

TRUST INDENTURE

between

**THE COOPERATIVE DISTRICT
OF THE CITY OF BIRMINGHAM -
HIGHWAY 280 DISTRIBUTION FACILITY**

and

**THE BANK OF NEW YORK
TRUST COMPANY OF FLORIDA, N.A.**

Dated as of December 1, 2003

Relating to

\$2,400,000

**THE COOPERATIVE DISTRICT
OF THE CITY OF BIRMINGHAM -
HIGHWAY 280 DISTRIBUTION FACILITY**

**Revenue Bonds
(Lowe's Home Centers, Inc. Project)
Series 2003**

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TRUST INDENTURE between **THE COOPERATIVE DISTRICT OF THE CITY OF BIRMINGHAM - HIGHWAY 280 DISTRIBUTION FACILITY**, a public corporation organized and existing under the laws of the State of Alabama, party of the first part (herein called the "District"), and **THE BANK OF NEW YORK TRUST COMPANY OF FLORIDA, N.A.**, a national banking association with an office in Birmingham, Alabama, party of the second part (herein called the "Trustee"),

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 provisions of Code of Alabama 1975, Title 11, Chapter 99B, by Certificate of Incorporation duly filed for record in the office of the Judge of Probate of Jefferson County, Alabama; its Certificate of Incorporation has been duly amended from time to time and, as amended, is in full force and effect; it is not in default under any of the provisions contained in its Certificate of Incorporation, in its Bylaws or in the laws of the State of Alabama; by proper corporate action it has duly authorized the issuance of the Series 2003 Bonds hereinafter referred to; and to secure payment of the principal of all bonds that may be issued hereunder, it has by proper corporate 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 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 1975, Title 11, Chapter 99B, as amended and supplemented and at the time in force and effect.

"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. For the purposes of this definition, "control" (including, with correlative meanings, the terms "controlled by" and "under common control with"), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person whether through the ownership of voting securities or by contract or otherwise.

"Authorized Company Representative" means the person or persons at the time designated as such by written certificate furnished to the District 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.

"Authorized District 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 District by the Chairman or the Vice Chairman of its Board of Directors.

"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 the 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.

"Board" means The Industrial Development Board of the City of Birmingham, a public corporation organized and existing under the laws of the State of Alabama, and includes its successors and assigns and any public corporation resulting from or surviving any consolidation or merger to which it or its successors may be a party.

"Bond Fund" means Highway 280 Distribution Facility Bond Principal Fund created in Section 10.1 hereof.

"Bondholder" means the Holder of any Bond.

"Bond Payment Date" means the 1st day of each May, commencing with May 1, 2004, on which any principal with respect to the Bonds shall mature and be due and payable or on which any principal amount of the Bonds shall be required by the Indenture to be redeemed prior to the stated maturity thereof.

"Bonds" means all bonds of the District issued under the Indenture; i.e., the Series 2003 Bonds.

"Company" means Lowe's Home Centers, Inc., a corporation organized and existing under the laws of the State of North Carolina, and, subject to the provisions of Section 8.4 of the Lease, includes its successors and assigns and any corporation resulting from or surviving any consolidation or merger to which it or its successors may be a party.

"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 District in accordance with the provisions of said Section 4.6.

"Condominium Unit" means (i) Unit 2 of the Condominium known as Highway 280 Distribution Facility, A Condominium, created by the Declaration of Condominium and (ii) any other condominium unit that, at the time and under the terms hereof, constitutes a part of the Condominium Unit.

"Condominium Unit Lease" means the Lease between the Company and the District dated as of December 1, 2003 by which the District has leased the Condominium Unit from the Company.

"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 or full-time employee of the District, the Company or an Affiliate of either thereof 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 the Declaration of Condominium of Highway 280 Distribution Facility, A Condominium, entered into between the Company and the Landowner dated as of December 23, 2003, under which the Company has subjected its leasehold interest to a condominium regime pursuant to which "Unit 1" and "Unit 2" have been created.

"Directors" means the Board of Directors of the District.

"District" 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 public corporation resulting from or surviving any consolidation or merger to which it or its successors may be a party.

"Eligible Certificates" means certificates of deposit issued (i) 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 District of such certificates of deposit, combined capital, surplus and undivided profits of not less than \$100,000,000 or (ii) by the Trustee irrespective of the amount of its combined capital, surplus and undivided profits.

"Eligible Investments" means (i) Eligible Certificates, (ii) Federal Securities, (iii) repurchase agreements that are collateralized to the extent of not less than 100% of the principal amount thereof by Federal Securities, (iv) shares or other investment units representing a beneficial interest in any money market fund that is registered under the Investment Company Act of 1940, as from time to time amended (or successor provision of federal law), provided that the investment portfolio of such money market fund consists of Federal Securities or repurchase agreements described in clause (iii) of this definition or both and (v) any other investments in which the District may legally invest its funds.

"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, (ii) any debt securities payment of the principal and the interest on which is unconditionally guaranteed by the United States of America, and (iii) shares or other investment units representing a

beneficial interest in any money market fund, provided that the investment portfolio of such money market fund consists of securities described in clauses (i) and (ii) of this definition or both.

"fully paid", "payment in full", or any similar expression, when used with respect to any of the Bonds, means that such Bonds have been fully paid or duly provided for pursuant to Section 16.1 hereof and, when used with respect to the Indenture Indebtedness, means that the entire Indenture Indebtedness has been fully paid or duly provided for pursuant to Section 16.1 hereof.

"Ground Lease" means the Ground Lease between the Landowner and the Company dated as of August 9, 2002 by which the Company has leased from the Landowner the land on which the Condominium Unit is situated.

"Holder", when used in conjunction with a Bond, means the Person in whose name 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 any Bondholder complying with the provisions of Section 3.3 hereof.

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

"Indenture Indebtedness" means all indebtedness of the District at the time secured by the Indenture, including, without limitation, (i) all principal of the Bonds, other than Bonds that have been fully paid in accordance with the provisions of Section 16.1 hereof, and (ii) all reasonable and proper fees, charges and disbursements of the Trustee for services performed under the Indenture.

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

"Irregular Denomination Series 2003 Bond" means either (i) any Series 2003 Bond initially issued, pursuant to the applicable provisions hereof, in a principal amount not evenly divisible by \$1,000 or (ii) any Series 2003 Bond at the time outstanding in a principal amount not evenly divisible by \$1,000.

"Landowner" means GS2-BROOKHIGHLAND, LLC, a limited liability company organized and existing under the laws of the State of Alabama.

"Lease" means that certain Lease Agreement dated as of December 1, 2003, between the District, 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.

"Municipality" means the City of Birmingham, Alabama, and any municipal corporation resulting from or surviving any consolidation or merger to which it or its successors may be a party.

"outstanding", when used with reference to any of the Bonds, means, at any date as of which the amount of such Bonds outstanding is to be determined, all such Bonds which have been theretofore authenticated and delivered by the Trustee under the Indenture, except (i) those of such Bonds purchased for retirement which have been delivered to and cancelled by the Trustee, (ii) those of such Bonds cancelled by the Trustee because of payment at or after their respective maturities or redemption prior to their respective maturities, (iii) those of such Bonds for the payment or redemption of which provisions shall have been made with the Trustee as provided in Section 16.1 of the Indenture, and (iv) those of such Bonds in exchange for which, or in lieu of which, other Bonds have been authenticated and delivered under the Indenture.

"Permitted Encumbrances" means, as of any particular time, any of the following: (i) the Ground Lease, the Condominium Unit Lease, the Lease and the Indenture; (ii) 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 (so long as there have been set aside on the books of the Company with respect to any such obligation so contested reserves which are adequate in the opinion of the officers of the Company); (iii) liens for property taxes not delinquent or for taxes which are being contested in good faith and by appropriate proceedings (so long as there have been set aside on the books of the Company with respect to any such taxes so contested reserves which are adequate in the opinion of the officers of the Company); (iv) attachments remaining undischarged for no longer than thirty (30) days after written or actual notice thereof has been received by the Company or in connection with litigation which is being defended in good faith and by appropriate proceedings; (v) liens in respect of judgments or awards relative to claims which (A) are fully covered by insurance, or (B) have been in force for less than the applicable appeal period, provided execution is not levied thereunder, and/or (C) with respect to which an appeal or proceeding for review is being prosecuted in good faith and a stay of execution has been obtained pending such appeal or review; (vi) 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 District 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 District; and (vii) such encumbrances as may be permitted by the written direction of the Holders of all the Bonds then outstanding.

"Person" means any natural person, corporation, limited liability company, partnership, trust, government or governmental body, political subdivision, or other legal entity as in the context may be possible or appropriate.

"Project" means the Condominium Unit, the Project Improvements 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 demise of the Lease; provided, however, that the Project shall not include any inventory stored at or in the Condominium Unit or the Project Improvements.

"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 preparing the Condominium Unit; (iii) all costs and expenses of acquiring the Project (or any part thereof) and/or constructing the Project (or any part thereof), including the cost to the Company or the Series 2003 Original Purchaser 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 in or around the Project Improvements or elsewhere at or in the Condominium Unit; (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 2003 Bonds, including (without limitation) all legal, accounting, financial, underwriting, printing, recording and filing fees and expenses incurred in connection therewith, the fees and disbursements of bond counsel, the Board's attorneys, the District's attorneys and the Municipality's attorneys, expenses of judicial validation proceedings authorized by the District and/or the Board, and the initial charge of the Trustee; (vii) the charges of the Trustee for the disbursement of moneys from the Project Fund; (viii) all other costs which the District shall be required to pay, under the terms of any contract or contracts, in connection with the Project Development Work; and (ix) the reimbursement to the Company or the Series 2003 Original Purchaser of all amounts paid directly by the Company or the Series 2003 Original Purchaser in respect of any of the aforesaid costs and expenses and of all amounts advanced by the Company or the Series 2003 Original Purchaser to the District for the payment of such costs and expenses.

