and therein will not, to any material extent, conflict with or constitute a breach of or default under the City's duties under said documents or any law, administrative regulation, judgment, decree, loan agreement, indenture, bond, note, resolution, articles, bylaws, agreement or other instrument to which the City is a party or is otherwise subject, which conflict, breach or default could have a material adverse effect on the ability of the City to perform its obligations under the City Documents, nor will any such execution, delivery, adoption or compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of the properties or assets of the City under the terms of any such law, administrative regulation, judgment, decree, loan agreement, indenture, bond, note, resolution, articles, bylaws, agreement or other instrument, except as provided by the City Documents.

(f) To the best knowledge of the City, the City is not in breach of or in default under any applicable law or administrative regulation of the State or the United States or any applicable judgment or decree or any loan agreement, indenture, bond, note, articles, bylaws, resolution, agreement or other instrument to which the City is a party or is otherwise subject which could have a material adverse effect on the City's ability to perform its obligations under the City Documents and no event has occurred and is continuing which, with the passage of time or the giving of notice, or both, would constitute a default or an event of default under any such instrument.

(g) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, governmental agency, public board or body pending or, to the best knowledge of the City, threatened against the City affecting the existence of the City or challenging the titles of its officers to their respective offices or seeking to prohibit, restrain or enjoin the execution or delivery of the Bonds, or in any way contesting or affecting the validity or enforceability of the City Documents or contesting the powers of the City or its authority to enter into, adopt or perform its obligations under any of the foregoing, or contesting in any way the completeness, accuracy or fairness of the Official Statement or any amendment or supplement thereto, wherein an unfavorable decision, ruling or finding would materially adversely affect the validity or enforceability of the Bonds or the City Documents.

(h) If between the date of this Purchase Agreement and the date of the Closing an event occurs of which the City has knowledge, which might or would cause the information relating to the City contained in the Official Statement, as then supplemented or amended, to contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make such information therein, in light of the circumstances under which it was presented, not misleading, the City will notify the City and the Underwriter, and if in the opinion of the Underwriter such event requires the preparation and publication of a supplement or amendment to such portions of the Official Statement, the City will cooperate with the Underwriter in the preparation of an amendment or supplement to the Official Statement in a form and in a manner approved by the Underwriter, *provided* all expenses thereby incurred will be paid for by the City.

(i) Except as may be required under the "blue sky" or other securities laws of any jurisdiction, all approvals, consents, authorizations, elections and orders of, or filings or



registrations with, any governmental authority, board, agency or commission having jurisdiction which would constitute a condition precedent to, or the absence of which would materially adversely affect, the performance by the City of its obligations under each of the City Documents and the Bonds, have been obtained and are in full force and effect.

(j) If after the date of this Purchase Agreement and until twenty-five (25) days after the End of the Underwriting Period (as hereinafter defined), any event shall occur, of which the City has notice, as a result of which it may be necessary to supplement the Official Statement to make the statements therein, in the light of the circumstances existing at such time, not misleading, the City shall immediately notify the Underwriter of any such event of which it has knowledge and, if in the opinion of the Underwriter such event requires an amendment or supplement to the Official Statement, the City will at its own expense, or will cause the respective Assessment District, at its own expense, to amend or supplement the Official Statement in a form and manner jointly approved by the City and the Underwriter so that the statements therein as so amended or supplemented will not be misleading in the light of the circumstances existing at such time and the City will promptly furnish to the Underwriter a reasonable number of copies of such amendment or supplement. As used herein the term "End of the Underwriting Period" means the later of such time as (i) the City delivers the Bonds to the Underwriter, or (ii) the Underwriter does not retain an unsold balance of the Bonds for sale to the public. Unless the Underwriter gives notice to the contrary, the End of the Underwriting Period shall be deemed to be the Closing Date. Any notice delivered pursuant to this provision shall be written notice delivered to the City at or prior to the Closing Date, and shall specify a date (other than the Closing Date) to be deemed the "End of the Underwriting Period."

(k) The City will furnish such information, execute such instruments and take such other action in cooperation with the Underwriter as the Underwriter may reasonably request in order for the Underwriter to qualify the Bonds for offer and sale under the "blue sky" or other securities laws and regulations of such states and other jurisdictions of the United States of America as the Underwriter may designate; *provided, however*, that the City shall not be required to register as a dealer or broker of securities or to consent to service of process or qualify to do business in any jurisdiction where it is not now so subject. It is understood that such "blue sky" registration is the sole responsibility of the Underwriter.

