

RECOVERY ZONE FACILITY REVENUE
REFUNDING BONDS FOR
MCNEILUS STEEL, INC. PROJECT

(Jim Stewart)

SUGGESTED MOTION:

Move to adopt Resolution #2016-17, Approving the Issuance of Recovery Zone Facility Revenue Refunding Bonds (McNeilus Steel, Inc. Project), Series 2016.

Worden, Heather

From: Jim Stewart <jstewart@aswbondlaw.com>
Sent: Wednesday, July 06, 2016 3:22 PM
To: Montplaisir, Michael; Burdick, Birch
Cc: Worden, Heather
Subject: Refunding Bonds-McNeilus Steel, Inc.
Attachments: McNeilus 2016.01 Financing Ag V1.docx; McNeilus 2016.02 County Resolution v1.pdf

Attached is a proposed Resolution for the July 18 County Commission meeting authorizing the issuance of bonds to refund the outstanding Recovery Zone Facility Revenue Bonds (McNeilus Steel, Inc. Project) Series 2010. The refunding bonds will be issued pursuant to Chapter 40-57 NDCC and the County will have no liability for any payments on the bonds. Also attached is a draft Financing Agreement referred to in the Resolution.

I will be out of the office until July 18. If you have any questions regarding the financing, please contact my partner, Jon Arntson.

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CERTIFICATE

STATE OF NORTH DAKOTA)
)
COUNTY OF CASS)

The undersigned duly appointed, qualified, and acting Auditor of Cass County, North Dakota, hereby certifies that there is attached hereto a true and correct copy of the **RESOLUTION APPROVING OF THE ISSUANCE OF RECOVERY ZONE FACILITY REVENUE REFUNDING BONDS (MCNEILUS STEEL, INC. PROJECT), SERIES 2016**, which was adopted by the Board of County Commissioners of Cass County, North Dakota, on July 18, 2016, at a regular meeting of the County Commission which certified copy is an exact copy of the original on file in the office of the County Auditor.

Dated this _____ day of July, 2016.

County Auditor

**RESOLUTION APPROVING OF THE ISSUANCE OF
RECOVERY ZONE FACILITY REVENUE REFUNDING BONDS
(MCNEILUS STEEL, INC. PROJECT), SERIES 2016**

BE IT RESOLVED by the Board of County Commissioners of Cass County, North Dakota, as follows:

RECITALS:

1. Cass County, North Dakota (the “Issuer”) is authorized pursuant to Chapter 40-57 of the North Dakota Century Code (the “Act”) to issue its revenue bonds and loan the proceeds thereof to revenue producing enterprises to provide manufacturing facilities and to refund bonds previously issued under the Act.

2. McNeilus Steel, Inc., a Minnesota corporation (the “Corporation”), has requested the Issuer to issue and sell its revenue bonds for the purpose of providing funds to refund the Cass County, North Dakota, Recovery Zone Facility Revenue Refunding Bonds (McNeilus Steel, Inc. Project), Series 2010, in the original principal amount of \$10,000,000 (the “Prior Bonds”). Proceeds of the Prior Bonds were used by the Corporation for the purpose of constructing and equipping a steel processing and fabrication facility located at 1210 47th Street NW, Fargo, North Dakota (the “Facilities”).

NOW, THEREFORE, it is hereby found, determined and ordered, as follows:

1. The Issuer hereby approves the issuance and sale of its Recovery Zone Facility Revenue Refunding Bonds (McNeilus Steel, Inc. Project), Series 2016 (the “Bonds”) pursuant to the Act in the principal amount not to exceed \$8,400,000, to provide financing to the Corporation for the purposes of (i) refunding the Prior Bonds, and (ii) paying the costs of issuance.

2. Pursuant to a Financing Agreement (the “Financing Agreement”) among the Issuer, the Corporation and Wells Fargo Bank, National Association (the “Purchaser”), the Issuer will loan the proceeds of the Bonds to the Corporation. The Corporation is required to make payments under the Financing Agreement at such times and in such amounts so as to produce revenue sufficient to pay the principal of, premium, if any, and interest on the Bonds when due. The Issuer will assign its rights to the basic payments and certain other rights under the Financing Agreement to the Purchaser as security for payment of the Bonds.

3. Under the provisions of the Act, and as provided in the Financing Agreement, the Bonds are not to be payable from or charged upon any funds other than the revenue pledged to the payment thereof; the Issuer is not subject to any liability thereon; nor shall the holder of any Bonds ever have the right to compel any exercise by the Issuer of its taxing powers to pay any of the Bonds or the interest or premium thereon, or to enforce payment thereof against any property of the Issuer

except the interest of the Issuer in the Financing Agreement which has been assigned to the Purchaser; the Bonds shall not constitute a charge, lien or encumbrance, legal or equitable upon any property of the Issuer except the interest of the Issuer in the Financing Agreement which has been assigned to the Purchaser; the Bonds shall recite that the Bonds are issued without obligation on the part of the State or its political subdivisions, and that the Bonds, including interest thereon, are payable solely from the revenues pledged to the payment thereof; and, the Bonds shall not constitute a debt of the Issuer within the meaning of any constitutional or statutory limitation.

4. Subject to the approval of the Issuer's counsel, the form of the Financing Agreement and all other documents necessary for the issuance of the Bonds are approved. The Financing Agreement, in substantially the form submitted to the County Auditor, is directed to be executed in the name and on behalf of the Issuer by the Chair of the Board of County Commissioners or other member of the Board of County Commissioners and the County Auditor. Any other documents and certificates necessary to the transaction described above shall be executed by the appropriate officers of the Issuer. Copies of all of the documents necessary to the transaction herein described shall be delivered, filed and reported as provided herein and in the Financing Agreement.

5. The Issuer shall proceed to issue its Bonds, in the form and upon the terms set forth in the Financing Agreement. The Chair of the Board of County Commissioners or other member of the Board of County Commissioners and the County Auditor are authorized and directed to prepare and execute the Bonds as prescribed in the Financing Agreement and to deliver them to the Purchaser.

6. The Chair of the Board of County Commissioners and the County Auditor and other officers of the Issuer are authorized and directed to prepare and furnish to the Purchaser a certified copy of all proceedings and records of the Issuer relating to the Bonds and such other affidavits and certificates as may be required to show the facts relating to the legality of the Bonds, as such facts appear from the books and records in the officers' custody and control or as otherwise known to them; and all such certified copies, certificates and affidavits concluding any heretofore furnished, shall constitute representations of the Issuer as to the truth of all statements contained therein.

7. The approval hereby given to the various documents referred to above includes approval of such additional details therein as may be necessary and appropriate and such modifications thereof, deletions therefrom and additions thereto as may be necessary and appropriate and approved by the Issuer's counsel and the Issuer's officials authorized herein to execute the documents; and the Issuer's officials are hereby authorized to approve the changes on behalf of the Issuer. The execution of any instrument by the appropriate officer or officers of the Issuer herein authorized shall be conclusive evidence of the approval of such documents in accordance with the terms thereof. In the absence of the Chair of the Board of County Commissioners or County Auditor, any of the documents authorized by this Resolution to be executed may be executed by the acting Chair of the Board of County Commissioners or the acting County Auditor, respectively.

Adopted: July 18, 2016.

APPROVED:

Chair, Board of County Commissioners

ATTEST:

County Auditor

The motion for the adoption of the foregoing resolution was duly made by Commissioner _____, seconded by Commissioner _____, and upon vote being taken thereon, the following voted in favor: _____;
the following voted against the same: _____;
and the following were absent: _____;
whereupon the resolution was declared duly passed and adopted.

FINANCING AGREEMENT

by and among

CASS COUNTY, NORTH DAKOTA

and

MCNEILUS STEEL, INC.

and

WELLS FARGO BANK, NATIONAL ASSOCIATION

relating to

\$ _____
**CASS COUNTY, NORTH DAKOTA
RECOVERY ZONE FACILITY REVENUE REFUNDING BONDS
(MCNEILUS STEEL, INC. PROJECT)
SERIES 2016**

Dated as of July 1, 2016

**This instrument was drafted by:
Arntson Stewart Wegner PC
3101 Broadway North, Suite B
Fargo, North Dakota 58102**

TABLE OF CONTENTS

Page

PARTIES AND RECITALS..... 1

ARTICLE I
DEFINITIONS

Section 1.01. Definitions..... 1
Section 1.02. Incorporation of Certain Definitions by Reference 7
Section 1.03. Computation of Time Periods..... 7
Section 1.04. Relation to Other Documents; Incorporation by Reference 7
Section 1.05. Construction..... 8

ARTICLE II
THE BONDS

Section 2.01. Authorized Amount of Bonds; Form of Bonds..... 8
Section 2.02. Issuance of Bonds 8
Section 2.03. Interest Rate 9
Section 2.04. Reserved
Section 2.05. Execution; Limited Obligation 9
Section 2.06. Mutilated, Lost, Stolen or Destroyed Bonds..... 10
Section 2.07. Exchangeability and Transfer of Bonds; Persons Treated as Owners 10
Section 2.08. Cancellation 11
Section 2.09. Mandatory Purchase of the Bonds 12
Section 2.10. Redemption of Bonds 12
Section 2.11. Notice of Redemption..... 14

ARTICLE III
THE LOAN AND ACCOUNTS

Section 3.01. Loan of Bond Proceeds..... 15
Section 3.02. Repayment of Loan..... 15
Section 3.03. Security 16
Section 3.04. Unconditional Obligations 16
Section 3.05. Prepayments of Loan 16
Section 3.06. Swaps 16

ARTICLE IV
REFUNDING OF PRIOR BONDS

Section 4.01. Refunding of Prior Bonds 16
Section 4.02. Borrower and Issuer Representatives and Successors 17

ARTICLE V
CONDITIONS PRECEDENT TO PURCHASE OF BONDS

Section 5.01. Documentary Requirements..... 17
Section 5.02. Incorporation by Reference..... 18

ARTICLE VI
REPRESENTATIONS AND WARRANTIES OF BORROWER

Section 6.01.	Organization; Power; Qualification	19
Section 6.02.	Authorization; Enforceability	19
Section 6.03.	Noncontravention.....	19
Section 6.04.	Governmental Approvals	19
Section 6.05.	Litigation.....	19
Section 6.06.	Title to Properties.....	19
Section 6.07.	Absence of Defaults and Events of Default.....	20
Section 6.08.	Federal Tax Matters	20
Section 6.09.	Tax-Exempt Status of the Bonds	21

ARTICLE VII
REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE ISSUER

Section 7.01.	Organization; Power; Qualification	21
Section 7.02.	Authorization of Bond Documents	21
Section 7.03.	Enforceability.....	22
Section 7.04.	Governmental Approvals	22
Section 7.05.	No Default.....	22
Section 7.06.	Obligations of Issuer	22
Section 7.07.	Noncontravention.....	22
Section 7.08.	Compliance with Law	22
Section 7.09.	Litigation.....	22
Section 7.10.	Security	23
Section 7.11.	Blue Sky.....	23
Section 7.12.	Pending Legislation and Decisions.....	23
Section 7.13.	Tax Covenants of the Issuer.....	23

ARTICLE VIII
MAINTENANCE AND TAXES

Section 8.01.	Borrower's Obligations to Maintain and Repair.....	24
Section 8.02.	Taxes and Other Charges	24

ARTICLE IX
INSURANCE, EMINENT DOMAIN, DAMAGE AND DESTRUCTION

Section 9.01.	Insurance	24
Section 9.02.	Provisions Respecting Eminent Domain; Damage; Destruction	24

ARTICLE X
SPECIAL COVENANTS

Section 10.01.	Access to the Facilities and Inspection	25
Section 10.02.	Further Assurances and Corrective Instruments	25
Section 10.03.	Recording and Filing; Other Instruments	25
Section 10.04.	Tax-Exempt Status.....	25
Section 10.05.	Indemnity Against Claims	25

Section 10.06.	Release and Indemnification.....	26
Section 10.07.	Non-Arbitrage Covenant.....	26
Section 10.08.	Notice of Determination of Taxability.....	27
Section 10.09.	Duties and Obligations.....	27
Section 10.10.	Financial Statements	27
Section 10.11.	Compliance with Laws	27
Section 10.12.	Maintenance of Existence	27

**ARTICLE XI
ASSIGNMENT, LEASE AND SALE**

Section 11.01.	Restrictions on Transfer of Issuer’s Rights.....	28
Section 11.02.	Assignment of Agreement by the Borrower or Lease or Sale of Project.....	28
Section 11.03.	Assumption of Agreement by Purchaser of Project Upon Foreclosure.....	28

**ARTICLE XII
EVENTS OF DEFAULT**

Section 12.01.	Events of Default	29
Section 12.02.	Rights and Remedies.....	30
Section 12.03.	Application of Moneys	30
Section 12.04.	No Waiver; Remedies	31

**ARTICLE XIII
MISCELLANEOUS**

Section 13.01.	Amendments and Waivers	31
Section 13.02.	Execution in Counterparts.....	31
Section 13.03.	Notices	31
Section 13.04.	Severability	32
Section 13.05.	Payments Due on Non-Business Days.....	32
Section 13.06.	Liability of the Purchaser.....	32
Section 13.07.	Governing Law	33
Section 13.08.	Captions	33
Section 13.09.	Successors and Assigns.....	33
Section 13.10.	Complete and Controlling Agreement	33
Section 13.11.	Contractual Interpretation	33
Section 13.12.	Electronic Signatures	33
Section 13.13.	Third Party Beneficiaries	34

SIGNATURES.....	35
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EXHIBIT A - INTEREST RATE PROVISIONS	A-1
EXHIBIT B - FORM OF BOND.....	B-1
EXHIBIT C - FORM OF INVESTOR LETTER	C-1

FINANCING AGREEMENT

THIS FINANCING AGREEMENT is dated as of July 1, 2016, is made and entered into by and among **CASS COUNTY, NORTH DAKOTA, MCNEILUS STEEL, INC.** and **WELLS FARGO BANK, NATIONAL ASSOCIATION**. All capitalized terms used herein and not otherwise defined shall have the meanings assigned in Section 1.01 and Exhibit A or as otherwise provided in Section 1.02.