"Project Development Work" means (i) the preparation of the Condominium Unit to the extent that the Company deems necessary or desirable in connection with the acquisition and/or construction of the Project, (ii) the planning, design, acquisition and/or construction of the Project in accordance with the provisions hereof, and (iii) the planning, design and acquisition of the Project Equipment and the installation thereof in or around the Project Improvements or elsewhere at or in the Condominium Unit, all in accordance with the provisions hereof.

"Project Equipment" means (i) all items (whether or not fixtures) of furniture, furnishings, fixtures, machinery, equipment or other personal property initially acquired and installed as a part of the Project regardless of whether or not any part of the costs thereof have been or are to be paid by the District out of the proceeds of any of the Bonds and (ii) all items (whether or not fixtures) of furniture, furnishings, fixtures, machinery, equipment or other personal property that are acquired by the District in substitution for or replacement of items of furniture, furnishings, fixtures, 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; provided, however, that the Project Equipment shall not include (a) any inventory stored at or in the Condominium Unit or the Project Improvements or (b) any items of personal property that are leased from third parties.

"Project Fund" means the Highway 280 Distribution Facility Project Fund created in Section 9.2 hereof.

"Project Improvements" means that certain storage, warehouse and distribution facility and related improvements which are situated at or made a part of the Condominium Unit, as such facility and related improvements may at any time exist, and all other structures and other improvements now or hereafter situated at or made a part of the Condominium Unit, all permits, easements, licenses, rights-of-way, contracts, leases, privileges, immunities and hereditaments pertaining or applicable to the Condominium Unit and all

fixtures now or hereafter owned by the District and installed at or in the Condominium Unit or the Project Improvements, 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 Condominium Unit shall be as fully covered hereby as if such property, rights and privileges were now owned by the District and were specifically described herein.

"Resolution" means a resolution duly adopted by the Directors.

"Series 2003 Bonds" means those of the Bonds bearing the designation Revenue Bonds (Lowe's Home Centers, Inc. Project), Series 2003, authorized to be issued in Article VII hereof.

"Series 2003 Municipality Guaranty" means that certain Guaranty and Funding Agreement dated as of April 2, 2002, as amended by an Amendment to Guaranty and Funding Agreement dated as of November 1, 2002, between the Municipality and the District in and by which the Municipality has guaranteed the payment by the District of the principal of the Series 2003 Bonds, as such Guaranty and Funding Agreement may from time to time be further amended in accordance with the provisions thereof.

"Series 2003 Original Purchaser" means Lowe's Home Centers, Inc., a corporation organized and existing under the laws of the State of North Carolina, the original purchaser of the Series 2003 Bonds from the District, for as long as it shall be the Holder of any of the Series 2003 Bonds.

"Supplemental Indenture" means an agreement supplemental hereto.

"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 as an entirety 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 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 the Bonds and the performance and observance of the covenants and conditions herein 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 District does hereby grant, bargain, sell and convey, assign, transfer and pledge to and with the Trustee the following described properties of the District, whether the same are now owned by it or may be hereafter acquired:

I

The moneys required by the Lease or the Indenture to be deposited in the Project 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;

II

The Basic Rent and all other revenues and receipts derived by the District 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 District 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;

III

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

IV

All right, title and interest of the District in and to the Series 2003 Municipality Guaranty, but not including, however, any of the obligations of the District thereunder; and

V

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 District 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

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 by reason of priority in issuance or acquisition or otherwise, as if all the Bonds at any time outstanding had been executed, sold, authenticated, delivered and negotiated simultaneously with the execution and delivery hereof; 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 2003 Municipality Guaranty, which moneys shall be applied by the Trustee solely for the payment of the principal of the Series 2003 Bonds;

PROVIDED HOWEVER, that this Indenture shall not be subject to foreclosure;

PROVIDED FURTHER, that these presents are upon the condition that if the District shall pay or cause to be paid the principal of 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. It is expressly understood and agreed, however, that the Series 2003 Municipality Guaranty shall be for the exclusive benefit of the Holders of the Series 2003 Bonds and that all moneys received by the Trustee under the Series 2003 Municipality Guaranty shall be applied for the payment of the principal of the Series 2003 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 5.2 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. Subject to compliance with the Act, the Bonds of each series

shall mature on such dates and in such amounts, and shall be subject to redemption at such times and on such terms and conditions, all as shall be specified in the Indenture or Supplemental Indenture under which such series is issued. The principal of the Bonds of all series issued under the Indenture shall be payable in lawful money of the United States of America.

The principal of the Bonds shall be payable at the designated office of the Trustee, upon presentation and surrender of the Bonds as the same become due. In case any Bond is called for partial redemption, the redemption price of the principal thereof so called for redemption shall be payable at the designated office of the Trustee (a) upon presentation and surrender of such Bond in exchange for a new Bond or Bonds of the same series and tenor and in authorized denominations having an aggregate principal amount equal to the unredeemed portion of the principal of the Bond so surrendered, or (b) upon presentation of such Bond for an appropriate endorsement by the Trustee of such partial redemption on such Bond or on any record of partial redemptions appertaining thereto and constituting a part thereof. The preceding two sentences of this paragraph notwithstanding, the redemption price of any partial redemption of the principal of any of the Series 2003 Bonds may be paid to the Holders thereof pursuant to a Home Office Payment Agreement.

Section 3.3 Home Office Payment Agreements. Any provision hereof to the contrary notwithstanding, the Trustee will, at the request of the Holder of any Bond or Bonds, enter into a Home Office Payment Agreement with such Holder providing for the payment of the redemption price of any partial redemption of the principal of such Bond or Bonds at a place and in a manner other than as provided in Section 3.2 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 such Bond or Bonds 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 or Bonds 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 or Bonds, then such agreement

(i) shall provide that the Holder of such Bond or Bonds 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 Bonds 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 Bonds, or on a record of partial redemption appertaining to each such Bond and constituting a part thereof, of all portions of the principal of each such Bond which have been redeemed, and

(ii) shall provide (A) that, to the extent of the payment to the Holder of such Bond or Bonds of the redemption price of any portion thereof called for redemption, the District and the Trustee shall be released from liability with respect to such Bond or Bonds 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 District and the Trustee against any liability arising from the failure of such Holder to make any endorsement on such Bond or Bonds (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 redemption date, sufficient to pay the redemption price of any Bonds called for redemption on such redemption date, then the failure of the Holder of such Bond or Bonds to receive in a timely manner any payment due such Holder on such redemption date 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 District or the Company.

Section 3.4 **Form of Bonds, Etc.** The Series 2003 Bonds and the various certificates applicable thereto shall be in substantially the forms respectively provided therefor in Section 7.7 hereof.

ARTICLE IV

EXECUTION AND AUTHENTICATION OF THE BONDS

Section 4.1 **Execution of Bonds.** The Bonds shall be executed by the Chairman or the Vice Chairman of the Directors, and the seal of the District shall be affixed thereto and attested by the Secretary or any Assistant Secretary of the District; provided that either the signature of the Chairman or the Vice Chairman of the Directors or the signature of the Secretary or an Assistant Secretary of the District on the Bonds may be a facsimile of the signature of such officer if the other of such signatures is manually subscribed thereon, and both the signature of the Chairman or Vice Chairman of the Directors and the signature of the Secretary or an Assistant Secretary of the District on the Bonds may be a facsimile of the signature of such officer if the signature of the officer of the Trustee authenticating the Bonds in accordance with the provisions of Section 4.2 hereof is manually subscribed thereon; and provided further that a facsimile of the seal of the District may be imprinted thereon rather than manually affixed thereto. Signatures on the Bonds by persons who were officers of the District at the time such signatures were written or printed shall continue effective although such persons cease to be such officers prior to the authentication or 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 District may execute, and the Trustee shall thereupon authenticate and deliver, a new Bond of like tenor as that mutilated, lost, stolen or destroyed; provided that (i) in the case of any such mutilated Bond, such Bond is first surrendered to the District and the Trustee, and (ii) in the case of any such lost, stolen or destroyed Bond, there is first furnished to the District, the Trustee and the Company evidence of such loss, theft or destruction satisfactory to the Trustee, together with indemnity satisfactory to each of them. The District 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 District 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 transfer of any Bond may be registered only upon the books kept by the Trustee, as registrar and transfer agent for the District, for the registration and registration of transfer of Bonds upon surrender thereof at the office of the Trustee with written power to transfer signed by the Holder thereof in person or by duly authorized attorney, properly stamped if required, in form and with guaranty of signature satisfactory to the Trustee. Upon any such transfer the District 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.

Any Bond authenticated and delivered pursuant to the provisions of this section shall be dated as of the Bond Payment Date next preceding the date of its authentication by the Trustee or, if the date of such authentication is a Bond 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 Bond 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 District is in default in payment of the principal of the Bonds, such Bond shall be dated as of the Bond Payment Date to which principal has previously been paid or made available for payment on the Bonds.

The Trustee shall not be required to transfer any Bond during the period of fifteen (15) days next preceding any Bond 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 transfer such Bond during the period of forty-five (45) days next preceding the date fixed for such redemption.

