

91

MORTGAGE AND TRUST INDENTURE

between

CITY OF PELHAM, ALABAMA

and

AMSOUTH BANK N.A.

Dated August 31, 1984

BOOK 004 PAGE 01

Relating to

\$1,500,000

**First Mortgage Industrial Revenue Bonds
(Homecrafters Warehouse Project)
Series 1984**

Dated August 31, 1984

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Executed in **6** Counterparts of
Which This is Counterpart # **1**

BOOK 004 PAGE 02

TABLE OF CONTENTS*

to
MORTGAGE AND TRUST INDENTURE
between
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and
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	<u>Page</u>
Parties	1
Recitals	1

ARTICLE I

DEFINITIONS AND USE OF PHRASES

Section 1.1	Definitions	1
Section 1.2	Definitions Contained in the Lease	10
Section 1.3	Use of Phrases	10

ARTICLE II

GRANTING CLAUSES

Section 2.1	Granting Clauses	10
-------------	------------------------	----

ARTICLE III

DESCRIPTION OF BONDS

Section 3.1	Issuance of Bonds in Series	13
Section 3.2	Dates and Places of Payment of Bonds	13

*The Table of Contents appears here for convenience only and should not be considered a part of the Mortgage and Trust Indenture.

Section 3.3	Form of Bonds, Etc.	14
Section 3.4	Home Office Payment Agreements	14

ARTICLE IV

EXECUTION, AUTHENTICATION AND REPLACEMENT OF THE BONDS

Section 4.1	Execution of Bonds	16
Section 4.2	Authentication Certificate of Trustee	16
Section 4.3	Replacement of Mutilated, Lost, Stolen or Destroyed Bonds	16

ARTICLE V

REGISTRATION, TRANSFERS AND EXCHANGES OF THE BONDS

Section 5.1	Registration and Transfer of Bonds	16
Section 5.2	Persons Deemed Owners of the Bonds	17
Section 5.3	Exchange of Bonds	17
Section 5.4	Expenses of Registration, Trans- fer and Exchange	18

ARTICLE VI

GENERAL PROVISIONS RESPECTING REDEMPTION OF BONDS

Section 6.1	Manner of Effecting Redemption of Bonds	19
Section 6.2	Presentation of Bonds for Re- demption. Bonds Called for Redemption to Cease to Bear Interest	20
Section 6.3	Pro Rata Redemption of Bonds of Different Series Not Required	21
Section 6.4	Termination of Lease or Exercise by the Company of Option to Purchase Project	21

ARTICLE VII
THE SERIES 1984 BONDS

Section 7.1	Amount and Maturities of Series 1984 Bonds	21
Section 7.2	Interest Rate and Places of Pay- ment	22
Section 7.3	Optional Redemption of Series 1984 Bonds	24
Section 7.4	Extraordinary Redemption of Series 1984 Bonds	24
Section 7.5	Form of the Series 1984 Bonds	24
Section 7.6	Execution and Delivery of the Series 1984 Bonds	33
Section 7.7	Application of Proceeds from Sale of Series 1984 Bonds	33

ARTICLE VIII
ADDITIONAL BONDS

Section 8.1	Additional Bonds - In General	33
Section 8.2	Conditions Precedent to Issuance of Additional Bonds	34

ARTICLE IX
CONCERNING THE PROJECT
DEVELOPMENT WORK
AND PAYMENT OF
PROJECT DEVELOPMENT COSTS

Section 9.1	Agreement Respecting Completion of Project Development Work	37
Section 9.2	Construction Fund	37
Section 9.3	Trustee Protected in Construc- tion Fund Payments; Addi- tional Evidence May Be Required	40
Section 9.4	Investment of Construction Fund Moneys	40

ARTICLE X

APPLICATION OF REVENUES AND CREATION OF SPECIAL FUNDS

Section 10.1	Bond Fund	41
Section 10.2	Redemption Fund	43
Section 10.3	Retirement of Series 1984 Bonds Under Certain Conditions. General Provisions Respecting the Bond Fund and the Redemption Fund	43
Section 10.4	Investment of Moneys in Bond Fund and Redemption Fund	44
Section 10.5	Security for Bond Fund and Re- demption Fund Moneys	46
Section 10.6	Commingling of Moneys in Sep- arate Trust Funds	46

ARTICLE XI

PARTICULAR COVENANTS OF THE CITY

Section 11.1	Payment of the Bonds	47
Section 11.2	Priority of Pledge	47
Section 11.3	Concerning the Lease	48
Section 11.4	Maintenance, Repairs, Changes, Alterations, Taxes and Other Charges	49
Section 11.5	Warranty of Title	50
Section 11.6	Agreement of City to Maintain Corporate Existence and Not to Dispose of Project	50
Section 11.7	Freedom of Project from Prior Liens	51
Section 11.8	Payment of Trustee's Charges; Lien Therefor	51
Section 11.9	Inspections by Trustee	52
Section 11.10	Recordation. Further Assurances	52

ARTICLE XII

CERTAIN PROVISIONS RELATING TO THE POSSESSION, USE AND RELEASE OF THE PROJECT AND TO THE DISPOSITION OF INSURANCE PROCEEDS AND CONDEMNATION AWARDS

Section 12.1	Retention of Possession of Project by City	53
Section 12.2	Release of Unimproved Parts of Project Site	53
Section 12.3	Release of Project Equipment	54
Section 12.4	Release Upon Payment of Con- demnation Award to Trustee	54
Section 12.5	Disposition of Condemnation Award	54
Section 12.6	Disposition of Insurance Proceeds	55

ARTICLE XIII

EVENT OF DEFAULT AND REMEDIES OF TRUSTEE AND BONDHOLDERS

Section 13.1	Events of Default Defined	55
Section 13.2	Remedies on Default	56
Section 13.3	Manner of Sale of the Project	57
Section 13.4	Sale of the Project	58
Section 13.5	Application of Moneys Received from Enforcement of Rights Under the Indenture	59
Section 13.6	Remedies Vested in Trustee	61
Section 13.7	Rights of the Company Upon Oc- currence of an Event of Default	61
Section 13.8	Delay No Waiver	61
Section 13.9	Notice to Bondholders upon Occurrence of Event of Default	61

ARTICLE XIV
CONCERNING THE TRUSTEE

Section 14.1	Acceptance of Trusts	62
Section 14.2	Trustee Authorized to Perform Certain Acts on Failure of City	64
Section 14.3	Trustee May Institute Suit, etc.	65
Section 14.4	Resignation and Discharge of Trustee	65
Section 14.5	Appointment of Successor Trustee	66
Section 14.6	Concerning any Successor Trustee	66
Section 14.7	Merger or Consolidation of Trustee	66

ARTICLE XV
SUPPLEMENTAL INDENTURES
AND
AMENDMENTS TO THE LEASE

Section 15.1	Supplemental Indentures without Bondholder Consent	67
Section 15.2	Supplemental Indenture Requiring Bondholder Consent	67
Section 15.3	Execution of Supplemental Indentures	68
Section 15.4	Amendments to the Lease	69
Section 15.5	Notices with Respect to Certain Changes in the Indenture or the Lease	69
Section 15.6	Discretion of the Trustee	70

ARTICLE XVI
PAYMENT AND CANCELLATION OF THE
BONDS AND SATISFACTION OF THE INDENTURE

Section 16.1	Satisfaction of Indenture	70
Section 16.2	Destruction of Surrendered Bonds	72
Section 16.3	Payment to the Company of Remaining Trust Fund Moneys	72

ARTICLE XVII
MISCELLANEOUS PROVISIONS

Section 17.1	Disclaimer of General Liability	72
Section 17.2	Concerning Certain Payments	73
Section 17.3	Retention of Moneys for Payment of Bonds	73
Section 17.4	Payments Due on Saturdays, Sun- days and Holidays	74
Section 17.5	Form of Requests, etc., by Bond- holders	74
Section 17.6	Limitation of Rights	74
Section 17.7	Manner of Proving Ownership of Bonds	74
Section 17.8	Granting of Utility and Access Easements	74
Section 17.9	Indenture Governed by Alabama Law	75
Section 17.10	Notices	75
Section 17.11	Severability	75
Section 17.12	Article and Section Captions	76
	Testimonium	76
	Signatures	76
	Acknowledgments	77
	Exhibit A	

BOOK 004 PAGE 08

MORTGAGE AND TRUST INDENTURE between **THE CITY OF PELHAM**, a municipal corporation under the laws of the State of Alabama, party of the first part, and **AMSOUTH BANK N.A.**, a national banking association having its principal place of business in the City of Birmingham, Alabama in its capacity as Trustee hereunder, party of the second part,

RECITALS

The party of the first part makes the following recitals of fact as the basis for the undertaking following: it is duly incorporated under the laws of Alabama, by Certificate of Incorporation duly filed for record in the office of the Judge of Probate of Shelby County, Alabama; its Certificate of Incorporation has not been amended or revoked; by proper official action it has duly authorized the issuance of the Series 1984 Bonds hereinafter referred to; and to secure payment of the principal of and the interest and premium (if any) on all the bonds that shall be issued hereunder, it has by proper official action duly authorized the execution and delivery of this Indenture.

NOW, THEREFORE, THIS INDENTURE

WITNESSETH:

For the aforesaid purpose and in consideration of the respective agreements herein contained, it is hereby agreed between the parties signatory hereto and the holders of all the Bonds issued hereunder (the holders of said Bonds evidencing their consent hereto by their acceptance of the said Bonds and the parties signatory hereto evidencing their consent hereto by their execution hereof), each with each of the others, as follows (provided, that in the performance of any of the agreements of the party of the first part herein contained, any obligation it may thereby incur for the payment of money shall not be a general debt on its part but shall be payable solely from the sources of payment hereinafter specified):

ARTICLE I

DEFINITIONS AND USE OF PHRASES

Section 1.1 Definitions. Unless the context clearly indicates a different meaning, the following words and phrases, as used herein, shall have the following respective meanings:

"Act" means the statutes codified as Code of Alabama of 1975, Title 11, Chapter 54, Article 2, as the same shall be hereafter otherwise amended and supplemented and at the time in force and effect.

"Additional Bonds" means the bonds of the City authorized in Article VIII hereof to be issued hereunder and secured hereby on a parity of lien and pledge with the Series 1984 Bonds.

"Affiliate" of any designated person means any person which, directly or indirectly, controls, or is controlled by, or is under common control with, such designated person.

"Agreement of Sale" means that certain Agreement of Sale dated August 31, 1984 between the City and the Company, providing for the conveyance of the project from the City to the Company under certain circumstances.

"Authorized City Representative" means the person or persons at the time designated as such by written certificate furnished to the Company and the Trustee, containing the specimen signature or signatures of such person or persons and signed on behalf of the City by its Mayor; provided however, that no officer or employee of the Company or any Affiliate thereof may at any time be designated as an Authorized City Representative.

"Authorized Company Representative" means the person or persons at the time designated as such by written certificate furnished to the City and the Trustee, containing the specimen signature or signatures of such person or persons and signed on behalf of the Company by the President or any Vice President thereof.

"Basic Rent" means (i) the moneys payable by the Company pursuant to the provisions of Section 5.2 of the Lease, (ii) any other moneys payable by the Company pursuant to the Lease to provide for the payment of the principal of and the interest and premium (if any) on the Series 1984 Bonds (other than the aforesaid moneys payable pursuant to Section 5.2 of the Lease), and (iii) any other moneys payable by the Company pursuant to the Lease that are therein referred to as Basic Rent.

"Bond Counsel" means Independent Counsel whose opinions respecting the legality or validity of securities issued by or on behalf of states or political subdivisions thereof are nationally recognized.

"Bond Fund" means the Homecrafters Warehouse Bond Principal and Interest Fund created in Section 10.1 hereof and consisting of two accounts, the Primary Account and the Escrow Account.

"Bond Fund Escrow Account" means the Escrow Account forming a part of the Bond Fund.

"Bond Fund Primary Account" means the Primary Account forming part of the Bond Fund.

"Bond Preference Tax" means any tax or penalty hereafter imposed on the owner of Tax Exempt Obligations under the laws of federal income taxation,

including without limitation any preference tax, excess profits tax or other tax measured in whole or in part with reference to (i) the interest on or the principal of Tax Exempt Obligations, or (ii) any amount of interest on indebtedness deemed attributable to the purchase or carrying of Tax Exempt Obligations.

"Bondholder" means the Holder of any Bond.

"Bonds" means all bonds of the City issued under this Indenture; i.e., the Series 1984 Bonds and all Additional Bonds.

"City" means the party of the first part hereto and, subject to the provisions of Section 11.6 hereof, includes its successors and assigns and any municipal corporation resulting from or surviving any consolidation or merger to which it or its successors may be a party.

"Code" means the Internal Revenue Code of 1954, as amended and at the time in force and effect.

"Company" means Homecrafters Warehouse, Inc., a corporation organized and existing under the laws of the State of Delaware, and, subject to the provisions of Section 8.4 of the Lease, includes its successors and assigns.

"Completion Date" means the date on which the completion of the Project Development Work and the satisfaction of the other conditions referred to in Section 4.6 of the Lease are certified to the Trustee and the City in accordance with the provisions of said Section 4.6.

"Construction Fund" means the Homecrafters Warehouse Project Construction Fund created in Section 9.2 hereof.

"Counsel" means any attorney duly admitted to practice before the highest court of any state of the United States of America or the District of Columbia (including any officer, partner or full-time employee of the City, the Company or an Affiliate of any of them who is so admitted to practice), it being understood that "Counsel" may also mean a firm of attorneys all of whose members are so admitted to practice.

"Declaration of Condominium" means that certain "Declaration of Condominium of The Homecrafters Warehouse Building, A Condominium" which appears of record in the Office of the Judge of Probate of Shelby County, Alabama in Real Volume ____ at Page ____, et seq.

"Eligible Deposits" means certificates of deposit issued by, or any acceptance by, any bank organized under the laws of the United States of America or any state thereof and having, at the time of the acquisition by the City of such certificates of deposit, combined capital, surplus and undivided profits of not less than \$10,000,000.

"Eligible Investments" means Eligible Deposits, Federal Securities and any other debt securities in which the City is legally authorized to invest its moneys.

"Event of Default" means an "Event of Default" as specified in Section 13.1 hereof.

"Federal Securities" means (i) any debt securities that are direct obligations of the United States of America, and (ii) any debt securities payment of the principal of and the interest on which is unconditionally guaranteed by the United States of America.

"Holder" means the person in whose name any such Bond is registered on the registry books of the Trustee pertaining to the Bonds.

"Home Office Payment Agreement" means a special payment agreement between the Trustee and the Holder of any Series 1984 Bond which complies with the provisions of Section 3.8 hereof.

"Indenture" means this Mortgage and Trust Indenture, as supplemented and amended by any Supplemental Indenture executed by the City and the Trustee in accordance with the applicable provisions of Article XV hereof.

"Indenture Indebtedness" means all indebtedness of the City at the time secured by the Indenture, including, without limitation, (i) all principal of and interest and premium (if any) on the Series 1984 Bonds and (ii) all reasonable and proper fees, charges and disbursements of the Trustee for services performed and disbursements made under the Indenture.

"Independent Alabama Counsel" means an attorney who is duly admitted to practice before the highest court in the State of Alabama and who is not an officer or full-time employee of the City, the Company or an Affiliate of any of them, it being understood that "Independent Alabama Counsel" may also mean a firm of attorneys whose members are so admitted to practice and none of whose members is an officer or full-time employee of the City, the Company or an Affiliate of any of them.

"Independent Appraiser" means a person, firm or corporation not regularly employed or retained by the City, the Company or an Affiliate of any of them and regularly engaged in the business of appraising real or personal property (as appropriate to the property being appraised or valued) and otherwise competent, in the opinion of the Trustee, to determine the value of the property in question.

"Independent Architect" means an architect or architectural firm licensed to engage in the independent practice of architecture under the laws of the State of Alabama and not regularly employed or retained by the City, the Company or an Affiliate of any of them.

"Independent Counsel", when used to describe Counsel who is an individual attorney, means that he is not an officer, partner or full-time employee of the City, the Company or an Affiliate of any of them and, when used to describe Counsel consisting of a firm of attorneys, means that none of the members of such firm is an officer, partner or full-time employee of the City, the Company or an Affiliate of any of them.

"Independent Engineer" means an engineer or engineering firm licensed to engage in the independent practice of engineering under the laws of the State of Alabama and not regularly employed or retained by the City, the Company or an Affillate of any of them.

"Inducement Agreement" means that certain Inducement Agreement dated as of August 1, 1983 between the City and the Company and in which the City agreed, among other things, to acquire, construct and equip the Project, to issue the Series 1984 Bonds to finance the costs of such undertakings and to lease the Project to the Company.

"Lease" means that certain Lease Agreement dated August 31, 1984, between the City, as lessor, and the Company, as lessee, as said Lease Agreement now exists and as it may from time to time be modified, supplemented or amended in accordance with the provisions of Article XV hereof.

"Lease Default" means an "Event of Default" under the Lease, as such term is defined in Section 10.1 of the Lease.

"Newspaper" means a newspaper printed in the English language, published not less than five days during each calendar week and being published or having general circulation in such localities as may be herein specified, if there be any such. If there is no newspaper in existence meeting the foregoing qualifications, the term "Newspaper" shall mean any newspaper or other publication selected by the Trustee and reasonably suitable in the circumstances for use in making the publication at the time required to be made.

"Owner" means the person in whose name any Post-Tax Series 1984 Bond was registered on the registry books of the Trustee pertaining to the Bonds at the time it matured or on the redemption date thereof, as the case may be.

"Permitted Encumbrances" means, as of any particular time, any of the following: (i) the Declaration of Condominium; (ii) the Lease and the Indenture; (iii) liens imposed by law, such as mechanics', workmen's, materialmen's, carriers' and other like liens arising in the ordinary course of business, securing obligations which are not overdue or which are being contested in good faith and by appropriate proceedings; (iv) liens for property taxes not delinquent or for taxes which are being contested in good faith and by appropriate proceedings; and (v) utility, access, drainage and other easements and rights-of-way, mineral rights, covenants running with the land, zoning restrictions, environmental regulations and other restrictions and encumbrances affecting the use of real property, or minor irregularities in the title to real property, none of the foregoing of which, individually or in the aggregate, materially impair the title of the City to any part of the Project or the use of the Project for the purpose for which it was acquired or is held by the City.

"Post-Tax Series 1984 Bond" means any Series 1984 Bond that was outstanding and unpaid on the date of a Series 1984 Event of Taxability with respect thereto but not on the Series 1984 Taxability Redemption Date; provided however, any provision hereof to the contrary notwithstanding, any Series 1984 Bond shall be deemed, for purposes of this definition, not to have been outstanding and unpaid on

the date of a Series 1984 Event of Taxability with respect thereto only if (i) it had theretofore matured and moneys were available at the principal office of the Trustee for full payment thereof prior to the date of such Series 1984 Event of Taxability, or (ii) it had theretofore been duly called for redemption on a date fixed for redemption prior to the date of such Series 1984 Event of Taxability and moneys were available at the principal office of the Trustee for full payment of the redemption price thereof prior to the date of such Series 1984 Event of Taxability.

"Prime Rate" means the rate of interest announced from time to time by AmSouth Bank N.A., a national banking association with its principal office in the City of Birmingham, Alabama, as its prime rate, with the understanding that the said prime rate is one of the base rates from time to time established by the said AmSouth Bank N.A. which serves as the basis upon which effective rates of interest are calculated for those loans of money making reference to the said prime rate and is evidenced by the recording thereof after its announcement in such internal publication or publications as the said AmSouth Bank N.A. may designate.

"Project" means the Project Site, the Project Building and the Project Equipment, as they may at any time exist, and all other property and rights of every kind that are or become subject to the lien of the Indenture.

"Project Building" means the wholesale warehouse and distribution building as well as all related improvements which are required under the Lease to be constructed on the Project Site, as the said wholesale warehouse and distribution building, manufacturing facility, and improvements may at any time exist.

"Project Development Costs" means the following: (i) all costs and expenses incurred in connection with the planning, development and design of the Project, including the costs of preliminary investigations, surveys, estimates and plans and specifications; (ii) all costs of acquiring, preparing and improving the Project Site; (iii) all costs and expenses of constructing the Project Building, including the cost to the Company of supervising construction, payments to contractors and materialmen and fees for professional or other specialized services; (iv) all costs and expenses of acquiring the Project Equipment and of installing the same on the Project Site; (v) the costs of contract bonds and of insurance of all kinds which may be necessary or desirable in connection with the Project Development Work and which are not paid by any contractor or otherwise provided for; (vi) all expenses incurred in connection with the issuance and sale of the Series 1984 Bonds, including (without limitation) all legal, accounting, financial, underwriting, printing, recording and filing fees and expenses and the initial charge of the Trustee; (vii) interest on moneys borrowed by the Company to pay Project Development Costs; (viii) all other costs which the City has hitherto agreed to pay, under the terms of any contract or contracts, in connection with the Project Development Work; and (ix) the reimbursement to the Company of all amounts paid directly by the Company in respect of any of the aforesaid costs and expenses and of all amounts advanced by the Company to the City for the payment of such costs and expenses, to the extent that such costs were incurred subsequent to the date of the Inducement Agreement.

"Project Development Work" means (i) the acquisition of the Project Site, as well as the preparation and improvement thereof to the extent that the Company deems necessary or desirable in connection with the construction of the Project Building, (ii) the planning, design and construction of the Project Building in accordance with the provisions of the Lease and (iii) the planning, design and acquisition of the Project Equipment and the installation thereof on the Project Site, all in accordance with the provisions of the Lease.