(l) The City will, pursuant to the Continuing Disclosure Agreement with respect to each Assessment District (collectively, the "Continuing Disclosure Agreements"), dated as of the Closing Date, between the City and the Fiscal Agent, as dissemination agent thereunder, undertake to provide certain annual financial information and notices of the occurrence of certain listed events, if material under federal securities laws. A description of this undertaking is set forth in the Preliminary Official Statement and the Official Statement (each as described herein).

(m) All approvals, consents, authorizations, elections and orders of or filings or registrations with any governmental authority, board, agency or commission having jurisdiction which would constitute a condition precedent to, or the absence of which would materially adversely affect, the performance by the City of its obligations under the Bonds, the Fiscal Agent Agreements, the Resolutions, the Continuing Disclosure Agreements or the Official



Statement, have been obtained and are in full force and effect; *provided* that no representation is made as to any necessary “blue sky” filings.

(n) The City has not been notified of any listing or proposed listing by the Internal Revenue Service to the effect that it is a bond issuer whose arbitrage certifications may not be relied upon.

(o) The City will not knowingly take or omit to take any action, which action or omission will in any way cause the proceeds from the sale of the Bonds with respect to each Assessment District to be applied in a manner other than as provided in the related Fiscal Agent Agreement or which would cause the interest on the Bonds to be includable in gross income for federal income tax purposes.

(p) The Bonds with respect to each Assessment District are payable solely from the related Assessments and the other assets pledged therefor under the respective Fiscal Agent Agreements and the City has agreed to comply with all requirements of the Act, the Resolutions and the Fiscal Agent Agreements to assure the timely collection of the Assessments, and interest thereon, including, without limitation, the enforcement of delinquent Assessments. Any funds received by the City in and for the Assessment District (excluding any penalty and interest charges imposed upon delinquent Assessments), including, but not limited to, collections of Assessments (including prepayments thereof), and interest thereon, upon the secured tax rolls, collections of delinquent Assessments and delinquent interest thereon, through foreclosure proceedings or otherwise, and collections of amounts for Administrative Expenses, shall as soon as practicable be transmitted directly to the Fiscal Agent, without deduction, to be deposited in accordance with the Fiscal Agent Agreements. The City intends to cause the Assessments to be levied and collected at the same time and in the same manner as ordinary *ad valorem* property taxes and, under the terms of the Act, the Assessments are currently subject to the same penalties in case of delinquency as provided for *ad valorem* taxes.

(q) Each Fiscal Agent Agreement creates a valid pledge of the Assessments (including prepayments thereof), together with interest thereon (but excluding any penalty and interest charges imposed upon delinquent Assessments), and any other amounts (including proceeds of the sale of the Bonds) held in any fund or account established pursuant to the Fiscal Agent Agreements (other than the Rebate Fund and the Administrative Expense Account), subject in all cases to the provisions of the Fiscal Agent Agreements permitting application thereof for the purposes and on the terms and conditions set forth therein.

(r) Except as disclosed in the Preliminary Official Statement, there are, to the best of the City’s knowledge, no entities with outstanding assessment liens against any of the properties within the City which are senior to or on a parity with the Assessments referred to in paragraph (q) hereof.

(s) Any certificate signed by any authorized officer or employee of the City authorized to do so shall be deemed a representation and warranty by the City to the Underwriter as to the statements made therein.

(t) The City will apply the proceeds of the Bonds with respect to each Assessment District in accordance with the respective Fiscal Agent Agreement.

(u) Until such time as moneys have been set aside in an amount sufficient to pay all then outstanding Bonds with respect to each Assessment District at maturity or to the date of redemption if redeemed prior to maturity, plus unpaid interest with respect to the Bonds with respect to each Assessment District and premium, if any, to maturity or to the date of redemption if redeemed prior to maturity, the City will faithfully perform and abide by all of the covenants, undertakings and provisions contained in the related Fiscal Agent Agreement.

(v) The execution and delivery of this Purchase Agreement by the City shall constitute a representation to the Underwriter that the representations and warranties contained in this Section are true as of the date hereof.

(w) The Preliminary Official Statement heretofore delivered to the Underwriter has been deemed final by the City as of its date, except for the omission of such information as is permitted to be omitted in accordance with Rule 15c2-12 promulgated under the Securities Exchange Act of 1934, as amended ("Rule 15c2-12"). As of the date hereof, the information contained in the Preliminary Official Statement does not and, on the Closing Date, the information in the Official Statement will not, contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. The City hereby covenants and agrees that, within seven (7) business days from the date hereof, or upon reasonable written notice from the Underwriter within sufficient time to accompany any confirmation requesting payment from any customers of the Underwriter, the City shall cause a final printed form of the Official Statement to be delivered to the Underwriter in sufficient quantity to comply with Rule 15c2 12 and the applicable rules of the Municipal Securities Rulemaking Board.