Section 5.2 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 a Bond be issuable in exchange for other Bonds unless all the Bonds being so exchanged are of the same series and have the same stated maturity. Upon the request of the Holder of any Bond in a principal amount greater than the minimum authorized denomination applicable to the series to which such Bond belongs, the District shall execute, and the Trustee shall thereupon authenticate and deliver, upon surrender to the Trustee of such Bond and in exchange therefor, two or more Bonds of like tenor as the Bond so surrendered and in authorized denominations aggregating the same principal amount as the Bond so surrendered. Upon the request of the Holder of two or more Bonds the District shall execute, and the Trustee shall thereupon authenticate and deliver, upon surrender to the Trustee of such Bonds and in exchange therefor, a new Bond or Bonds of like tenor in different authorized denominations and aggregating the same principal amount as the then unpaid principal amount of the Bonds so surrendered. Any Bonds surrendered for exchange pursuant to the provisions of this section shall be accompanied by a written power to transfer signed by the Holder 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 Bond Payment Date next preceding the date of its authentication by the Trustee or, if the date of such authentication is a Bond 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 Bond 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 District is in default in payment of the principal of the Bonds, such Bond shall be dated as of the Bond Payment Date to which principal of the Bonds has previously been paid.

The Trustee shall not be required to exchange any Bond pursuant to the provisions of this section during the period of fifteen (15) days next preceding any Bond Payment Date with respect thereto or, if such Bond shall be duly called for redemption (in whole or in part), during the period of forty-five (45) days next preceding the date fixed for such redemption.

Section 5.3 Persons Deemed Owners of Bonds. The Person in whose name a 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 may be made. The District and the Trustee 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 either of them to the Person in whose name a Bond is registered shall to the extent thereof fully discharge and satisfy all liability for the same.

Section 5.4 **Expenses of Transfer and Exchange.** The District and the Trustee may charge the Holder with their reasonable fees and expenses in connection with any transfer or exchange of any of the Bonds; provided, however, 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 any Bond. In every case involving any transfer 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 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 Directors shall adopt a Resolution containing a call for redemption (which Resolution shall be adopted only upon request by the Company if at the time no material Lease Default shall have occurred and be continuing beyond any applicable cure period), on a specified date when they are by their terms subject to redemption, of Bonds bearing a stated series designation or designations and stated numbers (and, in the case of the partial redemption of any Bonds, the respective principal amounts thereof to be redeemed); provided, however, that it shall not be necessary for the Directors to adopt any such Resolution in the case of Series 2003 Bonds that are to be redeemed pursuant to the provisions of Section 7.3 hereof, provided that the Company shall have requested such redemption by a written request furnished to the District and the Trustee and shall have specified in such request the principal amount of Series 2003 Bonds to be so redeemed and the date on which the redemption thereof is to be effected.

(b) **Notice by Registered or Certified Mail.** With respect to any Bonds called for redemption, in whole or in part, the Trustee (on behalf of the District) shall cause to be forwarded by United States registered or certified mail to the Holder thereof, at the address of such Holder 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 of the partial redemption of any Bonds, the respective principal amounts thereof to be redeemed) have been called for redemption and will become due and payable at the applicable redemption price or prices on a specified redemption date. The notice provided for in this subsection (b) shall be mailed to all persons entitled to receive the same not more than sixty (60) nor less than thirty (30)

days prior to the date fixed for redemption. The Holders of any Bonds may waive the requirements of this subsection with respect to the 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 District 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. Upon compliance by the District 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 District is not on the date fixed for redemption in default in payment of the principal of 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, the Holder thereof shall surrender such Bond to the Trustee in exchange for one or more Bonds in authorized denominations in an aggregate principal amount equal to the unredeemed portion of the Bond so surrendered, all as shall be requested by the Holder of such Bond so called for partial redemption. The preceding sentence to the contrary notwithstanding, the partial redemption of Bonds shall be subject to such Home Office Payment Agreements as may be in effect with respect thereto. 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 case of any Bonds called for redemption in part, the portions thereof called for redemption).

Section 6.3 Concerning the Redemption of Bonds of Different Series. 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 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 exercises the option to purchase the Project granted in Section 11.2 of the Lease 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, moneys in the Project 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 Section 7.2(a), 11.1(a) or 11.2 of the Lease, in the order named] moneys sufficient to retire the Bonds and pay all other Indenture Indebtedness as provided in Section 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 2003 BONDS

Section 7.1 Issuance of Series 2003 Bonds; Terms of the Series 2003 Bonds. There is hereby authorized to be issued under the Indenture an issue or series of Bonds designated Revenue Bonds (Lowe's Home Centers, Inc. Project), Series 2003, limited in aggregate principal amount to \$2,400,000. The Series 2003 Bonds shall (except as otherwise provided in Sections 5.1 and 5.2 hereof) be dated the date of their authentication and delivery by the Trustee, shall mature and become payable on May 1, 2013, and shall be initially issued as one fully registered bond in the principal amount of \$2,400,000, numbered R1 and payable to the Series 2003 Original Purchaser or its nominee. Subject to and in accordance with the provisions of Article V hereof and Section 7.2 hereof, the Series 2003 Bond initially issued hereunder may be exchanged by the Holder thereof for other Series 2003 Bonds in the denomination of \$100 or any integral multiple thereof. The principal of the Series 2003 Bonds shall be payable in 10 consecutive annual installments on the following dates and in the following amounts:

<u>Principal Payment Date</u>	<u>Amount</u>
May 1, 2004	\$ 240,000
May 1, 2005	240,000
May 1, 2006	240,000
May 1, 2007	240,000
May 1, 2008	240,000
May 1, 2009	240,000
May 1, 2010	240,000
May 1, 2011	240,000
May 1, 2012	240,000
May 1, 2013	240,000

The outstanding principal of the Series 2003 Bonds shall not bear any interest.

The principal of the Series 2003 Bonds shall be payable in accordance with the provisions of Section 3.2 hereof, except that the redemption price of any partial redemptions of the principal of the Series 2003 Bonds may be payable in accordance with Home Office Payment Agreements made in accordance with the provisions of Section 3.3 hereof.

Section 7.2 Irregular Denomination Series 2003 Bonds. In the event of any transfer of the Series 2003 Bonds pursuant to the provisions of Section 5.1 hereof, or in the event of any exchange of Series 2003 Bonds for other Series 2003 Bonds pursuant to the provisions of Section 5.2 hereof, new Series 2003 Bonds shall be issued only in denominations of \$100 or any integral multiple thereof, except as may be otherwise provided by the succeeding provisions of this section. If one or more Series 2003 Bonds are transferred to any Person who, prior to such transfer, did not own any Series 2003 Bonds, then, if necessary to evidence the transfer of such Series 2003 Bond or Bonds, not more than one Irregular Denomination Series 2003 Bond may be issued to such Person, along with such other Series 2003 Bonds (if any) in denominations of \$100 or any integral multiple thereof as shall be requested by such Person and as shall, together with such Irregular Denomination Series 2003 Bond, have an aggregate principal amount equal to that of the Series 2003 Bond or Bonds so transferred. If one or more Series 2003 Bonds are transferred to any Holder who, prior to such transfer, already owned one or more Series 2003 Bonds, or if any principal amount of Series 2003 Bonds is to be exchanged by any Holder for a like principal amount of Series 2003 Bonds in different denominations, then, if necessary to evidence such transfer or accomplish such exchange, as the case may be, not more than one Irregular Denomination Series 2003 Bond may be issued to any such Holder, along with such other Series 2003 Bonds (if any) in denominations of \$100 or any integral multiple thereof as shall be requested by such Holder and as shall, together with such Irregular Denomination Series 2003 Bond, have an aggregate principal amount equal to that of the Series 2003 Bond or Bonds so transferred or exchanged; provided, however, that if the Holder to whom such transfer is to be made or the Holder requesting such exchange, as the case may be, already owns one or more Irregular Denomination Series 2003 Bonds, no new Irregular Denomination Series 2003 Bond shall be authenticated and delivered by the Trustee in connection with such transfer or exchange unless the Holder to whom such transfer is to be made or the Holder

requesting such exchange, as the case may be, surrenders to the Trustee all outstanding Irregular Denomination Series 2003 Bonds then owned by such Holder and requests the issuance of new Series 2003 Bonds in an aggregate principal amount equal to the principal amount of the Series 2003 Bond or Bonds to be so transferred or exchanged, as the case may be, plus the principal amount of the outstanding Irregular Denomination Series 2003 Bonds so surrendered, which such aggregate principal amount of new Series 2003 Bonds shall consist of Series 2003 Bonds in the denomination of \$100 or any integral multiple thereof and not more than one Irregular Denomination Series 2003 Bond in such combination as may be requested by such Holder. The preceding provisions of this paragraph shall be construed to the end that no Holder of any Series 2003 Bonds shall, as a result of any transfer or exchange of Series 2003 Bonds initiated or requested by such Holder, become the Holder of more than one Irregular Denomination Series 2003 Bond.

Section 7.3 Optional Redemption of Series 2003 Bonds. At the option of the District (which option shall be exercisable only upon request by the Company if at the time no material Lease Default shall have occurred and be continuing beyond any applicable cure period), the Series 2003 Bonds shall be subject to redemption and payment on any date, as a whole or in part, at and for a redemption price, with respect to each Series 2003 Bond (or portion of the principal thereof) called for redemption, equal to the principal amount thereof to be redeemed. The redemption of Series 2003 Bonds pursuant to this section shall comply with the applicable provisions of Article VI hereof, including the giving of such notice to the Holders of Series 2003 Bonds called for redemption as may be required by Section 6.1(b) hereof. Any redemption of less than all the outstanding Series 2003 Bonds pursuant to this section shall comply with the provisions of Section 7.5 hereof.