WITNESSETH:

WHEREAS, the Issuer is empowered pursuant to Chapter 40-57, North Dakota Century Code (the “Act”), to issue its bonds and loan the proceeds to a revenue producing enterprise to finance property used for manufacturing and to refund bonds previously issued under the Act; and

WHEREAS, in furtherance of the public purposes set forth in the Act, the Issuer proposes to issue its \$_____ in principal amount of Recovery Zone Facility Revenue Refunding Bonds (McNeilus Steel, Inc. Project), Series 2016 (the “Bond” or “Bonds”) pursuant to this Agreement, to refund its outstanding Recovery Zone Facility Revenue Bonds (McNeilus Steel, Inc. Project) Series 2010 (the “Prior Bonds”), the proceeds of which were used to finance the acquisition, construction, installation and equipping of an approximately 100,000 square foot steel processing and fabrication facility located at 1210 47th Street NW, Fargo, North Dakota (the “Project”); and

WHEREAS, the Borrower desires to borrow the proceeds of the Bonds upon the terms and conditions set forth in this Agreement; and

WHEREAS, the Purchaser has agreed to purchase the Bonds from the Issuer; and

WHEREAS, all things necessary to make the Bonds, when issued, executed and delivered by the Issuer, to the extent required pursuant to this Agreement, the valid, binding and legal obligations of the Issuer according to the import thereof, except as otherwise stated herein, have been done and performed, and the creation, execution and delivery of this Agreement, and the issuance of the Bonds, subject to the terms hereof, have in all respects been duly authorized.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, including the covenants, terms and conditions hereinafter contained, and to induce the Issuer to make the Loan and the Purchaser to purchase the Bonds, the Issuer, the Borrower and the Purchaser agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01. Definitions. In addition to terms defined at other places in this Agreement, including Exhibit A, the following words and terms as used in this Agreement and

the recitals hereto shall have the following meanings unless the context or use clearly indicates another or different meaning or intent.

“*Act*” has the meaning assigned to such term in the recitals hereto.

“*Affiliate*” has the meaning assigned to such term in the Continuing Covenant Agreement.

“*Agreement*” means this Financing Agreement.

“*Applicable Law*” means (a) all applicable common law and principles of equity and (b) all applicable provisions of all (i) constitutions, statutes, rules, regulations and orders of all Governmental Authorities, (ii) Governmental Approvals and (iii) orders, decisions judgments, writs, injunctions and decrees of all courts (whether at law or in equity) and arbitrators.

“*Approving Opinion*” means, with respect to any action relating to the Bonds, the occurrence of which requires an Opinion of Counsel, an Opinion of Counsel delivered by Bond Counsel to the effect that such action (a) is permitted by this Agreement and the Act, and (b) will not adversely affect the exclusion of interest on the Bonds from gross income of the Owners for purposes of federal income taxation.

“*Authorized Denomination*” means \$250,000 and multiples of \$0.01 in excess thereof or, if less, the Principal Amount.

“*Bankruptcy Code*” means Title 11 of the United States Code, as amended, and any successor statute or statutes having substantially the same function.

“*Bond*” or “*Bonds*” has the meaning assigned to such term in the recitals hereto.

“*Bond Counsel*” means Arntson Stewart Wegner PC or any other attorney or firm of attorneys, which is admitted to practice law before the highest court of any state in the United States of America or the District of Columbia and nationally recognized and experienced in legal work relating to the issuance of tax-exempt bonds.

“*Bond Documents*” means, collectively, this Agreement, the Bond Purchase Agreement, the Bonds, the Continuing Covenant Agreement, any Swap and the Tax Certificate.

“*Bond Proceeds*” means the principal of the Bonds and any investment earnings thereon.

“*Bond Purchase Agreement*” means the Bond Purchase Agreement dated July __, 2016, among the Issuer, the Borrower and the Purchaser.

“*Borrower*” means McNeilus Steel, Inc., a Minnesota corporation, and its permitted successors and assigns.

“*Borrower Representative*” means any one of the persons at the time designated to act on behalf of the Borrower by written certificate furnished to the Issuer and the Purchaser containing

the specimen signatures of such persons and signed on behalf of the Borrower by the _____ of the Borrower.

“*Business Day*” means any day on which (a) the offices of the Calculation Agent are open for business, (b) the Federal Reserve System is in operation, (c) the New York Stock Exchange is not closed and (d) banks in the State and in the State of New York are open for business.

“*Closing Date*” means July __, 2016, subject to the satisfaction of the conditions precedent set forth in Article V.

“*Code*” means the Internal Revenue Code of 1986, as amended, and the rulings and regulations (including temporary and proposed regulations) promulgated thereunder, or any successor statute thereto.

“*Contract*” means any indenture, contract, agreement (other than this Agreement), other contractual restriction, lease, mortgage, instrument, certificate of incorporation, charter or by law.

“*Continuing Covenant Agreement*” means the Continuing Covenant Agreement dated as of July 1, 2016, between the Borrower and the Purchaser.

“*Counsel*” means an attorney or firm of attorneys, admitted to practice law before the highest court of any state in the United States of America or the District of Columbia, including any Bond Counsel.

“*Default*” means the occurrence of any event or the existence of any condition which constitutes an Event of Default or the occurrence of any event or the existence of any condition which with the giving of notice, the passage of time or both, would constitute an Event of Default.

“*Default Rate*” has the meaning assigned to such term in the Continuing Covenant Agreement.

“*Eminent Domain*” means the taking of title to, or the temporary use of, the Facilities or any part thereof pursuant to eminent domain or condemnation proceedings, or by any settlement or compromise of such proceedings, or any voluntary conveyance of the Facilities or any part thereof during the pendency of, or as a result of a threat of, such proceedings.

“*Event of Default*” shall have the meaning assigned to such term in Article XII.

“*Facilities*” means, collectively, (a) the Project and (b) all materials, supplies, equipment, apparatus and other items of personal property owned by the Borrower and attached to, installed in or used in connection with the Project, including, without limitation, water, gas, electrical, storm and sanitary sewer facilities and all other utilities whether or not situated in easements.

“*Fiscal Year*” has the meaning assigned to such term in the Continuing Covenant Agreement.

“GAAP” means generally accepted accounting principles in the United States of America set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or such other principles as may be approved by a significant segment of the accounting profession in the United States of America, that are applicable to the circumstances as of the date of determination, consistently applied.

“*Governing Body*” means the board, commission, council or other body in which the general legislative powers of the Issuer are vested.

“*Governmental Approvals*” means an authorization, consent, approval, permit, license, certificate of occupancy or an exemption of, a registration or filing with, or a report to, any Governmental Authority.

“*Governmental Authority*” means the government of the United States of America or any other nation or any political subdivision thereof or any governmental or quasi-governmental entity, including any court, department, commission, board, bureau, agency, administration, central bank, service, district or other instrumentality of any governmental entity or other entity exercising executive, legislative, judicial, taxing, regulatory, fiscal, monetary or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank), or any arbitrator, mediator or other Person with authority to bind a party at law.

“*Guarantor*” means Leland “Pat” McNeilus, and his permitted successors and assigns.

“*Guaranty*” means the Guaranty Agreement dated as of July __, 2016, executed by the Guarantor in favor of the Purchaser.

“*Initial Swap*” means the _____ Swap, which is in effect on the Issue Date.

“*Insurance Proceeds*” means the insurance claims under and the proceeds of any and all policies of insurance covering the Facilities or any part thereof, including all returned and unearned premiums with respect to any insurance relating to such Facilities, in each case whether now or hereafter existing or arising.

“*Issue Date*” means the date on which the Bonds are delivered to the Purchaser upon original issuance.

“*Issuer*” means Cass County, a political subdivision duly organized and existing under the Constitution and laws of the State, including the Act, or any successor to its rights and obligations under this Agreement.

“*Issuer Representative*” means any one of the persons at the time designated to act on behalf of the Issuer by written certificate furnished to the Borrower and the Purchaser containing the specimen signatures of such persons and signed on behalf of the Issuer by its County Auditor.

“*Lien*” means, with respect to any asset, any mortgage, deed of trust, lien, pledge, charge, security interest, hypothecation, assignment, deposit arrangement or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected or effective under Applicable Law, as well as the interest of a vendor or lessor under any conditional sale agreement, capital or finance lease or other title retention agreement relating to such asset and, in the case of securities, any purchase option, call or similar right of a third party with respect to such securities.

“*Loan*” means the loan from the Issuer to the Borrower of the proceeds of the Bonds, the repayment obligation of which is evidenced by this Agreement.

“*Mandatory Purchase Date*” means July __, 2021.

“*Maturity Date*” means June 1, 2030.

“*Net Proceeds*” means, when used with respect to any Insurance Proceeds or proceeds resulting from Eminent Domain, the gross proceeds therefrom less all expenses (including attorneys’ fees) incurred in the realization thereof.

“*Opinion of Counsel*” means any opinion of Counsel delivered pursuant to this Agreement. Each such opinion shall be addressed to the Borrower, the Issuer and the Purchaser.

“*Outstanding*” means, for any date of determination, all Bonds that have been executed and delivered to the Purchaser hereunder, except:

- (a) Bonds cancelled or delivered for cancellation at or prior to such date;
- (b) Bonds in lieu of which others have been authenticated under Sections 2.06 and 2.07;
- (c) Bonds, the principal of which has been previously paid or redeemed; and
- (d) For purposes of any consent, request, demand, authorization, direction, notice, waiver or other action to be taken by the Owners of a specified percentage of Outstanding Bonds hereunder, all Bonds held by or for the account of the Issuer, the Borrower or any affiliate of the Borrower or the Issuer; provided, however, that if all of the Bonds are at any time held by or for the account of the Borrower or the Issuer or any affiliate of the Borrower or the Issuer, then such Bonds shall be deemed to be Outstanding at such time for the purposes of this subparagraph (d).

“*Owner*” means the registered owner of a Bond.

[“*Parity Periodic Swap Payments*” means Periodic Swap Payments which are designated, with the prior written consent of the Purchaser, as having a priority of payment on a parity, equally and ratably, with the Bonds. [IF WELLS IS INITIAL SWAP PROVIDER: Periodic Swap Payments under the Initial Swap shall be Parity Periodic Swap Payments.]]

["*Parity Swap Termination Payments*" means Swap Termination Payments which are designated, with the prior written consent of the Purchaser, as having a priority of payment on a parity, equally and ratably, with the Bonds. [IF WELLS IS INITIAL SWAP PROVIDER: Swap Termination Payments under the Initial Swap shall be Parity Swap Termination Payments.]]

"*Periodic Swap Payment*" means the net amount payable by the Borrower from time to time under a Swap to the Swap Provider prior to the termination of such Swap.

"*Permitted Liens*" means Liens in favor of the Purchaser or Liens securing any debt of the Borrower or its Affiliates on their Property, whether now owned or hereafter acquired which have been approved in writing by the Purchaser.

"*Person*" means an individual, a corporation, a partnership, an association, a joint venture, a trust, a business trust, a limited liability company or any other entity or organization, including a governmental or political subdivision or an agency or instrumentality thereof.

"*Principal Amount*" means the Outstanding principal amount of the Bonds.

"*Prior Bonds*" means the Cass County, North Dakota, Recovery Zone Facility Revenue Bonds (McNeilus Steel, Inc. Project) Series 2010, dated June 29, 2010.

"*Project*" has the meaning assigned to such term in the recitals hereto.

"*Property*" means, when used in connection with any Person, any and all rights, title and interests of such Person in and to any and all property (including cash) whether real, personal or mixed, or tangible or intangible, and wherever situated.

"*Purchase Price*" means, for any date of determination, an amount equal to 100% of the principal amount of any Bond Outstanding, plus accrued and unpaid interest thereon to the date of purchase.

"*Purchaser*" means (a) if there is a single Owner of all of the Bonds, the Owner of the Bonds and (b) if there is more than one Owner of the Bonds, the Owners owning a majority of the aggregate Principal Amount of the Bonds. On the Issue Date, the initial Purchaser of the Bonds is Wells Fargo Bank, National Association.

"*Revenues*" means all legally available revenues of the Borrower excluding the rights to receive any gifts, donations, pledges, grants, legacies, bequests, demises or contributions heretofore or hereafter made and designated or specified by the donor or maker thereof as being for a specific purpose other than the Project and thus not legally available for payment of debt service on the Bonds.

"*State*" means the State of North Dakota.

["*Subordinated Periodic Swap Payments*" means all Periodic Swap Payments other than Parity Periodic Swap Payments.]

[“*Subordinated Swap Termination Payments*” means all Swap Termination Payments other than Parity Swap Termination Payments.]

“*Swap*” means any agreement or arrangement (contractual or otherwise) between the Borrower and a Swap Provider related to the Borrower’s obligations to make payments pursuant to Section 3.02 which functions as an interest rate swap, interest rate cap, interest rate floor, interest rate collar or which otherwise (directly or indirectly, derivatively or synthetically) hedges interest rate risk associated with being a debtor of variable rate debt, or any agreement or other arrangement to enter into any of the above on a future date or upon or after the occurrence of one or more future events.

“*Swap Provider*” means any counterparty to the Borrower with respect to any Swap.

“*Swap Termination Payment*” means all amounts payable by the Borrower under any Swap that are not Periodic Swap Payments.

“*Tax Certificate*” means the Tax Compliance Certificate of the Borrower dated the Issue Date.

“*Unremarketed Bonds*” means Bonds which, on the Mandatory Purchase Date, have not been successfully remarketed to a Person other than the Purchaser.

“*Written*” or “*in writing*” means any form of written communication or a communication by means of a facsimile device.

Section 1.02. Incorporation of Certain Definitions by Reference. Each capitalized term used herein and not otherwise defined herein shall have the meaning provided therefor in the Continuing Covenant Agreement, unless the context otherwise requires.

Section 1.03. Computation of Time Periods. In this Agreement, in the computation of a period of time from a specified date to a later specified date, unless otherwise specified herein, the word “from” means “from and including” and the words “to” and “until” each mean “to but excluding” and the word “through” means “to and including.”

Section 1.04. Relation to Other Documents; Incorporation by Reference.

(a) Nothing in this Agreement shall be deemed to amend or relieve the Issuer or the Borrower of any of its obligations under any Bond Document to which it is a party. Conversely, to the extent that the provisions of any Bond Document allow the parties hereto to take or not take certain actions, the parties hereto nevertheless shall be fully bound by the provisions of this Agreement.

(b) Except as provided in subsection (c) below, all references to this Agreement or any other documents, including, without limitation, the other Bond Documents, shall be deemed to include all amendments, restatements, modifications and supplements thereto to the extent such amendment, restatement, modification or supplement is made in accordance with the provisions of such document and this Agreement.