(x) The City has never failed to comply with the terms of any continuing disclosure agreement entered into prior to the date hereof relating to the provision of annual reports in accordance with Rule 15c2-12.

3. Conditions to the Obligations of the Underwriter. The obligation of the Underwriter to accept delivery of and pay for each Series of Bonds, separately, on the Closing Date shall be subject, at the option of the Underwriter, to the accuracy in all material respects of the representations and warranties on the part of the City contained herein, to the accuracy in all material respects of the statements of the officer and other officials of the City made in any certificates or other documents furnished pursuant to the provisions hereof, to the performance by the City of its obligations to be performed hereunder at or prior to the Closing Date and to the following additional conditions with respect to each Series of Bonds:

(a) At the Closing Date, the City Documents shall be in full force and effect, and shall not have been amended, modified or supplemented, except as may have been agreed to in writing by the Underwriter, and there shall have been taken in connection therewith, with the issuance and delivery of the Bonds, and with the transactions contemplated thereby, all such actions as, in the opinion of Bond Counsel, shall be necessary and appropriate.

(b) At the Closing Date, except as was described in the Preliminary Official Statement, the City shall not be, in any respect material to the transactions referred to herein or contemplated hereby, in breach of or in default under, any law or administrative rule or regulation of the State, the United States of America, or of any department, division, agency or instrumentality of either thereof, or under any applicable court or administrative decree or order, or under any loan agreement, note, resolution, indenture, contract, agreement or other instrument to which the City is a party or is otherwise subject or bound, and the performance by the City of its obligations under the City Documents and any other instruments contemplated by any of such documents, and compliance with the provisions of each thereof, will not conflict with or constitute a breach of or default under any applicable law or administrative rule or regulation of the State, the United States of America, or of any department, division, agency or instrumentality of either thereof, or under any applicable court or administrative decree or order, or under any loan agreement, note, resolution, indenture, contract, agreement or other instrument to which the City is a party or is otherwise subject or bound, in any manner which would materially and adversely affect the performance by the City of its obligations under the City Documents.

(c) The information contained in the Official Statement is, as of the Closing Date and as of the date of any supplement or amendment thereto, true, correct and complete in all material respects and does not, as of the Closing Date or as of the date of any supplement or amendment thereto, contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(d) Between the date hereof and the Closing Date, the market price or marketability, at the initial offering prices set forth on the inside cover page of the Official Statement, of the Bonds shall not have been materially adversely affected (evidenced by a written notice to the City terminating the obligation of the Underwriter to accept delivery of and pay for the Bonds), by reason of any of the following:

(i) Legislation introduced in or enacted (or resolution passed) by the Congress of the United States of America or recommended to the Congress by the President of the United States, the Department of the Treasury, the Internal Revenue Service, or any member of Congress, or favorably reported for passage to either House of Congress by any committee of such House to which such legislation had been referred for consideration, or a decision rendered by a court established under Article III of the Constitution of the United States of America or by the Tax Court of the United States of America, or an order, ruling, regulation (final, temporary or proposed), press release or other form of notice issued or made by or on behalf of the Treasury Department of the United States of America or the Internal Revenue Service, with the purpose or effect, directly or indirectly, of imposing federal income taxation upon such interest as would be received by any owners of the Bonds;

(ii) Legislation introduced in or enacted (or resolution passed) by the Congress or an order, decree or injunction issued by any court of competent jurisdiction, or an order, ruling, regulation (final, temporary or proposed), press release or other form of notice issued or made by or on behalf of the Securities and Exchange Commission, or any other governmental agency having jurisdiction of the subject matter, to the effect that

obligations of the general character of the Bonds, including any or all underlying arrangements, are not exempt from registration under or other requirements of the Securities Act of 1933, as amended, or that the Fiscal Agent Agreements are not exempt from qualification under or other requirements of the Trust Indenture Act of 1939, as amended, or that the issuance, offering or sale of obligations of the general character of the Bonds, including any or all underlying arrangements, as contemplated hereby or by the Official Statement or otherwise is or would be in violation of the federal securities laws as amended and then in effect;

(iii) A general suspension of trading in securities on the New York Stock Exchange, or a general banking moratorium shall have been declared by federal, California or New York authorities having jurisdiction and be in force;

(iv) The introduction, proposal or enactment of any amendment to the federal or California Constitution or action by any federal or California court, legislative body, regulatory body or other authority materially adversely affecting the tax status of the City, its property, income or securities (or interest thereon), the validity or enforceability of the Assessments or the ability of the City, to issue the Bonds with respect to each Assessment District and levy the Assessments as contemplated by each respective Fiscal Agent Agreement and the Official Statement;