Section 7.4 [Intentionally Omitted]

Section 7.5 Special Provisions Respecting Partial Redemption of Series 2003 Bonds. The principal of any Series 2003 Bonds shall be redeemed only in the amount of one dollar (\$1.00) or integral multiples thereof. When less than all the outstanding Series 2003 Bonds are to be redeemed prior to maturity at any one time, the Trustee shall allocate the principal amount to be redeemed at such time among all the Holders of the Series 2003 Bonds then outstanding in the following manner: there shall be allocated to each such Holder, as nearly as practicable, the same proportion of the principal amount of Series 2003 Bonds to be redeemed as the outstanding principal amount of all Series 2003 Bonds held by such Holder bears to the aggregate principal amount of all Series 2003 Bonds then outstanding. To the extent possible, the individual amounts allocated to the Holders of the Series 2003 Bonds in accordance with the preceding sentence shall be rounded up or down to the nearest integral multiple of one dollar (\$1.00), but if the rounding of each such individual amount to the nearest integral multiple of one dollar (\$1.00) should result in the sum of such individual amounts being less than or greater than the amount on deposit in the Bond Fund, as the case may be, that is available to redeem Series 2003 Bonds, then in such case the Trustee shall adjust such individual amounts to such extent as will cause the aggregate principal amount of Series 2003 Bonds redeemed to equal as nearly as practicable the amount available to effect such redemption. The adjustment of such individual amounts shall be made by the Trustee in an equitable manner, taking into account similar adjustments made in connection with prior redemptions, but in no event shall such adjustment result in the amount allocable to any Holder of the Series 2003 Bonds being increased or decreased by more than one dollar (\$1.00) above or

below the amount that would have been allocable to such Holder if such amount had been rounded to the nearest integral multiple of one dollar (\$1.00).

In the event that any Series 2003 Bond is called for partial redemption and the unredeemed principal of such bond is not evenly divisible by \$1,000, an Irregular Denomination Series 2003 Bond shall, pursuant to the provisions of Sections 6.2 and 7.2 hereof, be issued by the Trustee to the Holder of the Series 2003 Bond so called for partial redemption in exchange for the surrender thereof.

Section 7.6 Delivery of Series 2003 Bonds by the Company for Cancellation. The Trustee shall cancel any Series 2003 Bonds from time to time purchased by the Company and surrendered to the Trustee for cancellation, provided that no Series 2003 Bonds so surrendered by the Company shall be cancelled by the Trustee unless there shall be delivered to the Trustee a certificate signed by the President of the Company stating in effect that such Series 2003 Bonds were purchased pursuant to an offer to purchase Series 2003 Bonds from all Holders thereof in a principal amount proportionate to the principal amount of Series 2003 Bonds then held by such Holders and that the same terms and conditions for the purchase of such Bonds were offered to each Holder.

Section 7.7 Bond Form of Series 2003 Bonds. The Series 2003 Bonds, the Trustee's authentication certificate applicable thereto and the form of assignment applicable thereto, as well as any record of partial redemptions provided 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 2003 Bonds]

No. R _____

\$ _____

UNITED STATES OF AMERICA

STATE OF ALABAMA

**THE COOPERATIVE DISTRICT
OF THE CITY OF BIRMINGHAM -
HIGHWAY 280 DISTRIBUTION FACILITY**

**REVENUE BOND
(Lowe's Home Centers, Inc. Project)
Series 2003**

On the 1st day of May, 2013 (unless the principal of this bond shall have been duly called for previous redemption and payment duly provided for), for value received, THE COOPERATIVE DISTRICT

OF THE CITY OF BIRMINGHAM - HIGHWAY 280 DISTRIBUTION FACILITY, a public corporation and instrumentality under the laws of the State of Alabama (herein called the "District"), 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

(or such lesser portion thereof then unpaid). The principal of the "Series 2003 Bonds" hereinafter referred to shall be payable in 10 consecutive annual installments coming due on the following dates in the following amounts:

<u>Principal Payment Date</u>	<u>Amount</u>
May 1, 2004	\$ 240,000
May 1, 2005	240,000
May 1, 2006	240,000
May 1, 2007	240,000
May 1, 2008	240,000
May 1, 2009	240,000
May 1, 2010	240,000
May 1, 2011	240,000
May 1, 2012	240,000
May 1, 2013	240,000

The unpaid principal balance of this bond shall not bear any interest.

The principal of this bond shall be payable in lawful money of the United States of America. The principal of this bond shall be payable at the designated office of The Bank of New York Trust Company of Florida, N.A., or its successor as Trustee under the Indenture hereinafter referred to; provided, however, that the said Trustee will, at the request of the holder hereof, enter into a special payment agreement with such holder providing for the payment of the redemption price of any partial redemption of the principal hereof at a place and in a manner other than as described above, but such special payment agreement shall be subject to the terms and conditions specified in the said Indenture.

This bond is one of a duly authorized issue or series of bonds authorized to be issued in the aggregate principal amount of \$2,400,000 and designated Revenue Bonds (Lowe's Home Centers, Inc. Project), Series 2003 (herein called the "Series 2003 Bonds"). The Series 2003 Bonds have been issued under a Trust Indenture dated as of December 1, 2003 (herein called the "Indenture"), between the District and The Bank of New York Trust Company of Florida, N.A., Birmingham, Alabama, as Trustee (herein, in such capacity, together with its successors in trust, called the "Trustee"), for the purpose of financing the costs of acquiring, constructing and/or equipping a storage, warehouse and distribution facility for the storing, warehousing and distributing of various products of industry to be located in Birmingham, Alabama (said facility and all improvements and other property acquired by the District in connection therewith, as they may at any time

exist, being herein together called the "Project"), as well as the costs of issuing the Series 2003 Bonds. In connection with the issuance of the Series 2003 Bonds, the District has leased the Project to Lowe's Home Centers, Inc., a North Carolina corporation (herein, together with its successors and assigns, called the "Company"), under a Lease Agreement dated as of December 1, 2003 (herein called the "Lease"), which obligates the Company to pay rent directly to the Trustee, for the account of the District. Such rent payable by the Company under the Lease will not be sufficient to provide for payment of the principal of the Series 2003 Bonds, and the Company shall not be liable for payment of the principal of the Series 2003 Bonds. The Series 2003 Bonds are further secured by a Guaranty and Funding Agreement dated as of April 2, 2002, as amended by an Amendment to Guaranty and Funding Agreement dated as of November 1, 2002 (herein as so amended called the "Series 2003 Municipality Guaranty"), between the City of Birmingham, Alabama and the District, pursuant to which guaranty said city has guaranteed to the District, for the benefit of the holders at any time of the Series 2003 Bonds, the payment of the principal of the Series 2003 Bonds.

The Series 2003 Bonds are subject to redemption prior to their maturity as follows:

At the option of the District, the Series 2003 Bonds are subject to redemption on any date, as a whole or in part, at and for a redemption price, with respect to each Series 2003 Bond (or portion of the principal thereof) called for redemption, equal to the principal amount thereof to be redeemed.

If less than all the Series 2003 Bonds shall be called for redemption at any one time, the principal amount of Series 2003 Bonds to be redeemed shall be allocated among all the holders of Series 2003 Bonds in proportion to the aggregate principal amount of outstanding Series 2003 Bonds owned by each such holder, and the principal amount so allocated to each such holder shall be called for redemption from among the Series 2003 Bonds owned by such holder.

The Indenture requires written notice of the redemption of this bond (or portion of the principal hereof) to be forwarded by United States registered or certified mail to the registered holder hereof 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 principal of this bond is to be redeemed, (i) the registered holder hereof shall surrender this bond to the Trustee in exchange for a new bond of 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 a record of partial redemptions appertaining hereto, of the payment of the portion of the principal hereof so redeemed. Further, the Indenture provides that the holder of this bond may enter into a special payment agreement with the Trustee which will permit the redemption price of any partial redemption of the principal hereof to be paid to the holder without the surrender or presentation of this bond to the Trustee, but such special payment agreement shall require in such case that the holder endorse hereon, or on a record of partial redemption appertaining hereto, the payment of the portion of the principal hereof so redeemed, all as more particularly specified in the Indenture.

The principal of the Series 2003 Bonds (the Series 2003 Bonds and any other bonds authorized by the Indenture to be issued thereunder being herein together called the "Bonds") is 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 the Bonds is secured, pro rata and without preference or priority of one Bond over another, 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 District by the Company under the Lease), by the Indenture, and by an assignment to the Trustee of all right, title and interest of the District in and to the Lease (except certain expense reimbursement and indemnification rights of the District and certain other rights which are expressly reserved to the District) and the Series 2003 Municipality Guaranty; provided, however, that the Series 2003 Municipality Guaranty shall be for the exclusive benefit of the holders of the Series 2003 Bonds and all moneys received by the Trustee under the Series 2003 Municipality Guaranty shall be applied solely for the payment of the principal of the Series 2003 Bonds. The Trustee will not have a lien on or security interest in the Project. Reference is hereby made to the Lease, the Indenture and the Series 2003 Municipality Guaranty for complete information respecting the nature and extent of the security afforded by each of such instruments, the rights and duties of the District and the Trustee with respect thereto, the rights of the holders of the Series 2003 Bonds and the terms and conditions on which additional series of Bonds may be issued.

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 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 District to the holder of such bond and all rights of such holder against the District 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 District 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 subject to the restrictions therein provided.

The District is a public corporation organized under the provisions of Code of Alabama 1975, Title 11, Chapter 99B, and the Series 2003 Bonds are authorized to be issued for the purposes for which bonds are authorized to be issued under the specified provisions of said code. The Series 2003 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 District.

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.