"Project Equipment" means (i) all items (whether or not fixtures) of machinery, equipment or other personal property the costs of which, in whole or in part, have been paid for by the City out of the proceeds of the sale of the Series 1984 Bonds, and (ii) all items (whether or not fixtures) of machinery, equipment or other personal property that are acquired by the City in substitution for or replacement of items of machinery, equipment or other personal property theretofore constituting part of the Project Equipment and that, under the provisions of the Lease and the Indenture, are to constitute part of the Project Equipment. As of the delivery of this Indenture, the Project Equipment consists of those items (whether or not fixtures) of machinery, equipment or other personal property that are generally described in Exhibit A attached hereto and made a part hereof.

"Project Site" means (i) the parcel of land specifically described under the heading "I" in Section 2.1 hereof (to the extent that such parcel is at the time subject to the lien hereof) and (ii) any other land that, at the time and under the terms hereof, constitutes a part of the Project Site.

"Qualifying Project Development Costs" means Project Development Costs that are expended solely for the purpose of acquiring, constructing, reconstructing or improving land or property of a character subject to the allowance for depreciation within the meaning of Section 103(b)(6) of the Code and the applicable regulations thereunder, to the extent that such costs were incurred subsequent to the date of the Inducement Agreement.

"Redemption Fund" means the Homecrafters Warehouse Bond Redemption Fund created in Section 10.2 hereof.

"Resolution" means a resolution duly adopted by the governing body of the City.

"Series 1984 Bond Guaranty" means that certain Bond Guaranty Agreement dated August 31, 1984, between the Company and the Trustee in and by which the Company has unconditionally guaranteed the payment by the City of the principal of and the interest and premium (if any) on the Series 1984 Bonds and has agreed to pay or discharge certain other obligations relating to the Series 1984 Bonds, as such Bond Guaranty Agreement may from time to time be amended in accordance with the provisions thereof.

"Series 1984 Bonds" means those of the Bonds bearing the designation First Mortgage Industrial Revenue Bonds (Homecrafters Warehouse Project), Series 1984, dated August 31, 1984, and authorized to be issued under Article VII hereof.

"Series 1984 Determination of Taxability" means a determination that the interest income on any of the Series 1984 Bonds is subject to federal income taxation as a result of the occurrence of a Series 1984 Event of Taxability, which determination shall be deemed to have been made upon the occurrence of the first to occur of the following:

(a) the date on which the Company determines that the interest income on the Series 1984 Bonds is subject to federal income taxation by filing with the Trustee a statement to that effect, supported by any tax schedule, return or document which discloses that a Series 1984 Event of Taxability has occurred; or

(b) the date on which the Company or any Holder of any of the Series 1984 Bonds shall be advised by private ruling, technical advice or any other written communication from any authorized official of the Internal Revenue Service that, based upon any filings of the Company, or upon any other grounds whatsoever, a Series 1984 Event of Taxability has occurred; or

(c) the date on which the Company shall receive notice from the Trustee in writing that the Trustee has been advised (i) by any Holder of any Series 1984 Bonds that the Internal Revenue Service has assessed as includable in the gross income of such Holder the interest on such Series 1984 Bonds due to the occurrence of a Series 1984 Event of Taxability; or (ii) by any authorized official of the Internal Revenue Service that the interest on the Series 1984 Bonds is includable in the gross income of any Holder thereof due to the occurrence of a Series 1984 Event of Taxability; or

(d) the date upon which, by Act of the Congress of the United States of America or by any other official action of the government of the United States of America, the interest on any of the Series 1984 Bonds becomes subject to Federal income taxation; or

(e) the date on which the Holder of any of the Series 1984 Bonds shall determine in good faith, which determination shall be evidenced by written notice delivered to the City and to the Company and supported by an opinion of Bond Counsel, that a Series 1984 Event of Taxability has occurred;

provided that no Series 1984 Determination of Taxability shall be deemed to have occurred as a result of a determination by the Company pursuant to the preceding clause (a) unless supported by a written opinion of Independent Counsel acceptable to the Trustee that the interest income on any of the Series 1984 Bonds is subject to federal income taxation as a result of the occurrence of a Series 1984 Event of Taxability; provided further that no Series 1984 Determination of Taxability shall be deemed to have occurred as a result of events described in any of the preceding clauses (a), (b), (c) and (d) unless and until (1) the Company has been afforded a reasonable opportunity, at its expense, to contest such determination either through its own action (if permitted by law) or by or on behalf of one or more of the holders

of the Series 1984 Bonds and (2) such contest, if made, has been abandoned by the Company or has been finally determined by a court of competent jurisdiction from which no further appeal exists, but if such contest has not been abandoned or finally determined within three years of the event described in any of said clauses (b), (c) and (d) which forms the basis of the Series 1984 Determination of Taxability in question, then such Series 1984 Determination of Taxability shall be deemed to have occurred three years after the date of such event.

"Series 1984 Event of Taxability" means the event which causes the interest income on any of the Series 1984 Bonds to become subject to federal income taxation as a result of any of the following conditions or circumstances:

(a) the Series 1984 Bonds constitute "arbitrage bonds" within the meaning of Section 103(c) of the Code;

(b) the taking of any action by the City or the Company, or the failure of the City or the Company to take any action, or any mistake in or untruthfulness of any representation of the City or the Company contained in the Lease or in any certificate of the City or the Company delivered pursuant to the Lease or the Indenture or in connection with the issuance of the Series 1984 Bonds, if such act or omission, or such mistake in or untruthfulness of such representation, has the effect of causing the interest income on the Series 1984 Bonds to be or become subject to federal income taxation; or

(c) the date upon which, by Act of the Congress of the United States of America or by any other official action of the government of the United States of America, the interest on any of the Series 1984 Bonds becomes subject to Federal income taxation;

provided that no Series 1984 Event of Taxability shall be deemed to have occurred with respect to any Series 1984 Bond if the interest income thereon shall be subject to federal income taxation for any period solely because during that period such bond was held by a person who is a Substantial User of the Project or a Related Person to such Substantial User.

"Series 1984 Guaranty Default" means the failure of the Company to fulfill any of its obligations, covenants or agreements under the terms of the Series 1984 Bond Guaranty.

"Series 1984 Investment Proceeds" means the net income derived from the investment and reinvestment of proceeds of the Series 1984 Bonds (including income derived from the investment and reinvestment of previously derived income), and includes the net income derived from the investment of moneys transferred from the Construction Fund to the Bond Fund Escrow Account, as well as the net income derived from the investment of moneys held in the Construction Fund.

"Series 1984 Issuance Expenses" means the expenses of issuing the Series 1984 Bonds to the extent, and only to the extent, that, in determining the amounts of the "proceeds" of the Series 1984 Bonds for purposes of the "substantially all" test

provided by Treasury Regulations §1.103-8(a)(1)(i) and §1.103-10(b)(1)(ii), such expenses are properly deductible from the aggregate amount (excluding accrued interest) received by the City from the sale of the Series 1984 Bonds.

"Series 1984 Original Purchaser" means AmSouth Bank N.A., the original purchaser of the Series 1984 Bonds from the City.

"Series 1984 Principal Proceeds" means the aggregate amount (excluding accrued interest, if any) received by the City from the sale of the Series 1984 Bonds, less the Series 1984 Issuance Expenses.

"Supplemental Indenture" means an agreement supplemental hereto.

"Tax Exempt Obligations" means any obligations or debt securities the interest on which is exempt from federal income taxation under Section 103 of the Code.

"Trustee" means the party of the second part hereto and its successors and any corporation resulting from or surviving any consolidation or merger to which it or its successors may be a party.

Section 1.2 Definitions Contained in the Lease. Unless the context clearly indicates a different meaning, any words, terms or phrases that are used in the Indenture as defined terms without being herein defined and that are defined in the Lease shall have the meanings respectively given them in the Lease.

Section 1.3 Use of Phrases. "Herein," "hereby," "hereunder," "hereof," "hereinbefore," "hereinafter" and other equivalent words refer to the Indenture and not solely to the particular portion thereof in which any such word is used. The definitions set forth in Section 1.1 hereof include both singular and plural. Whenever used herein, any pronoun shall be deemed to include both singular and plural and to cover all genders. Any percentage of Series 1984 Bonds, specified herein for any purpose, is to be figured on the principal amount thereof then outstanding.

ARTICLE II

GRANTING CLAUSES

Section 2.1 Granting Clauses. In order to secure to the Holders thereof payment of the principal of and the interest and premium (if any) on the Bonds and the performance and observance of the covenants and conditions herein

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and therein contained, and in consideration of their purchase and acceptance of the Bonds and of the acceptance by the Trustee of the trusts herein provided, the City does hereby grant, bargain, sell and convey, assign, transfer and pledge to and with the Trustee the following described properties of the City, whether the same are now owned by it or may be hereafter acquired:

I

The following described parcel of land situated in Shelby County, Alabama, wholly within the corporate limits of the City:

Unit B of The Homecrafters Warehouse Building, a Condominium, according to the Declaration of Condominium, as recorded in Book ____, at Page ____, in the Office of the Judge of Probate of Shelby County, Alabama, together with an undivided fractional interest in the common elements as set out in the said Declaration of Condominium;

II

BOOK 004 PAGE 19

The Project Building and all other buildings, structures and other improvements now or hereafter situated on the Project Site (to the extent of the City's interest therein), all permits, easements, licenses, rights-of-way, contracts, leases, privileges, immunities and hereditaments pertaining or applicable to the Project Site and all fixtures now or hereafter owned by the City and installed on the Project Site or in any of such other buildings, structures and improvements now or hereafter located on the Project Site, it being the intention hereof that all property, rights and privileges hereafter acquired for use as a part of or in connection with or as an improvement to the Project Site (to the extent of the City's interest therein) shall be as fully covered hereby as if such property, rights and privileges were now owned by the City and were specifically described herein;

III

All items (whether or not fixtures) of machinery, equipment and other personal property that at any time, under the provisions of the Lease or of the Indenture, constitute the Project Equipment, including, without limitation, the items (whether or not fixtures) of machinery, equipment and other personal property generally described in Exhibit A attached hereto and made a part hereof;

IV

The moneys required by the Lease or the Indenture to be deposited into the Construction Fund, together with any investments and reinvestments of such moneys and the proceeds thereof, subject, however, to the disbursement and use thereof for the payment of Project Development Costs in accordance with the provisions of the Lease and the Indenture;

V

The Basic Rent and all other revenues and receipts derived by the City from the leasing or sale of the Project (excluding, however, moneys paid by the Company pursuant to Section 5.4 or 10.4 of the Lease to reimburse the City for its expenses or to pay such expenses directly for its account), all other moneys required by the Lease or the Indenture to be deposited from time to time in the Bond Fund, and all other moneys from time to time held by the Trustee for the benefit of the Bondholders pursuant to the Indenture, together in each case with any investments and reinvestments of such moneys and the proceeds thereof, but subject, however, to the uses thereof provided for in the Indenture;

VI

All right, title and interest of the City in and to the Lease [except (i) the right to require the Company to pay certain expenses incurred by the City as provided in Sections 5.4 and 10.4 of the Lease, (ii) the release and indemnification rights of the City contained in Section 8.2 of the Lease and (iii) any other rights personal to the City which are expressly provided in the Lease to be exercised by the City], but not including, however, any of the obligations of the City thereunder; and

VII

Any and all moneys, rights and properties of every kind or description which may from time to time hereafter be sold, transferred, conveyed, assigned, hypothecated, endorsed, deposited, pledged, mortgaged, granted or delivered to, or deposited with, the Trustee by the City or anyone on its part as additional security for the payment of all or any specified series of the Bonds, or which pursuant to any of the provisions hereof or of the Lease, may come into the possession or control of the Trustee as such additional security; and the Trustee is hereby authorized and directed to receive any and all such moneys, rights and properties as and for additional security for the payment of all or any specified series of the Bonds and to hold and apply the same subject to the terms hereof and of the Lease.

TO HAVE AND TO HOLD the same unto the Trustee, its successor trustees and assigns forever, subject to Permitted Encumbrances; IN TRUST NEVERTHELESS, upon the terms and trusts herein set forth, for the equal and pro rata protection and benefit of the Holders, present and future, of the Bonds equally and ratably, without preference, priority or distinction of any over others, subject, however, to the right and duty of the Trustee to apply solely for the benefit of the Holders of any particular series of the Bonds all moneys, rights and properties that are pledged or otherwise contractually obligated for the sole and exclusive benefit of the Holders of such particular series of the Bonds, including, without limitation, all moneys received pursuant to, or as a result of the enforcement of, the Series 1984 Bond Guaranty;

PROVIDED HOWEVER, that these presents are upon the condition that if the City shall pay or cause to be paid the principal of and the interest and premium (if any) on all Bonds secured hereby at the times and in the manner mentioned in the Bonds, according to the true intent and meaning thereof, or shall provide for such payment as specified in Section 16.1 hereof, and shall pay or cause to be paid all other Indenture Indebtedness, then the Indenture and the estate and rights granted hereby shall cease, determine and be void; otherwise the Indenture shall be and remain in full force and effect.

ARTICLE III

DESCRIPTION OF BONDS

Section 3.1 Issuance of Bonds in Series. The Bonds may be issued in different series, and each Bond shall have an appropriate series designation. All the Bonds shall be equally and ratably secured by the Indenture and by the pledge herein contained, it being expressly understood and agreed that no Bonds issued hereunder shall be prior to any other Bonds thereafter issued hereunder, but shall be on a parity therewith with respect to the security afforded by the Indenture. All the Bonds shall be issued in fully registered form, viz., registered as to both principal and interest on the registry books of the Trustee pertaining to the Bonds in the names of the respective Holders thereof. It is expressly understood and agreed, however, that the Series 1984 Bond Guaranty shall be for the exclusive benefit of the Holders of the Series 1984 Bonds and that all moneys received by the Trustee under the Series 1984 Bond Guaranty shall be applied for the payment of the principal of and the interest and premium (if any) on the Series 1984 Bonds.

Section 3.2 Dates and Places of Payment of Bonds. Subject to any applicable provisions pertaining to the dating of Bonds issued pursuant to the provisions of either Section 5.1 or 5.3 hereof, the Bonds of each series shall bear such date or dates as shall be specified in the Indenture or Supplemental Indenture under which such series is issued, and the Bonds of each such series shall mature on January 1 or July 1, or on both such days, in such years and in such amounts as shall be fixed therefor prior to issuance of such Bonds. In the event that all or any part of the

Bonds of any series are required (by the terms of the Indenture or any Supplemental Indenture) to be redeemed prior to maturity through the operation of a sinking or other similar fund, such redemption shall be required to be effected on one or both of the calendar days on which any Bonds issued hereunder are permitted to have a stated maturity date, in such years and amounts as shall be specified prior to the issuance of such Bonds. Interest on the Bonds of each series from their respective dates until their respective maturities shall be payable, at such per annum rate or rates as shall be fixed therefor prior to their issuance, on January 1 and July 1. All installments of principal of and interest and premium (if any) on each series of the Bonds shall bear interest after the respective due dates of such principal, interest and premium (if any) until paid or until moneys sufficient for payment thereof shall have been deposited for that purpose with the Trustee, whichever first occurs, at such per annum rate and subject to such grace period (if any) as shall be specified prior to their issuance. The principal of and the interest and premium (if any) on the Bonds shall be payable in lawful money of the United States of America.

Subject to the provisions of Section 3.4 hereof, the principal of and the interest and premium (if any) on the Bonds shall be paid by check or draft mailed or otherwise delivered by the Trustee to the respective Holders thereof at their addresses as they appear on the registry books of the Trustee pertaining to the Bonds; provided that the final payment of such interest shall be made only upon surrender of the appropriate Fully Registered Bond to the Trustee.

Section 3.3 Form of Bonds, Etc. The Series 1984 Bonds and the authentication certificate applicable thereto shall be in substantially the forms respectively provided therefor in Section 7.5 hereof. The Bonds of each series of Additional Bonds and the various certificates and endorsements applicable thereto shall be in substantially the forms respectively provided therefor in the Supplemental Indenture under which each such series of Additional Bonds is issued.

Section 3.4 Home Office Payment Agreements. Any provision hereof to the contrary notwithstanding, the Trustee will, at the request of the Holder of any Bond originally issued in a principal amount of not less than \$100,000, enter into a Home Office Payment Agreement with such Holder providing for the payment of the interest on such Bond and the redemption price of any partial redemption of the principal thereof at a place and in a manner other than as provided in Section 7.2 hereof or in such Bond, but any such agreement shall be subject to the following conditions:

(a) The terms and conditions of such agreement shall be satisfactory to the Trustee;

(b) The final payment of the principal of and the interest and premium (if any) on such Bond shall be made only upon the surrender thereof to the Trustee;

(c) If such agreement provides for the partial redemption of the principal of such Bond without the surrender thereof in exchange for one or more new Bonds in an aggregate principal amount equal to the unredeemed portion of such Bond, then such agreement

(i) shall provide that the Holder of such Bond will not sell, pledge, transfer or otherwise dispose of the same unless prior to the delivery thereof it shall (A) surrender the same to the Trustee in exchange for a new Bond or Bonds in an aggregate principal amount equal to the aggregate unpaid principal of such Bond or (B) notify the Trustee in writing of such sale, pledge, transfer or other disposition and deliver to the Trustee a certificate certifying to the Trustee that endorsement has been made on such Bond, or on a record of partial redemption appertaining thereto and constituting a part thereof, of all portions of the principal of such Bond which have been redeemed, and

(ii) shall provide (A) that, to the extent of the payment to the Holder of such Bond of the redemption price of any portion thereof called for redemption, the City and the Trustee shall be released from liability with respect to such Bond and the Company shall be released from liability for any Basic Rent referable thereto, and (B) that such Holder will indemnify and hold harmless the City, the Company and the Trustee against any liability arising from the failure of such Holder to make any endorsement on such Bond (or record of partial redemption appertaining thereto) required by the preceding clause (i) or from an error or omission in such endorsement; and

(d) Such agreement shall provide that if moneys are on deposit in the Bond Fund, on or before any interest payment date or any redemption date, sufficient to pay the interest on the Bonds due on such interest payment date or the redemption price of any Bonds called for redemption on such redemption date, as the case may be, then the failure of the Holder of such Bonds to receive in a timely manner any payment due such Holder on such interest payment date or redemption date, as the case may be, because of a mistake, delay or other failure in the implementation of the method of payment prescribed by such Holder in such agreement shall not constitute an Event of Default, provided such mistake, delay or other failure is not due to the negligence of the City or the Company.

ARTICLE IV

EXECUTION, AUTHENTICATION AND REPLACEMENT OF THE BONDS

Section 4.1 Execution of Bonds. The Bonds shall be executed by the Mayor of the City, and the seal of the City shall be affixed thereto and attested by the Clerk of the City; provided that either the signature of the Mayor of the City or the signature of the Clerk of the City, or both of them, on the Bonds may be a facsimile of the signature of such officer; and provided further that a facsimile of the seal of the City may be imprinted thereon rather than manually affixed thereto. Signatures on the Bonds by persons who were officers of the City at the time such signatures were written or printed shall continue effective although such persons cease to be such officers prior to the authentication of the Bonds or the delivery of the Bonds.

Section 4.2 Authentication Certificate of Trustee. A duly executed authentication certificate by the Trustee in substantially the applicable form hereinafter recited shall be endorsed on each of the Bonds and shall be essential to its validity. Such certificate shall be conclusive of the due issue of such Bond hereunder.

Section 4.3 Replacement of Mutilated, Lost, Stolen or Destroyed Bonds. In the event any Bond is mutilated, lost, stolen or destroyed, the City may execute, and the Trustee shall thereupon authenticate and deliver, a new Bond of like tenor as that mutilated, lost, stolen or destroyed, which such new Bond shall correspond in all respects to the Bond mutilated, lost, stolen or destroyed; provided that (i) in the case of any such mutilated Bond, such Bond is first surrendered to the City and the Trustee, and (ii) in the case of any such lost, stolen or destroyed Bond, there is first furnished to the City, the Trustee and to the Company evidence of such loss, theft or destruction satisfactory to the Trustee, together with indemnity satisfactory to each of them. The City may charge the Holder with the expense of issuing any such new Bond. In lieu of issuing a new Bond to replace any mutilated, lost, stolen or destroyed Bond which shall have already matured, the Trustee may pay such Bond at or after the maturity thereof if the owner of such Bond satisfies the same terms and conditions as those provided in the preceding provisions of this section for the replacement thereof.

ARTICLE V

REGISTRATION, TRANSFERS AND EXCHANGES OF THE BONDS

Section 5.1 Registration and Transfer of Bonds. The Trustee shall be the registrar and transfer agent of the City and shall keep at its office proper registry and transfer books in which it will note the registration and transfer of such Bonds as are presented for those purposes, all in the manner and to the extent hereinafter specified.

The Bonds shall be transferable only on the transfer books of the Trustee. No transfer of any Bond shall be valid hereunder unless such Bond is presented at the office of the Trustee with written power to transfer signed by the registered owner thereof in person or by duly authorized attorney, properly stamped if required, in form and with guaranty of signature satisfactory to the Trustee, whereupon the City shall execute, and the Trustee shall authenticate and deliver to the transferee a new Bond, registered in the name of such transferee and of like tenor as that presented for transfer. The person in whose name any Bond is registered on the books of the Trustee shall be the sole person to whom or on whose order payments on account of the principal thereof and of the interest and premium (if any) thereon may be made.

Any Bond authenticated and delivered pursuant to the provisions of this section shall be dated as of the interest payment date next preceding the date of its authentication by the Trustee or, if the date of such authentication is an interest payment date, as of such date; provided that if any Bond is to be authenticated and delivered pursuant to this section prior to the first interest payment date with respect to the Bond or Bonds presented for transfer for which it is to be issued in lieu of, such Bond shall be dated the date of the Bond or Bonds for which it is to be so issued in lieu of; and provided further that if at the time of such authentication, the City is in default in payment of the interest on the Bonds, such Bond shall be dated as of the interest payment date to which interest has previously been paid or made available for payment on the Bonds. In any case, any Bond issued in lieu of other Bonds presented for transfer shall bear interest at the rate borne by the Bonds so presented for transfer and shall bear interest from such date as is necessary to assure that no gain or loss of interest shall result from the transfer of any Bonds.