(c) All provisions of this Agreement making reference to specific Sections of any Bond Document shall be deemed to incorporate such Sections into this Agreement by reference as though specifically set forth herein (with such changes and modifications as may be herein provided) and shall continue in full force and effect with respect to this Agreement notwithstanding payment of the Bonds and all amounts due under or secured by the Bond Documents, the termination or defeasance thereof or any modification thereto or any waiver given in connection therewith, so long as this Agreement is in effect and until all amounts due and owing under this Agreement, the Bonds and the other Bond Documents are paid in full.

Section 1.05. Construction. Unless the context of this Agreement otherwise clearly requires, references to the plural include the singular, to the singular include the plural and to the part include the whole. The word “including” shall be deemed to mean “including but not limited to,” and “or” has the inclusive meaning represented by the phrase “and/or.” The words “hereof,” “herein,” “hereunder” and similar terms in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement. The Section headings contained in this Agreement and the table of contents preceding this Agreement are for reference purposes only and shall not control or affect the construction of this Agreement or the interpretation thereof in any respect. Article, section, subsection, exhibit, schedule and annex references are to this Agreement unless otherwise specified. Any exhibit, schedule or annex attached hereto is incorporated by reference herein and is a constituent part of this Agreement.

ARTICLE II

THE BONDS

Section 2.01. Authorized Amount of Bonds; Form of Bonds.

(a) No Bonds may be issued under the provisions of this Agreement except in accordance with this Article. The total maximum principal amount of Bonds that may be issued and Outstanding hereunder is expressly limited to \$_____. The Bonds shall be designated “Cass County, North Dakota, Recovery Zone Facility Revenue Refunding Bonds (McNeilus Steel, Inc. Project), Series 2016.”

(b) The Bonds shall be in substantially the form of Exhibit B, with such appropriate variations, omissions, substitutions and insertions as are permitted or required hereby or are required by law and may have such letters, numbers or other marks of identification and such legends and endorsements placed thereon as may be required to comply with any Applicable Laws.

(c) The Bonds shall be in either typewritten or printed form, as the Borrower shall direct, on behalf of the Issuer; provided that any expenses, including but not limited to expenses of printing, incurred in connection therewith shall be paid by the Borrower.

Section 2.02. Issuance of Bonds. The Bonds shall bear interest from the Issue Date, until paid, at the rate set forth in Exhibit A, and shall mature, unless sooner paid, on the Maturity

Date on which date all unpaid principal, redemption premium, if any, and interest on the Bonds shall be due and payable.

The Bonds shall be issued as fully registered bonds without coupons in Authorized Denominations. The Bonds shall be numbered from R-1 upwards bearing numbers not then contemporaneously outstanding (in order of issuance) according to the records of the Issuer. Upon the initial issuance of the Bonds, the Issuer shall execute and deliver the Bonds to the Purchaser, as the registered owner of the Bonds.

The Bonds shall be dated the Issue Date. All Bonds shall bear interest (i) from the Issue Date, if executed and delivered prior to the first Interest Payment Date, or (ii) otherwise from the Interest Payment Date that is, or that immediately precedes, the date on which such Bond has been executed and delivered (unless payment of interest is in default, in which case such Bond shall bear interest from the date to which interest has been paid).

The principal and Purchase Price of, redemption premium, if any, and the interest on the Bonds shall be payable in lawful currency of the United States. The principal and Purchase Price of and redemption premium, if any, on the Bonds shall be paid to the Purchaser (without any presentment thereof, except upon the payment of the final installment of principal, and without any notation of such payment being made thereon), by the Purchaser debiting an account of the Borrower as may be provided in the Continuing Covenant Agreement or in such other manner and at such address in the United States as may be designated by the Purchaser in writing to the Borrower.

All payments made shall be accompanied by sufficient information to identify the source and proper application of such payment and, if any Bonds are sold or transferred, the Purchaser shall notify the Borrower in writing of the name and address of the transferee, the effective date of the transfer, the principal amount of the Bonds transferred and the payment information notated on the Bonds as hereinafter described, and it will, prior to delivery of such Bonds, make a notation on such Bonds of the date to which interest has been paid thereon and of the amount of any prepayments made on account of the principal thereof.

Section 2.03. Interest Rate. The Bonds shall bear interest as provided in Exhibit A from the Issue Date to the date of payment in full of the Bonds. Interest on the Bonds shall be calculated on the Principal Amount as described in Exhibit A.

Section 2.04. Reserved.

Section 2.05. Execution; Limited Obligation. The Bonds shall be executed on behalf of the Issuer by the manual or facsimile signature of the Chair of the Board of County Commissioners of the Issuer and attested by the manual or facsimile signature of the County Auditor of the Issuer and shall have impressed or imprinted thereon the seal (or a facsimile thereof), if any, of the Issuer. In case any officer whose manual or facsimile signature shall appear on the Bonds shall cease to be such officer before the delivery of such Bonds, such manual or facsimile signature shall nevertheless be valid and sufficient for all purposes.

The Bonds shall be limited obligations of the Issuer. The principal and Purchase Price of, redemption premium, if any, and interest on the Bonds shall not be deemed to constitute or create

an indebtedness, liability or obligation of the Issuer, the State or any political subdivision or agency thereof within the meaning of any State constitutional provision or statutory limitation or a pledge of the faith and credit or the taxing power of the State or any such political subdivision or agency, including the Issuer. The principal and Purchase Price of, redemption premium, if any, and interest on the Bonds are payable solely from and secured by Revenues, all as described in and subject to limitations set forth in this Agreement, for the equal and ratable benefit of the Owners, from time to time, of the Bonds.

THE ISSUANCE OF THE BONDS WILL NOT CONSTITUTE A DEBT OR A PLEDGE OF THE FAITH AND CREDIT OF THE ISSUER OR THE STATE, AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF WILL BE PLEDGED TO THE PAYMENT OF THE BONDS. NEITHER THE ISSUER, THE STATE, NOR ANY POLITICAL SUBDIVISION OF THE STATE SHALL IN ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OR PURCHASE PRICE OF, REDEMPTION PREMIUM, IF ANY, OR INTEREST ON ANY OF THE BONDS OR FOR THE PERFORMANCE OF ANY PLEDGE, OBLIGATION OR AGREEMENT UNDERTAKEN BY THE ISSUER EXCEPT TO THE EXTENT THAT THE MONEYS PLEDGED THERETO ARE SUFFICIENT THEREFOR. NO OWNER OF ANY BOND HAS THE RIGHT TO COMPEL ANY EXERCISE OF TAXING POWER OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF TO PAY THE BONDS OR THE INTEREST THEREON, AND THE BONDS DO NOT CONSTITUTE AN INDEBTEDNESS OF THE ISSUER, THE STATE OR ANY POLITICAL SUBDIVISION OF THE STATE, OR A LOAN OF CREDIT OF ANY OF THE FOREGOING WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION.

Section 2.06. Mutilated, Lost, Stolen or Destroyed Bonds. If any Bond is mutilated, lost, stolen or destroyed, the Issuer may execute a new Bond of the same maturity, interest rate, principal amount and tenor in lieu of and in substitution for the Bond mutilated, lost, stolen or destroyed; provided, that there shall be first furnished to the Issuer evidence satisfactory to it of the ownership of such Bond and of such loss, theft or destruction (or, in the case of a mutilated Bond, such mutilated Bond shall first be surrendered to the Issuer), together with indemnity satisfactory to the Issuer and compliance with such other reasonable regulations as the Issuer may prescribe. If any such Bond shall have matured or a redemption date pertaining thereto shall have passed, instead of issuing a new Bond the Issuer may pay the same without surrender thereof, upon receipt of such evidence, indemnification and payment of fees and expenses as described herein. The Issuer may charge the Owner of such Bond with its reasonable fees and expenses incurred in connection with this Section.

Section 2.07. Exchangeability and Transfer of Bonds; Persons Treated as Owners. The Issuer shall keep a registration book showing the name and address of the Owner of the Bond.

Any Owner of a Bond, in person or by such Owner's duly authorized attorney, may transfer title to such Owner's Bond upon surrender thereof at the principal office of the Issuer, by providing the Issuer with a written instrument of transfer (in substantially the form of assignment attached to the Bond) executed by the Owner or such Owner's duly authorized attorney, and thereupon, the Issuer shall execute and deliver in the name of the transferee or transferees a new

Bond or Bonds of the same aggregate principal amount and tenor as the Bond surrendered (or for which transfer of registration has been effected) and of any Authorized Denomination(s).

Bonds may be exchanged upon surrender thereof at the principal office of the Issuer with a written instrument of transfer satisfactory to the Issuer executed by the Owner or such Owner's attorney duly authorized in writing, for an equal aggregate principal amount of Bonds of the same tenor as the Bonds being exchanged and of any Authorized Denomination(s). The Issuer shall execute and deliver Bonds that the Owner making the exchange is entitled to receive, bearing numbers not contemporaneously then outstanding.

Such registrations of transfer or exchanges of Bonds shall be without charge to the Owners of such Bonds, but any taxes or other governmental charges required to be paid with respect to the same shall be paid by the Owner of the Bond requesting such registration of transfer or exchange as a condition precedent to the exercise of such privilege. Any service charge made by the Issuer for any such registration of transfer or exchange and all reasonable expenses of the Issuer and the Purchaser shall be paid by the Borrower. In case of any transfer, the Purchaser shall give the Borrower written notice of the name and address of the transferee.

The person in whose name any Bond shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of either principal or interest shall be made only to or upon the order of the registered owner thereof or such Owner's duly authorized attorney, but such registration may be changed as hereinabove provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

All Bonds issued upon any registration of transfer or exchange of Bonds shall be legal, valid and binding limited obligations of the Issuer, evidencing the same debt, and entitled to the same security and benefits under this Agreement, as the Bonds surrendered upon such registration of transfer or exchange.

Notwithstanding the foregoing, the Bonds may only be transferred in Authorized Denominations to (x) an affiliate of an Owner of the Bonds, (y) a trust or custodial arrangement established by an Owner of the Bonds or one of its affiliates, the owners of the beneficial interests in which are limited to qualified institutional buyers, as defined in Rule 144A promulgated under the Securities Act of 1933, as amended (the "1933 Act"), or (z) to a Person that is a qualified institutional buyer that is a commercial bank having a combined capital and surplus, determined as of the date of any transfer pursuant to this Section, of \$5,000,000,000 or more that has executed and delivered to the Issuer and the Borrower an Investor Letter in the form of Exhibit C.

Section 2.08. Cancellation. All Bonds that have been surrendered to the Issuer pursuant to Sections 2.06 or 2.07, for the purpose of purchase upon the Mandatory Purchase Date or for payment upon maturity or redemption prior to maturity, shall be cancelled and destroyed by the Issuer.

Section 2.09. Mandatory Purchase of the Bonds.

(a) ***Mandatory Purchase on Mandatory Purchase Date.*** The Bonds shall be subject to mandatory tender for purchase on the Mandatory Purchase Date at the Purchase Price thereof. The Owners shall tender the Bonds to the Issuer by 10:00 a.m., Local Time, on the Mandatory Purchase Date.

(b) ***Bonds Deemed Tendered.*** If an Owner fails to deliver such Bond to the Issuer on or before the Mandatory Purchase Date, then such Bond that is not delivered to the Issuer shall be deemed to have been properly tendered (such Bond being hereinafter referred to as an “Untendered Bond”) and, to the extent that there shall be on deposit with the Issuer on the date purchase thereof is required as provided herein funds sufficient to pay the Purchase Price thereof, such Untendered Bond shall cease to constitute or represent a right to payment of principal or interest thereon and shall constitute and represent only the right to the payment of the Purchase Price payable on such date.

(c) ***Source of Funds for Purchase of Bonds.*** On the Mandatory Purchase Date the Issuer shall purchase (but solely from funds set forth below) the Bonds tendered (or deemed tendered) for purchase in accordance with this Section at the applicable Purchase Price. Funds for the payment of the Purchase Price for such Bonds shall be paid by the Issuer solely from moneys furnished by the Borrower and available for such purpose.

(d) ***Failure to Purchase on the Mandatory Purchase Date.*** Notwithstanding anything in this Agreement to the contrary, in the event the Bonds are not purchased or remarketed on the Mandatory Purchase Date, such Bonds shall constitute Unremarketed Bonds and such Unremarketed Bonds shall bear interest at the rates and shall be payable and redeemed on the dates and in the amounts set forth in the Continuing Covenant Agreement.

Section 2.10. Redemption of Bonds.

(a) ***Optional Redemption.*** Subject to any limitations set forth in a Continuing Covenant Agreement, the Bonds are subject to redemption in Authorized Denominations on any Interest Payment Date at the direction of the Borrower in accordance with Section 3.05, on behalf of the Issuer, in whole or in part, at a redemption price equal to the principal amount of the Bonds to be redeemed plus accrued interest thereon to, but not including, the redemption date. Notwithstanding anything herein to the contrary, the Bonds may be redeemed in amounts less than Authorized Denominations as required by Section 3.01(b) of the Continuing Covenant Agreement.

(b) ***Extraordinary Optional Redemption.*** The Bonds are subject to redemption in whole, at the direction of the Borrower, on behalf of the Issuer, at a redemption price equal to 100% of the principal amount of the Bonds to be redeemed plus accrued interest thereon to, but not including, the redemption date, on any date for which the requisite notice of redemption can be given, within one hundred eighty (180) days of the occurrence of any of the following events:

(i) the Project shall have been damaged or destroyed to such an extent that in the judgment of the Borrower (A) it cannot reasonably be restored within a period of three (3) consecutive months to the condition thereof immediately preceding such damage or destruction, (B) the Borrower is thereby prevented from carrying on its normal operations at the Project for a period of three (3) consecutive months, or (C) it would not be economically feasible for the Borrower to replace, repair, rebuild or restore the same;

(ii) title in and to, or the temporary use of, all or substantially all of the Project shall have been taken under the exercise of the power of Eminent Domain by any Governmental Authority or any Person acting under governmental authority (including such a taking as, in the judgment of the Borrower, results in the Borrower being prevented thereby from carrying on its normal operations at the Project for a period of three (3) consecutive months);

(iii) as a result of any changes in the Constitution of the State, or the Constitution of the United States of America or by legislative or administrative action (whether state or federal) or by final decree, judgment, decision or order of any court or administrative body (whether state or federal), this Agreement shall have become void or unenforceable or impossible of performance in accordance with the intent and purpose of the parties as expressed therein;

(iv) unreasonable burdens or excessive liabilities shall have been imposed on the Borrower with respect to the operations of the Project, including, without limitation federal, state or other ad valorem, property, income or other taxes not being imposed on the date of this Agreement that, in the judgment of the Borrower, render the continued operation of the Project uneconomical;

(v) changes which the Borrower cannot reasonably control or overcome in the economic availability of materials, supplies, labor, equipment and other properties and things necessary for the efficient operation of the Project for the purposes contemplated by this Agreement shall have occurred or technological changes that the Borrower cannot reasonably overcome shall have occurred that, in the judgment of the Borrower, render the continued operation of the Project uneconomical;

(vi) legal curtailment of the Borrower's use and occupancy of all or substantially all of the Project for any reason other than that set forth in (ii) above, which curtailment shall, in the judgment of the Borrower, prevent the Borrower from carrying on its normal operations at the Project for a period of three (3) consecutive months; or

(vii) this Agreement is terminated prior to its expiration for any reason other than the occurrence of an Event of Default under this Agreement.