(v) The establishment of any new restrictions on securities materially affecting the free market for securities (including the imposition of any limitations on interest rates) or the charge to the net capital requirements of the Underwriter established by the New York Stock Exchange, the Securities and Exchange Commission, any other federal or state agency or the Congress of the United States, or by Executive Order;

(vi) Any event occurring, or information becoming known which, in the judgment of the Underwriter, makes untrue in any material respect any statement or information contained in the Preliminary Official Statement or in the Official Statement, or has the effect that the Preliminary Official Statement or the Official Statement contains any untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(vii) There shall have occurred any outbreak or escalation of hostilities or other local, national or international calamity or crisis, the effect of which on the financial markets of the United States of America, in the reasonable judgment of the Underwriter, is such as to materially and adversely affect (a) the market price or the marketability of the Bonds, or (b) the ability of the Underwriter to enforce contracts for the sale of the Bonds; or

(viii) Any rating of the Bonds shall have been downgraded, suspended or withdrawn by a national rating service, which, in the Underwriter's reasonable opinion materially adversely affects the marketability or market price of the Bonds.

(e) At or prior to the Closing Date, the Underwriter shall have received counterpart originals or certified copies of the following documents, in each case satisfactory in form and substance to the Underwriter with respect to each Series of Bonds:

(i) The Official Statement, executed on behalf of the City by the City Manager;

(ii) The City Documents duly executed and delivered by the parties thereto;

(iii) The Resolutions, together with a certificate, dated as of the Closing Date, to the effect that such resolutions are true, correct and complete copies of the resolutions duly adopted by the City Council;

(iv) Documents and resolutions relating to the formation of Assessment Districts 05-2 and 05-6;

(v) An unqualified opinion, dated the Closing Date and addressed to the City, of Bond Counsel, to the effect that the Bonds are the valid, legal and binding obligations of the City and that the interest with respect to the Bonds is excluded from gross income for federal income tax purposes and exempt from personal income taxes of the State in substantially the form included as Appendix C to the Official Statement, together with a reliance letter of Bond Counsel, dated the Closing Date and addressed to the Underwriter, to the effect that such opinion addressed to the City may be relied upon by the Underwriter to the same extent as if such opinion was addressed to the Underwriter;

(vi) A supplemental opinion, dated the Closing Date and addressed to the Underwriter, of Bond Counsel, to the effect that: (i) the City Documents have been duly authorized, executed and delivered by the City, and, assuming due authorization, execution and delivery by the other parties thereto, constitute the legal, valid and binding agreements of the City, enforceable in accordance with their terms, except to the extent that enforceability may be limited by moratorium, bankruptcy, reorganization, insolvency or other similar laws affecting creditors' rights generally or by the exercise of judicial discretion in accordance with general principles of equity or otherwise in appropriate cases; (ii) the Bonds are exempt from registration pursuant to the Securities Act of 1933, as amended, and the Fiscal Agent Agreements are exempt from qualification under the Trust Indenture Act of 1939, as amended; (iii) the Bonds and the City Documents conform as to form and tenor to the descriptions thereof contained in the Official Statement, and the statements contained in the Official Statement under the captions "INTRODUCTION," "THE BONDS," "SECURITY FOR THE BONDS," "CONCLUDING INFORMATION – Continuing Disclosure," "TAX MATTERS" and in Appendices C and D to the Official Statement, insofar as such statements purport to summarize certain provisions of the Bonds, the City Documents, and Bond Counsel's approving opinion are accurate in all material respects;

(vii) An opinion of the counsel to the City (“City Attorney”), dated the Closing Date, and addressed to the Underwriter, in form and substance acceptable to Underwriter’s Counsel substantially to the following effect:

(1) the City is a general law city organized and validly existing under the laws of the State;

(2) the City has duly organized and validly established Assessment Districts 05-2 and 05-6 in accordance with and by virtue of the Constitution and laws of the State;

(3) the Resolutions approving and authorizing the execution and delivery of the City Documents and approving the Official Statement have been duly adopted, and the Resolutions are in full force and effect and have not been modified, amended or rescinded;

(4) the statements contained in the Official Statement are accurate in all material respects, (*provided* that such counsel need not express any opinion with respect to DTC or its book-entry only system or any financial or statistical information contained therein);

(5) the City has duly authorized, executed and delivered the City Documents and, assuming due authorization, execution and delivery thereof by the respective other parties thereto, the City Documents constitute legal, valid and binding agreements of the City enforceable in accordance with their respective terms;