The Trustee shall not be required to register or transfer any Bond during the period of fifteen (15) days next preceding any interest payment date with respect thereto; and if any Bond shall be duly called for redemption (in whole or in part), the Trustee shall not be required to register or transfer such Bond during the period of forty-five (45) days next preceding the date fixed for such redemption.

Section 5.2 Persons Deemed Owners of the Bonds. The City, the Trustee and any institution at which the Bonds are or may be payable may deem and treat the person in whose name a Bond is registered as the absolute owner thereof for all purposes; they shall not be affected by notice to the contrary; and all payments by any of them to the person in whose name any Bond is registered, shall to the extent thereof fully discharge and satisfy all liability for the same.

Section 5.3 Exchange of Bonds. The Bonds of each series shall be freely exchangeable within the limits provided in the Indenture or Supplemental Indenture under which such series is issued; provided however, that under no circumstances shall any Bond be issuable in exchange for any other Bond or Bonds unless the Bond or Bonds being so exchanged are of the same series, bear interest at the same rate and have the same stated maturity. Upon the request of a Holder of any Bond or Bonds aggregating not less than \$10,000 in face or principal amount, the

City shall execute, and the Trustee shall thereupon authenticate and deliver, upon surrender to the Trustee of such Bond or Bonds and in exchange therefor, a Bond of like tenor as the Bond or Bonds so surrendered and in an authorized denomination (viz., in any integral multiple of \$5,000) aggregating the same principal amount as the Bond or Bonds so surrendered. Thereafter and upon the request of the Holder of one or more Bonds so authenticated and delivered, the City shall execute, and the Trustee shall thereupon authenticate and deliver, upon surrender to the Trustee of such Bond or Bonds and in exchange therefor, a Bond or Bonds of like tenor and aggregating the same principal amount as the then unpaid principal amount of the Bond or Bonds so surrendered, all as may be requested by the person surrendering such Bond or Bonds. Any Bond or Bonds surrendered for exchange pursuant to the provisions of this Section 5.3 shall be accompanied by a written power to transfer signed by the registered owner thereof in person or by duly authorized attorney, properly stamped if required, in form and with guaranty of signature satisfactory to the Trustee.

Any Bond authenticated and delivered pursuant to the provisions of this section shall be dated as of the interest payment date next preceding the date of its authentication by the Trustee or, if the date of such authentication is an interest payment date, as of such date; provided that if any Bond is to be authenticated and delivered pursuant to this section prior to the first interest payment date with respect to the Bond or Bonds for which it is to be issued in exchange, such Bond shall be dated the date of the Bond or Bonds for which it is to be so issued in exchange; and provided further that if at the time of such authentication, the City is in default in payment of the interest on the Bonds, such Bond shall be dated as of the interest payment date to which interest has previously been paid or made available for payment on the Bonds. In any case, any Bond issued in exchange for one or more Bonds shall bear interest at the rate of the Bonds so surrendered for exchange and shall be dated in accordance with the applicable provisions of the next preceding sentence, all to the end that no gain or loss of interest shall result from the exchange of any Bond.

Upon the issuance of any Bond or Bonds in exchange for any other Bond or Bonds hereunder there shall be assigned to the Bond or Bonds issued as a result of any such exchange a serial number or numbers. In each such case, the serial number or numbers of the Bonds so assigned shall be endorsed on such Bond.

The Trustee shall not be required to exchange any Bond or Bonds for other Bonds pursuant to the provisions of this Section 5.3 during the period of fifteen (15) days next preceding any interest payment date with respect thereto; and if any Bond shall be duly called for redemption (in whole or in part), the Trustee shall not be required so to exchange such Bond during the period of forty-five (45) days next preceding the date fixed for such redemption.

Section 5.4 Expenses of Registration, Transfer and Exchange. The City and the Trustee may charge the Holder with their reasonable fees and expenses in connection with any transfer, registration or exchange of any of the Bonds

(including, without limitation, the expenses of printing any new Bonds that may be necessitated by any transfer, registration or exchange), except that no charge shall be made for the issuance of a new Bond issued, pursuant to the provisions of Section 6.2 hereof, as a result of a call for partial redemption of a Bond. In every case involving any transfer, registration or exchange of any of the Bonds that is requested by the Holder thereof, such Holder shall pay all taxes and other governmental charges required to be paid in connection with such transfer, registration or exchange.

ARTICLE VI

GENERAL PROVISIONS RESPECTING REDEMPTION OF BONDS

Section 6.1 **Manner of Effecting Redemption of Bonds.** Any redemption of any Bonds of any series shall be effected in the following manner:

(a) Call. The governing body of the City shall adopt a Resolution containing the following: (1) a call for redemption, on a specified date when they are by their terms subject to redemption, of Bonds bearing a stated series designation or designations (and, in the case that a portion but less than all of any Bond or Bonds are to be redeemed, the principal amount or amounts thereof to be redeemed); and (2) unless all the Bonds then outstanding are to be redeemed (or unless a portion of all such outstanding Bonds are to be redeemed and the remainder are, simultaneously with or prior to such redemption, to be otherwise retired), a statement that no Event of Default has occurred and is continuing; provided however, that it shall not be necessary for the governing body of the City to adopt any such Resolution in the case of any redemption of the Bonds of any series of Additional Bonds, if such redemption is required by the terms of the Supplemental Indenture under which such series of Additional Bonds is issued or if, in such Supplemental Indenture, the adoption of such Resolution is expressly stated to be unnecessary.

(b) Notice by Registered or Certified Mail. The Trustee (on behalf of the City) shall cause to be forwarded by United States registered or certified mail to the registered owner thereof, at the address of such registered owner as such address appears on the registry books of the Trustee pertaining to the registration of the Bonds, a notice stating the following: that Bonds bearing stated numbers and a stated series designation or designations (and, in the case that a portion but less than all of any Bond or Bonds are to be redeemed, the principal amount or amounts thereof to be redeemed) have been called for redemption and will become due and payable at the redemption price or prices on a specified redemption date, and that all interest thereon will cease after such redemption date. The notice provided for in this subsection (c) shall be mailed to all persons entitled to receive the same not more than sixty (60)

BOOK 004 PAGE 27

nor less than thirty (30) days prior to the date fixed for redemption. The Holder or Holders of any Bond or Bonds may waive the requirements of this subsection with respect to the Bond or Bonds held by them without affecting the validity of the call for redemption of any other Bonds.

(c) Deposit. Prior to the date fixed for redemption the City shall deposit or cause to be deposited with the Trustee the total redemption price of the Bonds (or portions thereof) so called for redemption and shall further furnish or cause to be furnished to the Trustee the following: (1) a certified copy of the Resolution required by subsection (a) of this section (if, under the circumstances, the adoption of any such Resolution is required); and (2) in the case of the redemption of any Bonds on a date when such Bonds may be redeemed only with funds from a specified source or when such redemption is made subject, by the terms of the Indenture or any Supplemental Indenture, to any other restriction or requirement, evidence satisfactory to the Trustee showing compliance with such restriction or requirement.

Section 6.2 Presentation of Bonds for Redemption. Bonds Called for Redemption to Cease to Bear Interest. Upon compliance by the City and the Trustee with the applicable requirements of Section 6.1 hereof [and, unless all the Bonds then outstanding are to be redeemed (or unless a portion of such outstanding Bonds are to be redeemed and the remainder are, simultaneously with or prior to such redemption, to be otherwise retired), if the City is not on the date fixed for redemption in default in payment of the principal of or the interest or premium (if any) on any of the Bonds], the Bonds so called for redemption (or, in the case of any Bonds called for redemption in part, the portions thereof called for redemption) shall become due and payable at the place or places at which the same shall be payable at the redemption price or prices and on the redemption date specified in such notice, anything herein or in such Bonds to the contrary notwithstanding, and the Holders thereof shall then and there surrender them for redemption; provided however, that with respect to any Bond called for partial redemption, (i) the Holder thereof shall surrender such Bond to the Trustee in exchange for one or more Bonds in authorized denominations or any authorized combination thereof, in an aggregate principal amount equal to the unredeemed portion of the Bond so surrendered or (ii) such Holder shall, in lieu of surrendering such Bond in exchange for one or more Bonds, present the same to the Trustee for endorsement thereon (or on any record of partial redemptions appertaining thereto and constituting a part thereof) of the payment of the portion of the principal thereof so redeemed, all as shall be requested by the Holder of such Bond so called for partial redemption. All future interest on the Bonds so called for redemption (or, in the case of any Bonds called for redemption in part, the portions thereof called for redemption) shall cease to accrue after the date fixed for redemption. The Bonds so called (or, in the case of any Bonds called for redemption in part, the portions thereof called for redemption) shall, subject to such deposit having been made, be entitled to no security under the Indenture other than the moneys deposited with the Trustee under the provisions of this article; and out of the moneys so deposited with it, the Trustee shall pay on the redemption date the applicable redemption price or prices of the Bonds so called for redemption (or, in the

ROOM 004 PAGE 28

case of any Bonds called for redemption in part, the portions thereof called for redemption).

Section 6.3 Pro Rata Redemption of Bonds of Different Series Not Required. Nothing contained in the Indenture shall be construed as requiring pro rata redemption of Bonds of different series, even though at the time that any redemption of Bonds is to be effected there are then outstanding under the Indenture Bonds of two or more series then subject to redemption.

Section 6.4 Termination of Lease or Exercise by the Company of Option to Purchase Project. In the event that the Lease terminates pursuant to Section 7.2(a) thereof, or in the event the Company exercises the option to terminate the Lease granted in Section 11.1(a) thereof, or in the event that the Company is entitled to exercise the option to purchase the Project granted in Section 11.2 of the Lease and duly does so in accordance with the applicable provisions of said Section 11.2, then, in any of such events, the Trustee (i) shall segregate and set aside in the Bond Fund [out of moneys therein, any moneys then on deposit in the Construction Fund and the Redemption Fund, any insurance proceeds or condemnation awards then held by the Trustee that are referable to the Project and that are available for the retirement of Bonds, and any moneys payable by the Company pursuant to the provisions of any of Sections 7.2(a), 11.1(a) and 11.2 of the Lease, in the order named] moneys sufficient to retire the Bonds and pay all other Indenture Indebtedness as provided in Sections 7.2(a), 11.1(a) or 11.2 of the Lease, as the case may be, and (ii) shall, in accordance with the applicable provisions of the Lease, dispose of any balance of such moneys not needed for the retirement of the Bonds and the payment of all other Indenture Indebtedness.

ARTICLE VII

THE SERIES 1984 BONDS

Section 7.1 Amount and Maturities of Series 1984 Bonds. There is hereby authorized to be issued under the Indenture an issue or series of Bonds designated First Mortgage Industrial Revenue Bonds (Homecrafters Warehouse Project), Series 1984, limited in aggregate principal amount to \$1,500,000. The Series 1984 Bonds shall be initially issued as a single fully registered bond in the denomination of \$1,500,000, shall be numbered R-1, shall be payable to AmSouth Bank N.A., a national banking association, and shall mature and become payable as to principal on July 1 as follows:

<u>Year of Maturity</u>	<u>Aggregate Principal Amount Maturing</u>
1985	\$100,000
1986	100,000
1987	100,000
1988	100,000
1989	100,000
1990	100,000
1991	100,000
1992	100,000
1993	100,000
1994	100,000
1995	100,000
1996	100,000
1997	100,000
1998	100,000
1999	100,000

The said single fully registered bond in the form of which the Series 1984 Bonds shall be initially issued may be exchanged for other Series 1984 Bonds as provided in Section 5.3 hereof. All Series 1984 Bonds shall be dated in accordance with the applicable provisions of Section 5.3 hereof, shall be in the denomination of \$5,000 or any integral multiple thereof, and shall be numbered from R1 up, in the order in which issued.

Section 7.2 Interest Rate and Places of Payment. The Series 1984 Bonds shall bear interest, payable on January 1, 1985 and on each July 1 and January 1 thereafter so long as any of the Series 1984 Bonds shall remain outstanding, from their date until their maturity (whether by acceleration, mandatory redemption prior to maturity or otherwise) at a per annum rate equal to the Applicable Percentage (as that term is hereinafter defined) of the Prime Rate (computed on the basis of a 360-day year for the actual number of days elapsed) with the rate of interest borne by the Series 1984 Bonds to change immediately upon any change in the Prime Rate. The term "Applicable Percentage" shall mean that percentage of the Prime Rate which shall determine the applicable per annum rate of interest to be borne by the Series 1984 Bonds from time to time. Initially and unless thereafter adjusted to the Adjusted Tax Exempt Percentage (as hereinafter defined), the Applicable Percentage shall be Seventy Five Percent (75%); but if the highest marginal rate of Federal income tax imposed on corporations (the "Maximum Corporate Tax Rate") changes after the date of original issuance of the Series 1984 Bonds, the Applicable Percentage shall be decreased (in the case of an increase in the Maximum Corporate Tax Rate) or increased (in the case of a decrease in the Maximum Corporate Tax Rate) to the Adjusted Tax Exempt Percentage (as hereinafter defined) as of the effective date of such change in the Maximum Corporate Tax Rate. The term "Adjusted Tax Exempt Percentage" shall mean the product (rounded to the second decimal point; e.g., 75.00) of (i) the Applicable Percentage on the date of original issuance of the Series 1984 Bonds times (ii) a fraction the numerator of which is the

number 1 minus the Maximum Corporate Tax Rate (expressed as a decimal) in effect following such change and the denominator of which is the number 1 minus the Maximum Corporate Tax Rate (expressed as a decimal) in effect on the date of original issuance of the Series 1984 Bonds. Overdue installments of principal of and the interest and premium (if any) on the Series 1984 Bonds, including all installments becoming due as a result of acceleration or mandatory redemption, shall bear interest from their respective due dates until paid at a rate of Two Percent (2%) in excess of the Prime Rate as the same shall be established from time to time. The principal of and the interest and premium (if any) on the Series 1984 Bonds shall be payable in accordance with the provisions of Section 3.2 hereof, except that in the case of any Series 1984 Bond originally issued in a principal amount of not less than \$100,000, the interest on such Series 1984 Bond, as well as the redemption price of any partial redemption of the principal thereof, may be payable as provided in a Home Office Payment Agreement with respect thereto.

In addition to the interest to be paid on the Series 1984 Bonds as provided above if, as the result of any change in federal income tax laws pertaining to Tax Exempt Obligations after the date of original issuance of the Series 1984 Bonds, the Holder thereof shall be required to pay any Bond Preference Tax which is attributable, directly or indirectly, to the purchase or ownership of all or any of the Series 1984 Bonds, then the City shall also pay to any such Holder thereof, within ten (10) days after receipt by the City of written demand therefor (accompanied by appropriate verification), an amount which, after deduction of all Federal, state and local income taxes payable by any such Holder with respect to such payment (assuming in each case that the highest marginal rate of federal income taxation is applicable to such Holder), shall equal the amount of any Bond Preference Tax payable by each Holder thereof with respect to the Series 1984 Bonds.

Anything contained in this section to the contrary notwithstanding, upon the occurrence of a Series 1984 Event of Taxability, however, the principal amount of Series 1984 Bonds that was outstanding and unpaid on the date of the occurrence of such Series 1984 Event of Taxability shall bear interest at a rate equal to the sum of the Prime Rate plus one percent (1%), as such Prime Rate shall be from time to time in effect from the date of the occurrence of such Series 1984 Event of Taxability until paid (whether by acceleration, mandatory redemption or otherwise). Not later than thirty (30) days following the Series 1984 Determination of Taxability with respect to such Series 1984 Event of Taxability, the City shall pay any additional interest due on such outstanding principal amount of the Series 1984 Bonds at the aforesaid rate equal to the Prime Rate plus one percent (1%) coming due as a result of such Series 1984 Event of Taxability to such Series 1984 Determination of Taxability or until the date such principal amount of the Series 1984 Bonds matured or was redeemed or paid, whichever shall occur first, taking into account the interest which has or will become due on such principal amount of the Series 1984 Bonds during such period at the aforesaid rate equal to the Applicable Percentage.

Section 7.3 Optional Redemption of Series 1984 Bonds. At the option of the City (which option shall be exercisable only upon request by the Company and if at the time no Lease Default shall have occurred and be continuing), the Series 1984 Bonds shall be subject to redemption and payment, on any date, as a whole or in part, but if in part in the inverse order of their maturity or due dates, such redemption, whether in whole or in part, to be at and for a redemption price (equal to the par or face amount thereof for each Series 1984 Bond or portion thereof to be redeemed) plus accrued interest to the date fixed for redemption, without premium or penalty of any kind. If less than all the Series 1984 Bonds shall be called for prepayment and redemption at any one time, then the principal amount of Series 1984 Bonds to be prepaid and redeemed shall be allocated among all the Holders of the Series 1984 Bonds in proportion to the aggregate principal amount of outstanding Series 1984 Bonds owned by each such Holder.

Section 7.4 Extraordinary Redemption of Series 1984 Bonds. The Series 1984 Bonds shall be subject to extraordinary mandatory redemption prior to their respective stated maturities in the event (i) that all or substantially all of the Project is taken through the exercise of the power of eminent domain with the consequences described in Section 7.2(a) of the Lease, or (ii) in the event that the Company exercises the option granted in Section 11.2 of the Lease to purchase the Project. In either such event the Series 1984 Bonds shall be subject to mandatory redemption as a whole, at and for a redemption price, with respect to each Series 1984 Bond, equal to the principal amount thereof plus accrued interest thereon to the date fixed for redemption. In case all the Series 1984 Bonds are required to be redeemed pursuant to clause (i) of the first sentence of this section, the date fixed for such redemption shall be the date on which the Lease terminates as provided in said Section 7.2(a) thereof (or such later date as may be required by the provisions of Section 17.4 hereof). In case all the Series 1984 Bonds are required to be redeemed pursuant to clause (ii) of the first sentence of this section, the date fixed for such redemption shall be the business day next succeeding the date of purchase of the Project determined by the Company in accordance with the provisions of clause (2) of Section 11.2 of the Lease.

Section 7.5 Form of the Series 1984 Bonds. The Series 1984 Bonds, the Trustee's authentication certificate applicable thereto and the form of assignment therefor shall be in substantially the following forms, respectively, with such insertions, omissions and other variations as may be necessary to conform to the provisions hereof:

[Form of Series 1984 Bond]

No. R _____

\$ _____

UNITED STATES OF AMERICA

STATE OF ALABAMA

CITY OF PELHAM, ALABAMA

FIRST MORTGAGE INDUSTRIAL REVENUE BOND
(Homecrafters Warehouse Project)
Series 1984

For value received, the CITY OF PELHAM, ALABAMA, a municipal corporation under the laws of the State of Alabama (herein called the "City"), will pay to _____, or registered assigns, solely out of the sources of payment hereinafter referred to, the sum of

D O L L A R S

with interest on the unpaid principal balance hereof from the date hereof at a rate equal to Seventy Five Percent (75%) of the announced prime rate of interest of AmSouth Bank N.A., a national banking association having its principal place of business in the City of Birmingham, Alabama, or its successor (herein called the "Prime Rate"), as the Prime Rate shall be established from time to time as provided in the Indenture hereinafter referred to (said interest to be computed on the basis of a 360-day year for the actual number of days elapsed), with the said interest rate to be adjusted in the event of any change in the maximum rate of federal income taxation applicable to United States business corporations as more fully described in the aforesaid Indenture; provided, that after the occurrence of a Series 1984 Event of Taxability, as that term is defined in the said Indenture, then the said unpaid principal balance shall bear interest at the rate of One Percent (1%) in excess of the Prime Rate. The said interest shall be payable on January 1, 1985, and semiannually thereafter on January 1 and July 1 in each year until and at the maturity hereof. The principal of, as well as the interest and premium (if any) on this bond shall (except for the final payment of such principal, interest and premium, which shall be made only upon the surrender of this bond) be remitted, by the Trustee hereinafter referred to, by check or draft mailed or otherwise delivered to the then registered holder hereof at the address of such holder as shown on the registry books of the said Trustee. Overdue installments of principal of and the interest and premium (if any) on this bond shall bear interest after the respective due dates until paid at a rate equal to Two Percent (2%) in excess of the Prime Rate.

This bond evidences or is one of a duly authorized issue or series of bonds authorized to be issued in the aggregate principal amount of \$1,500,000 and designated First Mortgage Industrial Revenue Bonds (Homecrafters Warehouse Project), Series 1984 (herein called the "Series 1984 Bonds"), which are due as to principal in the aggregate in installments on July 1 in the following principal amounts and years:

<u>Year</u>	<u>Amount</u>
1985	\$100,000
1986	100,000
1987	100,000
1988	100,000
1989	100,000
1990	100,000
1991	100,000
1992	100,000
1993	100,000
1994	100,000
1995	100,000
1996	100,000
1997	100,000
1998	100,000
1999	100,000

The Series 1984 Bonds have been issued under a Mortgage and Trust Indenture dated the date hereof (herein called the "Indenture"), from the City to AmSouth Bank N.A., as Trustee (herein, together with its successors in trust, called the "Trustee"), for the purpose of financing the costs of acquiring, constructing and equipping a wholesale warehouse and distribution building to be located within the corporate limits of the City (said warehouse and building as so equipped, as well as all land and leasehold interests therein, improvements, equipment and other property acquired by the City in connection therewith, as they may at any time exist, being herein together called the "Project"). In connection with the issuance of the Series 1984 Bonds, the City has leased the Project to Homecrafters Warehouse, Inc., a Delaware corporation, (herein called the "Company") under a Lease Agreement dated the date hereof (herein called the "Lease"). The Lease obligates the Company to pay rent directly to the Trustee, for the account of the City, on such dates and in such amounts as will provide moneys sufficient to pay, when due, the principal of and the interest on the Series 1984 Bonds. Pursuant to a Bond Guaranty Agreement with the Trustee dated the date hereof (herein called the "Series 1984 Guaranty"), the Company has unconditionally guaranteed the full and prompt payment of the principal of and the interest and premium (if any) on the Series 1984 Bonds.

