



# MARATHON COUNTY EXECUTIVE COMMITTEE **AMENDED** AGENDA

Date & Time of Meeting: **Thursday, August 15, 2024 at 3:00 p.m.**

Meeting Location: **Courthouse Assembly Room, Courthouse, 500 Forest Street, Wausau WI**

**Committee Members:** Kurt Gibbs, Chair; Chris Dickinson, Vice-Chair; Matt Bootz, Randy Fifrick, Brent Jacobson, Jacob Langenhahn, Stacey Morache, John Robinson, Al Drabek, Jennifer Aarrestad

**Marathon County Mission Statement:** Marathon County Government serves people by leading, coordinating, and providing county, regional, and statewide initiatives. It directly or in cooperation with other public and private partners provides services and creates opportunities that make Marathon County and the surrounding area a preferred place to live, work, visit, and do business. (Last updated: 12-20-05)

**Committee Mission Statement:** The Executive Committee of the Marathon County Board exists for the purpose of implementing the County Strategic Plan by coordinating policy formation among the Committees and providing leadership for all County Board policies through supervision of administrative staff.

Persons wishing to attend the meeting by phone may call into the **telephone conference beginning five (5) minutes prior to the start time indicated above using the following number:**

**Phone #: 1-408-418-9388      Access Code: 146 235 4571**

When you enter the telephone conference, **PLEASE PUT YOUR PHONE ON MUTE!**

The meeting will also be broadcast on Public Access or at <https://tinyurl.com/MarathonCountyBoard>

1. **Call Meeting to Order**
2. **Pledge of Allegiance**
3. **Public Comment (15 minutes)** *(Any person who wishes to address the committee during the "Public Comment" portion of meetings, must provide his or her name, address, and the topic he or she wishes to present to the Marathon County Clerk, or chair of the committee, no later than five minutes before the start of the meeting. All comments must be germane to the jurisdiction of the committee)*
4. **Approval of the Minutes from July 18, 2024 Executive Committee Meetings**
5. **Policy Issues and Potential Committee Determination**
  - A. Discussion regarding 2025 Annual Budget Development and policy recommendations from the committee, including Review of the Mandatory / Discretionary Program document and discussion of Rates and Fees
6. **Operational Functions Required by Statute, Ordinance, Resolution, or Policy**
  - A. Discussion and Possible Action by EXEC
    1. **Discussion regarding moving the September 23 County Board meeting due to WCA Conference**
  - B. Discussion and Possible Action by EXEC to Forward to County Board for Approval
    1. Final Resolution Regarding Unconditional County Guaranty of its Pro Rata Share, Intergovernmental Agreement, and Taxable Revenue Bond Financing for Bug Tussel 2, LLC Project
7. **Educational Presentations and Committee Discussion**
  - A. Discussion of Potential Educational Items for the Full Board
  - B. Review of 2024 2<sup>nd</sup> Quarter Budget to Actual Reports for Departments of Oversight
8. **Next Meeting Date & Time, Location, Announcements and Future Agenda Items:**
  - A. Committee members are asked to bring ideas for future discussion
  - B. Next meeting: Thursday, September 19, 2024 at 3:00 pm
9. **Adjournment**

\*Any person planning to attend this meeting who needs some type of special accommodation in order to participate should call the County Clerk's Office at 261-1500 or e-mail [countyclerk@co.marathon.wi.us](mailto:countyclerk@co.marathon.wi.us) one business day before the meeting

**SIGNED** Chair Kurt Gibbs  
Presiding Officer or Designee

EMAILED TO: \_\_\_\_\_  
EMAILED BY: \_\_\_\_\_  
DATE & TIME: \_\_\_\_\_

NOTICE POSTED AT COURTHOUSE  
BY: \_\_\_\_\_  
DATE & TIME: \_\_\_\_\_



## MARATHON COUNTY EXECUTIVE COMMITTEE AGENDA with MINUTES

Date & Time of Meeting: **Thursday, July 18, 2024 at 3:00 p.m.**

Meeting Location: **Courthouse Assembly Room, Courthouse, 500 Forest Street, Wausau WI**

Kurt Gibbs	Present
Chris Dickinson	Present
Jennifer Aarrestad	Present
Matt Bootz	Present (W)
Al Drabek	Present
Randy Fifrick	Present
Brent Jacobson	Present (W)
Jacob Langenhahn	Present
Stacey Morache	Present (W)
John Robinson	Present

Staff Present: Kim Trueblood, Lance Leonhard, Mike Puerner, Laurie Miskimins

[Meeting Link](#)

1. **Call Meeting to Order**
2. **Pledge of Allegiance**
3. **Public Comment**
4. **Approval of the Minutes June 13, 2024 Executive Committee Meeting (:03)** - Motion by Drabek, Second by Robinson to approve the minutes as presented. Motion carried on a voice vote unanimously.
5. **Policy Issues and Potential Committee Determination**
  - A. Discussion regarding 2025 Annual Budget Development and policy recommendations from the committee, including Review of the Mandatory / Discretionary Program document and discussion of Rates and Fees (:04)
6. **Operational Functions Required by Statute, Ordinance, Resolution, or Policy**
  - A. Discussion and Possible Action by EXEC
    1. Discussion of the Creation of a Task Force for the formation of the Comprehensive Plan and Strategic Plan and Creation of the Charter (:11) Motion by Robinson, Second by Fifrick to designate the Executive Committee as the Comprehensive and Strategic Plan Update committee. Motion carried on a voice vote unanimously.
  - B. Discussion and Possible Action by EXEC to Forward to County Board for Approval
7. **Educational Presentations and Committee Discussion**
  - A. Discussion of Potential Educational Items for the Full Board (:25)
8. **Next Meeting Date & Time, Location, Announcements and Future Agenda Items:**
  - A. Committee members are asked to bring ideas for future discussion
  - B. Next meeting: Thursday, August 15, 2024 at 3:00 pm
9. **Adjournment** – Motion by Robinson, Second by Aarrestad to adjourn. Motion carried on a voice vote unanimously. Meeting adjourned at 3:30 p.m.

**MARATHON COUNTY, WISCONSIN**

RESOLUTION NO. \_\_\_\_\_

FINAL RESOLUTION REGARDING UNCONDITIONAL COUNTY GUARANTY OF ITS  
PRO RATA SHARE, INTERGOVERNMENTAL AGREEMENT AND  
TAXABLE REVENUE BOND FINANCING  
FOR BUG TUSSEL 2, LLC PROJECT

BE IT RESOLVED by the County Board of Marathon County, Wisconsin, as follows:

Section 1 Recitals.

1.01 Under Wisconsin Statutes, Section 66.1103, as amended (the "Act"), the Issuer (as hereinafter defined) is authorized and empowered to issue revenue bonds to finance eligible costs of qualified "projects" (as defined in the Act), and to enter into "revenue agreements" (as defined in the Act) with "eligible participants" (as defined in the Act).

1.02 Bug Tussel 2, LLC, a Wisconsin limited liability company (the "Borrower"), Hilbert Communications, LLC, a Wisconsin limited liability company (the "Company" and the "Guarantor") and/or one or more of its affiliates (including, without limitation, Bug Tussel Wireless, LLC and Cloud 1, LLC), whether existing on the date hereof or to be formed and whether owned directly or indirectly by the Company, desires to finance a project consisting of the acquisition, construction and installation of certain telecommunications infrastructure that includes, among other things (i) acquisition of tower sites by purchase or lease of land and equipping such sites with towers and electronics to provide broadband, high speed cellular, emergency communications and point to point (P2P) data communications; (ii) constructing fiberoptic data transmission facilities (cable and electronics) between towers, key community facilities, businesses and residential aggregation points; (iii) where appropriate, connecting individual premises into the broadband network including the cost of Consumer Premise Equipment (CPE); (iv) payment of capitalized interest; (v) funding of a debt service reserve fund; (vi) payment of such project costs located in the participating counties, which includes project costs located in Marathon County to be financed with Series 2024 Bonds (defined herein) in an amount not to exceed \$12,000,000; and (vii) payment of professional fees (collectively, the "Project"), all of which will be for the purpose of providing wireless internet and telephone communications services to businesses, governmental units and residents of rural communities where such service is currently unavailable or is prohibitively expensive.

1.03 The Project will be constructed and installed in one or more of the following Wisconsin counties yet to be determined, with each respective county that has

agreed to participate in the issuance of the Series 2024 Bonds to be evidenced by such participating county entering into the Intergovernmental Agreement (defined herein) in connection with the issuance of the Series 2024 Bonds (each a "2024 Participating County" and collectively, the "2024 Participating Counties"): (i) Fond du Lac County, (ii) Forest County, (iii) Iowa County, (iv) Jefferson County, (v) Lafayette County, (vi) Marathon County, (vii) Price County, (viii) Sawyer County, (ix) Taylor County, and (x) Waushara County.

1.04 The Act authorizes the Issuer to make loans to an eligible participant, in connection with financing a qualified project.

1.05 Pursuant to initial resolutions duly adopted by (i) the Fond du Lac County Board on May 21, 2024, (ii) the Forest County Board on June 18, 2024, (iii) the Iowa County Board on May 21, 2024, (iv) the Jefferson County Board on June 11, 2024, (v) the Lafayette County Board on June 18, 2024, (vi) the Marathon County Board on June 18, 2024, (vii) the Price County Board on June 18, 2024, (viii) the Sawyer County Board on July 18, 2024, (ix) the Taylor County Board on July 23, 2024, and (x) the Waushara County Board on July 16, 2024, the 2024 Participating Counties expressed their intention to enter into an Intergovernmental Agreement (the "Intergovernmental Agreement"), pursuant to which the Issuer would issue revenue bonds to be issued in one or more issues or series in an aggregate principal amount not to exceed \$250,000,000 to finance the Project. Notices of adoption of the initial resolutions adopted by the respective 2024 Participating Counties on May 21, 2024; June 11, 2024; June 18, 2024; July 16, 2024; July 18, 2024; and July 23, 2024 were published as provided in the Act, and no petition requesting a referendum upon the question of issuance of the revenue bonds has been filed in any 2024 Participating County as of the date of this resolution. The closing of the Series 2024 Bonds shall not occur until the 30-day petition period following publication has expired in all 2024 Participating Counties.

1.06 The 2024 Participating Counties shall enter into the Intergovernmental Agreement to appoint Fond du Lac County as the issuer (the "Issuer") of the Series 2024 Bonds for the purpose of financing the Project on behalf of the Borrower, and as agent on behalf of the 2024 Participating Counties with respect to the Pledge of Membership Agreement to be dated the closing date of the Series 2024 Bonds, between Hilbert Communications, LLC, a Wisconsin limited liability company, and the Issuer for the benefit of the 2024 Participating Counties, and other counties as may be joined to the Intergovernmental Agreement after the date hereof by executing a Counterpart and Joinder to Intergovernmental Agreement.

1.07 The Borrower has requested that Marathon County and each 2024 Participating County who will directly benefit from the Project provide an unconditional general obligation guaranty, to which the full faith and credit and taxing power of Marathon County are pledged (the "County Guaranty") to enhance the collateral position of the Borrower in an amount equal to Marathon County's or such 2024

Participating County's (as applicable) pro rata share of the principal of and interest on the Series 2024 Bonds in an amount necessary to replenish the debt service reserve fund, including any compound interest payable on amounts paid by the Insurer (defined herein) for the Series 2024 Bonds, which for Marathon County will be in an amount not to exceed \$12,000,000 (plus interest to accrue thereon annually over the life of the Series 2024 Bonds at a rate not to exceed 8.00%), including any compound interest payable on amounts paid by the Insurer for the Series 2024 Bonds. In order to authorize Marathon County's County Guaranty, the County Guaranty must be approved by a vote of at least three-fourths of the members-elect (as defined in Section 59.001(2m) of the Wisconsin Statutes) of the Board of Supervisors.

1.08 The Guarantor will provide a guaranty (the "Hilbert Guaranty") to Marathon County, and each 2024 Participating County, guaranteeing the full and prompt payment to Marathon County, and each 2024 Participating County, of amounts due from the Borrower pursuant to, and the performance of all other obligations, covenants and agreements of the Borrower under the Reimbursement Agreements by and between the Borrower and each of the 2024 Participating Counties, the Intergovernmental Agreement, and the Mortgage or Leasehold Mortgage, Assignment of Leases and Rents, Security Agreement, and Fixture Financing Statement referenced below.

1.09 The Borrower will have the primary obligation to make all scheduled principal and interest payments when due, and each 2024 Participating County's Guaranty will apply only in the event that the Borrower does not pay such debt service for the Series 2024 Bonds as required and a draw is made on the debt service reserve fund for the Series 2024 Bonds established under the Indenture.

1.10 In return for the County Guaranty by each 2024 Participating County, each 2024 Participating County shall receive a guaranty fee as further described in Section 3.02, and the Borrower and the Guarantor will pay any and all costs of each 2024 Participating County and all expenses incurred by each 2024 Participating County related to the Series 2024 Bonds.

1.11 As further security for the County Guaranty, Marathon County and each 2024 Participating County shall receive a first fee or leasehold mortgage on all land, buildings, and improvements of the Borrower and a first security interest, subordinate only to the security interest of the State of Wisconsin, the Public Service Commission of Wisconsin, or similar agency, political subdivision, or instrumentality of the state (the "State") to the extent required by the State as a condition of grant funding provided for financed assets, in all fixtures and equipment of the Borrower located in the applicable county in which the Project financed with proceeds of the Series 2024 Bonds is constructed.

1.12 The Project includes necessary infrastructure for essential services, including emergency response and public safety communications by and for Marathon County and

local units of government in Marathon County and is in furtherance of the public purposes set forth in the Act, Wisconsin Statutes, Section 59.54, and promotes the economic development and well-being of Marathon County.

1.13 The obligations of Marathon County and each 2024 Participating County under its respective County Guaranty are expected to be insured by Build America Mutual Assurance Company (the "Insurer") under its Municipal Bond Insurance Policy (the "Policy") containing provisions consistent with the provisions of this resolution and the documents listed in Section 1.14 and approved by the Issuer's counsel, bond counsel, and the appropriate officer or officers of Marathon County.

1.14 Drafts of the following documents have been submitted to this County Board and are ordered filed in the office of the County Clerk:

- (a) a Preliminary Limited Offering Memorandum;
- (b) a Bond Purchase Agreement by and among the Issuer and Samuel A. Ramirez & Company, Inc., as representative, acting on behalf of itself, Robert W. Baird & Co. Incorporated, and Oppenheimer & Co. Inc., as underwriters, with the Letter of Representations from the Borrower and accepted and agreed to by the Issuer and the representative of the underwriters;
- (c) an Indenture of Trust (the "Indenture") by and between the Issuer and U.S. Bank Trust Company, National Association, as trustee (the "Trustee");
- (d) a Loan Agreement (the "Loan Agreement") by and between the Issuer and the Borrower;
- (e) a Series 2024 Promissory Note from the Borrower to the Issuer, and assigned to the Trustee;
- (f) a Reimbursement Agreement from the Borrower to Marathon County;
- (g) a form of Facilities Access Agreement from the Borrower to Marathon County;
- (h) a form of Mortgage or Leasehold Mortgage, Assignment of Leases and Rents, Security Agreement, and Fixture Financing Statement from the Borrower to Marathon County;
- (i) a Continuing Disclosure Agreement;
- (j) a Guaranty Agreement (Hilbert Guaranty) from the Guarantor to Marathon County;
- (k) a Borrower's Closing Certificate;

(l) an Intergovernmental Agreement to be signed by each 2024 Participating County; and

(m) the unconditional County Guaranty from Marathon County.

## Section 2 Findings and Determinations.

It is hereby found and determined that:

(a) based on representations of the Borrower, the Project constitutes a "project" authorized by the Act;

(b) the purpose of the Issuer's financing costs of the Project is and the effect thereof will be to promote the public purposes set forth in the Act;

(c) the Project includes necessary infrastructure for essential services by and for Marathon County and local units of government in Marathon County and is in furtherance of the public purposes set forth in the Act, Wisconsin Statutes, Section 59.54, and promotes the economic development and well-being of Marathon County;

(d) it is desirable that a series of taxable revenue bonds in an aggregate principal amount not to exceed \$109,000,000 (the "Series 2024 Bonds") be issued by the Issuer upon the terms set forth in the Indenture and Loan Agreement, under the provisions of which the Issuer's interest in the Indenture and Loan Agreement (except for certain rights as provided therein) and the loan repayments will be assigned to the Trustee as security for the payment of principal of and interest on and premium, if any, on all the Series 2024 Bonds outstanding under the Indenture;

(e) the loan payments provided for in the Loan Agreement, and the formula set out for revising those payments under the Loan Agreement as required under the Act, are sufficient to produce income and revenue to provide for prompt payment of principal of and interest on and premium, if any, on Series 2024 Bonds issued under the Indenture when due; the amount necessary in each year to pay the principal of and interest on the Series 2024 Bonds is the sum of the principal and interest on the Series 2024 Bonds due in such year, whether on a stated payment date, a redemption date, or otherwise; the Loan Agreement provides that the Borrower shall provide for the maintenance of the Project in good repair, keeping it properly insured; and

(f) under the provisions of the Act, the Series 2024 Bonds shall be limited obligations of the Issuer and the Series 2024 Bonds do not constitute an indebtedness of the Issuer or the 2024 Participating Counties, within the meaning of any state constitutional or statutory provision, and do not constitute nor give rise to a charge against the Issuer's or the 2024 Participating Counties' general credit or taxing powers or a pecuniary liability of the Issuer or the 2024 Participating Counties.