Notwithstanding the foregoing provisions of this paragraph (b), any redemption under this paragraph (b) shall be subject to the provisions of the Continuing Covenant Agreement and the written direction or consent of the Purchaser.

(c) ***Mandatory Sinking Fund Redemptions.*** The Bonds are not subject to mandatory sinking fund redemption.

(d) ***Redemption of Unremarketed Bonds.*** Unremarketed Bonds are subject to special mandatory redemption by the Borrower, at a redemption price equal to 100% of the principal amount of the Bonds to be redeemed plus accrued interest thereon to but not including the date of such redemption, on the dates, in the amounts and in the manner set forth in the Continuing Covenant Agreement.

(e) ***Selection of Bonds to be Redeemed.*** If less than all the Outstanding Bonds shall be called for redemption, the Issuer shall select or arrange for the selection, in such manner as it shall deem fair and equitable and pursuant to its rules and procedures of the Bonds, in Authorized Denominations, provided that any Bond or portion thereof remaining Outstanding shall be in an Authorized Denomination. If there shall be called for redemption less than the principal amount of a Bond, (i) the Issuer shall execute and deliver, upon surrender of such Bond, without charge to the Owner thereof in exchange for the unredeemed principal amount of such Bond at the option of such Owner, Bonds in any of the Authorized Denominations, or (ii) to the extent provided in the form of the Bond, the Owner may reflect the amount of the Bonds being redeemed in the Table of Partial Redemptions without further action.

Section 2.11. Notice of Redemption. The Borrower may exercise its option to prepay the Loan and thereby cause a redemption of Bonds pursuant to Section 2.10(a) or (b) by giving written notice to the Issuer and the Purchaser, not less than sixty (60) days prior to the date selected for redemption; provided, however, that, if such redemption is pursuant to Section 2.10(a) or (b), the Borrower shall also deliver a certificate of a Borrower Representative certifying that the conditions precedent to such redemption have been met, and that any conditions to such redemption set forth in a Continuing Covenant Agreement have been met. Notwithstanding the foregoing, the Borrower is not required to provide any notice of redemptions pursuant to Section 2.10(a) which are effected as required by Section 3.01(b) of the Continuing Covenant Agreement. A notice of optional redemption shall describe whether and the conditions under which the call for redemption shall be revoked. All Bonds properly called for redemption will cease to bear interest on the date fixed for redemption, provided funds for their redemption have been duly deposited with the Issuer and, thereafter, the Owners of such Bonds called for redemption shall have no rights in respect thereof except to receive payment of the redemption price from the Issuer and a new Bond for any portion not redeemed. On a date no later than the date fixed for redemption in such notice, the Borrower shall pay, on behalf of the Issuer, to the Owner moneys in an amount sufficient, together with other moneys, if any, held by the Owner and available for the redemption of the Bonds, to redeem the Bonds at the redemption price set forth above.

ARTICLE III

THE LOAN AND ACCOUNTS

Section 3.01. Loan of Bond Proceeds. To provide funds for the refunding of the Prior Bonds, the Issuer agrees that it will sell, issue and deliver the Bonds in the aggregate principal amount not to exceed \$_____ to the Purchaser. The Issuer agrees, upon the terms and conditions contained in this Agreement, to lend to the Borrower the proceeds received by the Issuer from the sale of the Bonds. The Loan shall be made by depositing the proceeds from the initial sale of the Bonds into an account of the Borrower with the Purchaser. Such proceeds shall be disbursed to or on behalf of the Borrower as provided in Section 4.02.

Section 3.02. Repayment of Loan. The Borrower hereby agrees to repay the Loan by making the following payments:

(a) Subject to Section 3.06, the Borrower shall pay or cause to be paid, on behalf of the Issuer, to the Owner on or before any Interest Payment Date for the Bonds or any other date that any payment of interest, redemption premium, if any, or principal is required to be made in respect of the Bonds pursuant to this Agreement or pursuant to Section 3.01(b) of the Continuing Covenant Agreement, until the principal of, redemption premium, if any, and interest on the Bonds shall have been fully paid or provision for the payment thereof shall have been made in accordance with this Agreement, a sum which will enable the Issuer to pay the amount payable on such date as principal of (whether at maturity or upon redemption or acceleration or otherwise), redemption premium, if any, and interest on the Bonds as provided in herein.

It is understood and agreed that all payments payable by the Borrower under this Section 3.02 are assigned by the Issuer to the Owners of the Bond, as their interests may appear. The Borrower assents to such assignment. The Issuer hereby directs the Borrower, and the Borrower hereby agrees, to pay directly to the Owners, in immediately available funds, all payments payable by the Borrower pursuant to this Section 3.02(a). The Issuer covenants that it will not pledge the payments payable by the Borrower under this Section 3.02 other than to secure the Bonds.

(b) The Borrower also shall pay or cause to be paid the reasonable fees and expenses of the Issuer and the Calculation Agent, such fees and expenses to be paid when due and payable by the Borrower directly to the Issuer and the Calculation Agent, respectively, for their own account. The Borrower also shall pay to the Purchaser any amounts owed to the Purchaser under the Continuing Covenant Agreement.

(c) The Borrower also shall pay or cause to be paid when due and payable the reasonable fees and expenses of the Issuer related to the Project and the issuance of the Bonds, including without limitation, attorneys' fees and expenses.

(d) The Borrower also shall pay or cause to be paid, when due to the Owners the Purchase Price of Bonds on the Mandatory Purchase Date, all as more particularly described in Section 2.09 of this Agreement.

(e) In the event the Borrower shall fail to make any of the payments required in this Section 3.02, the item or installment so in default shall continue as an obligation of the Borrower shall bear interest at the Default Rate until the amount in default shall have been fully paid.

Section 3.03. Security. The Borrower hereby irrevocably pledges all Revenues to repayment of the principal and Purchase Price of, redemption premium, if any, and interest on the Bonds and grants a legally valid and binding and perfected first priority Lien on such Revenues to the Owners of the Bonds, subject to no Liens other than Permitted Liens.

Section 3.04. Unconditional Obligations. The obligation of the Borrower to make the payments required by Section 3.02 shall be absolute and unconditional. Except as expressly provided for herein, the Borrower shall pay all such amounts without abatement, diminution or deduction (whether for taxes or otherwise) regardless of any cause or circumstance whatsoever including, without limitation, any defense, set-off, recoupment or counterclaim that the Borrower may have or assert against the Issuer, the Purchaser or any other Person.

Section 3.05. Prepayments of Loan. The Borrower may prepay all or any part of the amounts required to be paid by it under Section 3.02 (and thereby cause a redemption of Bonds) at the times and in the amounts provided in Section 2.10 for redemption of the Bonds, and in any such case, the Borrower shall cause to be furnished to the Owners, on behalf of the Issuer, such amounts on or prior to applicable redemption dates.

Section 3.06. Swaps. The Borrower may enter into a Swap relative to its obligation to pay interest under Section 3.02. The Borrower shall timely make to the Swap Provider all payments required by the Swap. The Borrower hereby grants a security interest in and to its interest in any Swap and all payments made thereunder, together with any proceeds thereof, to the Owners and the Swap Provider and such security interest shall constitute part of the security for the Bonds. The Borrower shall direct the Swap Provider to make all payments pursuant to the Swap directly to the Owners. To the extent a Periodic Swap Payment made by the Swap Provider is actually received by the Owners, the Borrower shall receive a credit on that amount against its obligation to make an interest payment as required by Section 3.02.

ARTICLE IV

REFUNDING OF PRIOR BONDS

Section 4.01. REFUNDING OF PRIOR BONDS. The Borrower will use a portion of the proceeds of the Bonds to refund all outstanding Prior Bonds on the Call Date, all as provided herein. In connection with such refunding and as a condition that must be satisfied prior to or simultaneously with the issuance of the Bonds, the Borrower acknowledges and agrees that it will take, or cause to be taken, all actions necessary and appropriate in order to cause any liens or encumbrances on the Facilities or the revenues thereof securing the Prior Bonds to be satisfied and discharged and to provide for the payment and redemption of the Prior Bonds and otherwise wind up all transactions under the Prior Bonds and all other documents, instruments and agreements which are necessary or appropriate in order to carry out the transactions contemplated by this Agreement.

The Borrower covenants and agrees that, in addition to the proceeds of the Bonds, it will provide such moneys as may be required to pay the principal of and interest on the Prior Bonds to the Call Date and to redeem in whole the Prior Bonds on the Call Date, and that on the Call Date there shall accordingly be sufficient funds on hand with the owner of the Prior Bonds to pay all principal of, premium, if any, and interest then due on the Prior Bonds. The Borrower further covenants and agrees that it will give notice of the redemption in whole of the Prior Bonds to be redeemed, in accordance with the provisions of the Prior Bonds.

Section 4.02. Borrower and Issuer Representatives and Successors. At or prior to the initial sale of the Bonds, the Borrower and the Issuer shall appoint a Borrower Representative and an Issuer Representative, respectively, for the purpose of taking all actions and delivering all certificates required to be taken and delivered by the Borrower Representative and the Issuer Representative under the provisions of this Agreement. The Borrower and the Issuer, respectively, may appoint alternate Borrower Representatives and alternate Issuer Representatives to take any such action or make any such certificate if the same is not taken or made by the Borrower Representative or the Issuer Representative. In the event any of such persons, or any successor appointed pursuant to the provisions of this Section, should resign or become unavailable or unable to take any action or deliver any certificate provided for in this Agreement, another Borrower Representative or alternate Borrower Representative, or another Issuer Representative or alternate Issuer Representative, shall thereupon be appointed by the Borrower or the Issuer, respectively. If the Borrower or the Issuer fails to make such designation within ten (10) days following the date when the then incumbent Borrower Representative or Issuer Representative resigns or becomes unavailable or unable to take any such actions, the President of the Borrower, or the County Auditor of the Issuer, shall serve as the Borrower Representative or the Issuer Representative, respectively.

Whenever the provisions of this Agreement require the Borrower's approval, require the Borrower to take some action at the request of the Issuer or require the Issuer to take some action at the request or direction of the Borrower, the Borrower Representative shall make such approval, request or direction in writing unless otherwise specified in this Agreement. Any action so taken with the written approval of or at the written direction of the Borrower Representative shall be binding upon the Borrower and the Issuer, the Calculation Agent, and the Purchaser shall be authorized to rely on any such approval or action.

Whenever the provisions of this Agreement require the Issuer's approval or require the Issuer to take some action at the request of the Borrower, such approval shall be made or such action shall be taken by the Issuer Representative and the Borrower, the Calculation Agent and the Purchaser shall be authorized to rely on any such approval or action.

ARTICLE V

CONDITIONS PRECEDENT TO PURCHASE OF BONDS

Section 5.01. Documentary Requirements. The obligation of the Purchaser to purchase the Bonds is subject to the conditions precedent that the Purchaser shall have received, on or before the Closing Date, the items listed below in this Section, each dated and in form and

substance as is satisfactory to the Purchaser. However, should the Purchaser purchase the Bonds prior to its receipt of and approval of any of the following items, such purchase shall not be deemed to be a waiver of any documentary requirement.

(a) Each of the items listed in Section 4.01 of the Continuing Covenant Agreement.

(b) A certificate of the Governing Body of the Issuer certifying the names and signatures of the Persons authorized to sign, on behalf of the Issuer, this Agreement and the other Bond Documents to which it is a party and the other documents to be delivered by it hereunder or thereunder.

(c) An Opinion of Counsel to the Issuer to the effect that this Agreement and the other Bond Documents to which the Issuer is a party have been duly authorized, executed and delivered by the Issuer and are legal, valid and binding agreements of the Issuer enforceable against the Issuer in accordance with their terms.

(d) An Opinion of Counsel given by Bond Counsel to the effect that the Bonds have been duly authorized and validly issued, that this Agreement creates a valid Lien on the Revenues and that interest on the Bonds will not be included in gross income of the Owners thereof for federal income tax purposes.

(e) A certificate of the Issuer, dated the Closing Date, stating that: (i) the representations and warranties of the Issuer contained in this Agreement and in the other Bond Documents to which it is a party are correct on and as of the Closing Date as though made on and as of such date; (ii) no petition by or against the Issuer has at any time been filed under the Bankruptcy Code or under any similar law; (iii) no Default or Event of Default has occurred and is continuing, or would result from the Issuer's execution and performance of this Agreement or the other Bond Documents to which it is a party; (iv) all conditions precedent to the issuance of the Bonds have been satisfied and the Issuer has duly executed and delivered the Bonds to the Purchaser.

(f) Such other documents, instruments, approvals and, if reasonably requested by the Purchaser, certified duplicates of executed originals thereof, and opinions as the Purchaser may reasonably request.

Section 5.02. Incorporation by Reference. The conditions precedent contained in Article IV of the Continuing Covenant Agreement are hereby incorporated by reference and shall have the same force and effect as if set forth herein.

ARTICLE VI

REPRESENTATIONS AND WARRANTIES OF BORROWER

The Borrower represents and warrants as of the Closing Date as follows, which representations and warranties shall survive the execution of this Agreement:

Section 6.01. Organization; Power; Qualification. The Borrower (a) is duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or formation, (b) has the power and authority to own its Properties and to carry on its businesses as now being conducted and as currently contemplated to be conducted hereafter and (c) is duly qualified and authorized to do business in each jurisdiction in which the character of its Properties or the nature of its business requires such qualification and authorization.