The Series 1984 Bonds are subject to redemption prior to their respective maturities as follows:

(1) The Series 1984 Bonds are subject to redemption prior to their respective maturities, at the option of the City (which option may be exercised only at the request of the Company), as a whole or in part (but, if in part, in the inverse order of their maturity or due dates), on any date for a redemption price, with respect to each Series 1984 Bond (or portion of the principal thereof) called for redemption, equal to the par or face amount thereof plus accrued interest thereon to the date fixed for redemption, without premium or penalty of any kind, so long as no event of default shall have occurred under the Lease and shall be continuing. If less than all the Series 1984 Bonds shall be called for prepayment and redemption at any one time, then the principal amount of Series 1984 Bonds to be prepaid and redeemed shall be allocated among all the holders of the Series 1984 Bonds in proportion to the aggregate principal amount of outstanding Series 1984 Bonds owned by each such holder.

(2) The Series 1984 Bonds are subject to mandatory redemption as a whole on any date, at and for a redemption price, with respect to each Series 1984 Bond, equal to the principal amount thereof plus accrued interest thereon to the date fixed for redemption, but only in the event of the taking through the exercise of the power of eminent domain of all or substantially all the Project or in the event of the exercise by the Company of an option to purchase the Project granted in the Lease, which option shall be exercisable only if (a) any part of the Project is damaged or destroyed, by fire or other casualty, to such extent that, in the opinion of the Company, the restoration or repair of the property damaged or destroyed to the condition thereof, immediately preceding such damage or destruction would not be economically practicable or desirable, or (b) under the exercise of the power of eminent domain, (i) title to all or substantially all the Project is taken, or (ii) the temporary use of all or part of the Project, or title to part of the Project, is taken to such extent that, in the opinion of the Company, the Company will thereby be prevented, or is likely to be thereby prevented, from making normal use of the Project for a period of not less than four (4) consecutive months, or (c) as a result of any changes in the Constitution of the United States of America or the Constitution of the State of Alabama, any legislative or administrative action (whether state or federal), or any final decree or judgment or order of any court or administrative body (whether state or federal) entered after the contest thereof by the Company in good faith, the Lease becomes void or unenforceable or impossible of performance in accordance with the intent and purposes of the parties thereto as expressed therein or unreasonable burdens or excessive liabilities are imposed on the City or the Company, including any changes in the tax laws of the United States of America or the State of Alabama that will render the operation of the Project significantly less economically advantageous to the Company, or (d) the use and occupancy of the Project by the Company is legally curtailed for any reason other than circumstances or conditions described in the preceding clauses, or (e) as a result of any change in technology or in the cost or availability of labor, energy or raw materials, the continued use and occupancy of the Project is, in the

opinion of the Company, rendered impracticable or significantly less economically desirable in relation to the previous use and occupancy of the Project.

The Indenture requires written notice of the call for redemption of this bond (or portion of the principal thereof) to be forwarded by United States registered or certified mail to the registered owner of such Series 1984 Bond, not less than thirty (30) nor more than sixty (60) days prior to the date fixed for redemption. In the event that less than all the outstanding principal of this bond is to be redeemed, (i) the registered holder thereof shall surrender this bond to the Trustee in exchange for a new bond or like tenor herewith except in a principal amount equal to the unredeemed portion of this bond or (ii) such holder shall, in lieu of surrendering this bond in exchange for a new bond, present the same to the Trustee for endorsement hereon, or on the record of partial redemptions appertaining hereto, of the payment of the portion of the principal hereof so redeemed. If any special payment agreement is at the time in effect with respect to this bond, the Indenture does not require written notice of the partial redemption of this bond to be given to the holder hereof in connection with any redemption described in subparagraph (2) of the preceding paragraph.

BOOK 004 PAGE 36
The City, with the consent of the Company, and with the express written consent of the holders of not less than seventy-five percent (75%) of all the Bonds issued under the Indenture and otherwise upon the terms and conditions therein specified, is authorized by the Indenture to issue additional bonds thereunder that are secured on a parity with the Series 1984 Bonds as respects the security afforded by the Indenture. Such additional parity bonds may be issued, at any time and from time to time, for the purposes of (i) obtaining funds, if additional funds are needed, to pay the costs of completing the acquisition, construction and equipment of the Project, (ii) obtaining funds to pay the costs of making additions and improvements to the Project, (iii) refunding and retiring all or any portion of any one or more series of bonds then outstanding under the Indenture and (iv) any combination of the foregoing purposes (the Series 1984 Bonds and all such additional parity bonds being herein together called the "Bonds").

The principal of and the interest and premium (if any) on the Bonds are payable solely from the revenues and receipts to be derived from the leasing or sale of the Project and certain other moneys pledged under the Indenture. The payment of the principal of and the interest and premium (if any) on the Bonds is secured, pro rata and without preference or priority of one Bond over another or of the Bonds of any one series over the Bonds of any other, by a valid pledge of the aforesaid revenues, receipts and moneys out of which the Bonds are solely payable (including specifically the "Basic Rent" payable to the City by the Company under the Lease), by the Indenture, which constitutes a lien on the Project, and by an assignment to the Trustee of all right, title and interest of the City in and to the Lease (except certain expense reimbursement and indemnification rights of the City and certain other rights which are expressly reserved to the City); provided however, that the Series 1984 Guaranty shall be for the exclusive benefit of the holders of the Series 1984

Bonds and all moneys received by the Trustee under the Series 1984 Guaranty shall be applied solely for the payment of the principal of and the interest and premium (if any) on the Series 1984 Bonds. Reference is hereby made to the Lease, the Indenture and the Series 1984 Guaranty for complete information respecting the nature and extent of the security afforded by each of such instruments, the rights and duties of the City and the Trustee with respect thereto, the rights of the holders of the Series 1984 Bonds and the terms and conditions on which additional series of Bonds may be issued.

BOOK 004 PAGE 37

The Indenture provides, inter alia, (a) that upon the occurrence and continuation of certain events of default as therein provided, the Trustee may declare the principal of and the interest accrued on this bond immediately due and payable, whereupon the same shall thereupon become immediately due and payable and the Trustee shall be entitled to pursue the remedies provided in the Indenture, (b) that the holder of this bond shall have no right to enforce the provisions of the Indenture except as provided therein and then only for the equal and pro rata benefit of the holders of all the Bonds, and (c) that if this bond shall not be presented for payment when due (whether by maturity or otherwise) and if funds sufficient for such payment shall have been made available to the Trustee therefor, all liability of the City to the holder of such bond and all rights of such holder against the City under such bond or under the Indenture shall cease and terminate and that the sole right of such holder shall thereafter be against the said funds so made available, which the Trustee is required to set aside and hold, subject to any applicable escheat or other similar law, for the benefit of such holder. The Indenture also provides that the City and the Trustee, with the written consent of the holders of a majority in aggregate principal amount of the Bonds then outstanding under the Indenture, may at any time and from time to time amend the Indenture or any indenture supplemental thereto, provided that no such amendment shall (1) without the consent of the holder of each Bond, reduce the principal of, the rate of interest on, or the premium (if any) payable on redemption of, any Bond, or (2) without the consent of the holders of all the Bonds then outstanding under the Indenture, extend the maturity of any installment of principal of or interest on any of the Bonds, make any change in the provisions of the Indenture that require the redemption of any of the Bonds prior to maturity, create a lien or charge on the property mortgaged under the Indenture or the revenues and receipts pledged thereunder ranking prior to or on a parity with the lien and charge thereon contained in the Indenture, effect a preference or priority of any Bond over any other Bond or reduce the aggregate principal amount of Bonds the holders of which are required to consent to any such amendment. The Indenture further provides that the City and the Company, with the written consent of the holders of a majority in aggregate principal amount of the Bonds then outstanding under the Indenture, may at any time and from time to time amend, change or modify the Lease, provided that no such amendment, change or modification shall, without the consent of the holders of all the Bonds then outstanding under the Indenture, permit (i) a reduction in the amount of "Basic Rent" payable under the Lease [other than a reduction resulting from, and directly proportional to, a reduction in the amounts required for payment of the principal of or the interest or premium (if any) on the Bonds], (ii) any change in the due dates of the installments of such "Basic Rent", or (iii) any other change that, in the reasonable judgment of the Trustee, might adversely affect the interests of the holders of the Bonds.

The City is a municipal corporation organized under the laws of Alabama, and the Series 1984 Bonds are authorized to be issued for the purposes for which bonds are authorized to be issued under the provisions of Article 2 of Chapter 54 of Title 11 of the Code of Alabama, 1975. The Series 1984 Bonds and the covenants and representations contained in the Indenture do not and shall never constitute a general liability or charge against the general credit of the City. Neither the State of Alabama nor any political subdivision of said state shall in any manner be liable for payment of the principal of or the interest or premium (if any) on the Series 1984 Bonds or for the performance of the undertakings of the City contained herein or in the Indenture.

It is hereby certified that all conditions, actions and things required by the Constitution and laws of the State of Alabama to exist, be performed and happen precedent to or in the issuance of this bond do exist, have been performed and have happened in due and legal form.

BOOK 004 PAGE 38
The Series 1984 Bonds are issuable only as fully registered bonds without coupons in the denomination of \$5,000 or any integral multiple thereof. Provision is made in the Indenture for the exchange of Series 1984 Bonds for a like aggregate principal amount of other Series 1984 Bonds in authorized denominations, all as may be requested by the holder surrendering the Series 1984 Bond or Bonds to be so exchanged and upon the terms and conditions specified in the Indenture.

This bond is transferable by the registered holder hereof in person, or by duly authorized attorney, only on the books of the Trustee and only upon surrender of this bond to the Trustee for cancellation, and upon any such transfer a new fully registered bond of like tenor hereof will be issued to the transferee in exchange therefor, all as more particularly provided in the Indenture. ANY ASSIGNEE OR TRANSFEREE OF THIS BOND TAKES IT SUBJECT TO ALL PAYMENTS OF PRINCIPAL, INTEREST AND PREMIUM IN FACT MADE WITH RESPECT HERETO, WHETHER OR NOT SUCH PAYMENTS ARE REFLECTED BY ENDORSEMENT ON THIS BOND OR ANY PAYMENT RECORD PERTAINING HERETO.

The Trustee shall not be required to transfer or exchange this bond during the period of fifteen (15) days next preceding any interest payment date with respect thereto; and in the event this bond (or any portion of the principal hereof) is duly called for redemption, the Trustee shall not be required to transfer or exchange it during the period of forty-five (45) days next preceding the date fixed for such redemption.

Execution by the Trustee of its authentication certificate hereon is essential to the validity hereof and is conclusive of the due issue hereof under the Indenture.

IN WITNESS WHEREOF, the City has caused this bond to be executed in its name and behalf by its Mayor, has caused an impression of its official seal to be hereunto affixed, has caused this bond to be attested by its City Clerk, and has caused this bond to be dated _____, 1984.

CITY OF PELHAM, ALABAMA

[S E A L]

By _____
Its Mayor

Attest:

City Clerk

BOOK 004 PAGE 39

[Form of Trustee's Authentication Certificate]

The within bond is one of those described in the within-mentioned Mortgage and Trust Indenture.

AMSOUTH BANK N.A.,
Trustee

By _____
Its Authorized Officer

[Form of Record of Partial Payment or Redemption]

RECORD OF PARTIAL PAYMENT OR REDEMPTION

Upon each partial payment or redemption of the principal indebtedness evidenced by the within bond, such bond shall be surrendered to the Trustee for the appropriate endorsement by it of such payment or redemption on the record below.

Date of Payment or Redemption	Principal Amount Paid or Redeemed	Remaining Unpaid Balance	Signature

[Form of Assignment]

For value received, _____
 hereby sell(s), assign(s) and transfer(s) unto _____
 the within bond and hereby irrevocably constitute(s) and appoint(s) _____
 _____, attorney, with full power of substi-
 tution in the premises, to transfer such bond on the books of the within-mentioned
 Trustee.

DATED this _____ day of _____.

NOTE: The name signed to this assignment must correspond with the name of the payee written on the face of the within bond in every particular, without alteration, enlargement or change whatsoever.

Section 7.6 Execution and Delivery of the Series 1984 Bonds. The Series 1984 Bonds shall be forthwith executed and delivered to the Trustee and shall be authenticated and delivered by the Trustee from time to time upon receipt by the Trustee of an order signed on behalf of the City by its Mayor, requesting such authentication and delivery and designating the person or persons to receive the same or any part thereof.

Section 7.7 Application of Proceeds from Sale of Series 1984 Bonds. The entire proceeds derived by the City from the sale of the Series 1984 Bonds shall be paid to the Trustee and promptly thereafter applied by the Trustee for the following purposes and in the following order:

(a) payment into the Bond Fund Primary Account of that portion of such proceeds that is allocable to premium (if any) and accrued interest; and

(b) payment of the balance of such proceeds into the Construction Fund.

ARTICLE VIII

ADDITIONAL BONDS

Section 8.1 Additional Bonds - In General. If no Event of Default shall have occurred and be continuing, the City shall at any time and from time to time, if requested by the Company, issue Additional Bonds, within the limitations of and upon compliance with the provisions of this Article VIII, for any one or more of the following purposes:

(a) in the event the available proceeds from the sale of the Series 1984 Bonds are insufficient to pay all the Project Development Costs, for the purpose of obtaining funds with which to pay such costs;

(b) for the purpose of acquiring or constructing any additions, improvements or modifications (including, without limitation, any additional land, buildings or machinery, equipment or other personal property) to the facilities at the time forming part of the Project;

(c) for the purpose of refunding or otherwise retiring all or any portion of any one or more series of Bonds then outstanding under the Indenture; and

(d) for any combination of the foregoing purposes.

The Additional Bonds may be in such denomination or denominations, shall bear interest at such rate or rates, shall bear such dates not inconsistent with the provisions hereof, shall mature in such amounts and at such times as are not in conflict with the provisions hereof, shall be in such form and may contain such provisions for redemption prior to maturity, all as may be provided in the Supplemental Indenture under which they are issued; provided that all such Additional Bonds shall be subject to redemption at any time, at such redemption price or prices as shall be fixed prior to their issuance, if (i) the Company shall exercise the option to purchase the Project granted in Section 11.2 of the Lease or (ii) all or substantially all of the Project shall be taken under the exercise of the power of eminent domain. Any redemption of Additional Bonds prior to maturity shall be effected in the manner set forth in and shall be subject to the provisions of Article VI hereof. All Additional Bonds so issued shall contain an appropriate series designation.

Section 8.2 Conditions Precedent to Issuance of Additional Bonds. Prior to the issuance of any Additional Bonds, the City shall deliver to the Trustee those of the Additional Bonds proposed to be issued, duly executed and sealed, accompanied by the following:

(a) Supplemental Indenture. A Supplemental Indenture duly executed, sealed and acknowledged on behalf of the City and containing the following [to the extent applicable in the case of clause (ii) below]: (i) a description of such Additional Bonds, including the aggregate principal amount, the numbers and series designation, the denomination or denominations, the date, the interest rate or rates and the maturity or maturities thereof, the provisions for redemption thereof prior to maturity and the forms of such Additional Bonds and various certificates applicable thereto, (ii) provisions subjecting to the lien of the Indenture all properties acquired and to be acquired in connection with any additions, improvements and modifications to the Project, including any additional land not theretofore constituting part of the Project Site on which any such additions, improvements and modifications are, or are to be located, (iii) a confirmation of the lien of the Indenture on all properties then constituting a part of the Project, including specifically, without limiting the generality of the foregoing, all such properties acquired since the execution of the Indenture or Supplemental Indenture most recently executed, and (iv) any other provisions that do not conflict with the provisions hereof;

(b) Proceedings. A certified copy of the proceedings of the governing body of the City authorizing the issuance of such Additional Bonds and the execution and delivery of the Supplemental Indenture providing therefor, which said proceedings shall include a Resolution requesting the Trustee to authenticate and deliver such Additional Bonds

and reciting the following: (i) that no Event of Default has occurred and is continuing and that no event which, with the giving of notice or the passage of time or both, would constitute an Event of Default has occurred and is continuing, (ii) the person or persons to whom such Additional Bonds have been sold and awarded and shall be delivered, (iii) the purchase price of such Additional Bonds, and (iv) a list of all Additional Bonds previously issued by the City hereunder and at the time outstanding and of the Supplemental Indentures under which they were issued;

(c) Supplemental Lease. A fully executed and acknowledged copy of an agreement between the City and the Company supplemental to the Lease containing the following [to the extent applicable in the case of clauses (ii) and (iii) below]: (i) an agreement by the Company to pay additional, supplemental or changed Basic Rent in amounts that will result in there being on deposit in the Bond Fund sums at least sufficient to pay, on or prior to the respective due dates thereof, the principal of and the interest and premium (if any) on all Bonds that will be outstanding hereunder immediately following the issuance of such Additional Bonds, (ii) in the event the last maturity of such Additional Bonds is subsequent to the date of expiration of the then current "Lease Term" of the Lease, an extension of such "Lease Term" until or beyond the last maturity of such Additional Bonds, (iii) provisions subjecting to the demise of the Lease all properties acquired and to be acquired in connection with any additions, improvements and modifications to the Project, including any additional land not theretofore constituting part of the Project Site on which any such additions, improvements and modifications are, or are to be located, and (iv) any other provisions not in conflict with the Indenture or the Lease;

(d) Bondholder Consent. An instrument or instruments in writing by or on behalf of the Holders of not less than seventy-five percent (75%) in principal amount of each series of Bonds then outstanding (provided, that if any series of Bonds is to be refunded or otherwise retired in whole out of the proceeds from the sale of such Additional Bonds, then the consent of the holders of any such series of Bonds shall not be required), evidencing their consent to the issuance of such Additional Bonds and the terms under which such Additional Bonds will be issued;

(e) Confirmation of Title to Project Site. An opinion, acceptable to the Trustee and dated as of the date of the issuance of such Additional Bonds, of Independent Alabama Counsel acceptable to the Trustee stating that the City has good and marketable title to any land subjected to the lien of the Indenture pursuant to the provisions of clause (ii) of subsection (a) of this section, subject only to Permitted Encumbrances, or, in lieu of such opinion, a policy or binder of title insurance, or an endorsement to a previously issued policy of title insurance, written by an insurer accep-

table to the Trustee and insuring the mortgage interest of the Trustee in such land, except with respect to Permitted Encumbrances, in an amount not less than the principal amount of such of the Additional Bonds as are being issued to pay the costs of acquiring or improving real property (including such land) which constitutes, or is to constitute, part of the Project;

(f) Opinion of Counsel for the Company. An opinion, acceptable to the Trustee and dated as of the date of the issuance of such Additional Bonds, of Counsel for the Company acceptable to the Trustee stating in substance that the Lease, as supplemented by the supplemental agreement provided for in subsection (c) of this Section 8.2, constitutes a valid and binding agreement of the Company;

(g) Opinion of Independent Counsel. An opinion, acceptable to the Trustee and dated as of the date of the issuance of such Additional Bonds, of Independent Counsel acceptable to the Trustee [which Independent Counsel may, but need not be, the Bond Counsel rendering the opinion required by subsection (g) of this section] approving the forms of all documents required by the preceding portions of this section to be delivered to the Trustee and stating that they comply with the applicable requirements of this Article VIII; and

(h) Opinion of Bond Counsel. An opinion, dated as of the date of the issuance of such Additional Bonds, of Bond Counsel approving the validity of such Additional Bonds.

Upon receipt of the documents required by the provisions of this section to be furnished to it, the Trustee shall, unless it has cause to believe any of the statements set out in said documents to be incorrect, thereupon execute the Supplemental Indenture so presented and cause the same to be filed for record at the expense of the City or the Company in the public office or offices in the State of Alabama in which such document is then required by law to be filed in order to constitute constructive notice thereof, and it shall further authenticate the Additional Bonds with respect to which the said documents shall have been provided and shall, upon receipt of evidence satisfactory to it that the City has received the purchase price or other consideration therefor, deliver such Additional Bonds to the person or persons to whom the Resolution provided for in subsection (b) of this section directed that they be delivered.

ARTICLE IX

CONCERNING THE PROJECT DEVELOPMENT WORK AND PAYMENT OF PROJECT DEVELOPMENT COSTS

Section 9.1 Agreement Respecting Completion of Project Development Work. The City has undertaken and completed the Project Development Work, all as and to the extent provided in Article IV of the Lease. The City will promptly pay or cause to be paid, as and when due, all presently unpaid Project Development Costs, but the City's obligation to pay such costs shall be limited to moneys on deposit in the Construction Fund and such other funds for the payment of such costs as may be made available by the Company under the provisions of the Lease.

BOOK 004 PAGE 45
The City will not suffer or permit any mechanics' or materialmen's liens that might be filed or otherwise claimed or established upon or against the Project or any part thereof, and which might be or become a lien superior to the lien hereof, to remain unsatisfied and undischarged for a period exceeding thirty (30) days after the filing or establishment thereof; provided however, that the City may in good faith contest any such mechanics' or materialmen's lien claims so filed or established and, in the event that such lien claims are so contested, may permit the mechanic's or materialmen's liens so contested to remain unsatisfied and undischarged during the period of such contest and any appeal therefrom, irrespective of whether such period extends beyond the thirty (30) day period after the filing or establishment of such liens, unless the Trustee shall be of the opinion that by such action the lien of the Indenture to any part of the Project shall be materially endangered or the Project or any part thereof shall be subject to loss or forfeiture, in which event such mechanics' or materialmen's liens shall (unless they are bonded or superseded in a manner satisfactory to the Trustee) be satisfied prior to the expiration of said thirty (30) day period.