(6) there is no litigation, proceeding, action, suit or investigation at law or in equity before or by any court, governmental authority or body, pending or, to the best knowledge of such counsel, threatened against the City, challenging the creation, organization or existence of the City, or in any way contesting or affecting the validity of Bonds or any of the City Documents or contesting the authority of the City to enter into or perform its obligations under the Bonds or any of the City Documents, or under which a determination adverse to the City would have a material adverse effect upon the transactions contemplated by the City Documents;

(7) the execution and delivery of the Bonds, the Fiscal Agent Agreements, the Continuing Disclosure Agreements and the Purchase Agreement, and compliance with the provisions of each, do not conflict with or constitute a material breach of or material default under any applicable law or administrative rule or regulation of the State, or of any department, division, agency or instrumentality of either thereof, or under any applicable court or administrative decree or order, or under any loan agreement, note, ordinance, resolution, indenture, contract, agreement or other instrument to which the City is a party or otherwise subject or bound, a consequence of which would be to materially and adversely affect the ability of the City to perform its obligations under the Bonds,



the Fiscal Agent Agreements, the Resolutions or the Continuing Disclosure Agreements; and

(8) in the course of City Attorney's participation in the preparation of the Official Statement and without having undertaken to determine independently the accuracy or completeness of the statements contained in the Official Statement, City Attorney has no reason to believe that the Official Statement (except for the information concerning, DTC book-entry only system and financial and statistical data included therein and assumptions with respect thereto, as to which no opinion need be expressed) as of the date of the Official Statement and as of the Closing Date contained or contains any untrue statement of a material fact or omitted or omits to state any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

(viii) An opinion of Disclosure Counsel, dated the Closing Date and addressed to the City and the Underwriter, to the effect that based upon information made available to such counsel in the course of such counsel's participation in the transaction as Disclosure Counsel and assuming the accuracy, completeness and fairness of the statements contained in the Official Statement, nothing has come to such counsel's attention which has led such counsel to believe that the Official Statement (excluding therefrom information relating to DTC and its book-entry system and the bond insurer and its bond insurance policy, as to which no opinion need be expressed) contains any untrue statement of a material fact or omits to state a material fact required to be stated therein necessary to make the statements made therein, in light of the circumstances under which they were made, not misleading in any material respect;

(ix) A certificate of the City, dated the Closing Date and signed by an authorized signatory, on behalf of the City to the effect that: (i) the representations and warranties of such City contained in the City Documents are true and correct in all material respects on and as of the Closing Date with the same effect as if made on the Closing Date, except that all references therein to the Preliminary Official statement shall be deemed to be references to the Official Statement, (ii) to the best knowledge of such officer, no event has occurred since the date of the Official Statement which should be disclosed in the Official Statement for the purpose for which it is to be used or which it is necessary to disclose therein in order to make the statements and information therein not misleading in any material respect, and (iii) the City has complied with all the agreements and satisfied all the conditions on its part to be satisfied under the City Documents and the Official Statement at or prior to the Closing Date;

(x) A copy of the report of Hall & Foreman, Inc. prepared in accordance with Section 10204 of the Act and Section 4 of Article XIID of the California Constitution;

(xi) A certificate dated the Closing Date from Hall & Foreman, Inc. (the "Assessment Engineer"), as to each Assessment District, to the effect that (i) the Assessment Engineer has prepared the Assessment Report and the Assessment Diagram

with respect to the property located within the Assessment Districts; (ii) the Assessment Engineer has consented to the inclusion of the information under the caption “SECURITY AND SOURCES OF PAYMENT FOR THE BONDS - Assessment Formula” in the Preliminary Official Statement and the Official Statement; (iii) as of the date hereof the conclusions set forth in the Assessment Report and the Assessment Diagram and the references to the Assessment Engineer, the Assessment Report and the Assessment Map made in the Official Statement, including, but not limited to, Table 1 of the Official Statement, are accurate in all material respects and do not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements contained therein, in light of the circumstances under which they were made, not misleading; and (iv) no events or occurrences have been ascertained by the Assessment Engineer or have come to its attention that would substantially change the conclusions set forth in the Assessment Reports and the Assessment Diagrams; and (v) it has reviewed the Preliminary Official Statement and Official Statement and to the best of its knowledge the statements under the caption “SECURITY AND SOURCES OF PAYMENT FOR THE BONDS - Assessment Formula” are true, correct and complete in all material respects and do not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading;

(xii) A transcript of all proceedings relating to the authorization, issuance and delivery of the Bonds, including certified copies of each of the Resolutions;