### Section 3 Approvals and Authorizations.

3.01 There is hereby approved the issuance by the Issuer of its Taxable Revenue Bonds, Series 2024 (Bug Tussel 2, LLC Project) (Social Bonds) (specifically, the Series 2024 Bonds) in an aggregate principal amount not to exceed \$109,000,000, for the purpose of financing the Project.

3.02 In furtherance of the public purposes recited above:

(a) Marathon County shall provide an unconditional County Guaranty to enhance the collateral position of the Borrower in an amount equal to Marathon County's pro rata share of the principal of and interest on the Series 2024 Bonds in an amount necessary to replenish the debt service reserve fund in an amount not to exceed \$12,000,000 (plus interest to accrue thereon annually over the life of the Series 2024 Bonds at a rate not to exceed 8.00%), including any compound interest payable on amounts paid by the Insurer for the Series 2024 Bonds. In return for its County Guaranty, Marathon County shall receive either (i) an annual guaranty fee equal to 40 basis points (0.40%) of the outstanding par amount of the Series 2024 Bonds covered by its County Guaranty, payable on a semi-annual basis on each May 1 and November 1, or (ii) a discounted upfront guaranty fee as agreed to by the Borrower and Marathon County. Prior to issuance of the Series 2024 Bonds, each 2024 Participating County on behalf of which Series 2024 Bonds are being issued shall have each authorized the execution and delivery of its respective County Guaranty.

(b) There is hereby authorized the issuance by Marathon County of general obligation promissory notes pursuant to Section 67.12(12), Wisconsin Statutes, to finance payment of the County Guaranty. The terms and provisions of any such notes shall be established pursuant to a subsequent resolution of this County Board.

3.03 Marathon County hereby authorizes the execution and delivery of the Intergovernmental Agreement, the County Guaranty and the other documents listed in Section 1.14 above to which Marathon County is a signatory.

3.04 Subject to the conditions set forth herein, the County Board Chairperson and the County Clerk are authorized and directed to execute and deliver the County Guaranty, the Intergovernmental Agreement and the other documents listed in Section 1.14 above to which Marathon County is a signatory. In addition, Marathon County hereby authorizes the execution and delivery of a commitment with the Insurer consistent with the provisions of this resolution and the documents listed in Section 1.14 above as well as any other agreements, certificates or documents necessary to obtain the Policy.

3.05 The County Board Chairperson and the County Clerk and other officers of Marathon County are authorized to prepare and furnish to the Trustee and bond counsel certified copies of all proceedings and records of Marathon County relating to



the Series 2024 Bonds, and such other affidavits and certificates as may be required by the Trustee and bond counsel.

3.06 The approval hereby given to the various documents referred to in this Resolution includes the approval of such additional details therein and additional documents or agreements all as may be necessary and appropriate for their completion and such modifications thereto, deletions therefrom and additions thereto as may be approved by the Marathon County counsel and bond counsel. The execution of any document by the appropriate officer or officers of Marathon County herein authorized shall be conclusive evidence of the approval by Marathon County of such document in accordance with the terms hereof.

3.07 This Resolution shall take effect from and after its adoption by a vote of at least three-fourths of the members-elect (as defined in Section 59.001(2m) of the Wisconsin Statutes) of the Board of Supervisors.

Adopted : \_\_\_\_\_, 2024

Recommended for adoption this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Adopted \_\_\_\_\_  
Defeated \_\_\_\_\_ by the Marathon County Board of Supervisors this  
Tabled \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
County Board Chair

\_\_\_\_\_  
County Clerk

I, the undersigned, the duly appointed and qualified Clerk of Marathon County, Wisconsin do hereby certify that the foregoing resolution was duly adopted by the County Board of Supervisors at a meeting of said County held in open session in accordance with the requirements of Subchapter V of Chapter 19 of the Wisconsin Statutes on August 20, 2024.

MARATHON COUNTY, WISCONSIN

\_\_\_\_\_  
County Clerk

## FREQUENTLY ASKED QUESTIONS: MARATHON COUNTY CONDUIT BONDING PROCESS

### **Why is the county being asked to participate in additional bonding on a project they already committed \$25 million?**

The additional bonding request serves two purposes. First, The funding is a part of the County's commitment to a project approved by the WI Public Service Commission (PSC) to provide fiber to the home in the Town of Kronenwetter. This \$6 million project (Leathercamp) is funded through a partnership with the Marathon County, Bug Tussel and the PSC. Marathon County has agreed to provide \$3 million in funding for the project. The bonding request includes the \$3 million funding for the Leathercamp project.

The additional funding will allow Bug Tussel to complete the middle-mile fiber project. Bug Tussel experienced increased costs due to encountering more rock than what was anticipated during the construction process. This caused significant delays in construction as well as an increase in cost of approximately \$3.5 million. In parallel, the effects of the Covid-19 pandemic on the material market were significant, causing significant lead time increases and material costs over doubling from original estimates.

As a reminder, the funding provided by Marathon County is, in essence, a loan to Bug Tussel. Bug Tussel will make the bond payments and provide additional compensation to Marathon County in the amount of 0.40% interest on all outstanding debt on an annual basis.

### **Why is the conduit bonding issue for 30 years when counties typically issue debt for only 20 years**

Funding rural broadband projects is challenging. Historically, internet service providers did not move forward with broadband projects in rural areas because the rate of return did not fit their business model. There were too few customers for the cost of constructing the project to provide the service. Bug Tussel has made it our mission to provide services to those rural locations. Still, the cost to do this is difficult. To bring a project forward could not take place without a longer time period to balance the upfront costs. Without a longer timeline for financing, the project just wouldn't happen.

This is similar to someone wanting to buy a house. Mortgages have different lengths to the loan and different interest rates. While interest rates are lower with a shorter term loan, the monthly payment is higher. This is why most people select a 30-year mortgage opposed to a 15-year or 20-year mortgage. The term is longer but the payment is more manageable. The same applies to what Bug Tussel is trying to do with its broadband projects.

### **What happens if the additional bonding request is not approved**

Funding is critical to the continued success of bringing broadband access to the county. Funding will allow Bug Tussel to complete the middle-mile fiber backbone designed for Marathon County. In addition, the funding is essential for the completion of the Leathercamp project that will provide fiber to the home for residents in the Town of Kronenwetter. If the funding is not approved, these projects will be delayed significantly.

In addition, the additional funding to complete the middle-mile fiber design is an important piece as the county looks forward to BEAD funding. As you are aware, BEAD is intended to provide funding for the last-mile that will connect homes and businesses. Middle-mile is critical as the backbone from which the last-mile fiber will branch off to provide service. Without middle-mile there can be no last-mile.

#### **Will the equipment have value in the future**

The equipment related to the project has value. In the case of the towers and the fiber optic cable, they are long-term assets that will hold value for decades as they will be used and maintained, similar to a road. The equipment attached to the towers and fiber has a shorter useful life as technology will continue to improve and the operational use will diminish over time. In the larger picture, the towers and fiber will retain their value for an extended period of time. The need for this type of telecommunications infrastructure will only rise as we see the increased use of computers, AI and wireless technology in our everyday lives.

#### **How will changes in technology impact the repayment of funds**

Changes in technology within the industry are inevitable. Still, these improvements will not affect the repayment of bonds. The towers and the fiber installed are long-term infrastructure assets that will be used for decades. Equipment placed at the towers and at the ends of the fiber optic cables will be replaced as the age and as improved technology is created. The installation of equipment is a minimal cost in relation to the entire project. Once installed, the replacement/upgrade of equipment is seen as a normal operating/maintenance expense for Bug Tussel and is not included in the project budget and therefore, is not part of costs related to repayment.

#### **What are guarantees in place to protect the county**

There are a number of legal documents that will protect the interests of the county. Bug Tussel and the County will enter into an agreement that stipulates all of the necessary legal and financial obligations required of both parties. These documents are reviewed by the county's legal department. In addition, the county will have its own bond counsel that will review the documents and represent the interest of the county during this process. In any transaction, there is risk. Bug Tussel has entered into similar agreements with over a dozen counties to fund similar projects. We understand the concern and care that county officials take with regards to taxpayer funds. This is why we want to be sure that counties understand the project, how it's being funded, and the commitments Bug Tussel and the county are making towards the project.

#### **Why is accessing conduit bonding critical to the success of the project**

Bug Tussel understands the need for broadband access in rural areas. It has been our mission to bring internet access to those places that for too long have been forgotten. Major providers have been unwilling to venture into rural areas because the cost of building fiber and wireless networks do not fit into their business models. Bug Tussel has taken a different approach. Through partnerships with local governments, we have helped to bring broadband to rural areas. To do this, we have entered into financial partnerships with local governments to fund these projects as the initial cost and the return on investment would likely prevent such broadband projects from taking place. Therefore, county support and, in turn, conduit bonding is the key to the success of this project and the dozens of projects throughout the state.



Internet | Phone | Streaming

**Can we split the request into two projects**

Yes. The funding for the projects can be approved separately. Please be aware that funding for each, the Leathercamp project and the county middle-mile project are needed for each of the projects to move forward.

**What is the schedule for completing the work covering this request**

It s our intention to complete most if not all work by the end of 2024. If a delay occurs, the projects will be completed in the spring of 2025.

**If there is a need for \$8 million in direct funding for improvements why is the request for \$12 million**

Similar to the other conduit bonding issues we have performed in the past, a portion of funds are set aside to make the initial bond payments. Broadband projects are capital intensive and do not generate revenue immediately. The funds that are set aside make the initial payments as Bug Tussel builds the network and begins to obtain customers. Revenue from customer subscription will then be used to make the bond payments.

**Have other counties been approached to provide authority for additional bonding**

Bug Tussel has not approached other counties for additional funding. While we have experienced some challenges in other county projects, your county is unique in that we did not experience the amount of rock as we did in Marathon County. We did not want to seek additional funding, but the financial challenges pushed us to seek this alternative

**How does the additional funding assist Bug Tussel regarding future expansion efforts**

The funding being requested is for the completion of the Leathercamp and middle-mile projects only. The funds are exclusively for this purpose. Relative to the question, the completion of the middle-mile project will assist Marathon County in its efforts to expand broadband access in the county. With recent announcements of other providers walking away from projects in Marathon County, Bug Tussel is committed to finishing its projects. We want to show our commitment to the county and demonstrate that we want to do even more.

**Will Bug Tussel be applying for BEAD**

Bug Tussel is looking at all potential projects related to BEAD. We want to continue our partnership with Marathon County and want to continue to expand broadband access to all parts of the county. BEAD is a complement to our middle-mile project as it can be the backbone for last-mile projects identified through the BEAD process. We look forward to working together to identify potential projects that will achieve that mutual goal.

**What if the county were to walk away from the Leathercamp project**

County funding is an essential part of the Leathercamp project. Bug Tussel is currently working on the project and we believe it can be completed in 2024. A change in funding would definitely delay its completion.



# MARATHON COUNTY

TO: Marathon County Board  
FROM: John Robinson, County Supervisor  
DATE: August 7, 2024  
SUBJECT: Bug Tussel Conduit Bonding Proposal FAQs

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In response to the questions and concerns raised at the June meeting of the Marathon County Board, the Marathon County broadband team has compiled a short summary of the project proposal along with Frequently Asked Questions. We have asked Bug Tussel to create its own FAQ to address concerns specific to their project.

## Project Summary

- |           |   |
|-----------|---|
| Project 1 | Conduit Bonding Project for Middle Mile Fiber Loop and Towers<br>County Board approved \$25 million conduit bond in November 2021 as part of a 5-county, \$75 million bond            |
| Project 2 | County Board Resolution 21-22 (aka Leathercamp Project)<br>County Board agreed to a \$3 million loan in March 2022, with the terms to be approved by the County Board at a later date |

## Funding Request Summary

Due to project cost increases, BugTussel is requesting access to \$12 million in conduit bonding  
\$5 million for Project 1  
\$3 million for Project 2  
\$4 million for bonding costs & capitalized interest

## FREQUENTLY ASKED QUESTIONS

### What is the benefit to the County?

- Improved public safety communications for the Marathon County Sheriff department and other first responders to respond to emergencies throughout the County.
- Improved access to cell service in rural/hilly areas with poor cell coverage.
- 1,800+ residents receive access to fiber for reliable, high-speed internet and improved wifi (via towers).
- Provides a regular revenue stream to the County of approximately \$100,000 per year. This revenue will increase with the additional borrowing and will reduce as the principal decreases over time.
- As stated in the Marathon County letters of support, the project will improve our residents' quality of life, allowing them to carry out daily tasks more efficiently, work from home, attend school virtually, access telehealth service and stay connected to at risk family members in rural areas.

### Given the rapid pace of technology changes, will the project have value after 30 years?

- CCITC is currently utilizing fiber in Marathon County that is more than 30 years old.
- Fiber and towers will hold value beyond 30 years. According to the Fiber Optic Association, 40 years is a probable lifetime for fiber. There are fiber cables in use today that are over 30 years old. <https://www.thefoa.org/FiberFAQs.html>
- The electronics on the towers will be replaced on a regular basis (at the cost of the provider).

### What are the risks/protections to the county in terms of guaranteeing the repayment due to the length of the bonds? (30 years)

- Please see the attached response from PFM

### How does the borrowing impact the county's debt limit and credit rating? –

- Please see the attached response from PFM

### Have other internet service providers made similar requests?

- We respond to requests for grant support and/or partnership opportunities from ISPs. We have partnered with Cirrinity, Spectrum, Frontier, and Country Wireless.
- Bug Tussel is the only project that has conduit borrowing
- Other ongoing broadband grant projects in Marathon County have recently been revoked (Frontier PSC Grant) or partially defaulted (Charter RDOF).
- Frontier cited “macroeconomic factors—including inflation—over the period since the original project conception that significantly increased the cost of materials and labor.”
- According to a 2023 report by the Fiber Broadband Association, Costs have risen for broadband projects. According to a survey in October-November, 2023\*
  - 46% of respondents reported “significant” cost increases in 2023
  - Labor accounts for over two-thirds of build costs
  - Building in rocky areas costs twice as much as laying fiber in soft earth*\*For the full document and other information on Fiber Broadband providers, see: [Research – Fiber Broadband Association](#)*

**What happens if the County does not support the conduit bond?**

- Project 1 (Fiber and Tower route) – The project would move ahead but at a much slower pace, impacting approximately 1,800 County residents’ access to broadband and the County’s access to public safety infrastructure.
- Project 2 (Leathercamp) – The funding commitment by the County in 2022 would not be fulfilled.

**Do these projects align with the County Strategic Plan?**

- These projects directly align with Objective 8.7 of the County Strategic Plan



**OBJECTIVE 8.7: Strive to provide affordable, reliable, high-speed internet access throughout the county.**





**What are the risks/protections to the county in terms of guaranteeing the repayment due to the length of the bonds? (30 years) – (response by PFM and Quarles)**

The biggest risk to the county is that Bug Tussel does not make their payment on either the 2021 Bonds or the proposed 2024 Bonds. The first protection is the Debt Service Reserve Fund which is available to make one year's principal and interest bond payments. The second protection is that the County has a mortgage which would transfer the property/equipment ownership to the County in the event of a default. The County would own the physical assets.

- **Protections: A fund has been established in the bond documents for 2 years of payments as part of the agreement. This means that the county would have significant notice of default relative to the fund balance dropping before a default of the underlying debt service obligation.**

The documents establish a Debt Service Reserve Fund which is an amount equal to the maximum annual debt service on the Series 2024 bonds. The debt service reserve fund is available for one year's debt service payment (principal and interest)

If Bug Tussel 2 LLC/Hillbert is unable to make the bond payment and there is a draw on the reserve fund, then the County needs to replenish its share of the debt service reserve fund. The county has 150 days to replenish that fund. The County can choose how they replenish the debt service reserve fund, e.g. general fund dollars, issuing debt. This would be done an annual basis if Bug Tussel is unable to replenish the Debt Service Reserve Fund. This process could happen every single year if Bug Tussel/Hillbert is unable to make debt payments and there is a draw on the debt service fund.

- **If there is a Default of Bug Tussel and the other entities providing financial backing (i.e., Hilbert Communications), Marathon County would ultimately be in a position to take ownership of fiber and towers.**

The mortgage allows the County to be in position to take ownership of the assets. These assets would be owned by the County and could be sold, operated or leased by the County and those revenues could be applied to pay/offset the County's responsibility for the debt service. However the County is ultimately 100% responsible for the debt service and has covenanted to levy a tax to pay 100% of the debt service regardless of the returns on the mortgaged assets.

**How does the borrowing impact the county's debt limit and credit rating? (PFM)**

***Legal Debt Limit***

Marathon County has the power to incur indebtedness for county purposes specified by statute (Article 11 Section 3 of the Wisconsin Constitution and Chapter 67, Wisconsin Statutes) in an aggregate amount, not exceeding five percent of the equalized value of taxable property in the county, as last determined by the State of Wisconsin Department of Revenue. In general, such indebtedness may be in the form of bonds and promissory notes for various public purposes.