Section 6.02. Authorization; Enforceability. The Borrower has the right, power and authority and has taken all necessary corporate and other action to authorize the execution, delivery and performance of this Agreement and each of the other Bond Documents to which it is a party in accordance with their respective terms. This Agreement and each of the other Bond Documents to which it is a party have been duly executed and delivered by the duly authorized officers of the Borrower, and each such document constitutes the legal, valid and binding obligation of the Borrower enforceable in accordance with its terms, except as such enforceability may be limited by (a) the effect of any applicable bankruptcy, insolvency, reorganization, moratorium or similar law affecting creditors' rights generally, and (b) general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

Section 6.03. Noncontravention. The execution, delivery and performance by the Borrower of this Agreement and each of the other Bond Documents to which it is a party, in accordance with their respective terms, and the transactions contemplated hereby and thereby do not and will not (a) contravene or conflict with the Borrower's articles of incorporation, by-laws or other organizational documents, (b) require any consent or approval of any creditor of the Borrower, (c) violate any Applicable Law (including, without limitation, Regulations G, T, U or X of the Board of Governors of the Federal Reserve System, or any successor regulations), (d) conflict with, result in a breach of or constitute a default under any Contract to which the Borrower is a party or by which it or any of its Property may be bound or (e) result in or require the creation or imposition of any Lien upon any Property now owned or hereafter acquired by the Borrower except such Liens, if any, expressly created by this Agreement or the other Bond Documents.

Section 6.04. Governmental Approvals. No further authorizations, consents or approvals of Governmental Authorities are required in connection with the execution and delivery by the Borrower of this Agreement or the other Bond Documents to which the Borrower is a party or in connection with the carrying out by the Borrower of its obligations under this Agreement or the other Bond Documents to which the Borrower is a party.

Section 6.05. Litigation. There is no action, suit, proceeding, inquiry or investigation at law or in equity or before or by any Governmental Authority pending, or, to the best knowledge of the Borrower, threatened against or affecting the Borrower wherein an unfavorable decision, ruling or finding would adversely affect (i) the transactions contemplated by, or the validity or enforceability of, the Bond Documents or (ii) the tax-exempt status of interest on the Bonds.

Section 6.06. Title to Properties. The Borrower has good, marketable title to or a leasehold interest in its Property. None of the Property of the Borrower is subject to any Lien, except Permitted Liens. The Borrower has complied with all obligations under all leases to

which it is a party and under which it is in occupancy, and all such leases are in full force and effect. The Borrower enjoys peaceful and undisturbed possession under all such leases.

Section 6.07. Absence of Defaults and Events of Default. No Default or Event of Default has occurred and is continuing.

No defaults by the Borrower or any of its Affiliates exist under any Contracts or judgments, decrees or orders, except for defaults that, singly or in the aggregate, have not had and will not have a Material Adverse Effect (as defined in the Continuing Covenant Agreement) or an adverse effect on the Borrower or the Borrower's ability to perform its obligations under this Agreement or any of the other Bond Documents.

Section 6.08. Federal Tax Matters. The Borrower makes the following representations, understanding, after such consultation with such legal counsel as deemed appropriate, that the exclusion from gross income of interest on the Bonds for federal income tax purposes is dependent on the accuracy and truthfulness of such representations:

(a) The "issue price" of the Bonds is no greater than the outstanding stated principal amount of the Prior Bonds and the Prior Bonds were issued before January 1, 2011.

(b) At least ninety-five percent (95%) of the net proceeds of the Prior Bonds were used to construct and equip the Project which constituted "recovery zone property" within the meaning of Section 1400U-3(c)(1) of the Code and none of the Prior Bond proceeds were used to provide any residential rental property, private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, racetrack or other facility used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises, all within the meaning of Section 1400U-3 of the Code.

(c) The weighted average maturity of the Bonds does not exceed one hundred twenty percent (120%) of the average reasonably expected economic life of the Project financed with proceeds of the Prior Bonds within the meaning of Section 147(b) of the Code.

(d) Within the meaning of Section 147(c) of the Code, no portion of the proceeds of the Prior Bonds were used (directly or indirectly) for the acquisition of land (or an interest therein) to be used for farming purposes and not more than twenty-five percent (25%) of the net proceeds of the Prior Bonds were used (directly or indirectly) for the acquisition of any other land (or interest therein).

(e) No portion of the net proceeds of the Prior Bonds were used for the acquisition of any property (or any interest therein) unless the first use of such property was pursuant to such acquisition, other than land, within the meaning of Section 147(d) of the Code.

(f) No portion of the Prior Bond proceeds were used to provide an airplane, sky box or other private luxury box, health club facility, facility primarily used for gambling, or store the principal business of which is the sale of alcoholic beverages for consumption off premises, all within the meaning of Section 147(e) of the Code.

(g) The Prior Bonds satisfied the public approval requirements of Section 147(f) of the Code because the issuance of the Bonds was approved by the Issuer (which has jurisdiction over the Project) by its elected legislative body after reasonable public notice published in a newspaper of general circulation in the corporate limits of the Issuer not less than fourteen (14) days prior to the date of the public hearing held with respect to the Bonds.

(h) No more than two percent (2%) of the proceeds of the Prior Bonds were used to finance Costs of Issuance of the Bonds within the meaning of Section 147(g) of the Code.

(i) The Issuer has designated the Prior Bonds as Recovery Zone Facility Bonds for purposes of Section 1400U-3 of the Code and the Prior Bonds received proper allocation of the Recovery Zone Facility Bond volume cap from the Issuer for the entire amount of the Prior Bonds in accordance with Section 1400U-1 of the Code.

Section 6.09. Tax-Exempt Status of the Bonds. The Borrower has taken no action, and has not omitted to take any action, which action or omission would in any way affect or impair the excludability of interest on the Bonds from gross income of the Owners thereof for federal income tax purposes.

ARTICLE VII

REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE ISSUER

The Issuer represents, warrants, covenants and agrees as of the Closing Date that:

Section 7.01. Organization; Power; Qualification. The Issuer is a political subdivision duly organized and existing under and pursuant to the Constitution and laws of the State, including the Act, and is authorized by the Act to execute and to enter into this Agreement and the other Bond Documents to which it is a party and to undertake the transactions contemplated herein and therein and to carry out its obligations hereunder and thereunder.

Section 7.02. Authorization of Bond Documents. The Issuer has all requisite power, authority and legal right to execute and deliver the Bond Documents to which it is a party and all other instruments and documents to be executed and delivered by the Issuer pursuant thereto, to perform and observe the provisions thereof and to carry out the transactions contemplated by the Bond Documents. All action on the part of the Issuer which is required for the execution, delivery, performance and observance by the Issuer of the Bond Documents has been duly authorized and effectively taken, and such execution, delivery, performance and observation by the Issuer do not contravene Applicable Law or any contractual restriction binding on or affecting the Issuer.

Section 7.03. Enforceability. This Agreement is, and each other Bond Document to which the Issuer is a party when delivered will be, legal, valid and binding special obligations of the Issuer enforceable against the Issuer in accordance with its terms except as the enforceability thereof may be limited by bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally.

Section 7.04. Governmental Approvals. The Issuer has duly approved the issuance of the Bonds and the Loan of the proceeds thereof to the Borrower refund the Prior Bonds; no other authorization or approval or other action by, and no notice to or filing with, any Governmental Authority is required as a condition to the performance by the Issuer of its obligations under any Bond Documents.

Section 7.05. No Default.

(a) There is no default of the Issuer in the payment of the principal of or interest on any of its indebtedness for borrowed money or under any instrument or instruments or agreements under and subject to which any indebtedness for borrowed money has been incurred which does or could affect the validity and enforceability of the Bond Documents or the ability of the Issuer to perform its obligations hereunder or thereunder, and no event has occurred and is continuing under the provisions of any such instrument or agreement which constitutes or, with the lapse of time or the giving of notice, or both, would constitute such a default.

(b) The Issuer is not in default under any of the provisions of the laws of the State, where any such default would affect the issuance, validity or enforceability of the Bonds or the transactions contemplated by the Bond Documents to which it is a party.

Section 7.06. Obligations of Issuer. With respect to the Bonds, there are no other obligations of the Issuer that have been, are being or will be (i) sold at substantially the same time, (ii) sold pursuant to the same plan of financing, and (iii) reasonably expected to be paid from substantially the same source of funds

Section 7.07. Noncontravention. The execution, delivery and performance of this Agreement, the Bond and each of the other Bond Documents in accordance with their respective terms do not and will not (a) contravene the Act, (b) require any consent or approval of any creditor of the Issuer, (c) violate any Applicable Law (including, without limitation, Regulations G, T, U or X of the Board of Governors of the Federal Reserve System, or any successor regulations) or (d) conflict with, result in a breach of or constitute a default under any Contract to which the Issuer is a party or by which it may be bound.

Section 7.08. Compliance with Law. In connection with the authorization, issuance and sale of the Bonds, the Issuer has complied with all provisions of the Constitution and laws of the State, including the Act.

Section 7.09. Litigation. There is no action, suit, proceeding, inquiry or investigation at law or in equity or before or by any court, public board or body pending, or, to the best knowledge of the Issuer, threatened against or affecting the Issuer wherein an unfavorable decision, ruling or finding would adversely affect (i) the transactions contemplated by, or the

validity or enforceability of, the Bonds and the other Bond Documents to which it is a party or (ii) the tax-exempt status of interest on the Bonds.

Section 7.10. Security. The Issuer has not assigned or pledged and will not assign or pledge its interest in this Agreement for any purpose other than to secure the Bonds. The Bonds constitute the only bonds or other obligations of the Issuer in any manner payable from the Revenues, and except for the Bonds, no bonds or other obligations have been or will be issued on the basis of this Agreement.

Section 7.11. Blue Sky. No representation is made herein as to compliance with the securities or “blue sky” laws of any jurisdiction.

Section 7.12. Pending Legislation and Decisions. There is no amendment, or to the knowledge of the Issuer, proposed amendment to the Constitution of the State or any State law or any administrative interpretation of the Constitution of the State or any State law, or any legislation that has passed either house of the legislature of the State, or any judicial decision interpreting any of the foregoing, the effect of which will materially adversely affect the issuance of the Bond, the security for the Bond or the Issuer’s obligations hereunder or under any of the other Bond Documents, or the Issuer’s ability to repay when due its obligations under this Agreement, the Bond and the other Bond Documents.

Section 7.13. Tax Covenants of the Issuer.

(a) The Issuer covenants and agrees as follows: (i) the Issuer will not knowingly take or permit any action to be taken that would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Bonds and, if it should take or permit any such action, the Issuer shall take all lawful actions within its power and control to rescind such action promptly upon having knowledge thereof; and (ii) the Issuer will take such action or actions, including amending this Agreement, as may be reasonably necessary in the opinion of Bond Counsel to comply fully with all Applicable Laws, policies, procedures or other official statements promulgated or, to the extent necessary in the opinion of Bond Counsel, proposed, by the United States Treasury or the Internal Revenue Service pertaining to obligations described in Section 103 of the Code.

(b) The Issuer covenants and agrees that it has not taken or permitted to be taken any action which will cause the interest on the Bonds to become includable in gross income for federal income tax purposes; provided that none of the covenants and agreements contained in this Section 7.13 will require the Issuer to enter an appearance or intervene in any administrative, legislative or judicial proceeding in connection with any changes in Applicable Laws or in connection with any generally applicable decisions of any Governmental Authority affecting the exclusion from gross income for federal income tax purposes of interest on the Bond; and provided further that the Issuer’s responsibilities, if any, pursuant to this paragraph shall be limited to actions within its control.

ARTICLE VIII

MAINTENANCE AND TAXES

Section 8.01. Borrower's Obligations to Maintain and Repair. The Borrower agrees that during the term of this Agreement it will keep and maintain all of its material properties and equipment (including the Facilities) necessary to the operation of its business in good condition, repair and working order, ordinary wear and tear excepted, at its own cost, and will make or cause to be made from time to time all repairs thereto (including external and structural repairs) and renewals and replacements thereto necessary for the operation thereof.

Section 8.02. Taxes and Other Charges. The Borrower will promptly pay and discharge or cause to be promptly paid and discharged, as the same become due, all taxes, assessments, governmental charges or levies and all utility and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Facilities imposed upon it or in respect of the Facilities before the same shall become in default, as well as all lawful claims which, if unpaid, might become a lien or charge upon such property and assets or any part thereof, except such that are contested in good faith by the Borrower for which the Borrower has maintained adequate reserves satisfactory to the Purchaser.

ARTICLE IX

INSURANCE, EMINENT DOMAIN, DAMAGE AND DESTRUCTION

Section 9.01. Insurance. The Borrower will, during the term of this Agreement and at all times while any Bonds are outstanding, continuously maintain casualty and liability insurance on the Facilities in amounts and covering such risks as are customarily insured against by businesses of like size and type, paying as the same become due all premiums in respect thereof. In addition the Borrower shall comply, or cause compliance, with applicable worker's compensation laws of the State.

Section 9.02. Provisions Respecting Eminent Domain; Damage; Destruction. In case of a taking or proposed taking of all or any part of the Facilities or any right therein by Eminent Domain, the party hereto upon which notice of such taking is served shall give prompt written notice to the other parties hereto. Each such notice shall describe generally the nature and extent of the taking or proposed taking and any proceedings or negotiations related thereto. If at any time while any of the Bonds are Outstanding, the Facilities, or any portion thereof, shall be damaged or destroyed by fire, flood, windstorm or other casualty, or title to, or the temporary use of, the Facilities, or any portion thereof, shall have been taken by the power of Eminent Domain, the Borrower (unless it shall have exercised its option to prepay all of the Bonds) shall cause the Net Proceeds or an amount equal thereto to be used for the repair, reconstruction, restoration or improvement of the Facilities or the redemption of the Bonds, or any combination thereof. In case of any damage to or destruction of all or any part of the Facilities exceeding \$50,000, the Borrower shall give prompt written notice thereof to the Issuer and the Purchaser. Notwithstanding the above, the Borrower shall comply with the terms of the Continuing Covenant Agreement relating to the use of Net Proceeds.

ARTICLE X

SPECIAL COVENANTS

Section 10.01. Access to the Facilities and Inspection. The Issuer and the Purchaser, and their respective agents and employees, shall have the right, at all reasonable times during normal business hours of the Borrower upon the furnishing of reasonable notice to the Borrower under the circumstances, to enter upon and examine and inspect the Project and to examine and copy the books and records of the Borrower insofar as such books and records relate to Costs of the Project or the Bond Documents.

Section 10.02. Further Assurances and Corrective Instruments. Subject to the provisions of this Agreement, the Issuer and the Borrower agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements and amendments hereto and such further instruments as may reasonably be required for carrying out the intention or facilitating the performance of this Agreement or the transactions contemplated hereby.