Section 9.2 Construction Fund. There is hereby created a special trust fund, the name of which shall be the "Homecrafters Warehouse Project Construction Fund", for the purpose of providing for the payment of Project Development Costs. The Trustee shall be and remain the depository, custodian and disbursing agent for the Construction Fund. As provided in Section 7.7(b) hereof, there shall be deposited in the Construction Fund all proceeds (exclusive of accrued interest and any premium) derived from the sale of the Series 1984 Bonds.

The moneys in the Construction Fund shall be disbursed by the Trustee from time to time for the purpose of paying Project Development Costs, but only upon receipt of the following:

(a) City Requisition. A requisition signed by an Authorized City Representative and containing, with respect to each such payment, the following:

(1) a statement of the amount requested to be paid, the name and address of the person (which may be the Trustee, the Company, or any Affiliate of the Company) to whom such payment is due and the particular Project Development Cost which is to be paid pursuant to such requisition; as well as

(2) a certification that no Event of Default has occurred and is continuing; and

(b) Company Endorsement. An endorsement signed by an Authorized Company Representative applicable to and forming a part of such requisition containing, with respect to each payment requested thereby, the following:

(1) a statement that the Company approves such requisition and the payment of the Project Development Costs which are to be paid pursuant thereto;

(2) a certification that Construction Fund moneys expended pursuant to such requisition will be expended for a purpose authorized in the Indenture;

(3) a certification that the payment requested in such requisition has not formed the basis for any previous requisition for the disbursement of moneys from the Construction Fund or any previous payment out of the proceeds derived by the City from the sale of the Series 1984 Bonds;

(4) in the case of a requisition for payment of any part of the costs of constructing the Project Building or other permanent improvements (whether bills or contractors' estimates), a certification that the labor, services or materials represented thereby are located on, or are referable to, the Project Site;

BOOK 004 PAGE 46

(5) in the case of any requisition for payment of any part of the purchase price, other acquisition cost or installation cost of any of the Project Equipment, a certification either (i) that such equipment is physically located on the Project Site and is in good condition, or (ii) that the amount so requested to be paid on account of such equipment, together with any amounts theretofore paid out of the Construction Fund on account thereof, represents no more than progress payments for such equipment which have been substantiated to the Company's satisfaction;

(6) a certification as to what portion (if any) of the amount to be paid pursuant to such requisition will be used for the payment of Project Development Costs not constituting Qualifying Project Development Costs or Series 1984 Issuance Expenses; and

(7) a certification that the payment requested in such requisition will not result, as of the making of such payment, in the use for any purpose other than the payment of Qualifying Project Development Costs of more than ten percent (10%) of the cumulative amount of Series 1984 Principal Proceeds theretofore disbursed from the Construction Fund.

BOOK 004 PAGE 47
The requirements of this paragraph shall apply to all disbursements from the Construction Fund, including those made to reimburse the Company for Project Development Costs theretofore paid by it.

The completion of the acquisition, construction and installation of the Project and the payment of all Project Development Costs (except for amounts to be retained by the Trustee at the Company's direction, as hereinafter provided, for any such costs not then due and payable or the liability for payment of which is being contested) shall be evidenced to the Trustee by a certificate signed by an Independent Architect and by or on behalf of the Company as provided in Section 4.6 of the Lease. After payment of all Project Development Costs, the Trustee shall transfer any balance therein remaining from the Construction Fund into the Bond Fund Escrow Account.

The Trustee will keep and maintain adequate records pertaining to the Construction Fund and all moneys received therein and disbursed therefrom, and when all moneys in the Construction Fund have been exhausted, whether on the Completion Date or (in accordance with the provisions of the next preceding paragraph of this Section 9.2) thereafter, the Trustee will file with the City, with the Company and with the Series 1984 Original Purchaser an accounting of all moneys received into and disbursed from the Construction Fund.

Section 9.3 Trustee Protected in Construction Fund Payments; Additional Evidence May Be Required. The Trustee shall be fully protected in making payments from the Construction Fund upon presentation to it of requisitions complying with the requirements of Section 9.2 hereof. The Trustee may rely as to the completeness and accuracy of all statements and certifications contained in such requisitions, and the Trustee shall incur no liability in acting or proceeding in good faith upon such requisitions and shall be under no duty to make any investigation or inquiry as to any statements or certifications contained in any of such requisitions, but may accept and rely upon the same as conclusive evidence of the truth and accuracy of such statements and certifications. Notwithstanding the foregoing provisions of this section, the Trustee shall, when requested in writing so to do by the Holders of not less than a majority in principal amount of the Bonds then outstanding, require, as a condition precedent to any payment from the Construction Fund (other than a payment into the Bond Fund Escrow Account pursuant to the last paragraph of Section 9.2 hereof), such additional evidence as it may reasonably deem appropriate respecting the application of any moneys previously disbursed from the Construction Fund or as to the correctness of any estimate or bill presented to it for payment pursuant to the provisions of said Section 9.2.

Section 9.4 Investment of Construction Fund Moneys. Following the issuance of the Series 1984 Bonds, the Company may thereafter at any time and from time to time request the Trustee to invest the moneys held in the Construction Fund by furnishing to the Trustee a written certificate signed by or on behalf of the Company and stating (i) what portions (if any) of the moneys held in the Construction Fund are not then needed for payment of Project Development Costs and (ii) the approximate dates that such presently unneeded moneys will be needed for the payment of Project Development Costs. Promptly after receipt of each such certificate, the Trustee will, to the extent practicable, cause the moneys certified in said certificate as not then needed for the payment of Project Development Costs to

be invested in any Eligible Investments having stated maturities in such amounts and on such dates, prior to or corresponding with the dates and amounts specified in said certificate, as to make available from the Construction Fund cash moneys sufficient to meet the needs of the Construction Fund as specified in said certificate. Such certificate may contain either specific or general instructions from the Company as to the kind of Eligible Investments in which the presently unneeded moneys in the Construction Fund are to be invested, and the Trustee will comply with such instructions to the extent that they are not inconsistent with the applicable provisions hereof; provided that the Trustee shall make no investment of moneys in the Construction Fund that would result in any of the Bonds being considered "arbitrage bonds" within the meaning of Section 103(c) of the Code and the applicable regulations thereunder.

All income or profit derived from the investment or reinvestment of moneys in the Construction Fund shall be credited to the Construction Fund and considered a part thereof and, to the extent possible, all losses resulting from such investment or reinvestment shall also be charged to the Construction Fund. The Trustee shall convert investments forming a part of the Construction Fund into cash at their respective maturities, may sell or otherwise convert any of such investments into cash if such sale or conversion is necessary to provide for payment of a requisition presented to it pursuant to the provisions of Section 9.2 hereof, and shall, upon written request signed by or on behalf of the Company, sell or otherwise convert any of such investments into cash. The Trustee shall be fully protected in making any such investment, sale or conversion in accordance with the provisions of this section. In any determination of the amount of moneys at any time forming a part of the Construction Fund, all Eligible Investments in which any portion of such moneys are at the time so invested shall be included therein at their then market value.

ARTICLE X

APPLICATION OF REVENUES AND CREATION OF SPECIAL FUNDS

Section 10.1 Bond Fund. There is hereby created a special trust fund, the name of which shall be the "Homecrafters Warehouse Bond Principal and Interest Fund", for the purpose of providing for payment of the principal of and the interest and premium (if any) on the Series 1984 Bonds and which, subject to the provisions of Section 11.6 hereof, shall be maintained until such principal, interest and premium (if any) have been paid in full. The Bond Fund shall consist of two separate accounts, namely, the Primary Account and the Escrow Account. The Trustee shall be and remain the depository, custodian and disbursing agent for the Bond Fund and for each account forming a part thereof. In any case where moneys are herein required to be paid or transferred into the Bond Fund without direction as into which account such moneys are to be paid or transferred, they shall be paid or transferred into the Bond Fund Primary Account.

So long as any part of the principal of or the interest or premium (if any) on any of the Series 1984 Bonds remains outstanding and unpaid, the City will pay the following moneys into the Bond Fund:

(a) so long as the Lease is in full force and effect, no Lease Default shall have occurred and be continuing, and the City is not in default in the payment of any Indenture Indebtedness, the City will pay into the Bond Fund, or will cause to be paid therein, promptly as received by it, the Basic Rent, all other moneys that are required by the provisions of the Lease to be paid therein, and all moneys that are specifically required by the provisions hereof to be paid therein; and

(b) at all times during which the Lease is not in full force and effect or during which a Lease Default shall have occurred and be continuing or during which the City is in default in the payment of any Indenture Indebtedness, the City will pay into the Bond Fund, or will cause to be paid therein, promptly as received by it, all revenues and receipts derived by it from the leasing or sale of the Project and all other moneys that are herein or in the Lease expressly required to be paid into the Bond Fund.

Out of the moneys on deposit in the Bond Fund, the Trustee shall make provision for payment of the principal of and the interest on the Series 1984 Bonds as said principal and interest respectively become due, as well as for the redemption of any Series 1984 Bonds required by the provisions hereof or of any Supplemental Indenture to be redeemed prior to their respective maturities. Moneys on deposit in the Bond Fund shall, subject to the provisions of Sections 10.3 and 10.4 hereof, be used only for the payment of the principal of and the interest on the Series 1984 Bonds upon or after their respective maturities, for the redemption of Series 1984 Bonds prior to their respective maturities, and for the purpose of Series 1984 Bonds for retirement at a price not greater than their par or face value plus accrued interest thereon.

In the event that any moneys are transferred to the Bond Fund Escrow Account from the Construction Fund in accordance with the provisions of the third paragraph of Section 9.2 hereof, such moneys shall be exhausted as soon as practicable by the application thereof for payment of the principal of the Bonds in the order of the maturity of such principal or for the prepayment or redemption of Bonds on the earliest practicable date on which under their terms and the terms of the Indenture such redemption may be effected but any such redemption shall be effected only in the inverse order of the maturity or due dates of the principal of such Bonds. Anything herein contained to the contrary notwithstanding, no moneys at any time held in the Bond Fund Escrow Account shall be disbursed for the payment of any interest on any of the Bonds, or for the payment of any premium in connection with the redemption or purchase for retirement of any of the Bonds. To the extent that moneys in the Bond Fund Escrow Account can be applied to the payment of the principal of the Bonds in accordance with the preceding conditions of this paragraph,

such moneys shall be so applied in preference to any moneys at the time on deposit in the Bond Fund Primary Account, all to the end that moneys at any time held in the Bond Fund Escrow Account shall be exhausted as soon as practicable. If at any time moneys in the Bond Fund Escrow Account cannot be used for the purposes and in accordance with the conditions specified in the preceding provisions of this paragraph, then such moneys shall be held in the Bond Fund Escrow Account until they can be so used for such purposes and in accordance with such conditions. Moneys held in the Bond Fund Escrow Account shall, to the extent practicable, be invested in accordance with the applicable provisions of Section 10.4 hereof.

Section 10.2 Redemption Fund. There is hereby created a special trust fund, the name of which shall be the "Homecrafters Warehouse Bond Redemption Fund" and which shall be maintained as long as any of the Series 1984 Bonds are outstanding. There shall be paid into the Redemption Fund only such moneys as are herein and in the Lease expressly required to be paid therein. The Trustee shall, subject to the provisions of Sections 10.3 and 10.4 hereof, use and apply the moneys in the Redemption Fund solely for the purpose of redeeming Series 1984 Bonds prior to their respective maturities or purchasing Series 1984 Bonds for retirement at a price not greater than their par or face value plus accrued interest thereon, or both; provided that if at any time the aggregate of available moneys held in the Bond Fund shall not be sufficient to pay the principal of or the interest on any of the Series 1984 Bonds at the respective maturities of such principal and interest or the redemption price of any of the Series 1984 Bonds on the date on which, under the terms hereof or of any Supplemental Indenture, they are required to be redeemed, then the moneys held in the Redemption Fund shall be used to pay said principal or interest so maturing or the redemption price of any such Series 1984 Bonds, but only to such extent as may be necessary to prevent default in the payment thereof.

Not more than sixty (60) and not less than forty-five (45) days prior to each interest payment date with respect to the Series 1984 Bonds, the Trustee will determine the amount then held in the Redemption Fund, and if such amount is sufficient to effect the redemption of at least \$10,000 in principal amount of Series 1984 Bonds, the Trustee shall so notify the City, whereupon the City will take such action as may be necessary under the provisions hereof to exhaust, as nearly as may be practicable, the moneys held in the Redemption Fund by effecting the redemption of Series 1984 Bonds on the earliest practicable date thereafter on which such redemption may be effected, by purchasing Series 1984 Bonds for retirement as provided above, or by both effecting the redemption of Series 1984 Bonds and purchasing Series 1984 Bonds for retirement as aforesaid. If less than all the Series 1984 Bonds are to be so redeemed at any one time, such redemption shall comply with the provisions of Section 7.3 hereof and with the provisions of Article VI hereof.

Section 10.3 Retirement of Series 1984 Bonds Under Certain Conditions. General Provisions Respecting the Bond Fund and the Redemption Fund. In the event that at any time the total sum of moneys held in the Bond Fund and the Redemption Fund is sufficient to provide for retirement of all the Series 1984 Bonds (including premium, if any, and the interest that will mature thereon until and on the

date or dates they are retired), either by redemption prior to their respective maturities in accordance with the applicable provisions of the Indenture or by payment of a portion thereof at their respective maturities and redemption of the remainder prior to their respective maturities, the Trustee will so notify the City in writing, and the City and the Trustee will thereupon take such action as may be necessary under the provisions of Article VI hereof to call for redemption, on the earliest practicable redemption date thereafter on which under the terms of the Indenture such redemption may be effected, all the Series 1984 Bonds subject to redemption that will come due after such redemption date. On or before the redemption date to be fixed pursuant to the preceding provisions of this paragraph, the Trustee will transfer into the Bond Fund all moneys then held in the Redemption Fund, and the moneys so transferred, together with the moneys already held in the Bond Fund, shall be used to retire all the Series 1984 Bonds as aforesaid. Any redemption of Series 1984 Bonds effected pursuant to the requirements of this section shall be subject to the provisions of, and shall be effected in the manner provided by, Article VI hereof and (to the extent applicable) Section 7.3 hereof.

BOOK 004 PAGE 52
In the event that at any time the moneys held in the Bond Fund and the Redemption Fund are sufficient so to effect retirement of all the Series 1984 Bonds or in the event that at any time the total of the moneys held in the Bond Fund and the Redemption Fund equals or exceeds the aggregate principal of the Series 1984 Bonds then outstanding plus the aggregate interest thereon then due and to become due until the maturity thereof, then and in either of such events no further payments need thereafter be made into the Bond Fund unless (i) further payments are needed to make good moneys paid therein that may have been lost for any reason whatsoever, or (ii) the Series 1984 Bonds thereafter become subject to mandatory redemption under any of the provisions hereof and further payments into the Bond Fund are needed to effect such redemption.

Section 10.4 Investment of Moneys in Bond Fund and Redemption Fund.
The Trustee shall, to the extent practicable, cause all the moneys held in the Bond Fund (exclusive of any amount held therein for payment of matured but unpaid Series 1984 Bonds, Series 1984 Bonds called for redemption but not yet redeemed and matured but unpaid interest) that will not be needed, during the then next ensuing ten days, for payment of any maturing installment of principal of or interest on the Series 1984 Bonds or for payment of the redemption price of any Series 1984 Bond called for redemption, to be kept continuously invested in Federal Securities or Eligible Deposits having such stated maturities as will assure the availability of cash moneys necessary to provide for payment and redemption of the principal of and the interest on the Series 1984 Bonds, as such principal and interest respectively become due and payable (whether at maturity, upon earlier call for redemption or otherwise). All securities and certificates in which any portion of the moneys in the Bond Fund are invested, together with all income therefrom, shall become a part of the particular Bond Fund account from which moneys were used to make such investment.

BOOK 004 PAGE 53

If at any time the total sum of moneys held in the Redemption Fund is less than \$10,000, the Trustee shall, to the extent practicable, cause such moneys to be invested in Eligible Investments having stated maturities, or being redeemable at the option of the holder at a stated price and time, not later than five (5) years after the date of investment therein or the next succeeding date on which any of the Series 1984 Bonds are subject to redemption, whichever date is earlier. If at any time the total sum of moneys held in the Redemption Fund is \$10,000 or more, the Trustee shall, to the extent practicable, cause such moneys to be invested in Eligible Investments having stated maturities, or being redeemable at the option of the holder at a stated price and time, not later than the next succeeding date on which any of the Series 1984 Bonds are subject to redemption, it being understood, however, that any investment of moneys in the Redemption Fund made when the total amount held therein was less than \$10,000 need not be converted into cash and reinvested in accordance with this sentence but may be held until the maturity thereof or until the conversion thereof into cash prior to maturity shall be required as a result of the use of the moneys in the Redemption Fund for the purchase of Series 1984 Bonds for retirement or the redemption of Series 1984 Bonds in accordance with the provisions of Section 10.2 hereof. All investments in which moneys in the Redemption Fund shall be invested, together with all income therefrom, shall become a part of the Redemption Fund.

In order to comply with the requirements of the Indenture, the Trustee may, at any time and from time to time, cause any Federal Securities or Eligible Deposits forming a part of any account of the Bond Fund, or any Eligible Investments forming a part of the Redemption Fund, to be sold or otherwise converted into cash, shall upon written request of the Company cause any such securities, certificates or investments to be sold or otherwise converted into cash (but if and only if, in the case of Federal Securities or Eligible Deposits forming a part of the Bond Fund, such sale or other conversion into cash will not jeopardize the payment, when due, of the principal of and the interest on any of the Series 1984 Bonds or of the redemption price of any Series 1984 Bond required, by the provisions hereof or of any Supplemental Indenture, to be redeemed prior to its maturity), and shall cause any such securities, certificates or investments to be sold or otherwise converted into cash if and to the extent that such sale or conversion is necessary to obtain moneys to prevent a default in the payment, when due, of the principal of or the interest on the Series 1984 Bonds or of the redemption price of any Series 1984 Bond required by the provisions hereof or of any Supplemental Indenture, to be redeemed prior to its maturity. The net proceeds from the sale or other conversion into cash of any securities, certificates or investments forming a part of the Redemption Fund or of any account of the Bond Fund shall be paid into and become a part of the fund or account of which such securities, certificates or investments formed a part. In making any investment of moneys forming a part of the Bond Fund or the Redemption Fund, the Trustee will follow such written instructions as may be given to it by the Company, but if and only to the extent that such instructions are not inconsistent with any applicable provisions of the Indenture; provided however, that the Trustee shall make no investment of any such moneys that would result in any of the Series 1984 Bonds being considered "arbitrage bonds" within the meaning of Section 103(c) of the Code and the applicable regulations thereunder. The Trustee shall be fully protected in making any such investment, sale or conversion in accordance with the

provisions of this section. In any determination of the amount of moneys at any time forming a part of the Redemption Fund or either account of the Bond Fund, all securities, certificates or other investments in which any portion of such fund or account is at the time so invested shall be included therein at their then market value.

Section 10.5 Security for Bond Fund and Redemption Fund Moneys. The moneys at any time held in the Bond Fund or the Redemption Fund shall be and at all times remain impressed with a trust for the purposes for which said funds were respectively created. The Trustee shall at all times keep the moneys held in each such fund continuously secured, for the benefit of the City and the Holders of the Series 1984 Bonds, either

(a) by holding on deposit, as collateral security, Federal Securities, or other marketable securities eligible as security for the deposit of trust funds under regulations of the Comptroller of the Currency, having a market value (exclusive of accrued interest) not less than the amount of moneys held in the fund being secured, or

(b) if the furnishing of security in the manner provided in the foregoing clause (a) of this section is not permitted by the then applicable laws and regulations, then in such other manner as may be required or permitted by the then applicable state and federal laws and regulations respecting the security for, or granting a preference in the case of, the deposit of trust funds;

provided however, that it shall not be necessary for the Trustee so to secure any portion of the moneys on deposit in any of such trust funds that is invested in Federal Securities or that is insured by the Federal Deposit Insurance Corporation or by any agency of the United States of America that may succeed to its functions.

Section 10.6 Commingling of Moneys in Separate Trust Funds. Any provision hereof to the contrary notwithstanding, moneys on deposit in the accounts of the Bond Fund or the Redemption Fund may be commingled and combined for the purpose of making investments under the provisions of Section 10.4 hereof, subject to the following conditions:

(a) all interest, income or profit realized from any such commingled investment shall be credited, and all losses resulting therefrom shall be charged, to each such account or fund in the same respective proportions as the amount invested from each such account or fund bears to the total amount so invested; and

(b) no moneys forming a part of any such account or fund shall be invested in any investments other than such as are expressly authorized herein.

ARTICLE XI

PARTICULAR COVENANTS OF THE CITY

Section 11.1 **Payment of the Bonds.** The City will pay or will cause to be paid, out of the revenues and receipts derived from the leasing or sale of the Project and any other moneys deposited in the Bond Fund, the principal of and the interest and premium (if any) on the Bonds as specified therein, and it will otherwise perform all obligations that, either expressly or by reasonable implication, are imposed on it in the Indenture, and it will not default hereunder.