As of October 1, 2024, the County remaining debt limit is \$771,771,820. See calculation below:

**Debt Limit Calculation as of August 1, 2024**

2024 Preliminary Equalized Value	17,264,936,400
Legal Debt Limit (5% of Equalized Value)	863,246,820
Existing County Debt Outstanding (10.6% of Capacity)	91,475,000
Remaining Legal Debt Capacity (89.6% of Capacity)	<u>771,771,820</u>

- Impact on Borrowing Limit While the conduit financing does not impact the county's debt (or borrowing) limit, the accompanying guaranty would obligate the county to replenish the debt service fund and fulfill any unmet financial obligations in the event of default by Bug Tussel and its guarantor (i.e., Hilbert Communications) to meet the terms of the bond issuance. Although the amount of the underlying guaranty does not count against the legal debt limit of the county, the county must reserve that amount in debt limit of the amount that the County is guaranteeing in the event the county would need to fulfill any unmet financial obligations for the Bug Tussel projects.
- Impact on Credit Rating

We are unable to determine the impact that this borrowing will have on the county's credit rating by Moody's without further research.

**PRELIMINARY LIMITED OFFERING MEMORANDUM DATED [SEPTEMBER \_\_], 2024**

**NEW ISSUE – BOOK-ENTRY ONLY**

**INSURED BY BUILD AMERICA MUTUAL ASSURANCE COMPANY**

**EXPECTED INSURED RATING: S&P: [“\_\_”]**

**UNDERLYING RATING: S&P: [“\_\_”]**

(See “*DESCRIPTION OF RATINGS*” and “*SERIES 2024 BOND INSURANCE*” herein)

*In the opinion of Husch Blackwell LLP, Bond Counsel, under existing law, interest on the Bonds is included in gross income for federal income tax purposes pursuant to the Internal Revenue Code of 1986, as amended (the “Code”). See “TAX MATTERS” herein.*

**[\$[PAR AMOUNT]\*  
FOND DU LAC COUNTY, WISCONSIN  
TAXABLE REVENUE BONDS, SERIES 2024  
(BUG TUSSEL 2, LLC PROJECT) (SOCIAL BONDS)**

<b>DATED.....</b>	Date of Issuance
<b>ISSUANCE .....</b>	Fond du Lac County, Wisconsin, a political subdivision of the State of Wisconsin (the “ <i>Issuer</i> ”), will issue the above-referenced bonds (the “ <i>Series 2024 Bonds</i> ”) through a book-entry system under an Indenture of Trust, dated as of [September] 1, 2024 (the “ <i>Indenture</i> ”), between the Issuer and U.S. Bank Trust Company, National Association, as trustee (the “ <i>Trustee</i> ”).
<b>PRICING AND PAYMENT TERMS .....</b>	Maturities, interest rates, prices and yields and certain other information is set forth on the inside front cover.
<b>INTEREST PAYMENT DATES .....</b>	Interest on the Series 2024 Bonds is payable on May 1 and November 1 of each year, commencing [November 1, 2024].
<b>REDEMPTION .....</b>	The Series 2024 Bonds are subject to redemption prior to maturity under certain circumstances. See “ <i>THE SERIES 2024 BONDS – Redemption.</i> ”
<b>BOOK ENTRY ONLY ....</b>	The Series 2024 Bonds will be in fully registered form and will be registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York (“ <i>DTC</i> ”). DTC will act as securities depository for the Series 2024 Bonds. Purchases of interests in the Series 2024 Bonds will be made only in book-entry form and purchasers will not receive certificates representing their interests in the Series 2024 Bonds. So long as Cede & Co. is the registered owner, as nominee of DTC, references herein to the Bondowners or registered owners shall mean Cede & Co., as aforesaid, and shall not mean the beneficial owners of the Series 2024 Bonds.
<b>DENOMINATIONS.....</b>	The Series 2024 Bonds will be issued in minimum authorized denominations of \$100,000 or any multiple of \$5,000 in excess thereof.
<b>USE OF PROCEEDS .....</b>	The Issuer will lend the proceeds from the sale of the Series 2024 Bonds to Bug Tussel 2, LLC, a Wisconsin limited liability company (the “ <i>Borrower</i> ”), which plans to use the proceeds to finance a project consisting of the acquisition, construction, installation, and equipping of certain telecommunications infrastructure that includes, among other things (i) acquisition of tower sites by purchase or lease of land and equipping such sites with towers and electronics to provide broadband, high speed cellular, emergency communications and point to point (P2P) data communications; (ii) constructing fiberoptic data transmission facilities (cable and electronics) between towers, key community facilities, businesses and residential aggregation points; (iii) where appropriate, connecting individual premises into the broadband network including the cost of consumer premise equipment; (iv) payment of capitalized interest; (v) funding of a debt service reserve fund for the Series 2024 Bonds; (vi) payment of certain project costs located in the counties of Fond du Lac, Iowa, Forest, Price, Jefferson, Lafayette, Marathon, Waushara, Sawyer, and Taylor, each a political subdivision of the State of Wisconsin (each a “ <i>Series 2024 Participating County</i> ” and together, the “ <i>Series 2024 Participating Counties</i> ”); and (vii) payment of certain costs of issuance related to the issuance of the Series 2024 Bonds (collectively, the “ <i>Series 2024 Project</i> ”), all of which will be for the purpose of providing fiberoptic transmissions, wireless internet and telephone communications services and infrastructure to businesses, governmental units and residents of rural communities where such service is currently unavailable, unreliable, or is prohibitively expensive. See “ <i>PLAN OF FINANCE</i> ”.

\* Preliminary, subject to change.

This Preliminary Limited Offering Memorandum and the information contained in this Preliminary Limited Offering Memorandum are subject to completion or amendment. These securities may not be sold nor may offers to buy be accepted prior to the time the Limited Offering Memorandum is delivered in final form. Under no circumstances shall this Preliminary Limited Offering Memorandum constitute an offer to sell or the solicitation of an offer to buy nor shall there be any sale of these securities in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such jurisdiction.

**GUARANTY  
AGREEMENTS .....**

The Series 2024 Participating Counties (each Series 2024 Participating County being a “*Guarantor*” and, together the “*Guarantors*”) have agreed to guarantee the replenishment of the Series 2024 Debt Service Reserve Account (as defined in the Indenture) related to the Series 2024 Bonds in an amount equal to such Guarantor’s pro rata share of amount(s) necessary to replenish the Series 2024 Debt Service Reserve Account to be at least equal to the Series 2024 Debt Service Reserve Requirement (as defined in the Indenture), each pursuant to a separate Guaranty Agreement, each dated as of [September] 1, 2024 (each, a “*Guaranty Agreement*” and, collectively, the “*Guaranty Agreements*”), by and among each Guarantor, the Series 2024 Insurer (as defined below), and the Trustee. The obligations of each Guarantor under its Guaranty Agreement are an absolute and unconditional general obligation of the Guarantor to the payment of which the full faith and credit taxing power of such Guarantor is pledged, and remain in full force and effect and are not affected, modified, or impaired upon, among other things, an event of default by the Borrower or Hilbert under any Reimbursement Agreement or Hilbert Guaranty or any agreement securing the Borrower’s or Hilbert’s obligations pursuant to any Reimbursement Agreement or Hilbert Guaranty. **Each Guarantor’s obligations under its respective Guaranty Agreement is several and NOT joint with any other Guarantor’s obligations under its respective Guaranty Agreement.** Furthermore, each Guarantor’s obligations under its respective Guaranty Agreement only secures its obligations with respect to the Series 2024 Bonds. See “*GUARANTY AGREEMENTS*”.

**REIMBURSEMENT  
AGREEMENTS .....**

The Borrower has agreed to reimburse certain amounts to each Guarantor pursuant to separate Reimbursement Agreements, each dated as of [September] 1, 2024 (each, a “*Reimbursement Agreement*” and, collectively, the “*Reimbursement Agreements*”). As further security for the Borrower’s obligations under the Reimbursement Agreements, Hilbert Communications, LLC, a Wisconsin limited liability company (“*Hilbert*”), and the sole member of the Borrower, will provide guaranties to each of the Guarantors (each a “*Hilbert Guaranty*” and, collectively, the “*Hilbert Guaranties*”) whereby Hilbert will guarantee the payment of all obligations and liabilities of the Borrower under each of the Reimbursement Agreements and the documents securing the obligations thereunder. As further consideration for each Guarantor’s Guaranty Agreement, the Borrower has agreed to provide the applicable Guarantor access to use any telecommunications towers and certain strands of fiber optic cables constructed in such Guarantor’s county with the proceeds of the Series 2024 Bonds. **The Reimbursement Agreements, the Hilbert Guaranties, and the agreements securing and providing other rights to the Guarantors in connection with the Reimbursement Agreements are NOT security for the Borrower’s obligations under the Loan Agreement and are NOT available as security for the Trustee or holders of the Series 2024 Bonds. Performance or nonperformance by the Borrower or Hilbert in respect to their obligations under the Reimbursement Agreements or the Hilbert Guaranties does not reduce the Guarantors’ obligations under their respective Guaranty Agreement.**

**BONDS ARE LIMITED  
OBLIGATIONS .....**

THE SERIES 2024 BONDS ARE LIMITED OBLIGATIONS OF THE ISSUER AND ARE NOT A DEBT OR LIABILITY OF THE ISSUER, THE STATE OF WISCONSIN, OR ANY POLITICAL SUBDIVISION OR AGENCY THEREOF. THE SOURCE OF PAYMENT AND SECURITY FOR THE SERIES 2024 BONDS IS MORE FULLY DESCRIBED HEREIN.

**SERIES 2024 BOND  
INSURANCE**

The scheduled payment of principal and interest on the Series 2024 Bonds when due will be guaranteed under a municipal bond insurance policy to be issued concurrently with the delivery of the Series 2024 Bonds by BUILD AMERICA MUTUAL ASSURANCE COMPANY (“*BAM*” or the “*Series 2024 Insurer*”). See “*SERIES 2024 BOND INSURANCE*.”

**SOCIAL BONDS SELF-  
DESIGNATION**

The Borrower will self-designate the Series 2024 Bonds as “social” bonds. In support of such self-designation, the Borrower will covenant in the Loan Agreement that it will use certain proceeds of the Series 2024 Bonds for “Social Projects” as defined by the International Capital Markets Association and will provide, or cause to be provided, to the Municipal Securities Rulemaking Board (the “*MSRB*”) annual information relating to such self-designation. The failure of the Borrower to comply with the requirements relating to such self-designation will not be considered an Event of Default under the Loan Agreement. See “*SOCIAL BONDS SELF-DESIGNATION*.”

TRANSFER  
RESTRICTIONS.....

INVESTMENT IN THE SERIES 2024 BONDS INVOLVES A SUBSTANTIAL DEGREE OF RISK AND EACH PROSPECTIVE INVESTOR SHOULD CONSIDER ITS FINANCIAL CONDITION AND THE RISKS INVOLVED TO DETERMINE THE SUITABILITY OF INVESTING IN THE SERIES 2024 BONDS. THE SERIES 2024 BONDS ARE BEING OFFERED AND SOLD ONLY TO “QUALIFIED INSTITUTIONAL BUYERS” WITHIN THE MEANING OF RULE 144A (“RULE 144A”) OF THE SECURITIES AND EXCHANGE COMMISSION, AS PROMULGATED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”). EACH INITIAL BENEFICIAL OWNER OF A BOND SHALL PROVIDE AN INVESTOR LETTER SUBSTANTIALLY IN THE FORM ATTACHED HERETO AS APPENDIX G – FORM OF INVESTOR LETTER. NO INVESTOR LETTER SHALL BE REQUIRED TO BE DELIVERED IN CONNECTION WITH SUBSEQUENT TRANSFERS OF THE SERIES 2024 BONDS. THE SERIES 2024 BONDS ARE CONSIDERED “RESTRICTED SECURITIES” WITHIN THE MEANING OF RULE 144 UNDER THE SECURITIES ACT. SEE “NOTICE TO INVESTORS” HEREIN.



*The Series 2024 Bonds are offered when, as and if issued and received by the Underwriters, subject to prior sale, to withdrawal or modifications of the offer without any notice, and to the approval of legality of the Series 2024 Bonds by Husch Blackwell LLP, Bond Counsel. Certain legal matters will be passed upon for the Issuer by its counsel, Quarles & Brady LLP; for the Borrower by its counsel, Husch Blackwell LLP; for each of Price County, Lafayette County, Sawyer County and Taylor County by its special counsel, Attolles Law, s.c., for each other Guarantor by its special counsel, Quarles & Brady LLP; for the Series 2024 Insurer, by its counsel, and for the Underwriters by their counsel, Ballard Spahr LLP. It is expected that the Series 2024 Bonds will be available for delivery via The Depository Trust Company, New York, New York on or about [September] [\_\_], 2024.*

**Ramirez & Co., Inc.**

**Robert W. Baird & Co. Incorporated**

**Oppenheimer & Co. Inc.**

The date of this Limited Offering Memorandum is [\_\_\_\_\_] [\_\_], 2024.

**[\$[PAR AMOUNT]]\***  
**Fond du Lac County, Wisconsin**  
**Taxable Revenue Bonds, Series 2024**  
**(Bug Tussel 2, LLC Project) (SOCIAL BONDS)**

**Pricing and Payment Terms\***

\$[\_\_\_\_\_] Serial Bonds\*

Maturity Year ([_____]1)	Principal Amount	Interest Rate	Yield	Price	CUSIP† Number
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**[\$[PAR AMOUNT]]\***  
**% TERM BONDS MATURING [\_\_\_\_\_]1**  
**Yield    %, Price    , CUSIP† Number**

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† CUSIP® is a registered trademark of American Bankers Association. The CUSIP numbers in this Official Statement are provided by CUSIP Global Services LLC, managed on behalf of the American Bankers Association by FactSet Research Systems Inc. The CUSIP numbers listed are provided solely for the convenience of the bondholders and none of the Issuer, the Underwriters, Trustee or other agents or counsel make any representation with respect to such numbers or undertake any responsibility for their accuracy now or at any time in the future.

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\* Preliminary, subject to change.

## REGARDING USE OF THIS LIMITED OFFERING MEMORANDUM

No dealer, broker, sales representative, or other person has been authorized by the Issuer, the Borrower, or Samuel A. Ramirez & Company, Inc., Robert W. Baird & Co. Incorporated and Oppenheimer & Co. Inc. (together, the “Underwriters”) to give information or to make any representations with respect to the Series 2024 Bonds except as expressly set forth in this Limited Offering Memorandum, and if given or made, any such other information or representations must not be relied upon as having been authorized by any of the foregoing. This Limited Offering Memorandum does not constitute an offer to sell or the solicitation of an offer to buy, and there shall not be any sale of the Series 2024 Bonds by any person in any jurisdiction, in which it is unlawful for such person to make such offer, solicitation, or sale. Certain information contained herein has been obtained from the Underwriters, the Guarantors, The Depository Trust Company, and other sources which are believed to be reliable, but is not guaranteed as to adequacy, accuracy, or completeness by, and is not to be construed to be the representations of, the Issuer or the Borrower. The information and expressions of opinion herein are subject to change without notice, and neither the delivery of this Limited Offering Memorandum nor any sale made hereunder shall, under any circumstances, create any implication that there has been no change since the date hereof in the business affairs or financial condition of the parties referred to herein.

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## CAUTIONARY STATEMENTS REGARDING FORWARD-LOOKING STATEMENTS IN THIS LIMITED OFFERING MEMORANDUM

This Limited Offering Memorandum, including the information incorporated into this Limited Offering Memorandum by reference, contains “forward-looking statements,” which involve risks and uncertainties. All statements, other than statements of historical facts, that are included in or incorporated by reference into this Limited Offering Memorandum, or made in presentations, in response to questions or otherwise, that address activities, events or developments that the Borrower expects or anticipates to occur in the future, including such matters as projections, capital allocation, future capital expenditures, business strategy, competitive strengths, goals, future acquisitions or dispositions, development or operation of assets, market and industry developments and the growth of its business and operations (often, but not always, through the use of words or phrases such as “believes,” “plans,” “intends,” “will likely result,” “are expected to,” “will continue,” “is anticipated,” “estimated,” “projection,” “target,” “goal,” “objective,” “outlook” and similar expressions), are forward-looking statements. Although the Borrower believes that in making any such forward-looking statement its expectations are based on reasonable assumptions, any such forward-looking statement involves uncertainties and is qualified in its entirety by reference to the discussion of risk factors under “BONDOWNERS’ RISKS” contained elsewhere in this Limited Offering Memorandum.

The Borrower does not plan to issue any updates or revisions to those forward-looking statements if or when expectations, events, conditions, or circumstances change.

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In connection with this offering, the Underwriters may over allot or effect transactions that stabilize or maintain the market price of the Series 2024 Bonds at a level above that which might otherwise prevail in the open market. Such stabilizing, if commenced, may be discontinued at any time.

The Series 2024 Bonds have not been registered under the Securities Act and the Indenture has not been qualified under the Trust Indenture Act of 1939, as amended, in reliance upon certain exemptions contained in such federal laws. In making an investment decision, investors must rely upon their own examination of the Series 2024 Bonds and the security therefor, including an analysis of the risks involved. The Series 2024 Bonds have not been recommended by any federal or state securities commission or regulatory authority. The registration, qualification, or exemption of the Series 2024 Bonds in accordance with applicable provisions of securities laws of the various jurisdictions in which the Series 2024 Bonds have been registered, qualified, or exempted cannot be regarded as a recommendation thereof. Neither such jurisdictions nor any of their agencies have passed upon the merits of the Series 2024 Bonds or the adequacy, accuracy, or completeness of this Limited Offering Memorandum. Any representation to the contrary may be a criminal offense.