The Series 2003 Bonds are issuable as fully registered bonds without coupons in the denomination of \$100 each or any integral multiple thereof, except to the extent that the issuance of a bond in a principal amount not evenly divisible by \$100 may be required (i) to effect the issuance, transfer or exchange of Series 2003 Bonds in a principal amount not evenly divisible by \$100 or (ii) to provide the holder of a Series 2003 Bond called for partial redemption a new Series 2003 Bond in a principal amount equal to the unredeemed portion of the bond so called for partial redemption. Provision is made in the Indenture for the exchange of Series 2003 Bonds for a like aggregate principal amount of Series 2003 Bonds in authorized denominations,

all as may be requested by the holder surrendering the Series 2003 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 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 bond 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 District has caused this bond to be executed in its name and behalf by the Chairman of its Board of Directors, has caused its corporate seal to be hereunto affixed, has caused this bond to be attested by its Secretary, and has caused this bond to be dated _____.

THE COOPERATIVE DISTRICT
OF THE CITY OF BIRMINGHAM -
HIGHWAY 280 DISTRIBUTION FACILITY

By _____
Chairman of the Board of Directors

ATTEST:

Secretary

[S E A L]

[Form of Trustee's Authentication Certificate]

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

THE BANK OF NEW YORK
TRUST COMPANY OF FLORIDA, N.A.,
Trustee

By _____
Its Authorized Officer

[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 substitution 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.

[Form of Signature Guaranty]

Signature Guaranteed:

(Bank, Trust Company or Firm)

By _____
Authorized Officer

[Form of Record of Partial Redemptions
That May Be Attached to Series 2003 Bond]

Upon each partial redemption of the principal of the within bond, such bond shall be surrendered to the Trustee for the appropriate endorsement by it of such redemption on the record below, unless there shall be in effect, as provided in the within mentioned Trust Indenture, a Home Office Payment Agreement, as defined therein. THE WITHIN BOND MAY BE SUBJECT TO A HOME OFFICE PAYMENT AGREEMENT AND ANY PURCHASER OF SUCH BOND SHOULD VERIFY WITH THE TRUSTEE THE OUTSTANDING PRINCIPAL BALANCE OF SUCH BOND PRIOR TO THE PURCHASE THEREOF.

The Trustee may authenticate any Series 2003 Bond issued hereunder without requiring such Series 2003 Bond to bear the aforesaid legend, if, prior to the issuance thereof,

(a) such Series 2003 Bond is registered under the Securities Act of 1933, as amended, or

(b) the Trustee is furnished with an opinion of Counsel (who shall be knowledgeable with respect to the laws applicable to the sale of securities generally) to the effect (i) that the particular sale, transfer or other transaction requiring the issuance of such Series 2003 Bond constitutes an exempted transaction under the Securities Act of 1933, as amended, and that registration of such Series 2003 Bond under said Securities Act is not therefore required with respect to such sale, transfer or other transaction, or (ii) that, as a result of a change in applicable law or regulations issued pursuant thereto or as the result of other circumstances, such Series 2003 Bond may be offered for sale, sold, pledged, transferred or otherwise disposed of with the same freedom as if it had been registered under said Securities Act.

Section 7.9 Execution and Delivery of the Series 2003 Bonds. The Series 2003 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 District by the Chairman or the Vice Chairman of the Directors, requesting such authentication and delivery and designating the Person or Persons to receive the same or any part thereof.

Section 7.10 Application of Proceeds from Sale of Series 2003 Bonds. The entire proceeds derived by the District from the sale of the Series 2003 Bonds shall be paid to the Trustee and promptly thereafter deposited in the Project Fund.

ARTICLE VIII

NO ADDITIONAL BONDS

Section 8.1 No Additional Bonds. No additional bonds of the District, secured on a parity with the Series 2003 Bonds, are authorized to be issued under this Indenture.

ARTICLE IX

CONCERNING THE PROJECT DEVELOPMENT WORK AND PAYMENT OF PROJECT DEVELOPMENT COSTS

Section 9.1 **Agreement Respecting Completion of Project Development Work.** The District will undertake and complete the Project Development Work or will cause the same to be undertaken and completed, all as and to the extent provided in Article IV of the Lease. The District will complete the Project Development Work, or cause the same to be completed, as soon as may be practicable, delays incident to any condition or event beyond the reasonable control of the District only excepted, including, without limitation, strikes, riots, acts of God and the public enemy. The District will promptly pay or cause to be paid, as and when due, all Project Development Costs, but the District's obligation to pay such costs shall be limited to moneys on deposit in the Project Fund and such other funds for the payment of such costs as may be made available by the Company and/or the Series 2003 Original Purchaser under the provisions of the Lease.

The District 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 to remain unsatisfied and undischarged for a period exceeding thirty (30) days after the filing or establishment thereof; provided, however, that the District 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 mechanics' 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 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; provided further, that the District's obligation to satisfy any mechanics' or materialmen's lien shall be limited to such moneys for the payment of such mechanics' or materialmen's lien as may be made available by the Company and/or the Series 2003 Original Purchaser under the provisions of the Lease.

Section 9.2 **Project Fund.** There is hereby created a special trust fund, the name of which shall be the "Highway 280 Distribution Facility Project Fund", for the purpose of providing funds for the payment of Project Development Costs. The Trustee shall be and remain the depository, custodian and disbursing agent for the Project Fund. As provided in Section 7.10 hereof, there shall be deposited in the Project Fund all proceeds derived from the sale of the Series 2003 Bonds. All net income at any time derived from the investment and reinvestment of moneys at any time held in the Project Fund (including income derived from the investment and reinvestment of previously derived income) shall be paid or credited into the Project Fund.

The moneys in the Project Fund shall be disbursed by the Trustee from time to time for the purpose of paying Project Development Costs, but only upon receipt of a requisition signed by an Authorized Company 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 Board, the Company, an Affiliate of the Company, the Series 2003 Original Purchaser or an Affiliate of the Series 2003 Original Purchaser) to whom such payment is due and the particular Project Development Cost which is to be paid pursuant to such requisition;

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

(3) in the case of a requisition for payment of any part of the costs of constructing the Project Improvements or other permanent improvements (whether bills or contractors' estimates), a certification that the labor, services or materials represented thereby are located at, or are referable to, the Condominium Unit; and

(4) 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 Improvements or the Project Equipment, a certification either (i) that such Project Improvement or Project Equipment is physically located at or in the Condominium Unit and is in good condition, or (ii) that the amount so requested to be paid on account of such Project Improvement or Project Equipment, together with any amounts theretofore paid out of the Project Fund on account thereof, represents no more than progress payments for such Project Improvement or Project Equipment which have been substantiated to the Company's satisfaction.

The requirements of this paragraph shall apply to all disbursements from the Project Fund, including those made to reimburse the Company or the Series 2003 Original Purchaser for Project Development Costs theretofore paid by the Company or the Series 2003 Original Purchaser.

The completion of the acquisition, construction, and/or 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 Authorized Company Representative as provided in Section 4.6 of the Lease. On the Completion Date, or as promptly thereafter as practicable, the Trustee shall set aside in the Project Fund such amount as the Company may, by written order signed in its behalf by an Authorized Company Representative and furnished to the Trustee simultaneously with the aforesaid certificate establishing the Completion Date, direct for the payment of any Project Development Costs not then due and payable or the liability for payment of which is then being contested by the Company, or by the District at the direction of the Company. After setting aside the amount (if any) required by the preceding sentence so to be set aside, the Trustee shall transfer from the Project Fund the balance therein remaining and apply the same as follows:

(1) if at the time of any such transfer from the Project Fund (A) the aggregate sum of the proceeds of the Series 2003 Bonds plus the net amount realized from the investment and reinvestment of such proceeds theretofore deposited into the Project Fund exceeds (B) the aggregate sum of Project Development Costs theretofore paid out of the Project Fund pursuant to this Section 9.2, there shall be paid into the Bond Fund (i) the

amount by which the sum referred to in the preceding clause (A) exceeds the sum referred to in the preceding clause (B), or (ii) the amount then to be transferred from the Project Fund, whichever is the lesser, and after such payment into the Bond Fund (if any), the balance (if any) of the amount so to be transferred from the Project Fund shall be paid to the Company; or:

(2) if at the time of any such transfer from the Project Fund the sum referred to in clause (B) of the preceding subparagraph (1) is equal to or greater than the sum referred to in clause (A) of said subparagraph (1), the amount then to be transferred from the Project Fund shall be paid to the Company.

The Trustee shall from time to time thereafter transfer from the Project Fund so much of the balance at the time remaining therein as the Company may request and apply the same in accordance with the provisions of the preceding subparagraphs (1) and (2), irrespective of whether all the Project Development Costs with respect to which such moneys were so set aside have been paid; provided, however, that in the event of a Lease Default, the Trustee shall, notwithstanding the preceding provisions of this section and without any request or direction from the Company, promptly pay and transfer into the Bond Fund the entire amount of moneys then held in the Project Fund; and provided further that, any provision hereof to the contrary notwithstanding, the Trustee may disburse moneys remaining in the Project Fund after the Completion Date only for the purpose of paying Project Development Costs that were incurred by the District prior to the Completion Date or for the purpose of transferring such moneys to the Bond Fund.

The Trustee will keep and maintain adequate records pertaining to the Project Fund and all moneys received therein and disbursed therefrom, and when all moneys in the Project 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 District and the Company an accounting of all moneys received into and disbursed from the Project Fund.

Section 9.3 Trustee Protected in Project Fund Payments; Additional Evidence May Be Required. The Trustee shall be fully protected in making payments from the Project 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 twenty-five percent (25%) in principal amount of the Bonds then outstanding, require, as a condition precedent to any payment from the Project Fund (other than a payment into the Bond Fund pursuant to Section 9.2 hereof), such additional evidence as it may reasonably deem appropriate respecting the application of any moneys previously disbursed from the Project 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 Project Fund Moneys. Following the issuance of the Series 2003 Bonds, the Company may thereafter at any time and from time to time request the Trustee to invest the moneys held in the Project Fund by furnishing to the Trustee a written certificate signed by an Authorized Company Representative and stating (i) what portions (if any) of the moneys held in the Project 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 Eligible Investments specified by the Company and consistent with the provisions hereof 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 Project Fund cash moneys sufficient to meet the needs of the Project Fund as specified in said certificate.