55
BUCK PAGE
004
Section 11.2 **Priority of Pledge.** The pledge herein made of the revenues and receipts from any leasing or sale of the Project shall be prior and superior to any pledge thereof hereafter made for the benefit of any other securities hereafter issued (other than Additional Bonds) or any contract hereafter made by the City. In the event the City should hereafter issue any other securities (other than Additional Bonds) payable, in whole or in part, out of the revenues or receipts to be derived from the leasing or sale of the Project or for which any part of said revenues or receipts may be pledged or any part of the Project may be mortgaged, or in the event the City should hereafter make any contract payable, in whole or in part, out of said revenues and receipts or for which any part of said revenues and receipts may be pledged or any part of the Project may be mortgaged, the City will, in the proceedings under which any such securities or contract are hereafter authorized, recognize the priority of the pledge of said revenues and receipts made herein for the benefit of the Series 1984 Bonds. The City recognizes that in the Lease it has agreed

(a) not to issue any securities, other than the Series 1984 Bonds, or, subject to the conditions set forth in the Indenture, Additional Bonds, that are payable out of or secured by a pledge of the revenues and receipts derived by the City from the leasing or sale of the Project or any part thereof, and

(b) not to place any mortgage or other encumbrance (other than the Indenture or any Supplemental Indentures contemplated thereby) on the Project or any part thereof,

without, in either case, the prior written request or consent of the Company.

Section 11.3 Concerning the Lease. The Indenture and the rights and privileges of the Trustee and the Bondholders are specifically made subject to the rights, options and privileges of the Company under the Lease, and nothing herein contained shall be construed to impair the rights, options and privileges granted to the Company by the Lease and by the Agreement of Sale. The City will perform and observe, or cause to be performed and observed, all agreements, covenants, terms and conditions required to be observed and performed by it in the Lease. Without relieving the City from the consequences hereunder of any default in connection therewith, the Trustee (on behalf of the City) may perform and observe, or cause to be performed and observed, any such agreement, covenant, term or condition, all to the end that the City's rights under the Lease may be unimpaired and free from default.

BOOK 004 PAGE 56
The City will promptly notify the Trustee in writing of (i) the occurrence of any Lease Default, provided that the City has knowledge of such default, and (ii) the giving of any notice of default under the Lease. The City will also promptly notify the Trustee in writing if, to the knowledge of the City, the Company fails to perform or observe any of the agreements or covenants on his part contained in the Lease. In the event of the occurrence of a Lease Default, any such giving of notice of default or any such failure, whether notice thereof is given to the Trustee by the City, as aforesaid, or whether the Trustee independently has knowledge thereof, the Trustee will promptly give written notice thereof to the Company, with a copy to the City, and shall in such notice expressly require the Company to perform or observe the agreement or covenant with respect to which the Company is delinquent, all to the end that if the Company does not perform or observe such agreement or covenant (or cause such agreement or covenant to be performed or observed) in the manner and within the time provided by the Lease, a Lease Default may be declared without delay.

So long as the Lease shall remain in effect the City will cause the Basic Rent to be paid directly to the Trustee as provided in the Lease. The City will not cancel, terminate or modify, or consent to the cancellation, termination or modification of, the Lease (except as is specifically provided, authorized or contemplated herein) unless and until the entire Indenture Indebtedness shall have been paid in full; provided however, that with the written consent of the Trustee, the City may terminate the Lease under those provisions thereof authorizing such termination upon the occurrence of a Lease Default. In the event of a Lease Default, or in the event of a default on the part of the lessee under any subsequent lease entered into by the City with respect to the Project or any part thereof, the City will exhaust or cause to be exhausted, as promptly as may be practicable, all legal remedies that it may have against the Company or other defaulting lessee, as the case may be, to obtain compliance with the provisions of the Lease or of any subsequent lease, including payment of the rentals therein provided and performance and observance of all agreements and covenants on the part of the Company or other lessee therein contained. In the event it should become necessary for the City to terminate the Lease, or any subsequent lease entered into by the City with respect to the Project or any part thereof, to cure an Event of Default, the City and the Trustee will, following any such termination (with the consent of the Trustee, as aforesaid, for termination of the Lease) as a consequence of any Lease Default or any default by

the lessee under the subsequent lease, as the case may be, use their best efforts to lease the Project in such manner and on such terms as shall produce net revenues sufficient to provide for payment of the principal of and the interest and premium (if any) on the Bonds when due (whether at maturity, by redemption or otherwise) and to that end will use their best efforts to provide in any such lease that the lessee thereunder will pay the costs of all repairs, maintenance, alterations and insurance, all utility charges, all taxes and other governmental charges, all fees and expenses of the Trustee and any other paying agents for the Bonds and all other operating and incidental costs and expenses, all to the end that all cash rent payable to the City under such lease may be used for payment of the principal of and the interest and premium (if any) on the Bonds. Any such subsequent lease so made shall be subject to the Indenture.

Section 11.4 Maintenance, Repairs, Changes, Alterations, Taxes and Other Charges. Subject to the provisions of Section 16.1 hereof, the City will continuously maintain the Project Building, the Project Equipment and the other improvements located on the Project Site in good repair and operating condition (reasonable wear and tear excepted), making from time to time all necessary and proper repairs thereto (including, without limitation, exterior and structural repairs), or it will cause the Project Building, the Project Equipment and said improvements to be so maintained and such repairs to be so made; provided however, that the City shall not be obligated to repair or replace any of the Project Equipment that may become inadequate, obsolete, worn-out, unsuitable or unnecessary in the operation of the Project or to cause any such Project Equipment to be repaired or replaced. Without the prior written consent of the Trustee, the City will not itself make, or permit to be made, any change or alteration in the Project other than those permitted or contemplated by the Lease.

Subject to the provisions of Section 17.1 hereof, the City will pay, or will cause to be paid, as the same respectively become due and payable,

(a) all taxes and governmental charges of any kind whatsoever that may be lawfully assessed or levied against or with respect to the Project or any part thereof, including, without limiting the generality of the foregoing, any taxes levied upon or with respect to any part of the receipts, income or profits of the City from the Project and other taxes levied upon or with respect to the Project which, if not paid, would become a lien on the Project or any part thereof prior to or on a parity with the lien of the Indenture or a charge on the revenues and receipts from the Project prior to or on a parity with the charge thereon and the pledge and assignment thereof created and made in the Indenture, and

(b) all assessments and charges lawfully made by any governmental body for public improvements that may be secured by a lien on the Project, provided that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a

period of years, the City shall be obligated to pay, or cause to be paid, only such installments as come due while any part of the Indenture Indebtedness remains outstanding and unpaid.

The City may, however, defer or cause to be deferred payment of any such taxes, charges or assessments pending the bona fide contest thereof unless the Trustee shall be of the opinion that by such action the lien of the Indenture as to any part of the Project shall be materially endangered, or the Project or any part thereof shall be subject to loss or forfeiture, or the revenues of the City from the Project shall become subject to a lien or charge thereon prior to or on a parity with the pledge and assignment thereof made in the Indenture, in any of which cases any such payment then due shall not be deferred.

The City will also pay, or cause to be paid, as the same respectively become due, all utility and other similar charges incurred in the operation, maintenance, use and upkeep of the Project.

Nothing contained in this section shall be construed to create or give rise to a general obligation of the City, and the performance by the City of the agreements contained in this section shall be limited to the extent that moneys derived from the leasing or sale of the Project are available to pay the costs of performing such obligations.

Section 11.5 Warranty of Title. The City warrants as follows: it has good and marketable title to the property described and mortgaged in Section 2.1 hereof free and clear of every lien, encumbrance, trust or charge prior to the lien of the Indenture, other than Permitted Encumbrances; it has power and authority to subject said property to the lien of the Indenture and has duly done so; and it will forever warrant and defend the title to the Project unto the Trustee, for the benefit of the Holders of the Bonds, against the claims of all persons whomsoever, except those claiming under Permitted Encumbrances.

Section 11.6 Agreement of City to Maintain Corporate Existence and Not to Dispose of Project. Except to the extent specifically permitted otherwise by the provisions of the second paragraph of this Section 11.6, the City will maintain its corporate existence, will not dissolve or sell, transfer or otherwise dispose of the Project or any part thereof and will not consolidate with or merge into another municipal corporation or permit one or more other municipal corporations to consolidate with or merge into it. Further, the City will use its best efforts to maintain, preserve and renew all the rights and powers provided to it by the Act and any other applicable laws of the State of Alabama or the United States of America.

If the laws of the State of Alabama at the time shall permit such action to be taken, nothing contained in this section shall prevent (a) the consolidation of

the City with, or the merger of the City into, any municipal corporation which has corporate authority to undertake and perform the obligations and agreements of the City under the Lease and the Indenture or (b) the transfer by the City of the Project as an entirety to another municipal corporation or public corporation or public instrumentality which has corporate authority to undertake and perform the obligations and agreements of the City under the Lease and the Indenture; provided that upon any such consolidation, merger or transfer the following conditions shall be satisfied: (i) the due and punctual payment of the principal of and the interest and premium (if any) on the Bonds according to their tenor and the due and punctual performance and observance of all the agreements and conditions contained in the Lease and the Indenture to be kept and performed by the City shall be expressly assumed in writing by the corporation resulting from such consolidation or surviving such merger or the instrumentality to which the Project shall be transferred as an entirety; (ii) such consolidation, merger or transfer shall not cause or result in any mortgage or other lien being imposed on the Project or the revenues therefrom that will be prior to the lien of the Indenture covering the Project or prior to the pledge of the revenues from the Project made in the Indenture for the benefit of the Bonds; and (iii) such consolidation, merger or transfer shall not cause or result in the Project or the revenues of the City therefrom becoming subject to any taxation to which the same was not theretofore subject, or in the interest income on any of the Bonds becoming subject to income taxation by the United States of America, the State of Alabama or any political subdivision of either thereof. Nothing contained herein shall, however, be construed to prevent the City from disposing of any unimproved portion of the Project Site pursuant to the provisions of Section 12.2 hereof or from disposing of any of the Project Equipment pursuant to the provisions of Section 12.3 hereof.

Section 11.7 Freedom of Project from Prior Liens. Subject to the provisions of Section 17.1 hereof, the City will not knowingly permit the Project or any part thereof to be or remain subject to any liens and encumbrances prior to the lien hereof (other than Permitted Encumbrances), but it may defer payment pending the bona fide contest of any claim unless the Trustee shall be of the reasonable opinion that by such action the lien of the Indenture as to the Project or any part thereof shall be materially endangered or the Project or any part thereof shall be subject to loss or forfeiture, in which event any such payment then due shall not be deferred. Nothing herein contained shall be construed to prevent the City from hereafter purchasing, for use in connection with the Project, additional property on conditional or lease sale contract or subject to vendor's lien or purchase money mortgage, and as to all property so purchased (other than property that is, under the terms hereof, to constitute part of the Project), the Indenture shall be subject and subordinate to such conditional or lease sale contract, vendor's lien or purchase money mortgage.

Section 11.8 Payment of Trustee's Charges; Lien Therefor. Subject to the provisions of Section 17.1 hereof, the City will discharge, pay or satisfactorily provide to the Trustee, or cause to be discharged, paid or provided, all liabilities, expenses, and advances reasonably incurred, disbursed or made by the Trustee in the execution of the trusts hereby created (including the reasonable compensation and

expenses and disbursements of its Counsel and of all other persons not regularly in its employ), and it will from time to time pay to the Trustee, or cause to be paid, reasonable compensation for its services hereunder, including extra compensation for unusual or extraordinary services. As security for the payment of such liabilities, expenses, advances and compensation, the Trustee shall have a first lien on the Project and the revenues and receipts therefrom pledged hereunder and all funds held or collected by the Trustee as such, with right of payment therefrom prior to the rights of the Holders of the Bonds. All such liabilities, expenses, advances and compensation shall bear interest until paid, from and after thirty (30) days after the respective dates on which the Trustee makes demand for the payment thereof, at a per annum rate equal to two percent (2%) in excess of the Prime Rate during the period for which such interest shall be payable. The Trustee will not make demand for such payment earlier than the date on which such liabilities, expenses and advances shall be incurred, disbursed or made or the date on which such compensation shall be earned, as the case may be.

Section 11.9 Inspections by Trustee. Subject to the provisions of Section 8.3 of the Lease, the City will permit the Trustee and its duly authorized agents to inspect, at any reasonable time, any and every part of the Project and will permit the Trustee and the Holder of any Bond to inspect, at any reasonable time, the books and records of the City pertaining to the Project. The City will assist in furnishing facilities for any such inspection.

Section 11.10 Recordation. Further Assurances. The City will cause the Indenture, and all Supplemental Indentures hereafter executed, to be filed for record in such public office or offices in which said documents are required by law to be filed in order to constitute constructive notice thereof and to preserve and protect fully the rights and security afforded thereby to the Trustee and the Holders of the Bonds. In addition, the City

(a) will, upon reasonable request, execute and deliver such further instruments and do such further acts as may be necessary or proper to carry out more effectually the purposes of the Indenture, and in particular (without in any way limiting the generality of the foregoing) to make subject to the lien of the Indenture any property hereafter acquired as a part of the Project and to transfer to any successor trustee or trustees the assets, powers, instruments and funds held in trust hereunder and to confirm the lien of the Indenture with respect to any Bonds issued hereunder, and

(b) will take all actions that at any time and from time to time may be necessary (or, in the opinion of the Trustee, may be necessary) to perfect, preserve, protect and secure the interests of the City and the Trustee, or either, in and to the Project and the Lease.

No failure to request such further instruments or further acts shall be deemed a waiver of any right to the execution and delivery of such instruments or the doing of such acts or to be deemed to affect the interpretation of any provisions of the Indenture.

The obligations of the City under this section are limited to cooperation with, and the taking of actions requested by, the Trustee or other interested parties, and nothing contained in this section shall be construed as imposing upon the City an affirmative duty to determine whether the filing or recording or the re-filing or re-recording of any instruments (including, without limitation, Uniform Commercial Code financing statements) is at the time necessary to preserve or protect any interest of the City or the Trustee in the Project, the Lease, or any other rights or properties mortgaged or pledged under the Indenture.

ARTICLE XII

CERTAIN PROVISIONS RELATING TO THE POSSESSION, USE AND RELEASE OF THE PROJECT AND TO THE DISPOSITION OF INSURANCE PROCEEDS AND CONDEMNATION AWARDS

Section 12.1 Retention of Possession of Project by City. Unless an Event of Default shall have occurred and be continuing, or except as otherwise provided herein, the City may retain actual possession of the Project and may manage and lease the same, and may collect, use and enjoy the rents, revenues, income and profits thereof to such extent as does not violate any of the City's covenants herein contained or contained in the Lease.

Section 12.2 Release of Unimproved Parts of Project Site. Unless an Event of Default shall have occurred and be continuing, the City may, at any time and from time to time, obtain the release of any unimproved part of the Project Site, and the Trustee shall release the same from the lien hereof upon deposit by the City with the Trustee of the following:

(a) a notice signed by the Mayor of the City containing an adequate legal description of that part of the Project Site requested to be released (including the acreage thereof), requesting such release and stating that no Event of Default has occurred which is continuing;

(b) a certificate signed by an Independent Engineer stating (i) that no part of the Project Building or the Project Equipment nor any other improvement (except for roads, walkways, ground level parking improvements, water, gas and electric lines and the like, which shall be specified

in such certificate) is located on the part of the Project Site requested to be released, and (ii) that the severance of such part of the Project Site from the Project will not impair the operating utility of the Project or impair the productive capacity thereof;

(c) an amount, in cash or bankable funds, equal to Twenty Thousand Dollars (\$20,000) per acre (prorated for fractional parts of an acre) of the part of the Project Site to be released as specified in said notice; and

(d) an instrument or instruments in writing, executed by or on behalf of the Holders of not less than seventy-five percent (75%) in principal amount of the then outstanding Bonds, consenting to the release of any such portion of the Project Site from the lien thereof.

Upon compliance by the City with the foregoing conditions the Trustee shall, at the expense of the City, execute and deliver to the City any and all instruments that may be necessary to release from the lien of the Indenture that part of the Project Site with respect to which said conditions shall have been complied with. All moneys coming into the hands of the Trustee under the provisions of this section shall be paid by the Trustee into the Redemption Fund.

Section 12.3 Release of Project Equipment. Reference is hereby made to Section 6.3 of the Lease which permits the Company, upon compliance with the conditions therein contained, to remove items of the Project Equipment from the Project Site and to sell or otherwise dispose of the same free and clear of the demise of the Lease and of the lien of the Indenture. Any item of the Project Equipment released from the demise of the Lease in accordance with the provisions thereof shall also be released from the lien of the Indenture, and the Trustee shall at the request of the City or of the Company execute and deliver all instruments that may be necessary to confirm such release.

Section 12.4 Release Upon Payment of Condemnation Award to Trustee. If the Project or any part thereof shall be taken through the exercise of the power of eminent domain, the entire condemnation award referable thereto shall be paid directly to the Trustee. Upon payment to the Trustee of such award, the Trustee shall, at the expense of the City, execute and deliver to the City or to the person successfully exercising such power of eminent domain any and all instruments that may be necessary (i) to release from the demise of the Lease all property forming part of the Project that shall be so taken and (ii) to release from the lien of the Indenture all property forming part of the Project that shall be so taken.

Section 12.5 Disposition of Condemnation Award. Reference is hereby made to the Lease wherein it is provided that if title to all or any part of the Project shall be taken through the exercise of the power of eminent domain, the entire

condemnation award referable thereto shall be paid to and held by the Trustee and shall thereafter be applied by the Trustee in the manner and for the purposes specified in Section 7.2 of the Lease. The Trustee hereby accepts the duties and obligations on its part specified in the Lease with respect to such condemnation award and agrees that such condemnation award shall be applied in accordance with the applicable provisions of the Lease.

Section 12.6 **Disposition of Insurance Proceeds.** Reference is hereby made to the Lease wherein it is provided that if the Project is destroyed, in whole or in part, or is damaged, by fire or other casualty, to such extent that the loss to the Project resulting therefrom is in excess of \$50,000, then all "Net Insurance Proceeds" (as defined in the Lease) recovered by the City, the Company and the Trustee shall be paid to and held by the Trustee and shall thereafter be applied by the Trustee in the manner and for the purposes specified in Section 7.1 of the Lease. The Trustee hereby accepts the duties and obligations on its part specified in the Lease with respect to such proceeds and agrees that such proceeds shall be applied in accordance with the applicable provisions of the Lease.

ARTICLE XIII

EVENT OF DEFAULT AND REMEDIES OF TRUSTEE AND BONDHOLDERS

Section 13.1 **Events of Default Defined.** Any of the following shall be "Events of Default" under the Indenture, and the term "Event of Default" shall mean, whenever it is used in the Indenture, any one or more of the following conditions or events:

(a) failure by the City to pay the principal of or the interest or premium (if any) on any Bond as and when the same become due as therein and herein provided (whether such shall become due at maturity, upon redemption, by acceleration or otherwise);

(b) a Lease Default;

(c) failure by the City to perform or observe any agreement, covenant or condition required by the Indenture to be performed or observed by it [other than (i) its agreement to pay the principal of and the interest and premium (if any) on the Bonds, and (ii) any other agreement, covenant or condition with respect to which its failure to perform or observe is the result of a Lease Default] after sixty (60) days' written notice to it of such failure given by the Trustee or by the Holders of not less than twenty-five percent (25%) in principal amount of any series of the Bonds then outstanding hereunder;

(d) any material warranty, representation or other statement by or on behalf of the City contained in the Lease or the Indenture, or in any document furnished by the City in connection with the issuance and sale of any of the Bonds, being false or misleading in any material respect at the time made; or

(e) the filing of any petition by or against the City under the United States Bankruptcy Code or under any other similar law or statute, the appointment by a court having jurisdiction of a receiver for the Project or for a substantial part thereof, or approval by a court of competent jurisdiction of any petition for rearrangement or readjustment of the obligations of the City under any provisions of the bankruptcy laws of the United States of America or the State of Alabama.

Section 13.2 Remedies on Default. Upon the occurrence and continuation of any Event of Default, the Trustee shall have the following rights and remedies, subject to the provisions of Sections 13.6 and 13.8 hereof:

(a) Acceleration. The Trustee may, by written notice to the City and to the Company, declare the principal of and the interest accrued on all the Bonds forthwith due and payable, and thereupon they shall so be, anything herein or therein to the contrary notwithstanding; provided however, that the Trustee may not have or exercise the right or remedy granted by this subsection (a) unless the Event of Default that has occurred is one of those specified in subsection (a), (b) or (d) of Section 13.1 hereof.

(b) Possession of Project. The Trustee shall have the power to require the City to surrender possession of the Project to it, and the City shall, upon demand so to do by the Trustee, forthwith surrender to the Trustee actual possession of the Project or such part or parts thereof as the Trustee may designate, and the Trustee shall take possession thereof and may wholly exclude the City and its agents therefrom. The Trustee shall thereafter have the power to operate, lease or otherwise control, use and dispose of the Project in the manner it deems most beneficial to the Bondholders. The Trustee shall further have the power to make, at the expense of the trust estate, such repairs, replacements, alterations, additions or improvements to the Project as it may consider advisable, to collect the income therefrom and to pay all proper charges and maintenance expenses thereof, including all proper disbursements by the Trustee.

(c) Sale of Project. The Trustee shall have the power to sell, at public auction, as a whole or in parcels, at such time and on such terms as it deems best, to the highest bidder, all or any part of the Project and the entire interest and equity of redemption of the City therein, subject,

BOOK 004 PAGE 64

however, to succeeding provisions of this section and to the provisions of Sections 13.3 and 13.4 hereof.

(d) Other Remedies. The Trustee shall have the power to proceed with any other right or remedy independent of or in aid of the foregoing powers, as it may deem best, including the right to foreclose the Indenture by bill in equity or by proceedings at law, the right to enforce any obligation of the City or the Company contained in the Lease or the Indenture, and the right to the appointment, as a matter of right and without regard to the sufficiency of the security afforded by the Project, of a receiver for all or any part of the Project and the earnings, rents and income therefrom. In the case of an Event of Default resulting from the failure of the City to pay the principal of or the interest or premium (if any) on any of the Series 1984 Bonds, the Trustee shall have the right (without prejudice to the exercise of any of the rights under the Indenture) to enforce the performance of the Series 1984 Bond Guaranty, and to institute any action, suit or proceeding for that purpose. The rights here specified are to be cumulative to all other available rights, remedies or powers and shall not exclude any such.