Section 10.03. Recording and Filing; Other Instruments. The Borrower shall cause this Agreement and all necessary financing statements (including continuation statements) to be recorded and filed in such manner and in such places as may be required by law to fully preserve and protect the security of the Owners and the rights of the Purchaser and to perfect any security interest created by this Agreement. The Borrower covenants that it will cause continuation statements to be filed as required by law in order fully to preserve and to protect the rights of the Purchaser or the Issuer in the assignment of certain rights of the Issuer under this Agreement. The Borrower and the Issuer shall execute and deliver all instruments and shall furnish all information and evidence deemed necessary or advisable in order to enable the Borrower to fulfill its obligations as provided in this Section. The Borrower shall file and re-file and record and re-record or shall cause to be filed and re-filed and recorded and re-recorded all instruments required to be filed and re-filed and recorded and re-recorded and shall continue or cause to be continued the liens of such instruments for so long as any of the Bonds shall be Outstanding and any other amounts remain due and payable under the Continuing Covenant Agreement.

Section 10.04. Tax-Exempt Status. The Borrower covenants and agrees that it has not taken and will not take or cause to be taken, and has not omitted and will not omit or cause to be omitted, any action which will result in interest paid on the Bonds being included in gross income of the Owners of the Bonds for the purposes of federal income taxation.

The Borrower covenants and agrees that it will take or cause to be taken all required actions necessary to preserve the exclusion from gross income for federal income tax purposes of interest on the Bonds; and the Issuer covenants and agrees that it will take or cause to be taken all required actions to preserve the exclusion from gross income for federal income tax purposes of interest on the Bonds; provided that the Issuer has no obligation or responsibility to direct or cause the Borrower to take any action.

Section 10.05. Indemnity Against Claims. The Borrower will pay and discharge and will indemnify and hold harmless the Issuer and the Purchaser, and their respective directors,

members, officers, employees and agents, from any taxes, assessments, impositions and other charges in respect of the Project. If any such claim is asserted, or any such lien or charge upon payments, or any such taxes, assessments, impositions or other charges, are sought to be imposed, the Issuer or the Purchaser, as the case may be, will give prompt written notice to the Borrower; provided, however, that the failure to provide such notice will not relieve the Borrower of the Borrower's obligations and liability under this Section and will not give rise to any claim against or liability of the Issuer or the Purchaser. The Borrower shall have the sole right and duty to assume, and shall assume, the defense thereof, with counsel acceptable to the Person on behalf of whom the Borrower undertakes a defense, with full power to litigate, compromise or settle the same in its sole discretion.

Section 10.06. Release and Indemnification. The Borrower shall at all times protect, indemnify and hold the Issuer and the Governing Body, and their respective members, directors, officers, employees, attorneys and agents, harmless against any and all liability, losses, damages, costs, expenses, taxes, causes of action, suits, claims, demands and judgments of any nature arising from or in connection with the Acquisition of the Project or the use or occupancy of the Facilities, including, without limitation, all claims or liability resulting from, arising out of or in connection with the acceptance or administration of the Bond Documents or the trusts thereunder or the performance of duties under the Bond Documents or any loss or damage to property or any injury to or death of any Person that may be occasioned by any cause whatsoever pertaining to the Project or the use thereof, including without limitation any lease thereof or assignment of any interest in this Agreement, such indemnification to include the reasonable costs and expenses of defending itself or investigating any claim of liability and other reasonable expenses and attorneys' fees incurred by the Issuer and the Governing Body, and their respective members, directors, officers, employees, attorneys and agents, in connection therewith, provided that the benefits of this Section shall not inure to any Person other than the Issuer, the Governing Body, and their respective members, directors, officers, employees, attorneys and agents, and provided further that such loss, damage, death, injury, claims, demands or causes shall not have resulted from the gross negligence or willful misconduct of, the Issuer, the Governing Body or such members, directors, officers, employees, attorneys and agents. The obligations of the Borrower under this Section shall survive the termination of this Agreement.

Section 10.07. Non-Arbitrage Covenant.

(a) The Borrower and the Issuer covenant that they will (i) not take, or fail to take, any action or make any investment or use of the proceeds of the Bonds that would cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code and (ii) comply with the requirements of Section 148 of the Code.

(b) In the event that all of the proceeds of the Bonds, including the investment proceeds thereof, are not expended by the date which is six (6) months following the Issue Date, or if for any other reason a rebate is payable to the United States pursuant to Section 148 of the Code, the Borrower shall calculate, or cause to be calculated, the amount of the required rebate to the United States of America, as described in the Tax Certificate (the "Rebate Amount"). The Borrower agrees to pay the amount so calculated, together with supporting documentation, to the Purchaser so as to permit the Purchaser to pay such rebate to the United States of America at the times required by the

Code. The amount paid by the Borrower to the Purchaser shall be deposited into a special fund designated as the Rebate Fund, which shall be created and maintained in accordance with the terms of the Tax Certificate. The Borrower shall maintain or cause to be maintained records of the determinations of the rebate, if any, pursuant to this Section 10.07(b) until six (6) years after the retirement of the Bonds. This Section 10.07(b) shall be construed in accordance with Section 148(f) of the Code, including, without limitation, any applicable tax regulations promulgated under the Code. Nothing contained in this Agreement shall be interpreted or construed to require the Issuer to pay any applicable rebate, such obligation being the sole responsibility of the Borrower. The Borrower shall pay all fees, costs and expenses associated with calculation of the Rebate Amount and upon request from the Issuer provide the Issuer with a copy of such calculation. The Issuer covenants that, if so requested by the Borrower, it shall execute any form required to be signed by an issuer of tax-exempt bonds in connection with the payment of any rebate or the recovery of overpayment of any rebate amount under the Code (including Internal Revenue Service Form 8038-T and Internal Revenue Service Form 8038-R). The Borrower shall supply all information required to be stated in such form and shall prepare such form. Except for the execution and delivery of such form upon timely presentation by the Borrower, the Issuer shall have no responsibility for such form or the information stated thereon.

Section 10.08. Notice of Determination of Taxability. Promptly after the Borrower first becomes aware of the occurrence of a Determination of Taxability or an event that could trigger the occurrence of a Determination of Taxability, the Borrower shall give written notice thereof to the Issuer and the Purchaser.

Section 10.09. Duties and Obligations. The Borrower covenants and agrees that it will fully and faithfully perform all the duties and obligations that the Issuer has covenanted and agreed in this Agreement to cause the Borrower to perform and any duties and obligations that the Borrower is required to perform. The foregoing shall not apply to any duty or undertaking of the Issuer that by its nature cannot be delegated or assigned.

Section 10.10. Financial Statements. The Borrower shall, upon request, deliver to the Purchaser and the Issuer as soon as practicable and in any event within 120 days after the end of each Fiscal Year, the audited financial statements of the Borrower for such Fiscal Year.

Section 10.11. Compliance with Laws. The Borrower shall comply with all Applicable Laws.

Section 10.12. Maintenance of Existence. The Borrower agrees that it will maintain its organizational existence, will not dissolve or otherwise dispose of all or substantially all of its Property and will not consolidate with or merge into another Person or permit one or more other Persons to consolidate with or merge into it, except in strict compliance with the terms of Applicable Law and the Continuing Covenant Agreement.

ARTICLE XI

ASSIGNMENT, LEASE AND SALE

Section 11.01. Restrictions on Transfer of Issuer's Rights. The Issuer agrees that, except for the assignment of certain of its rights, title and interests under this Agreement to the Purchaser, it will not during the term of this Agreement sell, assign, transfer or convey its rights, title and interests in this Agreement except as provided in Section 11.02.

Section 11.02. Assignment of Agreement by the Borrower or Lease or Sale of Project. All or a portion of the rights, duties and obligations of the Borrower under this Agreement may be assigned by the Borrower and the Project may be leased or sold as a whole or in part by the Borrower, without having to obtain the consent of the Issuer; provided that unless permitted in the immediately succeeding sentence, the Borrower shall not be released from its obligations hereunder in connection with any such assignment, lease or sale. Upon the assignment of all of the Borrower's rights, duties and obligations under this Agreement or the lease or sale of the Project as a whole, the Purchaser may execute a release of the Borrower from its obligations hereunder and under the other Bond Documents and all references to the "Borrower" in this Agreement, the other Bond Documents and the Bonds shall mean the assignee, lessee or purchaser if (i) such assignee, lessee or purchaser assumes the Borrower's obligations hereunder in writing, (ii) such assignee, lessee or purchaser has a consolidated tangible net worth (after giving effect to such assignment, lease or sale) of not less than the consolidated tangible net worth of the Borrower and its consolidated subsidiaries immediately prior to such assignment, lease or sale; (iii) no Event of Default has occurred and is continuing hereunder, and (iv) the Purchaser has consented in writing to such release. Prior to any assignment, lease or sale pursuant to this Section, the Borrower shall have caused to be delivered to the Issuer and the Purchaser, an Approving Opinion, satisfactory in form and substance to each of them. For purposes of this Section, the term "*consolidated tangible net worth*" means the difference obtained by subtracting total consolidated liabilities (not including as a liability any capital or surplus item) from total consolidated tangible assets of the Borrower and all of its consolidated Affiliates, computed in accordance with GAAP.

Section 11.03. Assumption of Agreement by Purchaser of Project Upon Foreclosure. With the prior written consent of the Issuer, any Person who purchases the Project upon foreclosure may assume the Borrower's rights, duties and obligations hereunder by delivering to the Issuer and the Purchaser, (a) a written assumption of such rights, duties and obligations satisfactory in form and substance to the Issuer and the Purchaser, and (b) an Approving Opinion, satisfactory in form and substance to the Issuer and the Purchaser. From and after the date of such assumption, the Borrower shall be deemed to be released from its rights, duties and obligations hereunder and all references to the "Borrower" in this Agreement, the other Bond Documents and the Bonds shall mean the Person who purchased the Project upon foreclosure.

ARTICLE XII

EVENTS OF DEFAULT

Section 12.01. Events of Default. The term “Event of Default” shall mean any one or more of the following events:

(a) Failure by the Borrower to make any payment required to be paid pursuant to Section 3.02;

(b) The occurrence of an Event of Default under the Continuing Covenant Agreement;

(c) Any representation or warranty made or deemed made by or on behalf of the Issuer or the Borrower contained in this Agreement or in any instrument furnished in compliance with or in reference to this Agreement proves false or misleading in any material respect as of the date of the making or furnishing thereof;

(d) Failure by the Issuer shall to observe or perform any of its other covenants, conditions, payments or agreements under this Agreement or the Bond for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, is given to the Issuer by the Borrower or the Purchaser;

(e) Failure by the Borrower to observe or perform any of its other covenants, conditions, payments or agreements under this Agreement (other than as described in Sections 12.01(a) or 12.01(b)) for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, is given to the Borrower by the Issuer or the Purchaser;

(f) The Borrower shall (i) apply for or consent to the appointment of, or the taking of possession by, a receiver, custodian, assignee, sequestrator, trustee, liquidator or similar official of the Borrower of all or a substantial part of its property, (ii) admit in writing its inability, or be generally unable, to pay its debts as such debts become due, (iii) make a general assignment for the benefit of its creditors, (iv) commence a voluntary case under the Bankruptcy Code (as now or hereafter in effect), (v) file a petition seeking to take advantage of any other federal or state law relating to bankruptcy, insolvency, reorganization, arrangement, winding-up or composition or adjustment of debts, (vi) fail to controvert in a timely or appropriate manner, or acquiesce in writing to, any petition filed against the Borrower in an involuntary case under the Bankruptcy Code, or (vii) take any corporate action for the purpose of effecting any of the foregoing; or

(g) A proceeding or case shall be commenced, without the application or consent of the Borrower, in any court of competent jurisdiction, seeking (i) the liquidation, reorganization, arrangement, dissolution, winding-up, composition or adjustment of debts of the Borrower, (ii) the appointment of a trustee, receiver, custodian, assignee, sequestrator, liquidator or similar official of the Borrower or of all or any substantial part of its assets, or (iii) similar relief in respect of the Borrower under any law relating to bankruptcy, insolvency, reorganization, arrangement, winding-up,

composition or adjustment of debts or an order for relief against the Borrower shall be entered in an involuntary case under the Bankruptcy Code.

Section 12.02. Rights and Remedies.

(a) Upon the occurrence of an Event of Default, the Purchaser (i) may by notice to the Issuer and the Borrower, declare the obligations of the Issuer under the Bond and the obligations of the Borrower hereunder, under the Loan and under the Continuing Covenant Agreement to be immediately due and payable, and the same shall thereupon become immediately due and payable (provided that, the obligations of the Issuer and the Borrower shall be and become automatically and immediately due and payable without such notice upon the occurrence of an Event of Default described in Section 12.01(f) or (g)), without demand, presentment, protest or further notice of any kind, all of which are hereby expressly waived by the Issuer and the Borrower; (ii) may cure any default, event of default or event of nonperformance under this Agreement or any of the other Bond Documents (in which event the Borrower shall reimburse the Purchaser therefor pursuant to the Continuing Covenant Agreement); (iii) may exercise its banker's lien or right of set off, (iv) may proceed to protect its rights by suit in equity, action at law or other appropriate proceedings, whether for specific performance of any covenant or agreement of the Issuer or the Borrower herein contained or in and of the exercise of any power or remedy granted to the Purchaser hereunder or under any of the Bond Documents and/or (v) may exercise any other rights or remedies available under any Bond Document, any other agreement or at law or in equity. The rights and remedies of the Purchaser specified herein are for the sole and exclusive benefit, use and protection of the Purchaser, and the Purchaser is entitled, but shall have no duty or obligation to the Issuer, the Borrower or otherwise, (A) to exercise or to refrain from exercising any right or remedy reserved to the Purchaser, or (B) to cause any other party to exercise or to refrain from exercising any right or remedy available to it under any of the Bond Documents.

(b) From and after the occurrence of an Event of Default, all amounts owing to the Purchaser hereunder, under the Bond or under the other Bond Documents shall accrue interest daily at the Default Rate. Interest accruing at the Default Rate shall be due and payable on demand.

(c) If the Purchaser shall have elected in its sole discretion the remedy set forth in Section 12.02(a)(i), the Issuer and the Borrower shall immediately pay all amounts outstanding hereunder, under the Bond and under the other Bond Documents.