The Trustee shall convert investments forming a part of the Project 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 an Authorized Company Representative, sell or otherwise convert any of such investments into cash. All net proceeds from the sale or conversion of any investment forming a part of the Project Fund shall be and remain part of said fund. 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 Project Fund, all Eligible Investments in which any portion of such fund is at the time so invested shall be included therein at their then market value.

ARTICLE X

APPLICATION OF REVENUES AND CREATION OF BOND FUND

Section 10.1 Bond Fund. There is hereby created a special trust fund, the name of which shall be the "Highway 280 Distribution Facility Bond Principal Fund", for the purpose of providing for payment of the principal of the Bonds and which shall be maintained until such principal has been paid in full. The Trustee shall be and remain the depository, custodian and disbursing agent for the Bond Fund.

So long as any part of the principal of any of the Bonds remains outstanding and unpaid, the District 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 District is not in default in the payment of any Indenture Indebtedness, the District 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 District is in default in the payment of any Indenture Indebtedness, the District 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 the Bonds as said principal becomes due, as well as for the redemption of any 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 10.2 and 10.3 hereof, be used only for the payment of the principal of the Bonds upon or after their respective maturities, for the redemption of Bonds prior to their respective maturities, and for the purchase of Bonds for retirement at a price not greater than their par or face value.

Section 10.2 Retirement of Bonds Under Certain Conditions. General Provisions Respecting Bond Fund. In the event that at any time the total sum of moneys held in the Bond Fund is sufficient to provide for retirement of all the Bonds, 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 District in writing, and the District 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 Bonds subject to redemption that will come due after such redemption date. Any redemption of 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 7.5 hereof.

In the event that at any time the moneys held in the Bond Fund are sufficient so to effect retirement of all the Bonds or in the event that at any time the total of the moneys held in the Bond Fund equals or exceeds the aggregate principal of the Bonds then outstanding, 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) any of the Bonds thereafter become subject to redemption under any of the provisions of the Indenture and further payments into the Bond Fund are needed to effect such redemption.

Section 10.3 Investment of Moneys in Bond 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 Bonds, and Bonds called for redemption but not yet redeemed) that will not be needed, during the then next ensuing three days, for payment of any maturing installment of principal of the Bonds or for payment of the redemption price of any Bond called for redemption, to be kept continuously invested in Eligible Investments specified by the Company and consistent with the provisions hereof having such stated maturities as will assure the availability of cash moneys necessary to provide for payment and redemption of the principal of the Bonds, as such principal becomes 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 Bond Fund.

In order to comply with the requirements of the Indenture, the Trustee may, at any time and from time to time, cause any Eligible Investments forming a part of the Bond Fund to be sold or otherwise converted into cash, shall upon written request of an Authorized Company Representative cause any such securities, certificates or investments to be sold or otherwise converted into cash (but only if such sale or other conversion into cash will not jeopardize the payment, when due, of the principal of any of the Bonds or of the redemption price of any 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 the Bonds or of the redemption price of any 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 Bond Fund shall be paid into and become a part of the Bond Fund. In making any investment of moneys forming a part of the Bond Fund, the Trustee will follow such written instructions as may be given to it by an Authorized Company Representative, but if and only to the extent that such instructions are not inconsistent with any applicable provisions of the Indenture. 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 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 10.4 Security for Bond Fund Moneys. The moneys at any time held in the Bond Fund shall be and at all times remain impressed with a trust for the purposes for which said fund was created. The Trustee shall at all times keep the moneys held in such fund invested as described in Section 10.3 or continuously secured, for the benefit of the District and the Holders of the 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 the Bond Fund that is invested in Federal Securities or that is fully insured by the Federal Deposit Insurance Corporation or by any agency of the United States of America that may succeed to its functions; provided further that it shall not be necessary for the Trustee to so secure any portion of the moneys on

deposit in the Bond Fund for so long as all the Bonds are held by any Holder that has waived the requirements of this section in writing.

Section 10.5 Commingling of Moneys in Separate Trust Funds. Any provision hereof to the contrary notwithstanding, moneys on deposit in the Project Fund or the Bond Fund may be commingled and combined for the purpose of making investments under the provisions of Sections 9.4 and 10.3 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 fund in the same respective proportions as the amount invested from each such fund bears to the total amount so invested; and

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

ARTICLE XI

PARTICULAR COVENANTS OF THE DISTRICT

Section 11.1 Payment of the Bonds. The District 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 the Bonds as specified therein (and, in the case of any Series 2003 Bond, from moneys received under the Series 2003 Municipality Guaranty), 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.

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 or any contract hereafter made by the District. In the event the District should hereafter issue any other securities 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 District 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 District 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 Bonds. The District recognizes that in the Lease it has agreed

(a) not to issue any securities, other than the Series 2003 Bonds, that are payable out of or secured by a pledge of the revenues and receipts derived by the District 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. The District 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 District from the consequences hereunder of any default in connection therewith, the Trustee (on behalf of the District) may perform and observe, or cause to be performed and observed, any such agreement, covenant, term or condition, all to the end that the District's rights under the Lease may be unimpaired and free from default.

The District will promptly notify the Trustee in writing of the occurrence of any Lease Default, provided that the District has knowledge of such default. The District will also promptly notify the Trustee in writing if, to the knowledge of the District, the Company fails to perform or observe any of the agreements or covenants on its part contained in the Lease. In the event of the occurrence of a Lease Default or any such failure, whether notice thereof is given to the Trustee by the District, 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 District, 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 District will cause the Basic Rent to be paid directly to the Trustee as provided in the Lease. Without the written consent of the Holders of all the Bonds then outstanding, the District 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 or in the Lease) unless and until the entire Indenture Indebtedness shall have been paid in full; provided, however, that with the written consent of the Trustee, the District 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 District with respect to the Project or any part thereof, the District 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

District to terminate the Lease, or any subsequent lease entered into by the District with respect to the Project or any part thereof, to cure an Event of Default, the District 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 any 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 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 District under such lease may be used for payment of the principal of 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 17.1 hereof, the District will continuously maintain the Condominium Unit, the Project Equipment and the other improvements located in the Condominium Unit 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 Condominium Unit, the Project Equipment and said improvements to be so maintained and such repairs to be so made; provided, however, that the District 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 District 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 District 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 District 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 District 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 District 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 District 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 District 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 District, and the performance by the District 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 District warrants as follows: it has good and marketable title to the leasehold estate in the Condominium Unit created by the Condominium Unit Lease, subject to Permitted Encumbrances; and it has power and authority to subject the property described in Section 2.1 hereof to the lien of the Indenture and has duly done so.

Section 11.6 Agreement of District 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 District 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 corporation or permit one or more other corporations to consolidate with or merge into it. Further, the District 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 District with, or the merger of the District into, any public corporation which has corporate authority to undertake and perform the obligations and agreements of the District under the Lease and the Indenture or (b) the transfer by the District of the Project as an entirety to the Municipality or to another public instrumentality which has corporate authority to undertake and perform the obligations and agreements of the District 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 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 District 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 District therefrom becoming subject to any taxation to which the same was not theretofore subject. Nothing contained herein shall, however, be construed to prevent the District from disposing of any unimproved portion of the Condominium Unit 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 District 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 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 District 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 District 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 (except funds held in trust for the benefit of the Holders of particular Bonds), with right of payment therefrom prior to the rights of the Holders of the Bonds.

Section 11.9 Inspection by Trustee. Subject to the provisions of Section 8.3 of the Lease, the District 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 District pertaining to the Project. The District will assist in furnishing facilities for any such inspection.

Section 11.10 Recordation. Further Assurances. The District 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 District

(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 District 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, nor shall such failure be deemed to affect the interpretation of any provisions of the Indenture.

The obligations of the District 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 District 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 District 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 District.** Unless an Event of Default shall have occurred and be continuing, or except as otherwise provided herein, the District 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 District's covenants herein contained or contained in the Lease.

Section 12.2 **[Intentionally Omitted]**

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 Condominium Unit 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 District or 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 (as defined in the Lease), 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 District, execute and deliver to the District 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 Casualty 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 District, 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.

Section 12.7 Disposition of Title Insurance Proceeds. All damages or losses recovered by the District, the Company or the Trustee pursuant to any policy or policies of title insurance insuring the respective interests of the District, the Company and the Trustee in the Condominium Unit shall be paid into the Bond Fund promptly following receipt thereof by the District, the Company or the Trustee, as the case may be.

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 District to pay the principal of 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 District 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 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, unless during such period or any extension thereof the District has commenced and is diligently pursuing appropriate corrective action;

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

(e) 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 District under any provisions of the bankruptcy laws of the United States of America; or

(f) failure by the Municipality to make any payment required under the terms of the Series 2003 Municipality Guaranty on the date that such payment shall become due and payable by the terms of the Series 2003 Municipality Guaranty, which failure shall have continued for a period of thirty (30) days after written demand for such payment shall have been made to the Municipality by the District or the Trustee.

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 13.3 and 13.8 hereof:

(a) Acceleration. The Trustee may, by written notice to the District and the Company, declare the principal of 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) or (b) of Section 13.1 hereof.

(b) Possession of Project. The Trustee shall have the power to require the District to surrender possession of the Project to it, and the District 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 District 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) 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 enforce any obligation of the District 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 District to pay the principal of any of the Series 2003 Bonds, the Trustee shall have the right (without prejudice to the exercise of any of its rights under the Indenture) to enforce the performance of the Series 2003 Municipality 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.