BOOK 004 PAGE 63
If, upon the occurrence of an Event of Default, the City makes good the default which is the reason for such Event of Default and every other default hereunder (except any principal and interest declared payable that would, absent such declaration, not then be payable), with, to the extent legally permissible, interest on all overdue payments of principal, interest and premium (if any), and makes reimbursement of all the reasonable expenses of the Trustee, then the Trustee may, subject to the provisions of Section 13.6 hereof, in its discretion, and shall upon the written request of the Holders of a majority in principal amount of the then outstanding Bonds, waive such default and its consequences, but no such waiver shall affect any subsequent default or right relative thereto. Further, upon the occurrence of any Event of Default, except a default in the payment of the principal of or the interest or premium (if any) on the Bonds, the Trustee may in its discretion, and shall upon the written request of the Holders of a majority in principal amount of the then outstanding Bonds, waive such default and its consequences without the City having theretofore made good such default, but no such waiver shall affect any subsequent default or right relative thereto. In case any proceeding taken by the Trustee on account of any Event of Default shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Trustee, then and in every case the City, the Trustee and the Holders of the Bonds shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies and powers of the Trustee shall continue as though no such proceeding had been taken.

Section 13.3 Manner of Sale of the Project. Notice of any sale by the Trustee of any part of the Project pursuant hereto shall state the time and place of such sale [which time shall be between the legal hours of sale and which place shall be before the main entrance of the Courthouse of Shelby County, Alabama describing briefly the property to be sold, and shall be sufficiently given if published once a

week for three successive weeks preceding the date of sale in a Newspaper published in Shelby County, Alabama. The Trustee may from time to time adjourn any such sale by announcing at the time and place appointed therefor an adjournment to a future time and place specified, at which it may effectively make the sale without further notice.

If, on any auction or offer for sale of the whole of the Project pursuant to the provisions of this Article XIII, no cash bid be received in an amount sufficient to pay all amounts then owing to the Trustee and the Bondholders, the Trustee may, after first re-advertising such sale in the manner provided in the first paragraph of this section, sell the Project for an amount less than sufficient to pay all amounts then owing to the Trustee and the Bondholders or for a consideration consisting of part cash and part purchase money mortgage, or both; provided (i) that such sale and the terms and amounts of any purchase money mortgage are approved in writing by the Holders of a majority in principal amount of the then outstanding Bonds, and (ii) that in the opinion of the Trustee the price obtained at such sale represents the fair market value of the property sold, as demonstrated by at least two bids therefor (each of which shall have been submitted or made by a bidder duly qualified to bid) or by appraisal by an Independent Appraiser acceptable to the Trustee.

Section 13.4 Sale of the Project. The following conditions shall apply to any sale of the Project or any part thereof by the Trustee pursuant to any power granted by the Indenture or pursuant to judicial authority:

(a) The principal of and the interest accrued on all the Bonds not yet matured or declared due shall forthwith become due, anything therein or herein to the contrary notwithstanding.

(b) Any Bondholder or Bondholders or the Trustee, or any of them, may bid for and purchase the Project, or any part thereof to be sold, at such sale.

(c) The purchaser of any property sold may make payment, in whole or in part, of the amount by which his bid exceeds the sum necessary to discharge any prior liens and to pay costs, charges, fees and expenses by receipting for the share of the proceeds of the sale to which as a Bondholder he will be entitled.

(d) The Trustee is hereby appointed, empowered and directed by the City as its irrevocable attorney to convey, assign, transfer and deliver to the purchaser the property sold and make all necessary conveyances and transfers thereof, all of which the City hereby ratifies. The entire right, title, interest, claim and demand, legal and equitable, of the City in the property sold shall be completely divested by such sale and the same

shall be a perpetual legal and equitable bar to any claim by the City thereto. The City, however, if and when requested, will execute and deliver to the purchaser such proper instruments as may be requested in further assurance of the title so acquired.

(e) The purchaser upon paying the purchase money to the Trustee and receiving his receipt therefor need not inquire into the authorization, necessity, expediency or regularity of the sale and need not see to or in any way be responsible for the application by the Trustee of any part of the purchase money.

Section 13.5 Application of Moneys Received from Enforcement of Rights Under the Indenture. Upon the occurrence and continuation of an Event of Default, any moneys derived by the Trustee from the leasing or sale of the Project or from the enforcement of the City's rights under the Lease or from the exercise of any other right or remedy granted to the Trustee under the Indenture, as opposed to any right or remedy granted to the Trustee under the Series 1984 Bond Guaranty, together with all other funds held by it hereunder, shall, after payment of all proper costs, expenses and liabilities incurred and disbursements made by the Trustee hereunder, and all liens and charges on the Project prior to the rights of the Trustee which in the opinion of the Trustee it is advisable to pay, be applied as follows:

(a) Unless the principal of all the Bonds shall have become or shall have been declared due and payable, all such moneys shall be applied:

FIRST - to the payment to the persons entitled thereto of all installments of interest then due on the Bonds, in the order of the maturity of the installments of such interest, with interest on overdue installments of interest, and, if the amount available shall not be sufficient to pay in full any particular installment plus said interest thereon, then to the payment ratably, according to the amounts due on such installments and with respect to said interest, to the persons entitled thereto, without any discrimination or privilege;

SECOND - to the payment to the persons entitled thereto of the unpaid principal of and premium (if any) on any of the Bonds which shall have become due (other than Bonds matured or called for redemption for the payment of which moneys are held pursuant to the provisions of this Indenture), in the order of the maturity of such principal and premium, with interest on overdue installments of principal and premium (if any), and, if the amount available shall not be sufficient to pay in full all principal and premium (if any) due on any particular date, together with the aforesaid interest thereon, then to the payment of such principal and premium (if any) due on

BOOK 004 PAGE 67

such date, together with such interest, ratably, without any discrimination or privilege; and

THIRD - the surplus, if any there be, into the Bond Fund, or in the event the Indenture Indebtedness has been fully paid, to the City or whomsoever may be entitled thereto.

(b) If the principal of all the Bonds shall have become or been declared due and payable, all such moneys shall be applied as follows:

FIRST - to the payment of the principal and interest then due and unpaid upon the Bonds (with interest on overdue principal and interest), without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the persons entitled thereto without any discrimination or privilege; provided, however, that if the principal of all the Bonds shall have been declared due and payable and if such declaration shall thereafter have been rescinded under the provisions of Section 13.2 hereof, then, subject to the provisions of this subsection (b) in the event that the principal of all the Bonds shall later become or be declared due and payable, such moneys shall be applied in accordance with the provisions of subsection (a) of this section; and

SECOND - the surplus, if any there be, into the Bond Fund, or in the event the Indenture Indebtedness has been fully paid, to the City or to whomsoever may be entitled thereto.

Whenever moneys are to be applied pursuant to the provisions of this section, such money shall be applied at such time or times, and from time to time, as the Trustee shall determine, having due regard to the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future. Whenever the Trustee shall apply such funds, it shall fix the date (which shall be an interest payment date unless it shall deem another date more suitable) upon which such application is to be made, and upon such date interest on the amounts of principal and interest to be paid on such dates shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the deposit with it of any such moneys and of the fixing of any such date and shall not be required to make payment to the Holder of any unpaid Bond until such Bond shall be presented to the Trustee for appropriate endorsement or for cancellation if fully paid.

Section 13.6 Remedies Vested In Trustee. Subject to the provisions of Section 13.6 hereof, all remedies hereunder are vested exclusively in the Trustee for the equal and pro rata benefit of all the Holders of the Bonds, unless the Trustee refuses or neglects to act within a reasonable time after written request so to act addressed to the Trustee by the Holders of twenty-five percent (25%) in principal amount of either series of the outstanding Bonds, accompanied by indemnity satisfactory to the Trustee, in which event the Holder of any of the Bonds may thereupon so act in the name and behalf of the Trustee or may so act in his own name in lieu of action by or in the name and behalf of the Trustee. Except as above provided, no Holder of any of the Bonds shall have the right to enforce any remedy hereunder, and then only for the equal and pro rata benefit of the Holders of all the Bonds.

Notwithstanding any other provision hereof, the right of the Holder of any Bond, which is absolute and unconditional, to payment of the principal of and the interest and premium (if any) on such Bond on or after the due date thereof, but solely from the revenues and receipts from the leasing or sale of the Project as therein and herein expressed (and in the case of the Holder of any Series 1984 Bond, from moneys received under the Series 1984 Bond Guaranty), or the obligation of the City, which is also absolute and unconditional, to pay, but solely from said revenues and receipts, the principal of and the interest on the Bonds to the respective Holders thereof at the time and place in the Bonds expressed, shall not be impaired or affected without the consent of such Holder.

Section 13.7 Rights of the Company upon Occurrence of an Event of Default. If an Event of Default should occur solely by reason of some action or failure to act on the part of the City, and if at the time there shall have not occurred and be continuing a Lease Default, the Trustee shall notify the Company in writing of the occurrence of such Event of Default and the Company shall have the right to remedy such Event of Default hereunder within sixty (60) days after such written notice, provided that the Company is hereby authorized, to the extent permitted by law, to take such actions as may be necessary for and on behalf of the City to cure such Event of Default, and the Trustee shall accept performance of such actions by the Company as performance by the City in such event. The exercise of the remedies set forth in Section 13.2 hereof are subject to the right of the Company to cure such Event of Default as provided in this section.

Section 13.8 Delay No Waiver. No delay or omission by the Trustee or by any Bondholder to exercise any available right, power or remedy hereunder shall impair or be construed a waiver thereof or in acquiescence in the circumstances giving rise thereto; every right, power or remedy given herein to the Trustee or to the Bondholders may be exercised from time to time and as often as deemed expedient.

Section 13.9 Notice to Bondholders upon Occurrence of Event of Default. If an Event of Default occurs that is known to the Trustee, or if any event or

condition occurs that is known to the Trustee and that with the giving of notice of the passage of time or both would constitute an Event of Default, and if such Event of Default or such event or condition, as the case may be, continues for a period of at least five (5) business days after the Trustee first learns thereof, then the Trustee will, at or before the end of such period of five (5) business days, give written notice thereof by United States regular mail, postage prepaid, to all Holders of the Bonds at their respective addresses appearing in the records of the Trustee pertaining to the registration of the Bonds. Nothing contained in this section shall be deemed to require the Trustee to undertake independent inquiries into or investigations of the condition of the Project, the business or condition of the Company, or any other circumstances, conditions or information (whether or not publicly available) which would disclose to it the occurrence of an Event of Default or any event or condition that with the giving of notice of the passage of time or both would constitute an Event of Default, unless the Trustee shall have first received, without effort on its part, information which would warrant the undertaking of such independent inquiries or investigations.

ARTICLE XIV

CONCERNING THE TRUSTEE

Section 14.1 Acceptance of Trusts. The Trustee accepts the trusts hereby created and agrees to perform the duties herein required of it, either expressly or by reasonable implication, subject, however, to the following conditions:

(a) It shall not be liable hereunder except for its non-compliance with the provisions hereof, its willful misconduct or its negligence.

(b) It may execute any of the trusts and powers conferred on it hereunder or perform any duty hereunder either directly or through agents and attorneys in fact who are not regularly in its employ and who are selected by it with reasonable care, but it shall be responsible for the observance by such agents and attorneys in fact of the terms and conditions hereof.

(c) It may consult Counsel on any matters connected herewith and shall not be answerable for any action taken or failure to take any action in good faith on the advice of Counsel, provided that its action or inaction is not contrary to any express provision hereof.

(d) It need not recognize a Holder of a Bond as such without the satisfactory establishment of his title to such Bond.

(e) It shall not be answerable for any action taken in good faith on any notice, request, consent, certificate or other paper or document which it believes to be genuine and signed or acknowledged by the proper party.

(f) Except for giving notice to Bondholders in accordance with the provisions of Section 13.9 hereof, it need not take any action with respect to any Event of Default or with respect to any event or condition which with the giving of notice or the passage of time or both would constitute an Event of Default, unless requested so to do by the Holders of twenty-five percent (25%) in aggregate principal amount of the Bonds then outstanding.

(g) Upon the occurrence of an Event of Default, the Trustee need not exercise any of its rights or powers specified in Section 13.2 hereof or take any action under said Section 13.2 unless requested in writing so to do by the Holders of twenty-five percent (25%) in aggregate principal amount of the Bonds then outstanding; it may exercise any such rights or powers or take any such action, if it thinks advisable, without any such request; it shall do so when so requested, provided that the furnishing of indemnity, satisfactory to the Trustee, against its prospective liabilities and expenses by the Bondholders requesting any action by the Trustee under said Section 13.2 shall be a condition precedent to the duty of the Trustee to take or continue any action under said Section 13.2 which in the opinion of the Trustee would involve it in any such liabilities or expenses. Whenever it has a choice of remedies under said Section 13.2 or a discretion as to details in the exercise of its powers thereunder, it must follow any specific directions given by the Holders of a majority in principal amount of the Bonds at the time outstanding, anything therein or herein to the contrary notwithstanding, unless the observance of such directions would, in the opinion of the Trustee, unjustly prejudice the non-assenting Bondholders.

(h) It shall be entitled to reasonable compensation for its services hereunder, including extra compensation for unusual or extraordinary services, and it shall pay the reasonable fees and charges of any co-paying agent or agents for any of the Bonds for which it shall be entitled to reimbursement from the City.

(i) Any action taken by the Trustee at the request of and with the consent of the Holder of a Bond will bind all subsequent Holders of the same Bond and any Series 1984 Bond issued hereunder in lieu thereof.

(j) It may be the Holder of Bonds as if not Trustee hereunder.

(k) It shall not be liable for the proper application of any moneys other than those that may be paid to or deposited with it.

(l) It shall not unreasonably withhold or delay any consent or approval required of it under the provisions of the Lease or the Indenture.

(m) All moneys received by the Trustee to be held by it hereunder shall be held as trust funds until disbursed in the manner herein provided therefor. The Trustee shall not be liable to pay or allow interest thereon or otherwise to invest any such moneys except as specifically required herein.

(n) It may make any investments permitted hereby through its own Bond Department, and any Eligible Deposits issued or held by it hereunder shall be deemed investments and not deposits.

(o) It shall, upon reasonable request, advise the City or the Company of the amount at the time on deposit in any of the special funds herein created.

(p) It shall, upon reasonable request, issue to the City or to the Company a certificate indicating whether, to the knowledge of the Trustee, the City or the Company is in default under the provisions of the Lease or the Indenture, and, in the event there is such a default, briefly describing the nature thereof.

(q) The recitals of fact herein and in the Bonds are statements by the City and not by the Trustee, and the Trustee is in no way responsible for the validity or security of the Bonds, the validity or enforceability of the Lease or the Indenture, the existence of any part of the Project, the value thereof, the title of the City thereto, the security afforded hereby, or the validity or priority of the lien hereof. The Trustee does, however, assume responsibility for its eligibility to accept and administer the trusts created hereby, and it warrants and represents that it is duly authorized to accept and administer such trusts and that the acceptance and administration by it of such trusts do not violate or contravene, and are not void or voidable under, any applicable state or federal law now existing.

Section 14.2 Trustee Authorized to Perform Certain Acts on Failure of City. Without relieving the City from the consequences of any default in connection therewith, the Trustee may pay any charge, including, without limitation, any tax, assessment or governmental or other charge upon any part of the Project, which

the failure of the City to pay, or to cause to be paid, has made or will make an encumbrance or lien on the Project prior to any rights of the Trustee under the Indenture, and in the event the City fails to take out, or to cause to be taken out, insurance on the Project to the extent required by Section 6.5 of the Lease, or in the event the City fails to maintain the Project in good repair and in a reasonably safe condition, or to cause the Project to be so maintained as provided in the Lease, the Trustee may take out any such insurance on the Project that the City has failed to furnish or cause to be furnished and may pay the premiums thereon, or it may pay the expenses of keeping the Project in good repair and in a reasonably safe condition, as the case may be. The Trustee shall not be obligated to perform any acts or make any payments pursuant to the preceding provisions of this section, unless it shall have been requested to do so by the Holders of a majority in aggregate principal amount of the Bonds then outstanding and shall have been provided with adequate funds for the purpose of performing such acts or making such payments. All moneys expended under the provisions of this section (whether advanced by the Trustee or by any of the Bondholders) shall be secured by the Indenture, shall be repayable by the City upon demand (subject to the provisions of Section 17.1 hereof), shall bear interest from the date on which they are so expended until they are repaid at a per annum rate equal to two percent (2%) in excess of the Prime Rate from time to time in effect until such moneys are repaid and shall (together with the interest thereon) be entitled to priority of payment over the principal of and the interest and premium (if any) on the Bonds.

Section 14.3 Trustee May Institute Suit, etc. The Trustee may, in its own name and at any time, institute or intervene in any suit or proceeding for the enforcement of all rights of action (including the right to file proof of claims in connection with any reorganization, bankruptcy, receivership or like proceeding) under any of the Bonds or under the Lease or the Indenture without the necessity of joining as parties to such suit or proceeding any Holders of the Bonds and without the necessity of possessing any of such Bonds or producing same in any trial or other proceedings related to such rights of action. The Holders of the Bonds do hereby appoint the Trustee as their irrevocable agent and attorney in fact for the purpose of enforcing all such rights of action, but such appointment shall not include the power to agree to accept new securities of any nature in lieu of the Bonds or to alter or amend the terms of the Lease or the Indenture except as herein provided.

Section 14.4 Resignation and Discharge of Trustee. The Trustee may resign and be discharged of the trusts hereby created by causing written notice specifying the effective date of such resignation to be forwarded by United States registered or certified mail, postage prepaid, (i) to the City, (ii) to the Company, and (iii) to every Holder of the Bonds. Unless the effective date of the Trustee's resignation shall coincide with the appointment of a successor Trustee by the Bondholders as herein provided, such date shall be at least thirty (30) days after the date on which notice to the City and the Bondholders shall have been mailed. The Trustee may at any time be removed by a written instrument signed by the Holders of a majority in principal amount of the Bonds then outstanding. If the Trustee shall resign or be removed, it shall be reimbursed for all its proper prior expenses reasonable under the circumstances.

Section 14.5 Appointment of Successor Trustee. If the Trustee shall resign, be removed, be placed by a court or governmental authority under the control of a receiver or other public officer or otherwise become incapable of acting, a successor may be appointed by a written instrument signed by the Holders of a majority in principal amount of the Bonds then outstanding and in the interim by an instrument executed by the City, such interim successor Trustee to be immediately and ipso facto superseded by the one appointed as above by the Holders of a majority in principal amount of the Bonds. The City shall cause notice of such interim appointment, in the event such is made, to be forwarded by United States registered or certified mail, postage prepaid, to every Holder of the Bonds. When the appointment of a successor Trustee, as selected by the Holders of a majority in principal amount of the Bonds then outstanding, becomes effective, the City shall also cause notice of that fact to be given in the manner provided above for the notice required to be given upon the appointment of an interim successor Trustee. Every successor Trustee appointed pursuant to this section shall be a trust company or bank authorized to administer trusts, and shall have, at the time of its acceptance of such appointment, capital, surplus and undivided profits of not less than \$10,000,000, if there be such an institution willing, qualified and able to accept appointment as Trustee under reasonable or customary terms.

Section 14.6 Concerning any Successor Trustee. Every successor Trustee shall execute, acknowledge and deliver to its predecessor and also to the City an instrument in writing accepting its appointment as Trustee hereunder, and thereupon such successor Trustee, without any further act, deed or conveyance, shall become fully vested with all the estate and title of its predecessor to the Project and with all the rights, powers, trusts, duties and obligations of its predecessor. Such predecessor shall, nevertheless, on the written request of the City or such successor Trustee, execute and deliver an instrument transferring to such successor Trustee all the estate and title of such predecessor to the Project and all rights, powers and trusts of such predecessor hereunder; and every predecessor Trustee shall deliver all securities and moneys held by it as Trustee hereunder to its successor. Should any instrument in writing from the City be required by any successor Trustee for more fully and certainly vesting in it the properties, rights, powers and duties hereby vested or intended to be vested in the Trustee, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the City. The resignation of any Trustee and the instrument or instruments removing any Trustee and appointing a successor hereunder, together with all other instruments provided for in this article, shall be filed for record by the City in each recording office where the Indenture shall have been filed and recorded.

Section 14.7 Merger or Consolidation of Trustee. Any corporation into which the Trustee may be merged or with which it may be consolidated, or any corporation resulting from any merger or consolidation to which the Trustee shall be a party, or any corporation succeeding to all or substantially all of the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder, without the execution or filing of any paper or any further act on the part of any of the parties hereto. In case any Bonds shall have been authenticated, but not delivered, by the Trustee then in office, any successor by merger or consolidation to such

authenticating Trustee may adopt such authentication and deliver the Bonds so authenticated with the same effect as if such successor Trustee had itself authenticated such Bonds.

ARTICLE XV

SUPPLEMENTAL INDENTURES AND AMENDMENTS TO THE LEASE

Section 15.1 Supplemental Indentures without Bondholder Consent. Without the consent of or notice to any Bondholders, but subject to the provisions of Section 9.2 of the Lease, the City and the Trustee may, at any time and from time to time, enter into such Supplemental Indentures as shall not be inconsistent with the terms and provisions hereof, for any one or more of the following purposes:

75
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BOOK
(a) to add to the covenants and agreements of the City herein contained other covenants and agreements thereafter to be observed and performed by the City, provided that such other covenants and agreements shall not either expressly or impliedly limit or restrict any of the obligations of the City contained in the Indenture;

(b) to provide for the surrender by the City of any right or power conferred in the Indenture on the City, or to grant to or confer upon the Bondholders or the Trustee, for the benefit of the Bondholders, any right, power or authority that may lawfully be granted to or conferred upon the Bondholders or the Trustee;

(c) to cure or correct any ambiguity, defect or inconsistent provision contained in the Indenture or in any Supplemental Indenture or to make any provisions with respect to matters arising under the Indenture or any Supplemental Indenture for any other purpose if such provisions are necessary or desirable and are not inconsistent with the provisions of the Indenture or any Supplemental Indenture and do not adversely affect the interests of the Holders of the Bonds; or

(d) to subject to the lien of the Indenture and the pledge herein contained additional property and the revenues therefrom or to identify more precisely any of the property subject to the lien hereof.