THE SERIES 2024 BONDS ARE CONSIDERED “RESTRICTED SECURITIES” WITHIN THE MEANING OF RULE 144 UNDER THE SECURITIES ACT. THIS LIMITED OFFERING MEMORANDUM IS BEING PROVIDED ONLY TO INVESTORS THAT ARE REASONABLY BELIEVED TO BE “QUALIFIED INSTITUTIONAL BUYERS” WITHIN THE MEANING OF RULE 144A (“RULE 144A”) OF THE SECURITIES AND EXCHANGE COMMISSION, AS PROMULGATED UNDER THE SECURITIES ACT, WHO ARE WILLING AND ABLE TO CONDUCT AN INDEPENDENT INVESTIGATION OF THE RISKS INVOLVED WITH OWNERSHIP OF THE SERIES 2024 BONDS AND TO FAMILIARIZE THEMSELVES WITH THE AFFAIRS OF THE BORROWER.

IN MAKING AN INVESTMENT DECISION REGARDING THE SERIES 2024 BONDS OFFERED HEREBY, PROSPECTIVE INVESTORS MUST RELY ON THEIR OWN EXAMINATION OF THE BORROWER AND THE TERMS OF THE OFFERING, INCLUDING THE MERITS AND RISKS INVOLVED. THE CONTENTS OF THIS LIMITED OFFERING MEMORANDUM ARE NOT TO BE CONSTRUED AS LEGAL, BUSINESS OR TAX ADVICE. EACH PROSPECTIVE INVESTOR SHOULD CONSULT ITS OWN COUNSEL, ACCOUNTANT AND OTHER ADVISORS AS TO LEGAL, TAX, BUSINESS, FINANCIAL AND RELATED ASPECTS OF A PURCHASE OF THE SERIES 2024 BONDS.

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### NOTICE TO INVESTORS

Purchasers of the Series 2024 Bonds, which are being issued as “taxable bonds,” will receive restricted securities under Rule 144A. By its acquisition of a Bond or a beneficial interest therein, each purchaser will be deemed to have represented and agreed for the benefit of the Issuer, the Borrower, the Trustee and the Underwriters, that in addition to the representations and agreements in the Investor Letter, the purchaser:

(a) is (1) a Qualified Institutional Buyer as defined in Section 144A of the Securities Act, (2) aware that the sale to it is being made in reliance on Rule 144A and (3) acquiring the Series 2024 Bonds for its own account or for the account of a Qualified Institutional Buyer;

(b) understands and acknowledges that the Series 2024 Bonds have not been registered under the Securities Act or any other applicable securities laws, are being offered for resale in transactions not requiring registration under the Securities Act, and may not be offered, sold or otherwise transferred except in compliance with an exemption to the registration requirements of the Securities Act and any other applicable securities laws, and in each case in compliance with the conditions to transfer set forth in clause (c) below;

(c) agrees, and each subsequent holder of a Series 2024 Bond by its acceptance thereof will be deemed to have agreed, that it will not offer, sell, pledge or otherwise transfer the Series 2024 Bonds, prior to the expiration of the applicable holding period with respect to restricted securities set forth in Rule 144A, except where:

(1) (A) the security is eligible for resale pursuant to Rule 144A, to a person who the seller reasonably believes is a Qualified Institutional Buyer that purchases for its own account or for the account of a Qualified Institutional Buyer in a transaction meeting the requirements of Rule 144A, (B) in a transaction meeting the requirements of Rule 144 under the Securities Act, or (C) in accordance with another exemption from the registration requirements of the Securities Act;

(2) to the Borrower or any subsidiary thereof; or

(3) pursuant to an effective registration statement under the Securities Act and, in each case described in this clause (c), in accordance with any applicable securities laws of any state of the United States or any other applicable jurisdiction;

(d) agrees that it will, and each subsequent holder is required to, notify any purchaser from it of the resale restrictions set forth in clause (c) above; and



(e) the purchaser acknowledges that the Issuer, the Borrower, the Trustee, the Underwriters and others will rely upon the truth and accuracy of the foregoing acknowledgements, representations and agreements and agrees that, if any of the acknowledgements, representations or warranties deemed to have been made by it are no longer accurate, it shall promptly notify the Borrower and the Underwriters and if it is acquiring any Bonds as a fiduciary or agent for one or more investor accounts, it represents that it has sole investment discretion with respect to each such account and that it has full power to, and does, make the foregoing acknowledgements, representations and agreements on behalf of each such account.

No representation can be made as to the availability of the exemption provided by Rule 144 under the Securities Act for resale of the Series 2024 Bonds.

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Build America Mutual Assurance Company (“BAM” or the “Series 2024 Insurer”) makes no representation regarding the Series 2024 Bonds or the advisability of investing in the Series 2024 Bonds. In addition, BAM has not independently verified, makes no representation regarding, and does not accept any responsibility for the accuracy or completeness of this Limited Offering Memorandum or any information or disclosure contained herein, or omitted herefrom, other than with respect to the accuracy of the information regarding BAM supplied by BAM and presented under the heading “SERIES 2024 BOND INSURANCE” and in *Appendix H* – “SPECIMEN MUNICIPAL BOND INSURANCE POLICY.”

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The CUSIP numbers included in this Limited Offering Memorandum are for the convenience of the Owners of the Series 2024 Bonds. No assurance can be given that the CUSIP numbers for the Series 2024 Bonds will remain the same after the date of issuance and delivery of the Series 2024 Bonds.

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## LIMITED OFFERING MEMORANDUM

**[\$[PAR AMOUNT]]\***  
**FOND DU LAC COUNTY, WISCONSIN**  
**TAXABLE REVENUE BONDS, SERIES 2024**  
**(BUG TUSSEL 2, LLC PROJECT) (SOCIAL BONDS)**

### INTRODUCTION

This Limited Offering Memorandum is provided to furnish information in connection with the sale by Fond du Lac County, Wisconsin, a political subdivision of the State of Wisconsin (the “*Issuer*”), of \$[PAR AMOUNT]\* in aggregate principal amount of its Taxable Revenue Bonds, Series 2024 (Bug Tussel 2, LLC Project) (Social Bonds) (the “*Series 2024 Bonds*”) to be issued under an Indenture of Trust, dated as of [September] 1, 2024 (the “*Indenture*”), from the Issuer to U.S. Bank Trust Company, National Association, as trustee (the “*Trustee*”).

Capitalized terms used and not defined herein are defined in *Appendix D* hereto. If any conflict exists among the definitions set forth in the forms of agreement included in *Appendix D*, the definitions in the Indenture shall control. The descriptions and summaries of various documents hereinafter set forth do not purport to be comprehensive or definitive, and reference is made to each such document for the complete details of its terms and conditions. All statements herein relating to such documents are qualified in their entirety by reference to each such document. Copies of such documents will be available through the Date of Issuance at the office of Ramirez & Co. Inc. and thereafter at the principal corporate trust office of the Trustee.

#### **The Borrower and Hilbert**

Concurrently with the issuance of the Series 2024 Bonds, Bug Tussel 2, LLC, a Wisconsin limited liability company (the “*Borrower*”), and the Issuer will enter into a Loan Agreement, dated as of [September] 1, 2024 (the “*Loan Agreement*”), under which the proceeds to be received by the Issuer from the sale of the Series 2024 Bonds will be lent to the Borrower. The Borrower is a special purpose entity formed solely to undertake the Project and is wholly owned by Hilbert Communications, LLC, a Wisconsin limited liability company (“*Hilbert*”). See “*THE BORROWER, HILBERT AND THE PROJECT*” and *Appendix A* hereto for a more detailed description of the Borrower, Hilbert, and their operations.

#### **Purposes of the Series 2024 Bonds and the Series 2024 Project**

The proceeds of the Series 2024 Bonds, together with the earnings thereon and other moneys of the Borrower will be used to finance a project consisting of the acquisition, construction, installation, and equipping of certain telecommunications infrastructure that includes, among other things (i) acquisition of tower sites by purchase or lease of land and equipping such sites with towers and electronics to provide broadband, high speed cellular, emergency communications and point to point (P2P) data communications; (ii) constructing fiberoptic data transmission facilities (cable and electronics) between towers, key community facilities, businesses and residential aggregation points; (iii) where appropriate, connecting individual premises into the broadband network including the cost of Consumer Premise Equipment (CPE); (iv) payment of capitalized interest; (v) funding of a debt service reserve fund for the Series 2024 Bonds; (vi) payment of certain project costs located in the following counties: Fond du Lac, Iowa, Forest, Price, Jefferson, Lafayette, Marathon, Waushara, Sawyer, and Taylor (the “*Series 2024 Participating Counties*” and, each a “*Series 2024 Participating County*”); and (vii) payment of certain costs of issuance related to the issuance of the Series 2024 Bonds (collectively, the “*Series 2024 Project*”), all of which will be for the purpose of owning and operating the Project to provide fiberoptic transmissions, wireless internet and telephone communications services and infrastructure to businesses, governmental units and residents of rural communities where such service is currently unavailable, unreliable, or is prohibitively expensive. See “*THE BORROWER, HILBERT AND THE PROJECT*,” “*PLAN OF FINANCE*,” and “*ESTIMATED SOURCES AND USES OF FUNDS*.”

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\* Preliminary, subject to change

## Security for the Series 2024 Bonds

The Series 2024 Bonds will be limited obligations of the Issuer, payable solely from revenues received by the Trustee for the account of the Issuer under the Loan Agreement and the Indenture. The Series 2024 Bonds will be secured by all revenues and income derived by or for the account of the Issuer from or for the account of the Borrower pursuant to the terms of the Loan Agreement, the Promissory Note (as hereinafter defined), and the Indenture, including, without limitation (i) all payments and prepayments by the Borrower on the Promissory Note or pursuant to the Loan Agreement (except for the Issuer's fees and expenses and its right to indemnification in certain circumstances), and (ii) other money and securities held by the Trustee under the Indenture and the investment earnings thereon (collectively, the "*Pledged Revenues*"). See "*SECURITY AND SOURCE OF PAYMENT FOR THE BONDS*."

As evidence of the borrowing under the Loan Agreement, the Borrower will issue its Promissory Note related to the Series 2024 Bonds (the "*Promissory Note*") in an aggregate principal amount equal to the principal amount of the Series 2024 Bonds. The terms of the Promissory Note will require payments by the Borrower that in the aggregate will be sufficient to provide for the timely payment of the principal of, and interest on, the Series 2024 Bonds. The Promissory Note will be a direct obligation of the Borrower. The Issuer will pledge and assign the Promissory Note and certain of its rights under the Loan Agreement to the Trustee as security for the Series 2024 Bonds.

Concurrently with the issuance of the Series 2024 Bonds, Fond du Lac County, Wisconsin ("*Fond du Lac County*"), Iowa County, Wisconsin ("*Iowa County*"), Forest County, Wisconsin ("*Forest County*"), Price County, Wisconsin ("*Price County*"), Jefferson County, Wisconsin ("*Jefferson County*"), Lafayette County, Wisconsin ("*Lafayette County*"), Marathon County, Wisconsin ("*Marathon County*"), Waushara County, Wisconsin ("*Waushara County*"), Sawyer County, Wisconsin ("*Sawyer County*") and Taylor County, Wisconsin ("*Taylor County*"), each a political subdivision of the State of Wisconsin (each, a "*Guarantor*" and collectively, the "*Guarantors*"), will guarantee the replenishment of the Series 2024 Debt Service Reserve Account related to the Series 2024 Bonds in an amount equal to such Guarantor's pro rata share of amount(s) necessary to replenish the Series 2024 Debt Service Reserve Account to be at least equal to the Series 2024 Debt Service Reserve Requirement (as defined in the Indenture), each pursuant to a separate Guaranty Agreement, each dated as of [September] 1, 2024 (each, a "*Guaranty Agreement*" and collectively, the "*Guaranty Agreements*"), by and among each Guarantor, the Series 2024 Insurer, and the Trustee. The obligations of each Guarantor under its applicable Guaranty Agreement will be absolute and unconditional and a general obligation of such Guarantor to the payment of which the full faith and credit taxing power of such Guarantor is pledged. Each Guaranty Agreement **does not** guarantee the principal of, or interest on, the Series 2024 Bonds coming due by reason of acceleration, redemption (other than mandatory sinking fund redemption), prepayment or other early payment, to which the Guarantor does not consent. See "*GUARANTY AGREEMENTS*" and *Appendix C* and *Appendix D* hereto for a more detailed description of the Guaranty Agreements and each Guarantor. The Indenture grants each Guarantor certain approval, consent, and waiver rights with respect to certain actions that the Bondowners are otherwise authorized to take under the Indenture. See "*GUARANTY AGREEMENTS - Rights of the Guarantor with Respect to the Series 2024 Bonds*" and *Appendix D* for the form of such Guaranty Agreements.

Concurrently with the issuance of the Series 2024 Bonds, the Borrower has agreed to reimburse certain amounts to each Guarantor pursuant to separate Reimbursement Agreements, each dated as of [September] 1, 2024 (each, a "*Reimbursement Agreement*" and collectively, the "*Reimbursement Agreements*"). In return for the payments each Guarantor makes pursuant to a Guaranty Agreement, the Borrower has agreed to pay to each Guarantor (i) an annual guaranty fee of [40] basis points of the pro rata principal amount of the Series 2024 Bonds subject to each Guarantor's Guaranty Agreement, as may be paid in a lump sum, as agreed to by the applicable Guarantor and the Borrower as an operating expense of the Borrower, and (ii) all costs and expenses incurred by each Guarantor related to the issuance of the Series 2024 Bonds. As further security for the Borrower's obligations, Hilbert will provide guaranties to each of the Guarantors (each a "*Hilbert Guaranty*" and collectively, the "*Hilbert Guaranties*") whereby Hilbert will guarantee payment of all obligations and liabilities of the Borrower under the Reimbursement Agreement. As further consideration for each Guarantor's Guaranty Agreement, the Borrower has agreed to provide the applicable Guarantor access to use any telecommunications towers and certain strands of fiber optic cables constructed in such Guarantor's county with the proceeds of the Series 2024 Bonds. See *Appendix D* for the form of Reimbursement Agreements. Performance or nonperformance by the Borrower or Hilbert in respect to their obligations under the Reimbursement Agreements or the Hilbert Guaranties does not reduce the Guarantors' obligations under their respective Guaranty Agreement. Further, the obligations of each Guarantor under its Guaranty

Agreement are an absolute and unconditional general obligation of the Guarantor to the payment of which the full faith and credit taxing power of such Guarantor is pledged, and remain in full force and effect and are not affected, modified, or impaired upon, among other things, an event of default by the Borrower or Hilbert under any Reimbursement Agreement or Hilbert Guaranty or any agreement securing the Borrower's or Hilbert's obligations pursuant to any Reimbursement Agreement or Hilbert Guaranty. The Reimbursement Agreements, the Hilbert Guaranties, and the agreements securing and providing other rights to the Guarantors in connection with the Reimbursement Agreements are NOT security for the Borrower's obligations under the Loan Agreement and are NOT available as security for the Trustee or holders of the Series 2024 Bonds. See "BONDOWNERS' RISKS" herein.

### **Limited Offering and Transfer Restrictions**

Pursuant to the Indenture, the Series 2024 Bonds may only be sold or transferred in Authorized Denominations to "Qualified Institutional Buyers" as defined in Rule 144A under the Securities Act. Each initial Beneficial Owner of a Series 2024 Bond shall provide an investor letter substantially in the form attached hereto as "APPENDIX G – FORM OF INVESTOR LETTER." No investor letter shall be required to be delivered in connection with subsequent transfers of the Series 2024 Bonds. See "Notice to Investors" herein.

### **Bondowners' Risks**

There are risks associated with the purchase of the Series 2024 Bonds. See the information under the heading "BONDOWNERS' RISKS" for a discussion of certain of these risks.

THE ISSUER [TO BE UPDATED BY FDL AS NEEDED]

### **Introduction**

The Issuer encompasses an area of 725 square miles in southeast Wisconsin, approximately 70 miles northwest of Milwaukee, Wisconsin with an estimated population of [UPDATE WITH LATEST ANNUAL POPULATION ESTIMATE] and was established in 1839. The Issuer includes the cities of Fond du Lac and Ripon and a portion of the City of Waupun, nine villages and twenty-one townships. The Issuer's offices are located at 160 S. Macy Street, Fond du Lac, Wisconsin 54935; telephone (920) 929-3156. The Issuer is also a Series 2024 Participating County and a Guarantor. Audited financial statements of the Issuer for the year ended December 31, 2023 can be found in *Appendix C-1 – "Audited Financial Statements of Fond du Lac County, Wisconsin."*

All of the Series 2024 Participating Counties will enter into an Intergovernmental Agreement, dated the date of issuance of the Series 2024 Bonds, in which, among other things, the Series 2024 Participating Counties agree to cooperate and exercise their municipal powers jointly for the purpose of appointing Fond du Lac County to act as the Issuer for purposes of acting as the conduit issuer for the Series 2024 Bonds.

No Series 2024 Participating County makes any representation regarding the security for the Series 2024 Bonds or the suitability of the Series 2024 Bonds for investment. No Series 2024 Participating County undertakes any obligation to administer or monitor the development or operation of the Project or the production of income therefrom.