Nothing herein contained, however, shall be construed to give any authority to the Trustee or the Holders of any of the Bonds to compel a sale of the Project or any part thereof, and no foreclosure proceedings or sale shall ever be had with respect to the Project or any part thereof under the authority of the Indenture.

If, upon the occurrence of an Event of Default, the District makes good the default which is the reason for such Event of Default and every other default hereunder (except any principal declared payable that would, absent such declaration, not then be payable), and makes reimbursement of all the reasonable expenses of the Trustee, then 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, 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 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 District 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, than and in every case the District, 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 Limitation of Remedies Upon Occurrence of Certain Events of Default. If an Event of Default should occur due to a failure by the Municipality to make any payment required under the terms of the Series 2003 Municipality Guaranty on the date that such payment shall become due and payable by the terms of the Series 2003 Municipality Guaranty, the Trustee shall not exercise of the remedies set forth in Section 13.2 hereof without the written consent of the Holders of all the Series 2003 Bonds then outstanding; provided, however, that the Trustee may, notwithstanding the preceding provisions of this section and without the consent of any of the Holders of the Series 2003 Bonds, enforce the performance of the Series 2003 Municipality Guaranty and institute any action, suit or proceeding for that purpose; provided further, that the Trustee shall, at the written direction of the Holders of all the Series 2003 Bonds then outstanding, enforce the performance of the Series 2003 Municipality Guaranty and institute an action, suit or proceeding for that purpose.

Section 13.4 [Intentionally Omitted]

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 District'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 of the District or the Trustee under the Series 2003 Municipality Guaranty, together with all other funds then 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 the unpaid principal of 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, if the amount available shall not be sufficient to pay in full all principal due on any particular date, then to the payment of such principal due on such date, ratably, without any discrimination or privilege; 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 District or to whosoever 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 then due and unpaid upon the Bonds, without preference or priority of any Bond over any other Bond, ratably, according to the amounts due for principal, 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 District or to whosoever may be entitled thereto.

Whenever moneys are to be applied pursuant to the provisions of this section, such moneys 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 a Bond Payment Date unless it shall deem another date more suitable) upon which such application is to be made. 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 Bond until such Bond shall be presented to the Trustee for appropriate endorsement or for cancellation if fully paid.

Section 13.6 Application of Moneys Received Pursuant to the Series 2003 Municipality Guaranty. Any moneys received by the Trustee under, or as a result of its enforcement of, the Series 2003 Municipality Guaranty shall, after payment of all proper costs, expenses and liabilities incurred and disbursements made by the Trustee, be applied as follows:

FIRST - to the payment to the Holders of the outstanding Series 2003 Bonds of the unpaid principal of any of the Series 2003 Bonds which shall have become due (other than Series 2003 Bonds matured or called for redemption for the payment of which moneys are held pursuant to the provisions of the Indenture) in the order of the maturity of such principal, and, if the amount available shall not be sufficient to pay in full all principal due on any particular date, then to the payment of such principal due on such date, ratably, without any discrimination or privilege; and

SECOND - the surplus, if any there be, to such Persons as may be entitled thereto.

Whenever moneys are to be applied pursuant to the provisions of this section, such moneys 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 payment of the obligations required to be paid pursuant to the Series 2003 Municipality Guaranty and the likelihood of additional moneys becoming available for such payment in the future. Whenever the Trustee shall apply such funds to the payment of obligations under the Series 2003 Municipality Guaranty, it shall fix the date upon which such application is to be made. 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.

Section 13.7 Remedies Vested in Trustee. 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 any 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 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 2003 Bond, from moneys received under the Series 2003 Municipality Guaranty), or to institute suit for the enforcement of such payment on or after such due date, or the obligation of the District, which is also absolute and unconditional, to pay, but solely from said revenues and receipts, the principal of the Bonds to the respective Holders thereof at the time and place in said Bonds expressed, shall not be impaired or affected without the consent of such Holder; provided, however, that no Bondholder shall be entitled to take any action or institute any such suit to enforce the payment of his Bonds, if and to the extent that the taking of such actions or the institution of or prosecution of any such suit or the entry of judgment therein would under applicable law result in a surrender, impairment, waiver or loss of the lien of the Indenture upon the Project, or any part thereof, as security for the Bonds held by any other Bondholder.

Section 13.8 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 District, 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 thirty (30) days after such written notice, and the Trustee shall accept performance of such actions by the Company as performance by the District in such event, provided that the Company shall pay all expenses of curing such Event of Default. 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 13.9 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 an 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 13.10 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 or 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 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 or 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 wilful misconduct or its gross 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 13.10 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 any series 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 any series of 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 agents for any of the Bonds (for which it shall be entitled to reimbursement from the District).

(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 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 or similar investment departments of affiliated entities, and any Eligible Certificates issued or held by it (or its affiliates) hereunder shall be deemed investments and not deposits.

(o) It shall, upon reasonable request, advise the District 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 District or the Company a certificate indicating whether, to the knowledge of the Trustee, the District 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 District 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 District 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

(r) no provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(s) The Trustee shall have no obligation to file financing statements or continuation statements.

(t) The Trustee's immunities and protections from liability and its right to indemnification in connection with the performance of its duties under this Indenture shall extend to the Trustee's officers, directors, agents, attorneys and employees. Such immunities and protections and rights to indemnification, together with the Trustee's right to

compensation, shall survive the Trustee's resignation or removal, the discharge of this Indenture, and final payment of the Bonds.

(u) Whether or not therein expressly so provided, every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Section.

Section 14.2 Trustee to Maintain Registration Book. The Trustee will keep on file at its principal corporate trust office a registration book, listing the names and addresses of the Bondholders.

Section 14.3 Trustee Authorized to Perform Certain Acts on Failure of District. Without relieving the District 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 District 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 District 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 District fails to maintain the Project in good repair and in a reasonably safe condition, or to cause the Project to be so maintained, the Trustee may take out any such insurance on the Project that the District 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 District upon demand (subject to the provisions of Section 17.1 hereof), and shall be entitled to priority of payment over the principal of the Bonds.

Section 14.4 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 14.5 Resignation by the Trustee. The Trustee and any successor Trustee may at any time resign from the trusts created hereunder by giving thirty (30) days' written notice to the District, the

Company and each Bondholder. Such resignation shall take effect at the end of such period of thirty (30) days, or upon the earlier appointment of a successor Trustee by the Bondholders or the District.

Section 14.6 Removal of the Trustee. The Trustee may be removed at any time by an instrument or concurrent instruments in writing delivered to the Trustee and to the District and signed by the Holders of a majority in aggregate principal amount of the Bonds then outstanding.

Section 14.7 Appointment of Successor Trustee by Bondholders; Temporary Trustee. In case the Trustee shall resign, be removed, be dissolved, be in course of dissolution or liquidation, or otherwise become incapable of acting hereunder, or in case it shall be taken under the control of any public officer or officers or of a receiver appointed by a court, a successor may be appointed by the Holders of a majority in aggregate principal amount of Bonds then outstanding through an instrument or concurrent instruments in writing signed by such Holders. In case of any such resignation or event which causes the Trustee to be incapable of acting, the District by an instrument signed by the Chairman of the Directors and attested by the Secretary of the District under its seal, shall appoint a temporary Trustee to serve until a successor Trustee shall be appointed by the Bondholders in the manner provided above. Whenever necessary to avoid or fill a vacancy in the office of Trustee, the District will so appoint a temporary Trustee in order that there shall at all times be a Trustee hereunder. Any temporary Trustee so appointed by the District shall immediately and without further act be superseded by the Trustee appointed by the Bondholders. Every successor Trustee appointed pursuant to this section shall be a trust company or bank authorized to administer trusts and having, at the time of its acceptance of such appointment, capital, surplus and undivided profits of not less than \$25,000,000.

Section 14.8 Concerning any Successor Trustee. Every successor Trustee shall execute, acknowledge and deliver to its predecessor and also to the District 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 District 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 District 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 District. 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 District in each recording office where the Indenture shall have been filed and recorded.

Section 14.9 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.

Section 14.10 Trustee Required to Accept Directions and Action of Company. Whenever, after a reasonable request by the Company, the District shall fail, refuse or neglect to give any direction to the Trustee or to require the Trustee to take any action which the District is required to have the Trustee take pursuant to the provisions of the Lease or the Indenture, the Company as agent of the District may give any such direction to the Trustee or require the Trustee to take any such action, and the Trustee is hereby irrevocably empowered and directed to accept such direction from the Company as sufficient for all purposes of the Indenture. The Company shall have the right as agent of the District to cause the Trustee to comply with any of the Trustee's obligations under the Indenture to the same extent that the District is empowered so to do.

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, the District and the Trustee may, at any time and from time to time, enter into such Supplemental Indentures (in addition to such Supplemental Indentures as are otherwise provided for herein or contemplated hereby) as shall not be inconsistent with the terms and provisions hereof, for any one or more of the following purposes:

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

(b) to provide for the surrender by the District of any right or power conferred in the Indenture on the District, 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 Indentures Requiring Bondholder Consent. In addition to those Supplemental Indentures permitted by Section 15.1 hereof, the District and the Trustee may, at any time and from time to time, with the written consent of the Holders of all the Bonds then outstanding, enter into such Supplemental Indentures as shall be deemed necessary or desirable by the District 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.

Section 15.3 Execution of Supplemental Indentures. The District 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 District in the execution of any Supplemental Indenture authorized under the provisions of this article 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 District, 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 District 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 machinery, 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 sole and uncontrolled judgment of the Trustee, adversely affect the interests of the Bondholders.

The District 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 all the Bonds then outstanding, amend, change or modify the Lease to such extent as shall be deemed necessary or desirable by the District and the Company.