(xiii) Certified copies of the general resolution, or excerpt thereof, of U.S. Bank National Association, as Fiscal Agent authorizing the execution and delivery of certain documents by certain officers of the Fiscal Agent, which resolution authorizes the execution of the Fiscal Agent Agreements and the Continuing Disclosure Agreements;

(xiv) A certificate of the Fiscal Agent, dated the Closing Date, to the effect that (i) the Fiscal Agent is authorized to carry out corporate trust powers, and has full power and authority to perform its duties under the Fiscal Agent Agreements and the Continuing Disclosure Agreements; (ii) the Fiscal Agent is duly authorized to execute and deliver the Fiscal Agent Agreements and the Continuing Disclosure Agreements, to accept the obligations created by the Fiscal Agent Agreements and the Continuing Disclosure Agreements and to authenticate the Bonds pursuant to the terms of the Fiscal Agent Agreements; (iii) no consent, approval, authorization or other action by any governmental or regulatory authority having jurisdiction over the Fiscal Agent that has not been obtained is or will be required for the authentication of the Bonds of the consummation by the Fiscal Agent of the other transactions contemplated to be performed by the Fiscal Agent in connection with the authentication of the Bonds and the acceptance and performance of the obligations created by the Fiscal Agent Agreements and the Continuing Disclosure Agreements; (iv) compliance with the terms of the Fiscal Agent Agreements and the Continuing Disclosure Agreements, will not conflict with, or result in a violation or breach of, or constitute a default under, any loan agreement, indenture, bond, note, resolution or any other agreement or instrument to which the Fiscal Agent is a party or by which it is bound, or any law or any rule, regulation, order or



decree of any court or governmental agency or body having jurisdiction over the Fiscal Agent or any of its activities or properties; and (v) there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or, to the best of the knowledge of U.S. Bank National Association, threatened against or affecting the existence of U.S. Bank National Association or in any way contesting or affecting the validity or enforceability of the Bonds, the Fiscal Agent Agreements or the Continuing Disclosure Agreements, or contesting the powers of U.S. Bank National Association or its authority to enter into and perform its obligations under any of the foregoing, or wherein an unfavorable decision, ruling or finding would adversely affect U.S. Bank National Association or the transactions contemplated in connection with the sale and delivery of the Bonds, or which, in any way, would adversely affect the validity of the Bonds, the Fiscal Agent Agreements or the Continuing Disclosure Agreements or any agreement or instrument to which U.S. Bank National Association is a party and which is used or contemplated for use in the Fiscal Agent Agreements or the Continuing Disclosure Agreements, or the consummation of the transactions contemplated in connection with the sale and delivery of the Bonds; and

(xv) An opinion of counsel to the Fiscal Agent, dated the Closing Date, addressed to the Underwriter and the City to the effect that the Fiscal Agent is a national banking association duly organized and validly existing under the laws of the State having full power and being qualified to enter into, accept and agree to the provisions of the Fiscal Agent Agreements and the Continuing Disclosure Agreements, and that the Fiscal Agent Agreements and the Continuing Disclosure Agreements have been duly authorized, executed and delivered by the Fiscal Agent and, assuming due execution and delivery by the other parties thereto, constitute the legal, valid and binding obligations of the Fiscal Agent, enforceable in accordance with their respective terms, subject to bankruptcy, insolvency, reorganization, moratorium and other laws affecting the enforcement of creditors' rights in general and except as such enforceability may be limited by the application of equitable principles if equitable remedies are sought;

(xvi) A Tax Certificate delivered by the City on the Closing Date in form and substance acceptable to Bond Counsel and the Underwriter; and

(xvii) Such additional legal opinions, certificates, instruments and other documents as the Underwriter may reasonably request to evidence the truth and accuracy, as of the date hereof and as of the Closing Date, of the material representations and warranties of the City contained herein, and of the statements and information contained in the Official Statement and the due performance or satisfaction by the City at or prior to the Closing of all agreements then to be performed and all conditions then to be satisfied by the City in connection with the transactions contemplated hereby and by the Official Statement.

If the City shall be unable to satisfy the conditions to the obligations of the Underwriter to purchase, accept delivery of and pay for the Bonds contained in this Purchase Agreement, or if the obligations of the Underwriter to purchase, accept delivery of and pay for the Bonds shall be terminated for any reason permitted by this Purchase Agreement, this Purchase Agreement shall terminate and neither the City nor the Underwriter shall be under any further obligation

hereunder, except that the respective obligations of the Underwriter and the City set forth in Section 4 hereof shall continue in full force and effect.