### **The Series 2024 Bonds are Limited Obligations of the Issuer**

The Series 2024 Bonds are limited obligations of the Issuer payable solely from the Trust Estate pledged for their payment under the Indenture. The Series 2024 Bonds are not a debt or liability of the Issuer, the State or of any political subdivision thereof. The Series 2024 Bonds do not, directly, indirectly or contingently, obligate, in any manner, the Issuer, the State or any political subdivision thereof to levy any tax or to make any appropriation for payment of the Series 2024 Bonds. Neither the faith and credit nor the taxing power of the Issuer, the State nor any political subdivision thereof shall be pledged to the payment of the principal of, premium, if any, or interest on the Series 2024 Bonds.

The Issuer expects to sell and deliver obligations other than the Series 2024 Bonds, which other obligations are and will be secured by instruments separate and apart from the Indenture and the Series 2024 Bonds. The holders

of such obligations of the Issuer will have no claim on the security for the Series 2024 Bonds, and the owners of the Series 2024 Bonds will have no claim on the security for such other obligations issued by the Issuer.

### **Limited Involvement of the Issuer**

The Issuer has not participated in or reviewed this Limited Offering Memorandum and is not responsible for any information contained herein, except for the information in this section and under the caption “*ABSENCE OF MATERIAL LITIGATION - Issuer*” as such information applies to the Issuer.

### **Limited Involvement of the Guarantors**

Each Guarantor has not participated in or reviewed this Limited Offering Memorandum and is not responsible for any information contained herein, except for the information under the captions “*THE GUARANTORS*,” “*ABSENCE OF MATERIAL LITIGATION – Guarantors*,” and “*CONTINUING DISCLOSURE*” as such information applies to such Guarantor and its audited financial statements included as appendices hereto.

## **THE BORROWER, HILBERT AND THE PROJECT**

### **The Borrower**

The Borrower, a Wisconsin limited liability company, is a wholly-owned subsidiary of Hilbert. The Borrower was created as a special purpose entity for the sole purpose of owning and operating the Project to provide fiberoptic transmissions, wireless internet and telephone communications services and infrastructure to businesses, governmental units and residents of rural communities where such service is currently unavailable, unreliable, or is prohibitively expensive. See *Appendix A* hereto for a more detailed description of the Borrower.

In the Loan Agreement, the Borrower covenants, among other things, to provide the Trustee with annual audited financial statements and to maintain its limited liability company existence. In certain circumstances, the Borrower may be permitted to consolidate with or merge into another entity or to transfer all or substantially all assets, provided that it complies with the provisions of the Loan Agreement relating to such transactions. See *Appendix D – “FORMS OF THE INDENTURE, THE LOAN AGREEMENT, THE GUARANTY AGREEMENTS, AND THE REIMBURSEMENT AGREEMENTS.”*

### **Hilbert**

Hilbert, a Wisconsin limited liability company, is the sole-owner of the Borrower. Hilbert is a regional provider of telecommunications products, services and infrastructure to residential and commercial customers in the Upper Midwest. The products, services and infrastructure Hilbert provides (either directly or through its subsidiaries and affiliates) include wholesale data transmissions, tower construction and leasing, fiberoptic construction and leasing and the provision of retail and wholesale wireless and fiberoptic broadband data and voice services. Hilbert and its subsidiaries operate wireless communications services under licenses granted by the Federal Communications Commission (“FCC”) and are subject to the applicable rules and regulations of the FCC. See *Appendix A* hereto for a more detailed description of Hilbert and its operations. **The Reimbursement Agreements, the Hilbert Guaranties, and the agreements securing and providing other rights to the Guarantors in connection with the Reimbursement Agreements are NOT security for the Borrower’s obligations under the Loan Agreement and are NOT available as security for the Trustee or holders of the Bonds. Hilbert, its subsidiaries, and other holdings (other than the Borrower) are NOT obligated to make payments or otherwise provide security for the Borrower’s obligations under the Loan Agreement and are NOT available as security for the Trustee or holders of the Bonds.** See “*BONDOWNERS’ RISKS*” herein.

### **The Project**

The proceeds of the Series 2024 Bonds will be used to finance the Project, which will be used for the purpose of building out of protected fiberoptic transport facilities, wireless communication towers, wireless broadband equipment and other infrastructure to provide and promote broadband services to businesses, governmental units and

residents of rural communities where such service is currently unavailable, unreliable, has inadequate speeds or is prohibitively expensive.

In the Loan Agreement, the Borrower covenants to (i) cause the facilities financed, in whole or in part, with the proceeds of the Series 2024 Bonds (as further described in the Loan Agreement, the “*Facilities*”) to be maintained, preserved and kept in good repair, working order and condition and from time to time to cause to be made all necessary and proper repairs, replacements, and renewals to the Facilities and (ii) to maintain or cause to be maintained insurance on the property comprising the Project (the “*Project Property*”) in such amounts as are customarily carried, and against such risks as are customarily insured against, by other utility companies of like size and character with respect to similar facilities. The Borrower is permitted to sell or transfer the Project Property, provided that it complies with the provisions of the Loan Agreement relating to such sale or transfer.

The Borrower may include additional projects in additional counties in the State of Wisconsin that, to the extent permitted under the Indenture, are expected to be funded from proceeds of Additional Bonds pursuant to the Indenture. See “*SECURITY AND SOURCE OF PAYMENT FOR THE SERIES 2024 BONDS — Additional Bonds.*”

**Outstanding Debt Incurred by Hilbert, the Borrower, and Affiliates [HILBERT/COMPANY TO UPDATE – WILL BUG TUSSEL 2 BE PARTY TO NATIONAL BANK LOAN?]**

Hilbert and certain of its affiliates (collectively, the “*Hilbert Co-borrowers*”) have entered into a Loan Agreement, dated as of June 11, 2021 (as amended to the date hereof, the “*Hilbert Loan Agreement*”), with American National Bank-Fox Cities (the “*Hilbert Lender*”), which is secured by all-assets grants of security interests pursuant to a Security Agreement, of equal date (the “*Hilbert Security Agreement*” and, together with the Hilbert Loan Agreement, and each other document, instrument, or agreement related thereto, each a “*Hilbert Loan Document*” and, collectively, the “*Hilbert Loan Documents*”), by each of the Hilbert Co-borrowers, including, without limitation, the pledge of Hilbert’s equity ownership interest in the Borrower. Pursuant to the Hilbert Loan Documents, the Borrower is party thereto and is subject to the covenants and agreements thereunder, including, without limitation, granting an all-assets security interest for the benefit of the Hilbert Lender. The Borrower’s joinder to the Hilbert Loan Documents and compliance with covenants thereunder may adversely affect the ability of the Borrower to operate its business, including the Project.

In connection with the Borrower’s joinder to the Hilbert Loan Documents, the Hilbert Lender has entered into a subordination agreement (the “*ANB Subordination Agreement*”), whereby the Hilbert Lender has agreed, among other agreements thereunder, to subordinate its security interest, liens, and other rights on or with respect to the assets of the Borrower and Hilbert’s equity ownership interest in the Borrower to the security interests, liens, and rights of the Guarantors under the Reimbursement Agreements, the Hilbert Guaranties, the County Mortgages, and the other agreements securing and providing other rights to the Guarantors in connection with the Reimbursement Agreements. In addition, the ANB Subordination Agreement requires the Hilbert Lender to forego its exercise of remedies and other rights under the Hilbert Loan Documents, for the benefit of the Guarantors and the Trustee, until the liens of the Guarantors under the Transaction Documents are satisfied.

KES Excavating Services, LLC was acquired by Hilbert in December 2022. The acquisition of KES was funded with loans (“*ONB Loans*”) from Old National Bank pursuant to loan agreements between KES, as borrower, and Old National Bank (the “*ONB Loan Agreements*”). Hilbert and certain of its subsidiaries are guaranteeing KES’s obligations under the ONB Loans and pledging their assets as collateral. The Borrower was not part of this transaction and is not obligated in any way under the ONB Loan Agreements. Hilbert is entering into that certain Lien Subordination Agreement dated August 1, 2023 with Old National Bank which subordinates the security interest granted by Hilbert to Old National Bank to the security interests granted by Hilbert to the Participating Counties under the guarantees and membership pledges granted in connection with the Series 2021 Bonds, Series 2022A Bonds and Series 2023 Bonds.

Hilbert has also granted all-assets security interest to certain of its former and current unitholders and affiliated parties thereto (collectively, the “*Hilbert Unitholders*”), including, without limitation, pledges of Hilbert’s

equity ownership interest in the Borrower. Pursuant to one or more subordination agreements with the Hilbert Unitholders, the Hilbert Unitholders have subordinated their interests in the equity of the Borrower to the Guarantors.

Additionally, Hilbert is the parent company of Bug Tussel 1, LLC, an affiliate of the Borrower. Hilbert is party to certain guaranty agreements (the “Hilbert Bug Tussel 1 Guaranty Agreements”) in the Bug Tussel 1 Counties (defined below) related to Fond Du Lac County, Wisconsin Taxable Revenue Bonds, Series 2021 (Bug Tussel 1, LLC Project) (Social Bonds), Fond Du Lac County, Wisconsin Taxable Revenue Bonds, Series 2022 (Bug Tussel 1, LLC Project) (Social Bonds), and Fond Du Lac County, Wisconsin Taxable Revenue Bonds, Series 2023 (Bug Tussel 1, LLC Project) (Social Bonds) (collectively, the “Bug Tussel 1 Bonds”) issued on behalf of Bug Tussel 1, LLC to finance, among other things, various broadband and fiber optic projects in several counties throughout Wisconsin (the “Bug Tussel 1 Counties”). Hilbert’s obligations under the Hilbert Bug Tussel 1 Guaranty Agreements are general obligations of Hilbert. There is no intercreditor or subordination agreement between the Participating Counties with respect to the Series 2024 Bonds and the Bug Tussel 1 Counties related to any obligations under the Hilbert Guaranties on the one hand and the Hilbert Bug Tussel 1 Guaranty Agreements on the other.

### **Anticipated County Loans & Equity Raises**

Hilbert subsidiaries may also enter into loan agreements with certain Wisconsin counties to fund expansion and improvement of broadband infrastructure. For instance, Bug Tussel AB, LLC, a wholly-owned subsidiary of Hilbert, anticipates entering into a loan agreement with Brown County, Wisconsin to fund the expansion of a fiberoptic and wireless communications network. Bug Tussel AB, LLC is a special purpose entity (“SPE”) created for the purposes of this loan and the anticipated construction, operation and management of the telecommunications assets funded with the loan proceeds. Hilbert anticipates similar loans with Oneida and Rock counties. While not completed, Hilbert anticipates that these loan agreements will be secured with security interests in favor of the participating county which attach to the assets constructed with the loan proceeds. Furthermore, Hilbert will pledge the membership units of each SPE to the respective county and will guaranty the loan. Hilbert anticipates that these loan agreements will close by the end of 2023.

From time to time, Hilbert may consider transactions in the capital markets to raise additional equity for its business needs. There are no assurances that such transactions may occur or with respect to how said transactions may be structured.

### **Broadband Expansion Grant Program**

**[BORROWER TO CONFIRM]**[The Borrower intends to receive grants under the State of Wisconsin’s Broadband Expansion Grant program pursuant to Wis. Stat. § 196.504(2)(a) (the “Grant Program”), and upon receipt of funds pursuant to the Grant Program will grant liens on certain of its assets purchased with such funds (the “Grant Program Liens”). Pursuant to one or more subordination agreements, or other documentation, the Guarantors may subordinate certain of their liens under the Transaction Documents to the State of Wisconsin or another political subdivision thereof, or the Guarantors may otherwise decline to attach liens to certain property of the Borrower purchased pursuant to the Grant Program. The Borrower has represented in its application to the Grant Program that proceeds from this bond offering would be utilized for the grantee matching funds and will ultimately be repaid by the Borrower. Currently in 2024, the Borrower intends to receive funds pursuant to the Grant program related to the Series 2024 Project in [ ] County in an expected amount of \$[ ].]

### **THE BORROWER’S PROJECTED DEBT SERVICE COVERAGE AND KEY OPERATING STATISTICS**

The following table illustrates the Borrower’s projected debt service coverage and key operating statistics for the years 2024 through [2033] (the “Financial Projections”). In providing the Financial Projections, the Borrower has utilized the assumptions described below.

The Financial Projections below reflect the Borrower’s judgment as of the date of this Limited Offering Memorandum of the conditions the Borrower expects to exist and the course of action it expects to take through [2033]. There can be no assurances that the Borrower’s forecasted results will be achieved. The assumptions and estimates underlying the Financial Projections are unaudited and inherently uncertain and, although the Borrower considers them reasonable as of the date of this Limited Offering Memorandum, they are subject to a wide variety of



significant business, economic, and competitive risks and uncertainties that could cause actual results to differ materially from forecasted results, including, but not limited to, the risks and uncertainties described in “*BONDOWNERS’ RISKS*” herein.

Accordingly, there can be no assurances that the Financial Projections will be indicative of the Borrower’s future performance or that actual results will not differ materially from those presented in the Financial Projections. Inclusion of the Financial Projections in this Limited Offering Memorandum should not be regarded as a representation by the Borrower, the Underwriters, or any other person that the results contained in the Financial Projections will be achieved. The Financial Projections were not prepared with a view toward compliance with published guidelines of the U.S. Securities and Exchange Commission or the guidelines established by the American Institute of Certified Public Accountants for preparation or presentation of the Financial Projections. The Financial Projections included in this Limited Offering Memorandum have been prepared by, and are the responsibility of, the Borrower’s management.

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	<b>EOY 2024</b>	<b>EOY 2025</b>	<b>EOY 2026</b>	<b>EOY 2027</b>	<b>EOY 2028</b>	<b>EOY 2029</b>	<b>EOY 2030</b>	<b>EOY 2031</b>	<b>EOY 2032</b>	<b>EOY [2033]</b>
Revenue										
Operating Expenses										
Operating Margin										
Cash Available for Debt Service										
Series 2024 Debt Service										
Total Debt Service										
Debt Service Coverage										
2024 Project Capital Expenditures										
<b>TOTAL CAPITAL EXPENDITURES</b>										
2024 Project Fixed Wireless Subscribers*										
2024 Project Fiberoptic Subscribers										
<b>TOTAL SUBSCRIBERS</b>										
2024 Project Fixed Wireless Towers										
<b>TOTAL TOWERS</b>										

- (1) Interest is capitalized in a Series 2024 Capitalized Interest Account from 2024 to 20[ ] [followed by two years of interest only payments prior to principal amortization] per debt service schedule.\*
- (2) [Capital Expenditures are expended from the Project Fund in the first few years and subsequent expenditures are expected to be funded from continued operations. Projections include fiberoptic technology upgrades from 2027 which will be funded by continued operations].
- (3) Reflects capital expenditures and subscribers/activity located in the counties involved in the Series 2024 bond issuance (Fond du Lac, Iowa, Forest, Price, Jefferson, Lafayette, Marathon, Waushara, Sawyer, and Taylor Counties).
- \* [The Company believes that its fixed wireless broadband business will provide services as a primary broadband provider through 2027 and then will begin converting to cellular and satellite downlink providers.]

\* Preliminary, subject to change

**[TO BE UPDATED BY THE COMPANY]**

Below are certain key assumptions used in connection with development of the Financial Projections above.

- National tower carrier leases assumed at \$1,900 per month with a 2% annual escalator. Dates and numbers based only on AT&T existing sites and planned sites.
- National carrier backhaul rate assumed at \$975 per month for 200 Mbps and increases of \$50 per 100 Mbps upspeed.
- RDOF Aggregation Rate is “end to end” backhaul for other providers who received funding from “Rural Digital Opportunity Fund” to connect certain census tracts and is assumed at \$2,500 per month.
- Fixed Wireless rates assumed at \$62.00 per month ARPU (Average Revenue per Unit) and decreases incrementally until it becomes a feature charge at \$8.00 per month. Financial Projections assume that eventually fixed wireless customers are converted to fiber.
- Fiberoptic customer rates are assumed to average \$70.00 per month ARPU and reduce annually by \$2.00 per month until ARPU reaches \$62.00.
- Content subscription is assumed at \$12.00 per month as an estimate of the commission to provide various content services and customer discretionary channels with a 45% average take rate.
- Managed services revenue is assumed at \$8.00 per month with a 15% take rate. Managed services is the ability of the Borrower to remotely manage the Wi-Fi and throughput needs of the customer.
- Capitalized expenses after initial project funds are spent begins in 2027 as technology upgrades for fiberoptic electronics. Initial network is designed at 10 Gbps to the home and 200 to 800 Gbps on the middle mile connectors.
- Fixed wireless subscribers vary from 40 subscribers per tower to 120 subscribers per tower or higher based on population density. Current penetrations vary from 40 per tower to 220 per tower.
- Fiberoptic customer take rates begin at 40% of homes passed and ramp up over 10 years from the respective date of installation to 70%.
- Expense assumptions are set forth on an annualized basis below (first year only shown):

<b>Key Expense Assumptions</b>	<b>Annualized \$</b>
Tower Land Rent and Maintenance	\$109,200.00
Tower Leasing (with 2% escalation annually)	\$351,000.00
Subscriber Support Costs and Billing	\$69,360.00
Backhaul and Internet Access per tower	\$42,000.00
Site Maintenance/Field Services per tower	\$58,800.00
Customer Installation and Acquisition Expense per subscriber	\$231,200.00
Corporate Overhead per tower	\$92,400.00
Fiber Maintenance per subscriber	-‡
Selling and Marketing as a % of stabilized gross revenue	\$566,416.28
Property Taxes per tower	\$60,480.00
<b>Total Expenses</b>	<b>\$1,580,856.28</b>

Although the Borrower believes that the above assumptions are reasonable, such assumptions are qualified in their entirety by reference to the discussion of risk factors under the heading “*BONDOWNERS’ RISKS*,” and may additionally be impacted by the following important factors, among other relevant factors: general economic conditions such as inflation and interest rates, both nationally and in Wisconsin where the Project is located; unanticipated expenses; the capabilities of the Borrower’s management; the Borrower’s ability to operate the Project and the ability to generate revenues solely from the Project sufficient to pay all operating expenses and debt service; changes in available technology; changes to federal and state government regulations and decisions in regulatory

‡ Fiber Maintenance is zero for the first year of the 2024 Project because the Borrower does not anticipate any subscribers in the first year of the 2024 Project.

proceedings; increased competition in the wireless industry; and other risks discussed in this Limited Offering Memorandum.