Section 15.5 Notices With Respect to Certain Changes in the Indenture or the Lease. If at any time the District shall request the Trustee to enter into any Supplemental Indenture requiring the written consent of the Holders of all the Bonds then outstanding, or to consent to any amendment, change or modification to the Lease requiring the written consent of the Holders of all 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 the Lease, as the case may be, to be forwarded by United States registered or certified mail, postage prepaid, to every Bondholder then shown on the registry books of the Trustee. 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.

If, within sixty (60) days (or such longer period as shall be prescribed by the Trustee) following the date on which the last of the notices to Bondholders were mailed as aforesaid, the Holders of all 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, and if all other conditions hereof prerequisite to the execution of such Supplemental Indenture or proposed amendment, change or modification to the Lease, as the case may be (including, without limitation, such consent of the Company as may then be required by the provisions hereof), shall have been satisfied, then, and in such case, 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 District from executing the same or from taking any action pursuant to the provisions thereof.

It shall not be necessary for any written consent of any Bondholder under this Article XV to approve the particular form of any proposed Supplemental Indenture or any proposed amendment, change or modification to the Lease, but it shall be sufficient if such consent shall approve the substance 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 proposed 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 District, 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 District 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.

ARTICLE XVI

PAYMENT AND CANCELLATION OF THE BONDS AND SATISFACTION OF THE INDENTURE

Section 16.1 **Satisfaction of Indenture.** Whenever the Indenture Indebtedness shall have been fully paid and the District 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 cancel, satisfy and discharge the lien of the Indenture and shall execute and deliver to the District such instruments as shall be requisite to satisfy of record the lien hereof and to reconvey and transfer any property mortgaged hereunder to the District.

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) 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 District shall have deposited with the Trustee the following:

- (a) the applicable redemption price in cash of such Bonds, 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).

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.

In addition, any of the Bonds shall, for purposes of the Indenture, be deemed to have been fully paid when the Holders thereof shall file with the Trustee evidence satisfactory to the Trustee that such Holders have waived in writing the right to receive payment of all amounts due and unpaid thereon and all amounts to become due thereon until and at maturity.

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

Section 16.3 Payment to Company of Remaining Trust Fund Moneys. 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 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 District for the payment of the principal of the Bonds and the performance and observance of all agreements, covenants, warranties and representations of the District contained in the Indenture or the Bonds shall be limited to the proper application of the revenues and receipts derived from the leasing or sale of the Project (and, in the case of the Series 2003 Bonds, the proper application of the moneys received under the Series 2003 Municipality Guaranty),

(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 District, 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 District shall arise therefrom.

None of the directors, officers, employees or agents (other than the Company when acting as agent of the District in accordance with the provisions of the Lease and the Indenture) of the District shall have any personal liability whatever hereunder or any liability for the breach by the District of any of the agreements, covenants, warranties or representations on its part herein contained. Nothing contained in this section, however, shall relieve the District 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 District from performing all duties of their respective offices that may be necessary to enable the District to perform the covenants and agreements on its part herein contained.

It is acknowledged (i) that the Directors serve without compensation, (ii) that the District has and will probably continue to have little specific knowledge about the operation of the Project and the affairs of the Company, (iii) that the District will not undertake, unless requested as hereinafter provided, to determine whether the Company, the Trustee, or any other party is complying with the terms of the Lease, the Indenture or any other document or instrument relating to the Project, and (iv) that certain of the statements and agreements made by the District in the Indenture, the Lease and other documents or instruments delivered

by the District in connection with the issuance of the Series 2003 Bonds have been made in reliance upon information provided and statements and representations made to the District by the Company and other parties.

The District shall not be required to take any action or to exercise any of its powers under the Indenture or the Lease unless it shall have received a written notice or request to do so from the Trustee or other appropriate party stating the desirability or necessity for such action or such exercise of its powers (although it may take any such action or exercise any of such powers without any such request). The District shall take such action or exercise such powers within a reasonable period of time after such written notice or request, provided that there shall first be furnished to the District indemnity satisfactory to it, covering its prospective liabilities and expenses (including all anticipated out-of-pocket expenses of the District and the fees and disbursements of its Counsel), as well as reasonable compensation for necessary services of the directors, officers, employees and agents of the District. Nothing contained in this section shall affect or restrict any right, power or duty of the Trustee to take any action or exercise any right, power or discretion under the Indenture or the Lease in accordance with the respective terms thereof.

Section 17.2 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; provided, however, that the payment of any Bonds shall be subject to the provisions of any Home Office Payment Agreement in effect with respect to such Bonds. All liability of the District to the Holders of such Bonds and all rights of such Holders against the District 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 District any moneys theretofore held by it for payment of such Bond, and such Bond shall (subject to the defense of any applicable statute of limitation) thereafter be an unsecured obligation of the District.

Section 17.3 Payment Due on Saturdays, Sundays and Holidays. In any case where the date of maturity of the principal of the Bonds, or the redemption date of any Bonds, shall be, at the locale of payment, a Saturday, Sunday or legal holiday or a day on which banking institutions are authorized or obligated by law to close, then payment of such principal need not be made on such date, but may be made on the next succeeding business day not a Saturday, Sunday or 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.

Section 17.4 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 17.5 Limitation of Rights. Nothing herein or in the Bonds shall confer any right on anyone other than the District, the Trustee, the Company and the Holders of the Bonds; provided, however, that anything herein or in the Lease to the contrary notwithstanding, the Company shall have no rights hereunder at any time during which a Lease Default shall have occurred and be continuing.

Section 17.6 Manner of Proving Ownership of Bonds. The ownership at any given time of a 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 17.7 Granting of Utility and Access Easements. Any other provisions hereof to the contrary notwithstanding, the District may grant such utility, access and other similar easements, permits and rights-of-way over, across or under the Condominium Unit 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 of the Company signed by an Authorized Company Representative 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 District.

Section 17.8 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 17.9 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 District:

The Cooperative District of
the City of Birmingham -
Highway 280 Distribution Facility
Birmingham City Clerk's Office
Birmingham City Hall
Birmingham, Alabama 35203
Attention: Chairman of the Board of Directors

(b) If to the Company:

Lowe's Home Centers, Inc.
P.O. Box 1111
(Highway 268 East, North Wilkesboro, NC 28659)
North Wilkesboro, North Carolina 28656
Attention: Property Management Dept. (REO)

With copies to:

Lowe's Home Centers, Inc.
P.O. Box 1111
(Highway 268 East, North Wilkesboro, NC 28659)
North Wilkesboro, North Carolina 28656
Attention: Legal Dept. (REO)

McGuireWoods LLP
7 Saint Paul Street
Suite 1000
Baltimore, Maryland 21202
Attention: Patrick M. Shelley

(c) If to the Trustee:

The Bank of New York Trust Company of Florida, N.A.
505 North 20th Street
Birmingham, Alabama 35203
Attention: Corporate Trust Department

Any of the above-mentioned parties may, by like notice, designate any further or different addresses to which subsequent notices shall be sent. The Trustee and the District 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 District 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 17.10 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 17.11 **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 District has caused this Indenture to be executed in its corporate name and behalf by the Chairman of the Directors, has caused its corporate seal to be hereunto affixed and has caused this Indenture to be attested by its Secretary, 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 seven (7) counterparts, each of which shall be deemed an original, and the District and the Trustee have caused this Indenture to be dated as of December 1, 2003, although actually delivered on December 23, 2003.

THE COOPERATIVE DISTRICT
OF THE CITY OF BIRMINGHAM -
HIGHWAY 280 DISTRIBUTION FACILITY

By *W.D. Carey*
Chairman of its ~~Board~~ of Directors

ATTEST:

Arnold Jones
Its Secretary
[SEAL]

THE BANK OF NEW YORK
TRUST COMPANY OF FLORIDA, N.A.

By *Chute S. Boarden*
Its Assistant Treasurer

ATTEST:

Carly L. [Signature]
Its VICE PRESIDENT

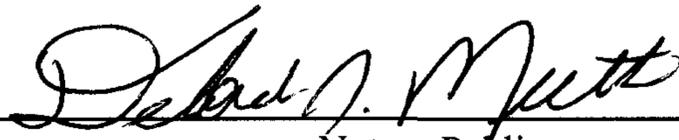
[SEAL]

STATE OF ALABAMA)
 :
JEFFERSON COUNTY)

I, the undersigned authority, a Notary Public in and for said county in said state, hereby certify that W. A. Casey, whose name as Chairman of the Board of Directors of THE COOPERATIVE DISTRICT OF THE CITY OF BIRMINGHAM - HIGHWAY 280 DISTRIBUTION FACILITY, a public corporation organized under the laws of the State of Alabama, is signed to the foregoing instrument and who is known to me, acknowledged before me 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 23rd day of December, 2003.

[NOTARIAL SEAL]



Notary Public

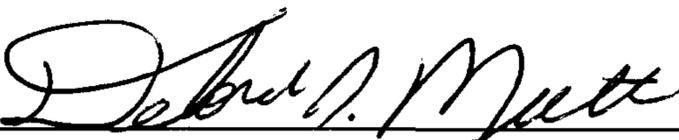
My Commission Expires: 5/10/2004

STATE OF ALABAMA)
 :
JEFFERSON COUNTY)

I, the undersigned authority, a Notary Public in and for said county in said state, hereby certify that Christopher S. Rearden, whose name as Assistant Treasurer of THE BANK OF NEW YORK TRUST COMPANY OF FLORIDA, N.A., a national banking association, is signed to the foregoing instrument and who is known to me, acknowledged before me 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 banking corporation.

GIVEN under my hand and official seal of office, this 23rd day of December, 2003.

[NOTARIAL SEAL]



Notary Public

My Commission Expires: 5/10/2004