4. Expenses.

(a) Whether or not the Underwriter accepts delivery of and pays for the Bonds as set forth herein, it shall be under no obligation to pay, and the City shall pay out of the proceeds of the Bonds or any other legally available funds of the City, all expenses incidental to the performance of the City's obligations hereunder, including but not limited to the cost of printing and delivering the Bonds to the Underwriter; the costs of printing and shipping and electronic distribution of the Preliminary Official Statement and the Official Statement; the fees and disbursements of the City, the Fiscal Agent, the Financial Advisor, Bond Counsel, City Attorney, accountants, engineers, appraisers, economic consultants and any other experts or consultants retained by the City in connection with the issuance and sale of the Bonds; rating agency fees; and any other expenses not specifically enumerated in paragraph (b) of this Section incurred in connection with the issuance and sale of the Bonds.

(b) Whether or not the Bonds are delivered to the Underwriter as set for herein, the City shall be under no obligation to pay, and the Underwriter shall be responsible for and pay, CUSIP Bureau and CDIAAC fees and expenses to qualify the Bonds for sale under any "blue sky" laws; and all other expenses incurred by the Underwriter in connection with its public offering and distribution of the Bonds not specifically enumerated in paragraph (a) of this Section, including the fees and disbursements of their counsel.

5. Notices. Any notice or other communication to be given to the City under this Purchase Agreement may be given by delivering the same in writing to the City of Manhattan Beach, 1400 Highland Avenue, Manhattan Beach, California 90266, Attention: City Manager and any notice or other communication to be given to the Underwriter under this Purchase Agreement may be given by delivering the same in writing to UBS Securities LLC, 777 South Figueroa Street, 50<sup>th</sup> Floor, Los Angeles, California 90017, Attention: Frank X. Lauterbur.

6. Parties in Interest. This Purchase Agreement is made solely for the benefit of the City and the Underwriter (including any successors or assignees of the Underwriter) and no other person shall acquire or have any right hereunder or by virtue hereof.

7. Survival of Representations and Warranties. The representations and warranties of the City hereunder shall not be deemed to have been discharged, satisfied or otherwise rendered void by reason of the Closing and regardless of any investigations made by or on behalf of the Underwriter (or statements as to the results of such investigations) concerning such representations and statements of the City and regardless of the delivery of and payment for the Bonds.

8. Execution in Counterparts. This Purchase Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

9. No Prior Agreements. This Purchase Agreement supersedes and replaces all prior negotiations, agreements and understandings among the parties hereto in relation to the sale of

the Bonds for the City. This Purchase Agreement, when accepted by the City, shall constitute the entire agreement among the City and the Underwriter with respect to the subject matter hereof.

10. Effective Date. This Purchase Agreement shall become effective and binding upon the respective parties hereto upon the execution of the acceptance hereof by the City and shall be valid and enforceable as of the time of such acceptance.

11. Severability. In case any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof.

12. State Law Governs. The validity, interpretation and performance of this Purchase Agreement shall be governed by the laws of the State.

Very truly yours,

**UBS SECURITIES LLC**

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

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

**CITY OF MANHATTAN BEACH**

By: \_\_\_\_\_  
Geoff Dolan  
City Manager

**EXHIBIT A**

**MATURITY SCHEDULE**

**05-2 BONDS**

<b>Maturity September 2</b>	<b>Principal Amount</b>	<b>Interest Rate</b>	<b>Maturity September 2</b>	<b>Principal Amount</b>	<b>Interest Rate</b>
2007					
2008					
2009					
2010					
2011					
2012					
2013					
2014					
2015					

**Price: 100%**

**05-6 BONDS**

<b>Maturity September 2</b>	<b>Principal Amount</b>	<b>Interest Rate</b>	<b>Maturity September 2</b>	<b>Principal Amount</b>	<b>Interest Rate</b>
2007					
2008					
2009					
2010					
2011					
2012					
2013					
2014					
2015					

**Price: 100%**

City of Manhattan Beach - Comparison of Prepayment Vs. Annual Loans for UAD Loan Program

Attachment "J"

Base Assessment	\$ 38,210.99
Discounted Assessment if Prepaid	\$ 34,602.00
Number of Years	20
Interest Rate	5.25%
Annual Bond Payment	\$ 3,131.48