## THE GUARANTORS [TO BE PROVIDED BY THE COUNTIES]

The following is a brief description of each Guarantor. For more information on each Guarantor, see *Appendix C* hereto.

**Fond du Lac County.** See “*THE ISSUER – Introduction*” herein.

**Iowa County.** Iowa County was formed in [DATE], and encompasses an area of [ ] square miles in northern Wisconsin, approximately [ ] miles northwest of Milwaukee, Wisconsin [OR SOME OTHER SIMILAR LOCATION DESCRIPTION]. Iowa County includes the City of [ ], along with [#] other towns. The 2023 population estimate for Iowa County is [ ]. Iowa County’s offices are located at [ADDRESS], Wisconsin 54501; telephone [PHONE]. Audited financial statements of Iowa County for the year ended December 31, 2023 can be found in *Appendix C-2 – “Audited Financial Statements of Iowa County, Wisconsin.”*

**Forest County.** Forest County was formed in [DATE], and encompasses an area of [ ] square miles in northern Wisconsin, approximately [ ] miles northwest of Milwaukee, Wisconsin [OR SOME OTHER SIMILAR LOCATION DESCRIPTION]. Forest County includes the City of [ ], along with [#] other towns. The 2023 population estimate for Forest County is [ ]. Forest County’s offices are located at [ADDRESS], Wisconsin 54501; telephone [PHONE]. Audited financial statements of Forest County for the year ended December 31, 2023 can be found in *Appendix C-3 – “Audited Financial Statements of Forest County, Wisconsin.”*

**Price County.** Price County was formed in [DATE], and encompasses an area of [ ] square miles in northern Wisconsin, approximately [ ] miles northwest of Milwaukee, Wisconsin [OR SOME OTHER SIMILAR LOCATION DESCRIPTION]. Price County includes the City of [ ], along with [#] other towns. The 2023 population estimate for Price County is [ ]. Price County’s offices are located at [ADDRESS], Wisconsin 54501; telephone [PHONE]. Audited financial statements of Price County for the year ended December 31, 2023 can be found in *Appendix C-4 – “Audited Financial Statements of Price County, Wisconsin.”*

**Jefferson County.** Jefferson County was formed in [DATE], and encompasses an area of [ ] square miles in northern Wisconsin, approximately [ ] miles northwest of Milwaukee, Wisconsin [OR SOME OTHER SIMILAR LOCATION DESCRIPTION]. Jefferson County includes the City of [ ], along with [#] other towns. The 2023 population estimate for Jefferson County is [ ]. Jefferson County’s offices are located at [ADDRESS], Wisconsin 54501; telephone [PHONE]. Audited financial statements of Jefferson County for the year ended December 31, 2023 can be found in *Appendix C-5 – “Audited Financial Statements of Jefferson County, Wisconsin.”*

**Lafayette County.** Lafayette County was formed in [DATE], and encompasses an area of [ ] square miles in northern Wisconsin, approximately [ ] miles northwest of Milwaukee, Wisconsin [OR SOME OTHER SIMILAR LOCATION DESCRIPTION]. Lafayette County includes the City of [ ], along with [#] other towns. The 2023 population estimate for Lafayette County is [ ]. Lafayette County’s offices are located at [ADDRESS], Wisconsin 54501; telephone [PHONE]. Audited financial statements of Lafayette County for the year ended December 31, 2023 can be found in *Appendix C-6 – “Audited Financial Statements of Lafayette County, Wisconsin.”*

**Marathon County.** Marathon County was formed in [DATE], and encompasses an area of [ ] square miles in northern Wisconsin, approximately [ ] miles northwest of Milwaukee, Wisconsin [OR SOME OTHER SIMILAR LOCATION DESCRIPTION]. Marathon County includes the City of [ ], along with [#] other towns. The 2023 population estimate for Marathon County is [ ]. Marathon County’s offices are located at [ADDRESS], Wisconsin 54501; telephone [PHONE]. Audited financial statements of Marathon County for the year ended December 31, 2023 can be found in *Appendix C-7 – “Audited Financial Statements of Marathon County, Wisconsin.”*

**Waushara County.** Waushara County was formed in [DATE], and encompasses an area of [ ] square miles in northern Wisconsin, approximately [ ] miles northwest of Milwaukee, Wisconsin [OR SOME OTHER SIMILAR LOCATION DESCRIPTION]. Waushara County includes the City of [ ], along with [#] other

towns. The 2023 population estimate for Waushara County is [\_\_\_\_]. Waushara County’s offices are located at [ADDRESS], Wisconsin 54501; telephone [PHONE]. Audited financial statements of Waushara County for the year ended December 31, 2023 can be found in *Appendix C-8 – “Audited Financial Statements of Waushara County, Wisconsin.”*

**Sawyer County.** Sawyer County was formed in [DATE], and encompasses an area of [\_\_\_\_] square miles in northern Wisconsin, approximately [\_\_\_\_] miles northwest of Milwaukee, Wisconsin [OR SOME OTHER SIMILAR LOCATION DESCRIPTION]. Sawyer County includes the City of [\_\_\_\_], along with [#] other towns. The 2023 population estimate for Sawyer County is [\_\_\_\_]. Sawyer County’s offices are located at [ADDRESS], Wisconsin 54501; telephone [PHONE]. Audited financial statements of Sawyer County for the year ended December 31, 2023 can be found in *Appendix C-9 – “Audited Financial Statements of Sawyer County, Wisconsin.”*

**Taylor County.** Taylor County was formed in [DATE], and encompasses an area of [\_\_\_\_] square miles in northern Wisconsin, approximately [\_\_\_\_] miles northwest of Milwaukee, Wisconsin [OR SOME OTHER SIMILAR LOCATION DESCRIPTION]. Taylor County includes the City of [\_\_\_\_], along with [#] other towns. The 2023 population estimate for Taylor County is [\_\_\_\_]. Taylor County’s offices are located at [ADDRESS], Wisconsin 54501; telephone [PHONE]. Audited financial statements of Taylor County for the year ended December 31, 2023 can be found in *Appendix C-10 – “Audited Financial Statements of Taylor County, Wisconsin.”*

The credit rating for each Guarantor is set forth in the table below:

<b>County</b>	<b>Moody's Rating</b>	<b>S&amp;P Rating</b>	<b>Fitch Rating</b>
Fond du Lac			
Iowa			
Forest			
Price			
Jefferson			
Lafayette			
Marathon			
Waushara			
Sawyer			
Taylor			

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As of the date of issuance of the Series 2024 Bonds, each Guarantor’s pro rata share of amount(s) necessary to replenish the Series 2024 Debt Service Reserve Account to be at least equal to the Series 2024 Debt Service Reserve Requirement is set forth in the table below:

County	Aggregate Principal Amount Not to Exceed	% of the Aggregate Principal Amount of the Series 2024 Bonds
Fond du Lac	\$	%
Iowa		
Forest		
Price		
Jefferson		
Lafayette		
Marathon		
Waushara		
Sawyer		
Taylor		
<b>Totals:</b>	<b>\$</b>	<b>%</b>

*(Remainder of Page Left Intentionally Blank)*

The below map shows each of the Guarantors.

**[MAP OF GUARANTORS TO BE PROVIDED]**

**PLAN OF FINANCE**

The proceeds of the Series 2024 Bonds will be used, together with earnings thereon and other moneys of the Borrower, to provide financing for the Project. The Series 2024 Project consists of the acquisition, construction, installation, and equipping of certain telecommunications infrastructure that includes, among other things (i) acquisition of tower sites by purchase or lease of land and equipping such sites with towers and electronics to provide broadband, high speed cellular, emergency communications and point to point (P2P) data communications; (ii) constructing fiberoptic data transmission facilities (cable and electronics) between towers, key community facilities, businesses and residential aggregation points; (iii) where appropriate, connecting individual premises into the broadband network including the cost of Consumer Premise Equipment (CPE); (iv) payment of capitalized interest; (v) funding of a debt service reserve fund for the Series 2024 Bonds; (vi) payment of certain project costs located in the Series 2024 Participating Counties; and (vii) payment of certain costs of issuance related to the issuance of the Series 2024 Bonds (collectively, the “Series 2024 Project”), all of which will be for the purpose of owning and operating the Project to provide fiberoptic transmissions, wireless internet and telephone communications services and infrastructure to businesses, governmental units and residents of rural communities where such service is currently unavailable, unreliable, or is prohibitively expensive. See “*THE BORROWER, HILBERT AND THE PROJECT*” hereto for a more detailed description of the Project.

**ESTIMATED SOURCES AND USES OF FUNDS\***

The estimated sources and uses of funds required in connection with the Series 2024 Project are as follows:

Sources:		
Par Amount of the Series 2024 Bonds		\$[_____]
<u>Total Sources</u>		\$[_____]
Uses:		
Deposit to the Series 2024 Participating County Project Accounts		\$[_____]
Deposit to Series 2024 Capitalized Interest Account <sup>(1)</sup>		\$[_____]
Deposit to Series 2024 Debt Service Reserve Account <sup>(2)</sup>		\$[_____]
Costs of Issuance <sup>(3)</sup>		\$[_____]
<u>Total Uses</u>		\$[_____]

(1) Included in this amount is interest due on the Series 2024 Bonds to and including [\_\_\_\_\_, 20\_\_].

(2) Deposits to be made to applicable County’s Series 2024 Debt Service Reserve Subaccount.

(3) Included in this amount are the estimated fees and expenses of the Issuer, the Series 2024 Participating Counties, Underwriters, the Trustee, Bond Counsel, Counsel to the Borrower, Counsel to the Underwriters, Counsel to the Guarantors and the Issuer, the cost of printing the Preliminary Limited Offering Memorandum and the Limited Offering Memorandum, rating agency fees, bond insurance fees, and other costs incurred in connection with the issuance of the Series 2024 Bonds.

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\* Preliminary, subject to change

## DEBT SERVICE SCHEDULE

The following table represents the debt service payment schedule for Series 2024 Bonds.

**[TO BE PROVIDED]**



## THE SERIES 2024 BONDS

The following is a summary of certain provisions of the Series 2024 Bonds. Reference is made to the form of Indenture included in *Appendix D* hereto for a more complete description of the Series 2024 Bonds. Reference is also made to *Appendix D – “FORMS OF THE INDENTURE, THE LOAN AGREEMENT, THE GUARANTY AGREEMENTS, AND THE REIMBURSEMENT AGREEMENTS”* for the definitions of certain terms used in the following summary. If any conflict exists among the definitions set forth in the forms of agreement included in *Appendix D*, the definitions in the Indenture shall control. The discussion herein is qualified in all respects by those references.

### General

The Series 2024 Bonds will be dated the Date of Issuance and will bear interest at the rates and mature (subject to the redemption provisions described below) in the amounts and on the dates set forth on the inside cover of this Limited Offering Memorandum. Interest on the Series 2024 Bonds will be payable each May 1 and November 1 of each year, commencing on [November 1, 2024]. Interest on the Series 2024 Bonds shall be calculated on a 360-day year on the basis of twelve 30-day months. The Series 2024 Bonds will be issued in minimum authorized denominations of \$100,000 or any multiple of \$5,000 in excess thereof.

The principal of, and interest on, the Series 2024 Bonds shall be payable by the Issuer solely from the Pledged Revenues. The Pledged Revenues are pledged by the Issuer, and a security interest in the Pledged Revenues is granted under the Indenture, to the Trustee to secure the payment of the principal of, and interest on, the Series 2024 Bonds.

### Transfer and Exchange of the Series 2024 Bonds

So long as the Series 2024 Bonds are in book-entry only form, Cede & Co., as nominee of DTC, will be the sole registered owner of the Series 2024 Bonds. Transfers of beneficial interests in the Series 2024 Bonds will be made as described below under “Bonds in Book-Entry Form.”

**Pursuant to the Indenture, the Series 2024 Bonds may only be sold or transferred in Authorized Denominations to Qualified Institutional Buyers. Each initial Beneficial Owner of a Series 2024 Bond shall provide an investor letter substantially in the form attached hereto as “APPENDIX G – FORM OF INVESTOR LETTER.” No investor letter shall be required to be delivered in connection with subsequent transfers of the Series 2024 Bonds. See “Notice to Investors” herein.**

### Bonds in Book-Entry Form

Beneficial ownership in the Series 2024 Bonds will be available to Beneficial Owners (as described below) only by or through DTC Participants via a book-entry system (the “*Book-Entry System*”) maintained by The Depository Trust Company (“*DTC*”), New York, NY. If the Series 2024 Bonds are taken out of the Book-Entry System and delivered to owners in physical form, as contemplated hereinafter under “*Discontinuance of DTC Services*,” the following discussion will not apply to the Series 2024 Bonds. Information concerning DTC and the Book-Entry System has been obtained from DTC and is not guaranteed as to accuracy or completeness by, and is not to be construed as a representation by, the Issuer, the Underwriters, the Trustee, or the Borrower.

### DTC and its Participants

DTC acts as securities depository for the Series 2024 Bonds. The Series 2024 Bonds have been issued as fully-registered securities registered in the name of Cede & Co. (DTC’s partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Series 2024 Bond certificate will be issued for each maturity of the Series 2024 Bonds, each in the aggregate principal amount of such maturity, and will be deposited with DTC.

DTC, the world’s largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a “banking organization” within the meaning of the New York Banking Law, a member of the

Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code and a “clearing agency” registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934, as amended. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity, corporate and municipal debt issues, and money market instruments from over 100 countries that DTC’s participants (“*Direct Participants*”) deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities through electronic computerized book-entry transfers and pledges between Direct Participants’ accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation (“*DTCC*”). DTCC is the holding company for DTC, National Securities Clearing Corporation, and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (“*Indirect Participants*”). DTC has a Standard & Poor’s rating of AA+. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com).

Purchases of the Series 2024 Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Bonds on DTC’s records. The ownership interest of each actual purchaser of each Bond (“*Beneficial Owner*”) is in turn to be recorded on the Direct and Indirect Participants’ records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Series 2024 Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in the Series 2024 Bonds, except in the event that use of the book-entry system for the Series 2024 Bonds is discontinued.

To facilitate subsequent transfers, all Series 2024 Bonds deposited by Direct Participants with DTC are registered in the name of DTC’s partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of Series 2024 Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Bonds; DTC’s records reflect only the identity of the Direct Participants to whose accounts such Series 2024 Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Bonds may wish to take certain steps to augment transmission to them of notices of significant events with respect to the Bonds, such as redemptions, tenders, defaults, and proposed amendments to the Transaction Documents (as defined in the Indenture). For example, Beneficial Owners of the Series 2024 Bonds may wish to ascertain that the nominee holding the Series 2024 Bonds for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of the notices be provided directly to them.

Redemption notices shall be sent to DTC. If less than all the Series 2024 Bonds within a maturity are being redeemed, DTC’s practice is to determine by lot the amount of the interest of each Direct Participant in such maturity to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to the Series 2024 Bonds unless authorized by a Direct Participant in accordance with DTC’s Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the Issuer as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.’s consenting or voting rights to those Direct Participants to whose accounts the Series 2024 Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Redemption proceeds, distributions, and dividend payments on the Series 2024 Bonds will be made to Cede & Co. or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from the Issuer or the Trustee on payment dates in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, the Trustee, or the Issuer, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and dividend payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the Issuer or the Trustee, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

### **Discontinuance of DTC Services**

DTC may discontinue providing its services as securities depository with respect to the Series 2024 Bonds at any time by giving reasonable notice to the Issuer or the Trustee. Under such circumstances, in the event that a successor securities depository is not obtained, Bond certificates are required to be printed and delivered. For a description of the method of payment of principal of, and interest on, the Series 2024 Bonds in the event the Book-Entry System is discontinued, as well as the provisions relating to registration, transfer, and exchange of the Bonds in such event, see *Appendix D*.

The Issuer may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, Bond certificates will be printed and delivered to DTC.

### **Use of Certain Terms in Other Sections of the Limited Offering Memorandum**

While the Series 2024 Bonds are in the Book-Entry System, reference in other sections of this Limited Offering Memorandum to owners of such Series 2024 Bonds should be read to include any person for whom a Participant acquires an interest in the Series 2024 Bonds, but (i) all rights of ownership, as described herein, must be exercised through DTC and the Book-Entry System and (ii) notices that are to be given to registered owners by the Trustee will be given only to DTC. DTC is required to forward (or cause to be forwarded) the notices to the Participants by its usual procedures, which should allow Participants to forward (or cause to be forwarded) such notices to the Beneficial Owners.