Section 12.03. Application of Moneys. All of the moneys realized through the exercise of the remedies provided in Section 12.02 shall be used to pay principal and Purchase Price of and interest on the Bonds then due or overdue and costs incurred in the collection thereof (including reasonable attorneys' fees). If the available moneys are not sufficient on any payment date to pay principal and Purchase Price of and interest on the Bonds then due or overdue and costs incurred in the collection thereof (including reasonable attorneys' fees), they shall be applied first to the payment of costs incurred in the collection thereof (including reasonable attorneys' fees), second to interest then due on the Bonds, in the order of maturity of the installments of such interest, third to the payment of the unpaid principal or Purchase Price of the

Bonds which shall have become due, by reason of maturity, redemption, acceleration or otherwise and, fourth to the payment of any other amounts owed by the Borrower to the Purchaser pursuant to the Bond Documents.

Section 12.04. No Waiver; Remedies. No failure on the part of the Purchaser to exercise, and no delay in exercising, any right, power or privilege under this Agreement shall operate as a waiver of such right, power or privilege; nor shall any single or partial exercise of any right, power or privilege under this Agreement preclude any other further exercise of such right, power or privilege or the exercise of any other right, power or privilege. The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided by law or which the Purchaser would otherwise have.

ARTICLE XIII

MISCELLANEOUS

Section 13.01. Amendments and Waivers. No amendment or waiver of any provision of this Agreement nor consent to any departure by the Borrower or the Issuer from any such provision shall in any event be effective unless the same shall be in writing and signed by the Purchaser. Any such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. In the event any agreement contained in this Agreement should be breached by the Borrower or the Issuer and thereafter waived by the Purchaser, such waiver shall be limited to the particular breach so waived for the specific period set out in such waiver and such waiver shall not constitute a waiver of such breach for any other period and shall not waive any other or similar breach hereunder.

Section 13.02. Execution in Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 13.03. Notices. Except as otherwise provided herein, all notices, approvals, consents, requests, and other communications hereunder shall be in writing and shall be deemed to have been given when the writing is delivered if given or delivered by hand, overnight delivery service or facsimile transmitter (with confirmed receipt) to the address or facsimile number set forth below and shall be deemed to have been given on the date deposited in the mail, if mailed, by first-class, registered or certified mail, postage prepaid, addressed as set forth below. Where required herein, notice shall be given by telephone, and promptly confirmed in writing, and shall be deemed given when given by telephone to the telephone numbers set forth below. The Issuer, the Borrower, the Calculation Agent and the Purchaser may, by written notice given hereunder, designate any different addresses, phone numbers and facsimile numbers to which subsequent notices, certificates, approvals, consents, requests or other communications shall be sent.

To the Issuer: Cass County
PO Box 2806
Fargo, ND 58108
Attention: County Auditor
Telephone: 701-241-5601
Email: montplaisirm@casscountynd.gov

To the Borrower: McNeilus Steel, Inc.
702 2nd Street SE
Dodge Center, MN 55927
Attention: Chief Financial Officer
Telephone: 507-374-6336
Email: aaron.tarasenko@mcneilus.com

To the Purchaser: Wells Fargo Bank, N.A.
670 McKnight Road N.
St. Paul, MN 55119
Attention: Mary Webster
Telephone: 612-667-3110
Email: Mary.K.Webster@wellsfargo.com

To the Calculation Agent: Wells Fargo Bank, N.A.
670 McKnight Road N.
St. Paul, MN 55119
Attention: Mary Webster
Telephone: 612-667-3110
Email: Mary.K.Webster@wellsfargo.com

Section 13.04. Severability. If any provision of this Agreement is held to be in conflict with any applicable statute or rule of law or is otherwise held to be unenforceable for any reason whatsoever, such circumstances shall not have the effect of rendering the other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatsoever. The invalidity of any one or more phrases, sentences, clauses or Sections of this Agreement shall not affect the remaining portions of this Agreement or any part thereof.

Section 13.05. Payments Due on Non-Business Days. In any case where the date of maturity of interest on or redemption premium, if any, or principal of the Bonds or the date fixed for redemption or purchase of any Bonds shall not be a Business Day, then payment of such Purchase Price, interest, redemption premium or principal, unless otherwise provided herein, need not be made on such date but shall be made on the immediately succeeding Business Day, with the same force and effect as if made on the date of maturity or the date fixed for redemption, and, in the case of such payment, no interest shall accrue for the period from and after such date.

Section 13.06. Liability of the Purchaser. Neither the Purchaser nor any of its officers, directors, employees or agents shall be liable or responsible for any of the following: (i) the use that may be made of the Bond Proceeds, the Loan or any amounts made available by the

Purchaser hereunder or for any acts or omissions of the Issuer or the Borrower in connection therewith; or (ii) the validity, sufficiency or genuineness of documents, or of any endorsement(s) thereon, even if such documents should in fact prove to be in any or all respects invalid, insufficient, fraudulent or forged. In furtherance and not in limitation of the foregoing, the Purchaser may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary.

Section 13.07. Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State.

Section 13.08. Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Sections of this Agreement.

Section 13.09. Successors and Assigns. This Agreement is a continuing obligation and shall be binding upon and inure to the benefit of the Issuer, the Borrower, the Purchaser and their respective successors, endorsees and assigns (but no other Person shall have any benefit, right or interest under or because of this Agreement), except that neither the Issuer nor the Borrower may assign or transfer its rights or obligations hereunder without the prior written consent of the Purchaser.

Section 13.10. Complete and Controlling Agreement. This Agreement and the other Bond Documents completely set forth the agreements among the Issuer, the Purchaser and the Borrower and fully supersede all prior agreements, both written and oral, among the Purchaser, the Issuer and the Borrower relating to all matters set forth herein and in the Bond Documents.

Section 13.11. Contractual Interpretation. The parties acknowledge that they have read and fully understand the terms of this Agreement, have consulted with such attorneys, accountants, advisors, or other professionals as they have deemed appropriate prior to executing this Agreement with adequate opportunity and time for review thereof, and are fully aware of its contents and of its legal effect. Accordingly, neither this Agreement nor any ambiguity herein shall be construed against any party on the grounds that such party drafted this Agreement and instead, this Agreement shall be interpreted as though drafted equally by all parties.

Section 13.12. Electronic Signatures. The parties agree that the electronic signature of a party to this Agreement shall be as valid as an original signature of such party and shall be effective to bind such party to this Agreement. The parties agree that any electronically signed document (including this Agreement) shall be deemed (i) to be “written” or “in writing,” (ii) to have been signed and (iii) to constitute a record established and maintained in the ordinary course of business and an original written record when printed from electronic files. Such paper copies or “printouts,” if introduced as evidence in any judicial, arbitral, mediation or administrative proceeding, will be admissible as between the parties to the same extent and under the same conditions as other original business records created and maintained in documentary form. Neither party shall contest the admissibility of true and accurate copies of electronically signed documents on the basis of the best evidence rule or as not satisfying the business records exception to the hearsay rule. For purposes hereof, “electronic signature” means a manually signed original signature that is then transmitted by electronic means; “transmitted by electronic

means” means sent in the form of a facsimile or sent via the internet as a “pdf” (portable document format) or other replicating image attached to an e mail message; and, “electronically signed document” means a document transmitted by electronic means and containing, or to which there is affixed, an electronic signature.

Section 13.13. Third Party Beneficiaries. The Owners shall be third party beneficiaries of this Agreement, and as such also agree and contract with the parties hereto to carry out all of their obligations hereunder.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Financing Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of the date first above written.

CASS COUNTY, NORTH DAKOTA

By: _____
Mary Scherling, Chair
Board of County Commissioners

(SEAL)

ATTEST:

County Auditor

[Signatures continued on following page]

[Signature page to Financing Agreement]

MCNEILUS STEEL, INC.

By _____
Name _____
Title _____

[Signatures continued on following page]

[Signature page to Financing Agreement]

**WELLS FARGO BANK, NATIONAL
ASSOCIATION, as Purchaser**

By _____
Name _____
Title _____

EXHIBIT A

INTEREST RATE PROVISIONS

Section 1.01. Definitions. In addition to words and terms defined elsewhere in the Agreement, for the purposes of calculating the interest rate on the Bonds, the following words and terms as used in the Agreement, the recitals thereto and this Exhibit A shall have the following meanings unless the context or use clearly indicates another or different meaning or intent.

“*Applicable Factor*” means 67%.

“*Applicable Spread*” means one hundred and one-half basis points (1.005%).

“*Bond Interest is Taxable*” means that interest paid or to be paid on a Bond is or will be includable for federal income tax purposes in the gross income of the Purchaser or any other Owner thereof, but excluding the inclusion of interest on such Bond as an item of tax preference for purposes of the calculation of an alternative minimum tax imposed on the Purchaser or such other Owner.

“*Calculation Agent*” means Wells Fargo, and if Wells Fargo shall decline to act as Calculation Agent, means any other Person appointed by the Borrower, with the consent of the Purchaser in its sole discretion, to serve as calculation agent for the Bonds.

“*Computation Date*” means the Issue Date and thereafter the second London Business Day preceding each LIBOR Index Reset Date.

“*Determination of Taxability*” means (a) any determination, decision, decree or advisement by the Commissioner of Internal Revenue, or any District Director of Internal Revenue or any court of competent jurisdiction to the effect that Bond Interest is Taxable, or (b) the delivery to the Purchaser or any Owner of an Opinion of Counsel, delivered by Bond Counsel, to the effect that Bond Interest is Taxable. A Determination of Taxability also shall be deemed to have occurred on the first to occur of the following:

- (i) the date when the Borrower files any statement, supplemental statement, or other tax schedule, return or document, which discloses that Bond Interest is Taxable;
- (ii) the effective date of any federal legislation enacted or federal rule or regulation promulgated after the date of this Agreement which has the effect that Bond Interest is Taxable; or
- (iii) if upon sale, lease or other deliberate action within the meaning of Treas. Reg. § 1.141-2(d), the failure to receive an Approving Opinion.

“*Interest Payment Date*” means (a) the first Business Day of each calendar month, commencing _____, 2016; (b) with respect to Unremarketed Bonds, the dates set forth in the Continuing Covenant Agreement for the payment of interest on Unremarketed Bonds, (c) for

Bonds subject to redemption in whole or in part on any date, the date of such redemption and (d) the Maturity Date.

“*LIBOR Index*” means, for any date of determination, the per annum rate of interest determined on the basis of the rate on deposits in United States dollars of amounts equal to or comparable to the Principal Amount, offered for a term of one month, which rate appears on the display designated as Reuters Screen LIBOR01 Page (or any successor page), determined as of approximately 11:00 a.m., London time, on each Computation Date for effect on the immediately succeeding LIBOR Index Reset Date, or if such rate is not available, another rate determined by the Calculation Agent of which the Borrower has received written notice.

“*LIBOR Index Rate*” means a per annum rate of interest established on each Computation Date equal to the product of (a) the sum of (i) the Applicable Spread plus (ii) the product of (1) the LIBOR Index multiplied by (2) the Applicable Factor multiplied by (b) the Margin Rate Factor. The LIBOR Index Rate shall be rounded to the fifth decimal place.

“*LIBOR Index Reset Date*” means the first Business Day of each month.

“*London Business Day*” means any day that is a day for trading by and between banks in Dollar deposits in the London interbank market.

“*Margin Rate Factor*” means the greater of (a) 1.0, and (b) the product of (i) one minus the Maximum Federal Corporate Tax Rate multiplied by (ii) 1.53846. The effective date of any change in the Margin Rate Factor shall be the effective date of the decrease or increase (as applicable) in the Maximum Federal Corporate Tax Rate resulting in such change.

“*Maximum Federal Corporate Tax Rate*” means the maximum rate of income taxation imposed on corporations pursuant to Section 11(b) of the Code, as in effect from time to time or, if as a result of a change in the Code the rate of income taxation imposed on corporations generally shall not be applicable to the Purchaser, the maximum statutory rate of federal income taxation which could apply to the Purchaser.

“*Maximum Lawful Rate*” means the maximum, non-usurious, lawful rate of interest that may be contracted for, charged or received in connection with the relevant obligation under applicable law without regard to any filing made by a lender with respect to notice of rates in excess of any statutory or regulatory threshold interest rate.

“*Moody’s*” means Moody’s Investors Service, Inc., a corporation organized and existing under the laws of the State of Delaware, its successors and assigns and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “*Moody’s*” shall be deemed to refer to any other nationally recognized securities rating agency designated by the Borrower with the approval of the Purchaser, by notice to the Issuer.

“*Obligor Rating*” means the underlying debt rating assigned to any long-term debt of the Borrower which (a) as to priority of payment is on a parity with or senior to the Bonds and (b) is not guaranteed by any other Person or subject to any third-party credit enhancement.

“S&P” means Standard & Poor’s Ratings Services, a division of The McGraw-Hill Companies, Inc., a corporation organized and existing under the laws of the State of New York, its successors and assigns and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “S&P” shall be deemed to refer to any other nationally recognized securities rating agency designated by the Borrower with the approval of the Purchaser, by notice to the Issuer.

“*Taxable Date*” means the date on which interest on the Bonds is first includable in gross income of an Owner (including, without limitation, any previous Owner) thereof as a result of a Determination of Taxability.

“*Taxable Rate*” means, for any date of determination, the rate of interest per annum equal to the product of the interest rate on the Bonds then in effect multiplied by 1.54.

“*Wells Fargo*” means Wells Fargo Bank, National Association, and its successors and assigns.

Section 1.02. Interest Rate on the Bonds. The interest rate on the Bonds shall be calculated as follows:

(a) ***General.*** The Bonds shall bear interest from the Issue Date, until paid, at the rate set forth herein (computed on the basis of a 360-day year for the actual days elapsed).

(b) ***Interest Accrual.*** Interest accrued on the Bonds shall be paid on each Interest Payment Date (or, if such day is not a Business Day, the next succeeding Business Day) commencing on the first Interest Payment Date following the Issue Date. The interest rate on the Bonds will be determined as provided in this Exhibit A except that no rate shall exceed the Maximum Lawful Rate.

(c) ***Index Interest Rate.*** The Bonds shall bear interest at the LIBOR Index Rate. The Calculation Agent shall determine the LIBOR Index Rate on each Computation Date, and such rate shall become effective on the LIBOR Index Reset Date immediately succeeding such Computation Date and interest shall accrue each day commencing on and including the Issue Date to but excluding the Maturity Date. If the LIBOR Index Rate is not determined by the Calculation Agent on the Computation Date, the Bonds shall continue to bear interest at the LIBOR Index Rate in effect on the immediately preceding LIBOR Index Reset Date until the Calculation Agent next determines the LIBOR Index Rate as required hereunder. The LIBOR Index Rate for the period commencing on and including the Issue Date until but excluding ____, shall be equal to ____%. Promptly following the determination of the LIBOR Index Rate, the Calculation Agent shall give notice thereof to the Issuer, the Borrower and the Purchaser.