Section 15.2 Supplemental Indenture Requiring Bondholder Consent. In addition to those Supplemental Indentures permitted by Section 15.1 hereof, the City and the Trustee may, at any time and from time to time, with the written consent of the Holders of a majority in principal amount of the Series 1984 Bonds then

outstanding, enter into such Supplemental Indentures as shall be deemed necessary or desirable by the City and the Trustee for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in the Indenture or in any Supplemental Indenture; provided that, without the written consent of the Holder of each Bond affected, no reduction in the principal amount of, the rate of interest on, or the premium payable upon the redemption of, any Series 1984 Bond shall be made; and provided further that, without the written consent of the Holders of all the Bonds then outstanding, none of the following shall be permitted:

(a) an extension of the maturity of any installment of principal of or interest on any Bond;

(b) a reduction in principal amount or a postponement in the redemption date of any Bonds required to be redeemed prior to the stated maturities thereof pursuant to any mandatory redemption provisions applicable to such Bonds;

(c) the creation of a lien or charge on the property mortgaged under the Indenture or the revenues pledged thereunder ranking prior to or on a parity with the lien and charge thereon contained in the Indenture;

(d) the establishment of preferences or priorities as between the Bonds; or

(e) a reduction in the aggregate principal amount of Bonds the Holders of which are required to consent to such Supplemental Indenture.

Section 15.3 Execution of Supplemental Indentures. The City and the Trustee recognize that under the terms of Section 9.2 of the Lease, they may not make any amendment of the Indenture or any Supplemental Indenture without the prior written consent of the Company. Subject to such consent (if required by the terms of said Section 9.2), the Trustee is authorized to join with the City in the execution of any Supplemental Indenture authorized under the provisions of this Article XV and to make the further agreements and stipulations which may be contained therein, but the Trustee shall not be obligated to enter into any such Supplemental Indenture which affects its rights, duties or immunities under the Indenture. Upon the execution of any Supplemental Indenture under and pursuant to the provisions of this Article XV, the Indenture shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties and obligations under the Indenture of the City, the Trustee and all Holders of the Bonds then outstanding shall thereafter be determined, exercised and enforced hereunder, subject in all respects to such modifications and amendments.

Section 15.4 Amendments to the Lease. With the prior written consent of the Trustee but without the consent of or notice to any Bondholders, the City and the Company may

(a) amend, change or modify the Lease so as to identify more precisely the Project or to substitute or add additional equipment or other property or additional rights and interests in property acquired in accordance with the provisions of the Lease, and

(b) amend, change or modify the Lease to cure or correct any ambiguity, defect or inconsistent provision contained in the Lease or to make provision with respect to matters arising under the Lease for any other purpose if such provisions are necessary or desirable, are not inconsistent with the provisions of the Lease or the Indenture and do not, in the judgment of the Trustee, adversely affect the interests of the Bondholders.

BOOK 004 PAGE 77
The City and the Company may, at any time and from time to time; with the written consent of the Trustee and the written consent of the Holders of a majority in principal amount of the Bonds then outstanding, amend, change or modify the Lease to such extent as shall be deemed necessary or desirable by the City and the Company, provided that without the written consent of the Holders of all the Bonds then outstanding, no such amendment, change or modification shall permit (i) any abatement of, or reduction in the amount of, the Basic Rent prior to payment in full of the principal of and the interest and premium (if any) on the Bonds [other than a reduction resulting from, and directly proportional to, a reduction in the amounts required for payment of the principal of or the interest or premium (if any) on the Bonds], (ii) any change in the due dates of the Basic Rent prior to such full payment of the Bonds, and (iii) any other change that, in the judgment of the Trustee, might adversely affect the interests of the Bondholders.

Section 15.5 Notices with Respect to Certain Changes in the Indenture or the Lease. If at any time the City shall request the Trustee to enter into any Supplemental Indenture requiring the written consent of the Holders of a majority in principal amount of the Bonds then outstanding, or to consent to any amendment, change or modification to the Lease requiring the written consent of the Holders of a majority in principal amount of the Bonds then outstanding, the Trustee shall, upon being satisfactorily indemnified with respect to its prospective expenses incident thereto, cause notice of the proposed Supplemental Indenture or the proposed amendment, change or modification to be forwarded by United States registered or certified mail, postage prepaid, to every Holder of the Bonds. Such notice shall briefly set forth the nature of the proposed Supplemental Indenture or the proposed amendment, change or modification to the Lease, as the case may be, and shall state that copies thereof are on file at the principal office of the Trustee for inspection by all Bondholders.

If, within sixty days (or such longer period as shall be prescribed by the Trustee) following the date on which the notice to Bondholders was mailed as aforesaid, the Holders of a majority in aggregate principal amount of the Bonds outstanding at the time of the execution of any such Supplemental Indenture or at the time of the execution of such proposed amendment, change or modification to the Lease, as the case may be, shall have consented to and approved the execution thereof as herein provided, no Holder of any Bond shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the City from executing the same or from taking any action pursuant to the provisions thereof.

Section 15.6 Discretion of the Trustee. In the case of (i) any Supplemental Indenture authorized by either Section 15.1 or 15.2 hereof or (ii) any amendment, change or modification to the Lease authorized by Section 15.4 hereof, the Trustee shall be entitled to exercise its discretion in determining whether or not any proposed Supplemental Indenture, or any amendment, change or modification to the Lease, or any term or provision contained in any thereof, is proper or desirable, having in view the purposes of such instrument, the needs of the City, the Company and the Project and the rights and interests of the Bondholders, and the Trustee shall not be under any responsibility or liability to the City or to any Bondholder or to anyone whomsoever for any act or thing which it may in good faith do or decline to do under the provisions of this article. The Trustee shall be entitled to receive, and shall be fully protected in relying upon, an opinion of Independent Counsel acceptable to it as conclusive evidence that any such Supplemental Indenture, or any such amendment, change or modification to the Lease, complies with the provisions of the Indenture and that it is proper for the Trustee acting under the provisions of this article to join in the execution of such Supplemental Indenture or to consent to such amendment, change or modification to the Lease.

BOOK 004 PAGE 78

ARTICLE XVI

PAYMENT AND CANCELLATION OF THE BONDS AND SATISFACTION OF THE INDENTURE

Section 16.1 Satisfaction of Indenture. Whenever the entire Indenture Indebtedness shall have been fully paid and the City shall have performed and observed all the covenants and promises expressed in the Bonds and in the Indenture to be performed and observed by it or on its part, the Trustee shall, at the expense of the City, cancel, satisfy and discharge the lien of the Indenture and shall execute and deliver to the City such deeds and instruments as shall be requisite to satisfy of record the lien hereof and to reconvey and transfer the property mortgaged hereunder to the City. For purposes of the Indenture (except as may herein or in the Lease be expressly provided otherwise), any of the Bonds shall be deemed to have been fully paid when there shall have been irrevocably deposited with the Trustee for payment thereof the entire amount (principal, interest and premium, if any) due or to become due thereon until and at maturity, and, further, any Bonds subject to

redemption shall also be deemed to have been fully paid when the City shall have deposited with the Trustee the following:

(a) the applicable redemption price in cash of such Bonds, including the interest that will mature thereon to the earliest date on which they may, under the terms of the Indenture, be redeemed, and

(b) a certified copy of a Resolution calling such Bonds for redemption (if, under the terms of Section 6.1 hereof, the adoption of such a Resolution is required).

In addition, any of the Bonds shall, for all purposes of the Indenture (except as may herein or in the Lease be expressly provided otherwise), be considered as fully paid if the Trustee shall be provided with each of the following:

(1) a trust agreement between the City and the Trustee making provision for the retirement of such Bonds by creating for that purpose an irrevocable trust fund sufficient to provide for payment and retirement of such Bonds (including payment of the interest that will mature thereon until and on the dates they are retired, as such interest becomes due and payable), either by redemption prior to their respective maturities, by payment at their respective maturities or by payment of part thereof at their respective maturities and redemption of the remainder prior to their respective maturities, which said trust fund shall consist of (i) Federal Securities which are not subject to redemption prior to their respective maturities at the option of the issuer and which, if the principal thereof and the interest thereon are paid at their respective maturities, will produce funds sufficient so to provide for payment and retirement of all such Bonds, or (ii) both cash and such Federal Securities which together will produce funds sufficient for such purpose, or (iii) cash sufficient for such purpose; provided however, that said trust agreement shall require all cash held on deposit in such trust fund to be kept continuously secured in the manner provided in Section 10.5 hereof, but with the further condition that only Federal Securities shall qualify as collateral security for such cash so held on deposit;

(2) a certified copy of a Resolution calling for redemption those of such Bonds that, according to said trust agreement, are to be redeemed prior to their respective maturities (if, under the terms of Section 6.1 hereof, the adoption of such a Resolution is required);

(3) a certificate of a firm of certified public accountants stating that, if the principal of and the interest on the investments (if any) forming part of the trust fund provided for in the preceding subparagraph

BOOK 004 PAGE 79

(1) are paid on the respective due dates of such principal and interest, said trust fund will produce funds sufficient to provide for the full payment and retirement of such Bonds; and

(4) an opinion of Bond Counsel to the effect that the execution and effectuation of the trust agreement referred to in the preceding subparagraph (1) will not result in subjecting the interest income on such Bonds to federal income taxation.

The Trustee is hereby irrevocably authorized to give notice, in accordance with the requirements of Article VI hereof, of the redemption of any Bonds to be effected in connection with arrangements made pursuant to the provisions of this Section 16.1.

Section 16.2 Destruction of Surrendered Bonds. Upon the surrender to the Trustee of any mutilated Bonds, or Bonds transferred or exchanged for other Bonds, or Bonds redeemed or paid at maturity by the City, such Bonds shall forthwith be cancelled and destroyed by the Trustee, which shall deliver its certificate confirming such destruction to the City and to the Company.

Section 16.3 Payment to the Company of Remaining Trust Fund Moneys. Subject to the provisions of Section 13.6 hereof, at such time as the entire Indenture Indebtedness shall have been fully paid in accordance with the provisions of Section 16.1 hereof, the Trustee shall, if the Lease has not theretofore been terminated as a result of a Lease Default, pay to the Company any surplus moneys then remaining in any of the special trust funds created in the Indenture, but not including any amounts held by the Trustee for the payment of the principal of and the interest and premium (if any) on the Bonds.

ARTICLE XVII

MISCELLANEOUS PROVISIONS

Section 17.1 Disclaimer of General Liability. It is hereby expressly recognized and made a condition of this Indenture that

(a) the liability of the City for the payment of the principal of and interest and premium (if any) on the Bonds and the performance and observance of all agreements and covenants, warranties and representations of the City contained in the Indenture, the Bonds shall be limited to the proper application of the revenues and receipts derived from the leasing or sale of the Project,

(b) the agreements, covenants, warranties or representations contained in the Indenture or in any of the Bonds do not and shall never constitute or give rise to any pecuniary liability or charge against the general credit of the City, and

(c) in the event of a breach of any such agreement, covenant, warranty or representation, no pecuniary liability or charge payable directly or indirectly from the general revenues of the City shall arise therefrom.

Neither the State of Alabama nor any political subdivision of said state shall in any manner be liable for the payment of the principal of or the interest or premium (if any) on the Bonds or for the performance or observance of any of the agreements, covenants, warranties or representations of the City contained in the Indenture or in any of the Bonds. Further, none of the officers, employees or agents of the City shall have any personal liability whatever hereunder or any liability for the breach by the City of any of the agreements, covenants, warranties or representations on its part herein contained. Nothing contained in this section, however, shall relieve the City from the observance and performance of the several covenants and agreements on its part herein contained or relieve the directors, officers, employees or agents of the City from performing all duties of their respective offices that may be necessary to enable the City to perform the covenants and agreements on its part herein contained.

Section 17.2 Concerning Certain Payments. As promptly as practicable after the receipt by the Trustee of any payment made to it pursuant to the provisions of Section 5.5 of the Lease, it will pay to the Owner of each Post-Tax Series 1984 Bond the amount paid to it in respect of such Post-Tax Series 1984 Bond but if and only if the amount so paid to the Trustee is sufficient to enable it to make such payment to the Owner of each Post-Tax Series 1984 Bond.

Section 17.3 Retention of Moneys for Payment of Bonds. Should any of the Bonds not be presented for payment when due, whether by maturity or otherwise, the Trustee shall, subject to the provisions of any applicable escheat or other similar law, retain from any moneys transferred to it for the purpose of paying said Bonds so due, for the benefit of the Holders thereof, a sum of money sufficient to pay such Bonds when the same are presented by the Holders thereof for payment (upon which sum the Trustee shall not be required to pay interest); provided, that any such payment shall be subject to the provisions of any applicable Home Office Payment Agreement then in effect. All liability of the City to the Holders of such Bonds and all rights of such Holders against the City under the Bonds or under the Indenture shall thereupon cease and terminate, and the sole right of such Holders shall thereafter be against such deposit. If any Bond shall not be presented for payment within a period of five (5) years following the date when such Bond becomes due, whether by maturity or otherwise, the Trustee shall, subject to the provisions of any applicable escheat or other similar law, return to the City any moneys

theretofore held by it for payment of such Bond, and such Bond shall be (subject to the defense of any applicable statute of limitation) thereafter be an unsecured obligation of the City.

Section 17.4 Payments Due on Saturdays, Sundays and Holidays. In any case where the date of maturity of the principal of or the interest or premium (if any) on the Bonds, or the redemption date of any Bonds, shall be, at the locale of payment, a Saturday, Sunday or legal holiday, or a date on which banking institutions are authorized or obligated by law to close, then payment of such principal, interest or premium (if any) need not be made on such date, but may be made on the next succeeding business day not a Saturday, Sunday or a legal holiday or a day upon which banking institutions are authorized or obligated by law to close, with the same force and effect as if made on such date of maturity or such redemption date, and no interest shall accrue for the period after such date, as the case may be.

Section 17.5 Form of Requests, etc., by Bondholders. Any request, direction or other instrument required to be signed or executed by Bondholders may be in any number of concurrent instruments of similar tenor, signed, or executed in person or by agent appointed in writing. Such signature or execution may be proved by the certificate of a notary public or other officer at the time authorized to take acknowledgments to deeds to be recorded in the State of Alabama, stating that the signer was known to him and acknowledged to him the execution thereof.

Section 17.6 Limitation of Rights. Nothing herein or in the Bonds shall confer any right on anyone other than the City, the Trustee, the Company and the Holders of the Bonds.

Section 17.7 Manner of Proving Ownership of Bonds. The ownership at any given time of any Bond may be proved by a certificate of the Trustee stating that on the date stated the Bond described was registered on its books in the name of the stated party.

Section 17.8 Granting of Utility and Access Easements. Any other provisions hereof to the contrary notwithstanding, the City may grant such utility, access and other similar easements, permits and rights-of-way over, across or under the Project Site as shall be requested in writing by the Company, provided that in connection with the grant of each such easement, permit or right-of-way the Trustee is furnished a certificate signed by or on behalf of the Company stating that such easement, permit or right-of-way is, or will be, useful or necessary in the operation of the Project and will not materially interfere with or impair the use of the Project for the purpose for which it was acquired or is held by the City.

Section 17.9 Indenture Governed by Alabama Law. The Indenture shall in all respects be governed by and construed in accordance with the laws of the State of Alabama.

Section 17.10 Notices. All notices, demands, requests and other communications hereunder shall be deemed sufficient and properly given if in writing and delivered in person to the following addresses or received by certified or registered mail, postage prepaid with return receipt requested, at such addresses:

(a) If to the City:

City of Pelham, Alabama
City Hall
Pelham, Alabama 35124
Attention: Mayor

(b) If to the Company:

Homecrafters Warehouse, Inc.
1 Perimeter Park South
Suite 420
Birmingham, Alabama 35243
Attention: President

(c) If to the Trustee:

AmSouth Bank N.A.
Post Office Box 11426
Birmingham, Alabama 35202
Attention: Corporate Trust Department

Any of the above-mentioned parties may, by like notice, designate further or different addresses to which subsequent notices shall be sent. The Trustee and the City will send a copy of each notice that either thereof gives to the other pursuant to the provisions hereof to the Company; provided, however, that the failure of either the City or the Trustee to send a copy of any such notice to the Company shall not invalidate such notice or render it ineffective unless notice to the Company is otherwise expressly required herein. Any notice hereunder signed on behalf of the notifying party by a duly authorized attorney at law shall be valid and effective to the same extent as if signed on behalf of such party by a duly authorized officer or employee.

Section 17.11 Severability. In the event that any provision hereof shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 17.12 Article and Section Captions. The article and section headings and captions contained herein are included for convenience only and shall not be considered a part hereof or affect in any manner the construction or interpretation hereof.

IN WITNESS WHEREOF, the City has caused this Indenture to be executed in its name and behalf by its Mayor, has caused its official seal to be hereunto affixed and has caused this Indenture to be attested by its City Clerk, and the Trustee, to evidence its acceptance of the trusts hereby created, has caused this Indenture to be executed in its name and behalf, has caused its seal to be hereunto affixed and has caused this Indenture to be attested, by its duly authorized officers, all in six (6) counterparts, each of which shall be deemed an original, and the City and the Trustee have caused this Indenture to be dated August 31, 1984.

CITY OF PELHAM, ALABAMA


By 
Its Mayor



Attest:


City Clerk


AMSOUTH BANK N.A.

By 
Its VICE PRESIDENT AND
CORPORATE TRUST OFFICER

BOOK 004 PAGE 84

[SEAL]

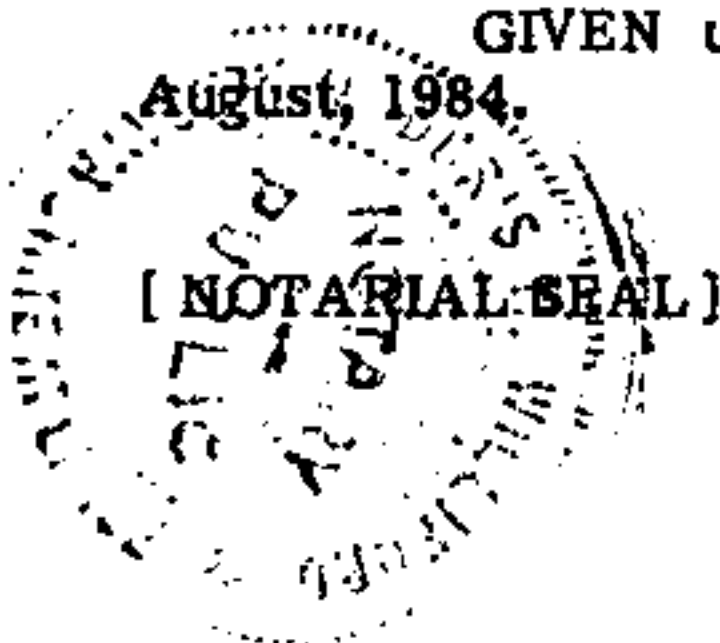
Attest:


Its ASSISTANT VICE PRESIDENT
AND CORPORATE TRUST OFFICER

STATE OF ALABAMA)
 :
JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said county in said state hereby certify that Berk D. Dewar, whose name as Mayor of the CITY OF PELHAM, a municipal corporation under the laws of the State of Alabama, is signed to the foregoing instrument and who is known to me, acknowledged before on this day that, being informed of the contents of the said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said public corporation.

GIVEN under my hand and official seal of office this 31st day of August, 1984.



Doris H. Weitzel
Notary Public

My Commission Expires: My Commission Expires April 9, 1985

STATE OF ALABAMA)
 :
JEFFERSON COUNTY)

BOOK 004 PAGE 85

I, the undersigned, a Notary Public in and for said county in said state hereby certify that F. L. WESSINGER, whose name as VICE PRESIDENT AND CORPORATE TRUST OFFICER of AMSOUTH BANK N.A., a national banking association, in its capacity as Trustee of the Mortgage and Trust Indenture of the City of Pelham, dated August 31, 1984, is signed to the foregoing instrument and who is known to me, acknowledged before on this day that, being informed of the contents of the said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said association in its capacity as Trustee as aforesaid.

GIVEN under my hand and official seal of office this 31st day of August, 1984.



Doris H. Weitzel
Notary Public

My Commission Expires: My Commission Expires April 9, 1985

EXHIBIT A
to
MORTGAGE AND TRUST INDENTURE
between
CITY OF PELHAM, ALABAMA
and
AMSOUTH BANK N.A.
dated August 31, 1984

The Project Equipment referred to in the Mortgage and Trust Indenture of which this Exhibit A forms a part initially consists of the following:

<u>Quantity</u>	<u>Description</u>
	Steel shelving as follows:
147	42" x 156" frames
27	60" x 156" frames
12	42" x 120" frames
548	3 3/4" x 108" step beams
120	3" x 108" step beams
72	48" material separators
88	42" fork entry bars
49	6" row spacer bars
280	3/8" x 3/4" bolts & nuts
21	10" row spacers
1	Alscan Intercom/Paging system
96	Sections 24" x 48" x 87" steel shelving
11	Folding tables
74	Stacking chairs
3	48" x 96" upright frames
134	24" x 96" upright frames
600	96 1/2" beams
78	48 1/2" beams
1	Pipe machine with stand
20	10-button phones

BOOK 004 PAGE 86

STATE OF ALABAMA
I, CLERK OF THE COURT,
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Rec 215.00
Inst 1.00
216.00