### **Disclaimer**

None of the Issuer, the Borrower, the Underwriters, or the Trustee have any responsibility or obligation to any DTC Participant, Indirect Participant, or any Beneficial Owner or any other person with respect to: (i) the accuracy of any records maintained by DTC or any DTC Participant or Indirect Participant, (ii) the payment by DTC or any DTC Participant or Indirect Participant of any amount due to any Beneficial Owner in respect of the principal or redemption price of or interest on the Series 2024 Bonds, (iii) the delivery by DTC or any DTC Participant or Indirect Participant of any notice to any Beneficial Owner which is required or permitted under the terms of the Indenture to be given to Owners of the Series 2024 Bonds, (iv) the selection of the Beneficial Owners to receive payment in the event of any partial redemption of the Series 2024 Bonds, or (v) any consent given or other action taken by DTC as an Owner of the Series 2024 Bonds.

The Issuer, the Borrower, the Underwriters, and the Trustee cannot and do not give any assurances that DTC, the DTC Participants, or the Indirect Participants will distribute to the Beneficial Owners of the Series 2024 Bonds (i) payments of principal or redemption price of or interest on the Series 2024 Bonds, (ii) certificates representing an ownership interest or other confirmation of Beneficial Ownership interests in the Series 2024 Bonds, or (iii) redemption or other notices sent to DTC or Cede & Co., its nominee, as the Registered Owner of the Series 2024 Bonds, or that they will do so on a timely basis or that DTC, DTC Participants, or Indirect Participants will serve and act in the manner described in this Limited Offering Memorandum. The current "Rules" applicable to DTC are on file with the Securities and Exchange Commission, and the current "Procedures" of DTC to be followed in dealing with DTC Participants are on file with DTC.

## Redemption

*Optional Redemption.* The Series 2024 Bonds maturing after [\_\_\_\_],\* are subject to redemption by the Issuer, in whole or in part, at the option of the Borrower, which may be exercised upon the written direction of the Borrower, on or after [\_\_\_\_],\* at a redemption price equal to 100% of the principal amount thereof, without premium, plus accrued interest thereon to the redemption date. Payment of the redemption price pursuant to the optional redemption provision included in this paragraph shall be made with Eligible Funds.

*Extraordinary Optional Redemption- Damage, Destruction, Eminent Domain, Court Order or Legislative Change.* The Series 2024 Bonds are subject to redemption in whole, or in part, at the option of the Borrower, on any Business Day, at a redemption price equal to 100% of the principal amount thereof, without premium, plus accrued interest thereon to the redemption date upon the occurrence of the following conditions (in all such cases, excluding any Series 2024 Participating County exercising remedies under the Reimbursement Documents, and excluding any and all actions or omissions, whether direct or indirect, by any Series 2024 Participating County, including, without limitation, foreclosure or other action transferring title or rights with respect to the Facilities or any component of the Project and legislative or administrative action taken by any Series 2024 Participating County): (A) all or a portion of the Facilities within a particular Series 2024 Participating County shall have been damaged or destroyed to such extent that, in the opinion of the Borrower expressed in a certificate of the Borrower Representative filed with the Issuer and the Trustee following such damage or destruction, (i) the completion of the Project financed with the Series 2024 Bonds will be delayed for at least six months, (ii) it is not practicable or desirable to rebuild, repair or restore the Facilities within a period of six consecutive months following such damage or destruction, or (iii) the Borrower is or will be thereby prevented from carrying on its normal operations in a material manner at any portion of the Facilities for a period of at least six consecutive months; or (B) title to or the temporary use of all or substantially all of the Facilities in a particular Series 2024 Participating County shall have been taken under the exercise of the power of eminent domain by any governmental authority to such extent that, in the opinion of the Borrower expressed in a certificate of a Borrower Representative filed with the Issuer and the Trustee, (i) the completion of the Project financed with the Series 2024 Bonds will be delayed for at least six months or (ii) the Borrower is or will be thereby prevented from carrying on its normal operations in a material manner at any portion of the Facilities for a period of at least six consecutive months; or (C) any court or administrative body of competent jurisdiction shall enter a judgment, order or decree requiring the Borrower to cease all or any substantial part of its operations at any portion of the Facilities in a particular Series 2024 Participating County to such extent that, in the opinion of the Borrower expressed in a certificate of a Borrower Representative filed with the Issuer and the Trustee, the Borrower is or will be thereby prevented from carrying on its normal operations in a material manner at the Facilities for a period of at least six consecutive months; or (D) as a result of any changes in the Constitution of Wisconsin or the Constitution of the United States of America or of legislative or administrative action (whether state or federal) or by final decree, judgment or order of any court or administrative body (whether state or federal), the Loan Agreement shall have become void or unenforceable or impossible to perform in accordance with the intent and purposes of the parties as expressed in the Loan Agreement, or unreasonable burdens or excessive liabilities shall have been imposed on the Issuer or the Borrower, in the opinion of the Issuer or the Borrower, as applicable, expressed in a certificate of an Issuer Representative or a Borrower Representative, as applicable, filed with the Trustee, as a consequence of the Series 2024 Bonds or the Series 2024 Promissory Note being Outstanding, including without limitation federal, state or other ad valorem, property, income or other taxes not being imposed on the Facilities in a particular Series 2024 Participating County owed by the Borrower as of the date of the Loan Agreement. In the event that the Bonds are subject to extraordinary optional redemption as described in this paragraph, and all Facilities located within a Series 2024 Participating County have been subject to the above-described conditions, upon the redemption of the portion of the Bonds representing the Facilities in such Series 2024 Participating County, such Series 2024 Participating County's Pro Rata Share shall be reduced by a corresponding amount. For the avoidance of doubt, if a Series 2024 Participating County's Pro Rata Share is reduced to zero pursuant to its Guaranty Agreement, then such Series 2024 Participating County shall be released from its obligations under its applicable Guaranty Agreement in accordance with the terms and conditions set forth therein. Payment of the redemption price subject to extraordinary optional redemption as described in this paragraph shall be made with Eligible Funds. See *Appendix D – "FORMS OF THE*

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\* Preliminary, subject to change.

INDENTURE, THE LOAN AGREEMENT, THE GUARANTY AGREEMENTS, AND THE REIMBURSEMENT AGREEMENTS.”

*Extraordinary Optional Redemption- At the Option of the Series 2024 Participating Counties.* The Series 2024 Bonds are subject to redemption in whole, but not in part, at the option of the Series 2024 Participating Counties, so long as the Series 2024 Participating Counties are not in default under the Guaranty Agreements, on any Business Day, at a redemption price equal to 100% of the principal amount thereof, without premium, plus accrued interest thereon to the redemption date upon the occurrence of each of the following conditions: (A) an Event of Default has occurred and is continuing, (B) the Series 2024 Bonds have been accelerated pursuant to the terms hereof and (C) all of the Series 2024 Participating Counties have unanimously agreed to exercise their option to redeem the Series 2024 Bonds. Series 2024 Bonds redeemed in accordance with the Indenture are payable by Series 2024 Participating Counties in accordance with the Indenture. Payment of the redemption price pursuant to the redemption provisions described in this paragraph shall be made with Eligible Funds. See *Appendix D – “FORMS OF THE INDENTURE, THE LOAN AGREEMENT, THE GUARANTY AGREEMENTS, AND THE REIMBURSEMENT AGREEMENTS.”*

*Mandatory Redemption of the Series 2024 Bonds from Unused Proceeds.* The Series 2024 Bonds shall be redeemed prior to Stated Maturity, from any amounts of proceeds of the Series 2024 Bonds transferred from the Series 2024 Participating County Project Accounts in the Series 2024 Project Fund to the Series 2024 Bond Fund in accordance with the Indenture upon the closing of the Series 2024 Participating County Project Accounts in the Series 2024 Project Fund. If there are moneys remaining in the Series 2024 Participating County Project Accounts in the Series 2024 Project Fund upon the closing thereof in accordance with the Loan Agreement and the Indenture, the Trustee shall establish a redemption date, which shall be within 45 days of the Trustee’s receipt of the certificate of a Borrower Representative establishing the Completion Date. The redemption price shall be 100% of the principal amount of the Series 2024 Bonds or portions thereof so redeemed, plus accrued interest to the redemption date. The Trustee shall call such Series 2024 Bonds for redemption and shall give notice of redemption without the necessity of any action by the Issuer or the Borrower. Payment of the redemption price pursuant to the redemption provisions described in this paragraph shall be made with Eligible Funds. See *Appendix D – “FORMS OF THE INDENTURE, THE LOAN AGREEMENT, THE GUARANTY AGREEMENTS, AND THE REIMBURSEMENT AGREEMENTS.”*

*Mandatory Sinking Fund Redemption of the Series 2024 Bonds.* The Series 2024 Bonds maturing [November] 1, 20\_\_, [November] 1, 20\_\_ and [November] 1, 20\_\_ are subject to mandatory sinking fund redemption prior to maturity on November 1 in each of the years and in the principal amount thereof shown in the following table at a redemption price equal to 100% of the principal amount being redeemed, plus interest accrued thereon to the date fixed for redemption:

<u>Term Bonds Maturing on [November] 1, 20__</u>	
<u>Payment Dates</u> <u>([ ])</u>	<u>Principal</u> <u>Amount</u>
	\$

\*

Final Maturity\*

[Remainder of page intentionally left blank]

*Procedure for Redemption.* In the event of optional redemption, extraordinary optional redemption, or mandatory redemption with respect to less than all the Series 2024 Bonds, the Borrower or the Issuer on behalf of all of the Guarantors, as applicable, shall select the Stated Maturity or Stated Maturities of the Series 2024 Bonds to be redeemed. If less than all the Series 2024 Bonds of a particular Stated Maturity shall be called for redemption, the Series 2024 Bonds to be redeemed shall be selected by the Trustee from the Series 2024 Bonds which have not previously been called for redemption, by such method as the Trustee shall deem fair and appropriate and which may provide for the selection for partial redemption (in Authorized Denominations) of the Series 2024 Bonds in accordance with the operational arrangements of the Securities Depository then in effect; provided that no partial redemption shall leave Outstanding a Series 2024 Bond that is not in an Authorized Denomination, unless such amount is the only amount Outstanding, then such final Series 2024 Bond of that series may be in that amount; and provided, further, that such selection shall be made by the Securities Depository for Series 2024 Bonds held in a Book-Entry System.

Any Series 2024 Bonds selected for redemption which are deemed to be paid in accordance with the provisions of the Indenture will cease to bear interest on the date fixed for redemption.

On presentation and surrender of the Series 2024 Bonds called for redemption at the place or places of payment, such Series 2024 Bonds shall be paid and redeemed. Notice of redemption shall be given in the manner set forth in the Indenture by mail at least 20 days prior to the redemption date, provided that the failure to duly give such notice, or defects therein, shall not affect the validity of the proceedings for redemption of any Series 2024 Bond not affected by such defect or failure.

With respect to notice of any optional or extraordinary optional redemption of Series 2024 Bonds, unless moneys or Government Obligations, or a combination thereof, shall be received by the Trustee prior to the giving of said notice sufficient to pay the redemption price on the Series 2024 Bonds to be redeemed, said notice shall state that said redemption shall be conditional upon the receipt of such moneys or Government Obligations by the Trustee on or prior to the date fixed for such redemption. If such moneys or Government Obligations shall not have been so received on or prior to the redemption date, said notice shall be of no force and effect, the Issuer shall not redeem such Series 2024 Bonds, and the Trustee shall give notice, in the manner in which the notice of redemption was given, that such moneys were not so received.

## **SOCIAL BONDS SELF DESIGNATION**

### **Social Bonds Self-Designation**

The Series 2024 Bonds are being self-designated by the Borrower as “Social Bonds” in accordance with the Social Bond Principles (“*SBP*”), published by the International Capital Markets Association (“*ICMA*”) in 2021 and updated in June 2023. The *SBP* are voluntary process guidelines that recommend transparency and disclosure and promote integrity in the development of the Social Bond market. Holders of the Series 2024 Bonds will not possess any additional security and do not assume any specific risk with respect to any of the funded projects, as more fully described under this section.

The impacts from the Project are aligned with the principles set forth in the *ICMA* and also with four of the United Nations 17 Sustainable Development Goals (“*UNSDGs*”). By reference to the *ICMA* “Green, Social and Sustainability Bonds: A High-Level Mapping to the Sustainable Development Goals” (June 2023), the Project primarily aims to address Goal 8: “Decent Work and Economic Growth”, Goal 9: “Industry, Innovation, and Infrastructure”, Goal 10: “Reduced Inequalities”, and Goal 11: “Sustainable Cities and Communities”. The Borrower has covenanted in the Loan Agreement to comply with the guidelines published by *ICMA* as set forth under the *SBP* and the *UNSDGs*, in order to qualify the Bonds as self-designated Social Bonds.

### **Use of Bond Proceeds**

Proceeds from this financing will be used to build and install telecommunications infrastructure in ten counties in Wisconsin with the aim of providing wireless internet and telephone communications services to rural communities where such services are currently unavailable or expensive. The Project aims to provide broadband quickly and install fiber infrastructure throughout the service area to provide ubiquitous cellular service to support

economic development through community education. The Borrower plans to provide cellular access and 25Mbps download speed to its rural constituents and work towards providing fiber to community aggregation points and critical community facilities and quicker download speeds in the near future].

Specifically, the Borrower plans to use the proceeds of the Series 2024 Bonds to finance the Project, and will use certain proceeds of the Series 2024 Bonds for “Social Projects” as outlined by the International Capital Markets Association by: (i) expanding affordable basic infrastructure, (ii) expanding access to essential services, (iii) generating additional employment opportunities, and (iv) promoting socioeconomic advancement and empowerment, all through providing or improving affordable access to essential broadband internet for residents of rural Wisconsin, which are an underserved population as it relates to access to broadband internet and the benefits conferred by broadband internet service, such as access to tele-health services and online education, greater connectivity with emergency responders, attracting or maintaining employees in local areas by providing remote work possibilities, and allowing local businesses to increase revenue through online ordering.

### **Management of Proceeds**

Pursuant to the bond documents, the proceeds of the Series 2024 Bonds (net of capitalized interest, debt service reserve fund and costs of issuance, as further set forth in the Indenture) will be deposited into the Series 2024 Project Fund and will be segregated and tracked by the Borrower. Series 2024 Bond proceeds segregation and tracking will consist of the net bond proceeds being placed in the Series 2024 Project Fund held by the Trustee and transferred upon construction requisitions to pay the costs of the Project. The Project is expected to be substantially completed by [December 31, 20\_\_ and totally completed by December 31, 20\_\_].

### **Voluntary Reporting**

The Borrower will voluntarily file annual updates regarding the Project funded by the Series 2024 Bonds including the following information on the MSRB’s Electronic Municipal Market Access system for the Series 2024 Bonds not later than ninety (90) days after the close of its Fiscal Year, beginning with the Fiscal Year ending December 31, 2024 and continuing for two Fiscal Years after the Fiscal Year in which the proceeds of the Series 2024 Bonds have been expended:

(a) a brief description of the projects completed in such Fiscal Year using proceeds of the Series 2024 Bonds, including a completion percentage of the Project;

(b) the amount of the proceeds of the Series 2024 Bonds that have been spent on the portions of the Project that are a “Social Project” as defined by the ICMA, which may be by percentage allocated to certain project categories;

(c) the expected impact of such proceeds, including (i) the number of new internet connections provided by projects financed with proceeds of the Series 2024 Bonds, (ii) how the Project has supported (1) affordable basic infrastructure, (2) access to essential services (e.g. health care, education and vocational training), and (3) socioeconomic advancement and empowerment and (iii) which targeted populations were impacted by the Project (e.g. those living below the poverty line, people with disabilities, underserved populations, undereducated populations, populations with lack of quality access to essential goods or services, the unemployed or communities impacted by natural disasters); and

(d) a statement to the effect that no changes have been made to the Project that would reasonably be expected to materially adversely affect the social benefits of the Project.

Such annual voluntary reports may be included in the Annual Report submitted by the Borrower pursuant to the Borrower Continuing Disclosure Agreement. The failure of the Borrower to comply with the requirements described above will not be considered an Event of Default under the Loan Agreement. No independent third party verification has been sought or obtained with respect to the “social bonds” designation for the Series 2024 Bonds.

## SECURITY AND SOURCE OF PAYMENT FOR THE BONDS

### General

The Series 2024 Bonds are limited obligations of the Issuer and are payable solely from the Trust Estate pledged for their payment under the Indenture. The “Trust Estate” is defined as all right, title and interest of the Issuer under: (i) (a) the Promissory Note; (b) the Loan Agreement (other than the Issuer’s rights to receive fees and expenses and to indemnification in certain circumstances), the Pledged Revenues, and all other payments owing to the Issuer and paid by the Borrower under the Loan Agreement and the Promissory Note, and (c) all financing statements or other instruments or documents evidencing, securing, or otherwise relating to the loan of the proceeds of the Series 2024 Bonds; (ii) the money and investments held by or on behalf of the Trustee in the funds and accounts under the Indenture; (iii) any and all other property (real, personal or mixed) of every kind and nature from time to time, by delivery or by writing of any kind, pledged, assigned or transferred as and for additional security under the Indenture; and (iv) any and all proceeds of, income from, and earnings on, any of the foregoing. See *Appendix D* for a complete form of Indenture. The Series 2024 Bonds are not a debt or liability of the Issuer, the State or of any political subdivision or agency thereof. The Series 2024 Bonds do not, directly, indirectly or contingently, obligate, in any manner, the Issuer, the State or any political subdivision thereof to levy any tax or to make any appropriation for payment of the Series 2024 Bonds. Neither the faith and credit nor the taxing power of the Issuer, the State or any political subdivision thereof shall be pledged to the payment of the principal of or interest on the Series 2024 Bonds. For a more detailed discussion of the Issuer, see “*THE ISSUER*” herein.