(d) ***Determination of Rate Conclusive.*** The determination of the interest rate on the Bonds, and its calculation of the amount of interest due for any period, by the Calculation Agent shall be conclusive and binding upon the Issuer, the Borrower, and the Owners absent manifest error.

(e) **No Liability.** In determining the interest rate or rates that the Bonds shall bear as provided in this Section, the Calculation Agent shall not have any liability to the Issuer, the Borrower or any Owner except for its gross negligence or willful misconduct.

(f) **Adjustments to Index Interest Rates.** Notwithstanding anything to the contrary herein, (i) from and after any Taxable Date, the interest rate on the Bonds shall be established at a rate equal to the Taxable Rate and (ii) subject to the interest rate limitations of Section 1.02(b) of this Exhibit A, upon the occurrence and continuation of any Event of Default, from and after the effective date of such Event of Default, the interest rate on the Bonds shall be established at a rate equal to the Default Rate. In the event that a Taxable Date and an Event of Default have occurred, the interest rate on the Bonds shall be established at a rate equal to the greatest of (A) the Default Rate, (B) the Taxable Rate and (C) the interest rate that otherwise would be applicable to the Bonds but for the provisions of this paragraph.

(g) **Excess Interest.** Notwithstanding anything in this Agreement to the contrary, if the rate of interest on the Bonds exceeds the Maximum Lawful Rate for such Bonds, then (i) such Bonds shall bear interest at the Maximum Lawful Rate and (ii) interest calculated at the rate equal to the difference between (A) the rate of interest for such Bonds as calculated pursuant to this Agreement and (B) the Maximum Lawful Rate (the “Excess Interest”) shall be deferred until such date as the Bonds bear interest at an interest rate below the Maximum Lawful Rate, as calculated pursuant to Section 1.02 of this Exhibit A, at which time Excess Interest shall be payable with respect to such Bonds in amounts that, when combined with the then-current interest due on the Bonds, do not exceed payment at the Maximum Lawful Rate. Payments of deferred Excess Interest shall no longer be due and payable upon the earlier to occur of the date on which the Bonds are tendered for purchase in accordance with the terms hereof and are so paid or such Bonds are paid in full.

EXHIBIT B

BOND FORM

THIS BOND MAY NOT BE TRANSFERRED EXCEPT IN ACCORDANCE WITH SECTION 2.07 OF THE AGREEMENT AND AS PROVIDED HEREIN

No. R-____ **UNITED STATES OF AMERICA** \$ _____
STATE OF NORTH DAKOTA

COUNTY OF CASS

**RECOVERY ZONE FACILITY REVENUE REFUNDING BONDS
(MCNEILUS STEEL, INC. PROJECT)
SERIES 2016**

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Issue Date</u>
AS STATED BELOW	June 1,2030	[_____]

REGISTERED OWNER: WELLS FARGO BANK, NATIONAL ASSOCIATION

FOR VALUE RECEIVED, Cass County, a political subdivision duly organized and existing under the Constitution and laws of the State of North Dakota (the "Issuer"), hereby promises to pay to the Registered Owner specified above, or its registered assigns (each, an "Owner"), on the Maturity Date specified above, unless redeemed prior thereto, an aggregate principal amount equal to \$_____ (the "Principal Amount"), together with interest thereon at the rates determined as set forth in the Agreement (as hereinafter defined) from the Issue Date specified above, but only from the sources and in the manner provided in the Agreement on the first Business Day of each calendar month and on the Mandatory Purchase Date (each, an "Interest Payment Date") until the principal hereof is paid or duly provided for upon redemption or maturity. Payment of the principal and Purchase Price of, redemption premium, if any, and interest on this Bond shall be made in lawful money of the United States of America which on the respective dates of payment thereof shall be legal tender for the payment of public and private debts. The Issuer has agreed that all amounts payable to the Owner with respect to any Bond held by the Owner shall be made to the Owner (without any presentment thereof, except upon payment of the final installment of principal, and without any notation of such payment being made thereon) in such manner or at such address in the United States of America as may be designated by the Owner in writing to the Issuer and the Borrower (as hereinafter defined). Partial payments of the principal on this Bond may be noted on the Table of Partial Redemptions attached herein in lieu of surrendering this Bond in connection with such payment. In any case where the date of maturity of the principal or Purchase Price of, redemption premium, if any, or interest on this Bond or the date fixed for redemption of this Bond shall not be a Business Day, then payment of such principal, Purchase Price, redemption premium or interest need not be made on such date but shall be made on the immediately succeeding Business Day, with the

same force and effect as if made on the date of maturity or the date fixed for redemption, and, in the case of such payment, no interest shall accrue for the period from and after such date.

This Bond shall be a limited obligation of the Issuer, the principal and Purchase Price of, redemption premium, if any, and interest on which are payable solely from and secured as described in the Agreement, all as described in and subject to limitations set forth in the Agreement, for the equal and ratable benefit of the Owners, from time to time of this Bond.

THE PRINCIPAL AND PURCHASE PRICE OF, REDEMPTION PREMIUM, IF ANY, AND INTEREST ON THIS BOND SHALL NOT BE DEEMED TO CONSTITUTE A DEBT OR A PLEDGE OF FAITH AND CREDIT OF THE STATE OF NORTH DAKOTA, OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE ISSUER. NEITHER THE STATE NOR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE ISSUER SHALL BE OBLIGATED TO PAY PRINCIPAL AND PURCHASE PRICE OF, REDEMPTION PREMIUM, IF ANY, OR INTEREST ON THIS BOND OR OTHER COSTS INCIDENT THERETO EXCEPT FROM REVENUES. NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE ISSUER, IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL AND PURCHASE PRICE OF, REDEMPTION PREMIUM, IF ANY, AND INTEREST ON THIS BOND OR OTHER COSTS INCIDENT THERETO.

This Bond is one of the Bonds of a duly authorized issue of Recovery Zone Facility Revenue Refunding Bonds (McNeilus Steel, Inc. Project), Series 2016 of the Issuer in the aggregate principal amount of \$_____ (the "Bonds"), dated as of the Issue Date referenced above. All of the Bonds are issued under and pursuant to North Dakota Century Code, Chapter 40-57 (the "Act"), and a Financing Agreement (as amended, restated, supplemented or otherwise modified from time to time, the "Agreement"), dated as of July 1, 2016, among the Issuer, McNeilus Steel, Inc. (the "Borrower") and Wells Fargo Bank, National Association, as Purchaser (the "Purchaser"). Reference is hereby made to the Agreement for the provisions, among others, with respect to the custody and application of the proceeds of the Bonds, the collection and disposition of revenues, a description of the funds charged with and pledged to the payment of the principal and Purchase Price of, redemption premium, if any, and interest on the Bonds, the nature and extent of the security for the Bonds, the terms and conditions under which the Bonds are or may be issued, the rights, duties and obligations of the Issuer and the rights of the Owners of the Bonds. By the acceptance of this Bond, the Owner hereof assents to all of the provisions of the Agreement. Capitalized terms used herein and not defined shall have the meanings assigned to them in the Agreement.

The Bonds have been issued for the purposes of (a) refunding the Issuer's outstanding Recovery Zone Facility Revenue Bonds (McNeilus Steel, Inc. Project), Series 2010 (the "Prior Bonds") and (b) paying certain costs incurred in connection with the issuance of the Bonds. The Issuer has agreed to lend the proceeds of the sale of the Bonds to the Borrower, and the Borrower has agreed to make payments in an amount, corresponding to the Principal Amount of, interest rate on, Purchase Price of and due dates of the Bonds.

The Bonds are issuable as fully registered Bonds in the principal amount of \$250,000 and multiples of \$0.01 in excess thereof (an "Authorized Denomination"). This Bond may, at the

option of the Owner hereof, be exchanged for an equal aggregate principal amount of Bonds of the same aggregate principal amount and tenor as the Bond being exchanged and of any Authorized Denomination as provided in the Agreement. This Bond may be registered as transferred as provided in the Agreement, subject to certain limitations therein contained, accompanied by a written instrument of transfer (in substantially the form of the assignment attached hereto) duly executed by the Owner hereof or his/her duly authorized attorney. Thereupon, one or more new Bonds of any Authorized Denomination and in the same aggregate principal amount and tenor as the Bond surrendered (or for which registration of transfer has been effected) will be issued to the designated transferee or transferees.

1. Tender of Bonds for Purchase. The Bonds are subject to mandatory tender for purchase prior to the Maturity Date as set forth in the Agreement.

2. Redemption of Bonds. Subject to any limitations set forth in the Continuing Covenant Agreement, the Bonds are subject to mandatory redemption, optional redemption, extraordinary optional redemption and mandatory sinking fund redemption as set forth in the Agreement. Notice of redemption shall be given as provided in the Agreement.

3. Miscellaneous. Under certain circumstances as described in the Agreement, the principal of all the Bonds may be declared due and payable in the manner and with the effect provided in the Agreement.

Modifications or alterations to the Agreement may be made only to the extent and in the circumstances permitted by the Agreement.

It is hereby certified that all acts, conditions and things required to happen, exist and be performed under the laws of the State of North Dakota and under the Agreement precedent to and in the issuance of this Bond have happened, exist and have been performed as so required and that the issuance, authentication and delivery of this Bond have been duly authorized by the Issuer.

IN WITNESS WHEREOF, Cass County, North Dakota has caused this Bond to be executed in its name and on its behalf by the manual or facsimile signature of the Chair of the Issuer and its official seal to be impressed or imprinted hereon and attested by manual or facsimile signature of the County Auditor of the Issuer, all as of the Issue Date referenced above.

CASS COUNTY, NORTH DAKOTA

(SEAL)

Mary Scherling
Chair, Board of County Commissioners

ATTEST:

County Auditor

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto _____ (Please print or type the Name and Address, including the Zip Code of the Transferee, and the federal taxpayer identification or social security number) the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____ attorney to transfer the within Bond on the books kept for registration and transfer thereof, with full power of substitution in the premises.

Dated: _____

NOTICE: The signature on this Assignment must correspond with the name as it appears upon the face of the within-mentioned Bond in every particular, without alteration or enlargement or any change whatever.

Signature Guaranteed

By: _____

NOTICE: Signature(s) must be guaranteed by a member firm of the STAMP, SEMP or MSP signature guaranty medallion program.

TABLE OF PARTIAL REDEMPTIONS

Upon all partial redemptions (whether optional, mandatory or otherwise) the Owner shall make the appropriate notation itself on the table below. The Owner's records relating to the outstanding principal amount of the Bond shall in all cases prevail:

<u>Date</u>	<u>Amount Redeemed</u>	<u>Remaining Unpaid Principal Amount</u>	<u>Signature of Owner</u>

EXHIBIT C

FORM OF INVESTOR LETTER

July __, 2016

McNeilus Steel, Inc.
702 2nd Avenue SE
Dodge Center, MN 55927

Cass County, North Dakota
211 9th Street South
Fargo, ND 58103

\$ _____
Cass County, North Dakota
Recovery Zone Facility Revenue Refunding Bonds
(McNeilus Steel, Inc. Project)
Series 2016

Ladies and Gentlemen:

Wells Fargo Bank, National Association (“Purchaser”) has agreed to purchase the above-referenced bonds (the “Bonds”) in the amount of \$_____ which were issued in the original aggregate principal amount of \$_____ by Cass County, North Dakota (the “Issuer”) bearing the LIBOR Index Rate as set forth in the Financing Agreement dated as of July 1, 2016 (the “Agreement”), among the Issuer, McNeilus Steel, Inc. (the “Borrower”) and Wells Fargo Bank, National Association. All capitalized terms used herein, but not defined herein, shall have the respective meanings set forth in the Agreement. The undersigned, an authorized representative of the Purchaser, hereby represents to you that:

1. The Purchaser has sufficient knowledge and experience in financial and business matters, including purchase and ownership of municipal and other tax-exempt obligations, to be able to evaluate the risks and merits of the investment represented by the purchase of the Bonds.
2. The Purchaser has authority to purchase the Bonds and to execute this letter and any other instruments and documents required to be executed by the Purchaser in connection with the purchase of the Bonds.
3. The undersigned is a duly appointed, qualified and acting representative of the Purchaser and is authorized to cause the Purchaser to make the certifications, representations and warranties contained herein by execution of this letter on behalf of the Purchaser.
4. The Purchaser is (a) an affiliate of an Owner of the Bonds, (b) a trust or other custodial arrangement established by an Owner of the Bonds or one of its affiliates, the owners of the beneficial interests in which are limited to “qualified institutional buyers” as defined in

Rule 144A promulgated under the Securities Act of 1933, as amended (the "1933 Act") or (c) a qualified institutional buyer that is a commercial bank having a combined capital and surplus of \$5,000,000,000 or more and is able to bear the economic risks of such investment.

5. The Purchaser understands that no official statement, prospectus, offering circular, or other comprehensive offering statement is being provided with respect to the Bonds. The Purchaser has made its own inquiry and analysis with respect to the Issuer, the Borrower, the Project, the Bonds and the security therefor, and other material factors affecting the security for and payment of the Bonds.

6. The Purchaser acknowledges that it has either been supplied with or been given access to information, including financial statements and other financial information, regarding the Borrower, to which a reasonable investor would attach significance in making investment decisions, and has had the opportunity to ask questions and receive answers from knowledgeable individuals concerning the Issuer, the Borrower, the Project, the Bonds and the security therefor, so that as a reasonable investor, it has been able to make its decision to purchase the Bonds.

7. The Purchaser understands that the Bonds (i) are not registered under the 1933 Act and are not registered or otherwise qualified for sale under the "Blue Sky" laws and regulations of any state, (ii) are not listed on any stock or other securities exchange, and (iii) carry no rating from any credit rating agency.

8. The Bonds are being acquired by the Purchaser for investment for its own account and not with a present view toward resale or distribution; provided, however, that the Purchaser reserves the right to sell, transfer or redistribute the Bonds in Authorized Denominations, but agrees that any such sale, transfer or distribution by the Purchaser shall be to a Person:

(a) that is an affiliate of an Owner of the Bonds;

(b) that is a trust or other custodial arrangement established by an Owner of the Bonds or one of its affiliates, the owners of any beneficial interest in which are limited to qualified institutional buyers; or

(c) that is a qualified institutional buyer that is a commercial bank having a combined capital and surplus of \$5,000,000,000 or more who executes an investor letter substantially in the form of this letter.

WELLS FARGO BANK,
NATIONAL ASSOCIATION

By _____
Name _____
Title _____