	City Prepays Assessment In Advance			City Pays Annually					
	Principal	Interest	Total Owed	Principal	Interest	Gross Bond Payment	Bond reserve Earnings	Total Bond Payment	Total Owed
Year 1	\$ 34,602.00	\$ 1,816.61	\$ 36,418.61			\$ 3,131.48	\$ (164.40)	\$ 2,967.08	\$ 2,967.08
Year 2	\$ 36,418.61	\$ 1,911.98	\$ 38,330.58	\$ 2,967.08	\$ 155.77	\$ 3,131.48	\$ (164.40)	\$ 2,967.08	\$ 6,089.93
Year 3	\$ 38,330.58	\$ 2,012.36	\$ 40,342.94	\$ 6,089.93	\$ 319.72	\$ 3,131.48	\$ (164.40)	\$ 2,967.08	\$ 9,376.72
Year 4	\$ 40,342.94	\$ 2,118.00	\$ 42,460.94	\$ 9,376.72	\$ 492.28	\$ 3,131.48	\$ (164.40)	\$ 2,967.08	\$ 12,836.08
Year 5	\$ 42,460.94	\$ 2,229.20	\$ 44,690.14	\$ 12,836.08	\$ 673.89	\$ 3,131.48	\$ (164.40)	\$ 2,967.08	\$ 16,477.05
Year 6	\$ 44,690.14	\$ 2,346.23	\$ 47,036.37	\$ 16,477.05	\$ 865.05	\$ 3,131.48	\$ (164.40)	\$ 2,967.08	\$ 20,309.17
Year 7	\$ 47,036.37	\$ 2,469.41	\$ 49,505.78	\$ 20,309.17	\$ 1,066.23	\$ 3,131.48	\$ (164.40)	\$ 2,967.08	\$ 24,342.48
Year 8	\$ 49,505.78	\$ 2,599.05	\$ 52,104.84	\$ 24,342.48	\$ 1,277.98	\$ 3,131.48	\$ (164.40)	\$ 2,967.08	\$ 28,587.54
Year 9	\$ 52,104.84	\$ 2,735.50	\$ 54,840.34	\$ 28,587.54	\$ 1,500.85	\$ 3,131.48	\$ (164.40)	\$ 2,967.08	\$ 33,055.46
Year 10	\$ 54,840.34	\$ 2,879.12	\$ 57,719.46	\$ 33,055.46	\$ 1,735.41	\$ 3,131.48	\$ (164.40)	\$ 2,967.08	\$ 37,757.95
Year 11	\$ 57,719.46	\$ 3,030.27	\$ 60,749.73	\$ 37,757.95	\$ 1,982.29	\$ 3,131.48	\$ (164.40)	\$ 2,967.08	\$ 42,707.32
Year 12	\$ 60,749.73	\$ 3,189.36	\$ 63,939.09	\$ 42,707.32	\$ 2,242.13	\$ 3,131.48	\$ (164.40)	\$ 2,967.08	\$ 47,916.53
Year 13	\$ 63,939.09	\$ 3,356.80	\$ 67,295.89	\$ 47,916.53	\$ 2,515.62	\$ 3,131.48	\$ (164.40)	\$ 2,967.08	\$ 53,399.23
Year 14	\$ 67,295.89	\$ 3,533.03	\$ 70,828.93	\$ 53,399.23	\$ 2,803.46	\$ 3,131.48	\$ (164.40)	\$ 2,967.08	\$ 59,169.77
Year 15	\$ 70,828.93	\$ 3,718.52	\$ 74,547.45	\$ 59,169.77	\$ 3,106.41	\$ 3,131.48	\$ (164.40)	\$ 2,967.08	\$ 65,243.26
Year 16	\$ 74,547.45	\$ 3,913.74	\$ 78,461.19	\$ 65,243.26	\$ 3,425.27	\$ 3,131.48	\$ (164.40)	\$ 2,967.08	\$ 71,635.60
Year 17	\$ 78,461.19	\$ 4,119.21	\$ 82,580.40	\$ 71,635.60	\$ 3,760.87	\$ 3,131.48	\$ (164.40)	\$ 2,967.08	\$ 78,363.55
Year 18	\$ 82,580.40	\$ 4,335.47	\$ 86,915.87	\$ 78,363.55	\$ 4,114.09	\$ 3,131.48	\$ (164.40)	\$ 2,967.08	\$ 85,444.72
Year 19	\$ 86,915.87	\$ 4,563.08	\$ 91,478.95	\$ 85,444.72	\$ 4,485.85	\$ 3,131.48	\$ (164.40)	\$ 2,967.08	\$ 92,897.64
Year 20	\$ 91,478.95	\$ 4,802.65	\$ 96,281.60	\$ 92,897.64	\$ 4,877.13	\$ 3,131.48	\$ (3,295.88)	\$ (164.40)	\$ 97,610.37

Total Paid after 20 Years	\$ 96,281.60	\$ 97,610.37
Difference Between Plans	\$ 1,328.77	
Present Value of Difference	\$477.54	
Percentage of Base Assessment	1.25%	