The rights of the Issuer in and to the Promissory Note, and in, to, and under the Loan Agreement (other than the Issuer’s rights to receive fees and expenses and to indemnification in certain circumstances) will be assigned to the Trustee to secure the payment of principal of, and interest on, the Series 2024 Bonds. The Borrower agrees under the Loan Agreement to make its payments on the Promissory Note directly to the Trustee.

The Promissory Note will be issued in a principal amount equal to the principal amount of the Series 2024 Bonds. The Promissory Note will be delivered to the Issuer and assigned by the Issuer to the Trustee. The Loan Agreement provides that the Borrower is required to make designated payments to the Trustee in amounts sufficient to pay the principal of, and interest on, the Series 2024 Bonds when due. The Borrower’s obligation to make payments on the Promissory Note will be satisfied to the extent that payments are made by the Borrower under the Loan Agreement and the Borrower will receive similar credit under the Loan Agreement for payments made on the Promissory Note. The Promissory Note will be an unsecured, general obligation of the Borrower.

### Series 2024 Debt Service Reserve Account

Under the Indenture, the Issuer and the Borrower have established a Debt Service Reserve Fund, including the Series 2024 Debt Service Reserve Account therein (further including, the Series 2024 Debt Service Reserve Subaccounts related to each Guarantor), for the purpose of funding amounts due in respect of the Series 2024 Bonds, which will be initially funded in the amount of \$[\_\_\_\_\_]\*, (as allocated to each Guarantor, such Guarantor’s Series 2024 Debt Service Reserve Subaccount Requirement). Moneys in the Series 2024 Debt Service Reserve Account will be applied by the Trustee to make up any deficiencies in the Series 2024 Bond Fund established under the Indenture. The Series 2024 Debt Service Reserve Account is not available to secure any other series of bonds issued under the Indenture other than the Series 2024 Bonds, and provisions or terms related to Debt Service Reserve Accounts for any series of Additional Bonds will be specified in the applicable supplemental indenture pursuant to which such Additional Bonds are issued. See *Appendix D* – “FORMS OF THE INDENTURE, THE LOAN AGREEMENT, THE GUARANTY AGREEMENTS, AND THE REIMBURSEMENT AGREEMENTS.”

### Guaranty Agreements

The Issuer will cause each Guarantor to execute and deliver its respective Guaranty Agreement in favor of the Trustee and the Series 2024 Insurer which provides for the unconditional guaranty by each Guarantor of the replenishment of the Series 2024 Debt Service Reserve Account in an amount equal to such Guarantor’s pro rata share

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\* Preliminary, subject to change



of amount(s) necessary to replenish the Series 2024 Debt Service Reserve Account to be at least equal to the Series 2024 Debt Service Reserve Requirement, each pursuant to a separate Guaranty Agreement. If the Trustee has drawn upon the Series 2024 Debt Service Reserve Account to pay debt service on the Series 2024 Bonds or as otherwise permitted under the Indenture, and the Trustee makes a demand upon each Guarantor pursuant to the Indenture, each Guarantor shall take the necessary steps to replenish its pro rata share of the Series 2024 Debt Service Reserve Account within the earlier of (i) one hundred fifty (150) days from the date of demand by the Trustee, or (ii) five (5) Business Days before the next succeeding Interest Payment Date, to replenish such draw on the Series 2024 Debt Service Reserve Account all as provided in the Indenture and each Guaranty Agreement. **Each Guarantor's obligations under its respective Guaranty Agreement is several and NOT joint with any other Guarantor's obligations under its respective Guaranty Agreement.** See "*GUARANTY AGREEMENTS*" herein.

### **Additional Bonds**

Pursuant to the Indenture, the Issuer shall not issue any other bonds or obligations having a lien on the Trust Estate except for Additional Bonds. Additional Bonds may be issued under the Indenture for any legal purpose permitted by Wisconsin Statutes, Section 66.1103 as amended from time to time (the "Act"), and must be issued by [January 1, 20\_\_]. The terms and provisions relating to a series of Additional Bonds shall be as set forth in a Supplemental Indenture providing for the issuance of such series of Additional Bonds. Each series of Additional Bonds, upon execution on behalf of the Issuer, shall be deposited with the Trustee for authentication and delivery, and the Trustee shall authenticate and deliver such Additional Bonds upon receipt by the Trustee of the following:

- (i) a copy, certified by an Issuer Representative, of a resolution and/or evidence of any other official actions taken by the Issuer authorizing, or an opinion of Bond Counsel to the effect that no additional official action is required to authorize, (i) the execution and delivery of the Supplemental Indenture providing for the issuance of the Additional Bonds of such series and setting forth the terms of such Additional Bonds, (ii) the execution and delivery of any amendments or supplements to each of the Transaction Documents required by the issuance of such series of Additional Bonds (or an opinion of counsel that no such amendment is required), and (iii) issuance, sale, execution and delivery of such series of Additional Bonds;
- (ii) an original executed counterpart or a copy, certified by an Issuer Representative, of the Indenture, together with original executed counterparts or certified copies of all Supplemental Indentures executed and delivered since the date of issuance of the Bonds;
- (iii) an original executed counterpart or a copy, certified by an Issuer Representative, of the Supplemental Indenture providing for the issuance of the Additional Bonds of such series and setting forth terms of such Additional Bonds;
- (iv) an original executed counterpart or a copy, certified by the Issuer Representative and Borrower Representative, as applicable, of any amendments or supplements to the Transaction Documents to which each is a party;
- (v) an opinion or opinions of counsel to the Borrower, addressed to the Issuer and the Trustee, to the effect that amendments and supplements, if any, to the Transaction Documents to which it is a party have been duly authorized, executed and delivered by, and constitute the valid and binding obligations of, the Borrower enforceable against the Borrower; provided, that such opinion or opinions of counsel may take exception as to the effect of, or for restrictions or limitations imposed by or resulting from, bankruptcy, insolvency, reorganization, arrangement, fraudulent conveyance, moratorium and other laws relating to or affecting creditors' rights, to the application of equitable principles, to the exercise of judicial discretion in appropriate cases, and that no opinion is being rendered with respect to any indemnification, contribution, penalty, choice of law, choice of forum, choice of venue, waiver or severability provisions under the financing documents;
- (vi) a request and authorization of the Issuer, signed by an Issuer Representative, to the Trustee to authenticate and, upon receipt of the purchase price, to deliver such series of Additional Bonds to or upon the order of the purchasers of such series of Additional Bonds;

- (vii) a certificate of the Borrower signed by a Borrower Representative stating that (i) no Event of Default, nor any event or condition that with notice or the passage of time or both would constitute an Event of Default, has occurred and is continuing under the Transaction Documents as of the date of issuance of such series of Additional Bonds and (ii) the issuance of such series of Additional Bonds, in and of itself, will not cause an Event of Default or default under the Transaction Documents;
- (viii) a final approving opinion of Bond Counsel addressed to the Trustee, duly executed;
- (ix) an Opinion of Counsel to the Borrower that the conditions of the Indenture for the issuance of such Additional Bonds have been satisfied;
- (x) the agreement of the Borrower to pay the administrative fees and expense of the Issuer and the Trustee in connection with the issuance of a series of Additional Bonds;
- (xi) evidence from a Rating Agency that such Additional Bonds will carry an investment grade rating of at least BBB - / Baa3 or the equivalent.
- (xii) Opinion(s) of Counsel to the Participating Counties that the Guaranty Agreements have been duly authorized, executed and delivered and are enforceable against the Participating Counties in accordance with their terms; and
- (xiii) Receipt of the final Series 2024 Bond Insurance Policy.

#### GUARANTY AGREEMENTS

Concurrently with the issuance of the Series 2024 Bonds, each Guarantor will execute its respective Guaranty Agreement with respect to the Series 2024 Bonds in favor of the Trustee. Each Guaranty Agreement provides for the unconditional guaranty by each Guarantor of the payment when due of its pro rata share of amount(s) necessary to replenish the Series 2024 Debt Service Reserve Account to be at least equal to the Series 2024 Debt Service Reserve Requirement. Fond du Lac County's pro rata share as of the date of issuance of the Series 2024 Bonds shall be in an aggregate principal amount of the Series 2024 Bonds not to exceed \$[ ] (or [ ]% of the aggregate principal amount of the Series 2024 Bonds); Iowa County's pro rata share as of the date of issuance of the Series 2024 Bonds shall be in an aggregate principal amount of the Series 2024 Bonds not to exceed \$[ ] (or [ ]% of the aggregate principal amount of the Series 2024 Bonds); Forest County's pro rata share as of the date of issuance of the Series 2024 Bonds shall be in an aggregate principal amount of the Series 2024 Bonds not to exceed \$[ ] (or [ ]% of the aggregate principal amount of the Series 2024 Bonds); Price County's pro rata share as of the date of issuance of the Series 2024 Bonds shall be in an aggregate principal amount of the Series 2024 Bonds not to exceed \$[ ] (or [ ]% of the aggregate principal amount of the Series 2024 Bonds); Jefferson County's pro rata share as of the date of issuance of the Series 2024 Bonds shall be in an aggregate principal amount of the Series 2024 Bonds not to exceed \$[ ] (or [ ]% of the aggregate principal amount of the Series 2024 Bonds); Lafayette County's pro rata share as of the date of issuance of the Series 2024 Bonds shall be in an aggregate principal amount of the Series 2024 Bonds not to exceed \$[ ] (or [ ]% of the aggregate principal amount of the Series 2024 Bonds); Marathon County's pro rata share as of the date of issuance of the Series 2024 Bonds shall be in an aggregate principal amount of the Series 2024 Bonds not to exceed \$[ ] (or [ ]% of the aggregate principal amount of the Series 2024 Bonds); Waushara County's pro rata share as of the date of issuance of the Series 2024 Bonds shall be in an aggregate principal amount of the Series 2024 Bonds not to exceed \$[ ] (or [ ]% of the aggregate principal amount of the Series 2024 Bonds); Sawyer County's pro rata share as of the date of issuance of the Series 2024 Bonds shall be in an aggregate principal amount of the Series 2024 Bonds not to exceed \$[ ] (or [ ]% of the aggregate principal amount of the Series 2024 Bonds); and Taylor County's pro rata share as of the date of issuance of the Series 2024 Bonds shall be in an aggregate principal amount of the Series 2024 Bonds not to exceed \$[ ] (or [ ]% of the aggregate principal amount of the Series 2024 Bonds).

If the Trustee has drawn upon the Series 2024 Debt Service Reserve Account to pay debt service on the Series 2024 Bonds or as otherwise permitted under the Indenture, and the Trustee makes a demand upon each Guarantor pursuant to the Indenture, each Guarantor shall take the necessary steps to replenish its pro rata share of the Series 2024 Debt Service Reserve Account (specifically, in respect to such Guarantor's Series 2024 Debt Service Reserve Subaccount and such Guarantor's Series 2024 Debt Service Reserve Subaccount Requirement) within the earlier of (i) one hundred fifty (150) days from the date of demand by the Trustee, or (ii) five (5) Business Days before the next succeeding Interest Payment Date, to replenish such draw on the Series 2024 Debt Service Reserve Account all as provided in the Indenture and each Guaranty Agreement. Each Series 2024 Participating County's pro rata share shall be calculated on the date of issuance of the Series 2024 Bonds, on each principal and interest payment date, and on any date the pro rata share of any Series 2024 Participating County is reduced upon a redemption of all or a portion of the Series 2024 Bonds pursuant to the terms of its Guaranty Agreement. Performance or nonperformance by the Borrower or Hilbert in respect to their obligations under the Reimbursement Agreements or the Hilbert Guaranties does not reduce the Guarantors' obligations under their respective Guaranty Agreement. Further, the obligations of each Guarantor under its Guaranty Agreement are an absolute and unconditional general obligation of the Guarantor to the payment of which the full faith and credit taxing power of such Guarantor is pledged, and remain in full force and effect and are not affected, modified, or impaired upon, among other things, an event of default by the Borrower or Hilbert under any Reimbursement Agreement or Hilbert Guaranty or any agreement securing the Borrower's or Hilbert's obligations pursuant to any Reimbursement Agreement or Hilbert Guaranty. Each Guarantor's obligations under its respective Guaranty Agreement is several and **NOT** joint with any other Guarantor's obligations under its respective Guaranty Agreement. See "*GUARANTY AGREEMENTS*" and *Appendix C* and *Appendix D* hereto for a more detailed description of the Guaranty Agreements and each Guarantor.

#### **Rights of the Guarantors with Respect to the Series 2024 Bonds**

The Indenture and the Loan Agreement grants each Guarantor certain approval, consent, and waiver rights. In certain circumstances, the Trustee and the Issuer, without the consent of, or notice to, the Bondowners or the Guarantors, may amend the Indenture, provided the consent of each Guarantor has been obtained if required under the Indenture. Further, in certain circumstances, the Trustee may consent to the amendment of the Loan Agreement without the consent of the Bondowners, provided the consent of each Guarantor has been obtained if required under the Indenture. Specifically, any provision of the Indenture expressly recognizing or granting rights in or to the Guarantors may not be amended in any manner which affects the rights of the Guarantors thereunder, including (i) the principal amount of any series of Bonds (for the avoidance of doubt, excluding any Additional Bonds not subject to the Guaranty Agreements guaranteeing obligations of the respective Bonds), (ii) the interest rate payable thereon, and (iii) the payment and maturity dates of the applicable Bonds, without the prior written consent of all of the Guarantors, and no Supplemental Indenture amending such provisions expressly recognizing or granting rights in or to the Guarantors shall become effective without the prior written consent of all of the Guarantors. See *Appendix D – "FORMS OF THE INDENTURE, THE LOAN AGREEMENT, THE GUARANTY AGREEMENTS, AND THE REIMBURSEMENT AGREEMENTS."*

In the event the Series 2024 Bonds are accelerated pursuant to the Indenture, the Indenture also grants the Guarantors the right (but only if all of the Guarantors shall so elect and are not in default under their respective Guaranty Agreement), in their sole discretion, to redeem the Series 2024 Bonds. The Indenture also requires that the Guarantors receive notice of certain events including defaults, redemptions, resignations of the Trustee or Paying Agent, and copies of all reports, notices, and correspondence delivered under the Indenture or Loan Agreement. Furthermore, the Indenture provides that certain Events of Default arising from the failure of the Borrower to pay principal and interest on the Series 2024 Bonds after such amounts become due and payable thereunder cannot be waived by the Trustee or Bondowners without the consent of each Guarantor (to the extent such Guarantor is not in default under its Guaranty Agreement). See "*THE BONDS – Redemption,*" and *Appendix D – "FORMS OF THE INDENTURE, THE LOAN AGREEMENT, THE GUARANTY AGREEMENTS, AND THE REIMBURSEMENT AGREEMENTS."*

#### **Security for the Borrower's Obligations under the Reimbursement Agreements**

As security for the Borrower's Obligations under the Reimbursement Agreements, the Borrower will grant a mortgage and other liens under a Security Agreement to each Series 2024 Participating County consisting of all of the Borrower's rights, title, and interest in the Project Property (including, without limitation, any and all mortgages and

security agreements granted by the Borrower, collectively, the “*County Mortgages*”). The County Mortgages are **NOT** security for the Borrower’s obligations under the Loan Agreement and are **NOT** available as security for the Trustee or holders of the Bonds. The holders of the Bonds will **NOT** have any security interest in the Project Property or facilities comprising the Project other than what is pledged as the Trust Estate under the Indenture. The County Mortgages may be subordinated to or otherwise exclude certain Project Property encumbered by the Grant Program Liens. Such Grant Program Liens are **NOT** available as security for the Trustee or holders of the Bonds.

### **Rights of the Series 2024 Insurer with Respect to the Series 2024 Bonds**

To the extent the Series 2024 Insurer makes payments directly or indirectly (e.g., by paying through the Paying Agent or Trustee), on account of principal of or interest on the Bonds, and such amounts are attributable to and remain unpaid by a Series 2024 Participating County, including Policy Costs thereon, the Series 2024 Insurer will have the sole right (in place of the Trustee on behalf of Bondowners) to exercise remedies under the applicable Guaranty Agreement, as well as, additional rights thereunder. Except as set forth in the Indenture, the Series 2024 Insurer’s prior written consent is required for all amendments and supplements to the Bond Insurer Documents (as defined in the Indenture), including the Guaranty Agreements. See “SERIES 2024 BOND INSURANCE,” “BONDOWNERS’ RISKS - Bond Insurance Risk Factors,” and *Appendix D* – “FORMS OF THE INDENTURE, THE LOAN AGREEMENT, THE GUARANTY AGREEMENTS, AND THE REIMBURSEMENT AGREEMENTS” herein.

### **REIMBURSEMENT AGREEMENTS AND HILBERT GUARANTIES**

Concurrently with the issuance of the Series 2024 Bonds, the Borrower will execute the Reimbursement Agreements with each respective Guarantor. Each Reimbursement Agreement provides for the Borrower to pay to each Guarantor (i) an annual guaranty fee of [40] basis points of the pro rata principal amount of the Series 2024 Bonds subject to each Guarantor’s Guaranty Agreement, as may be paid in a lump sum, as agreed to by the applicable Guarantor and the Borrower as an operating expense of the Borrower, and (ii) all costs and expenses incurred by each Guarantor related to the issuance of the Series 2024 Bonds, in return for the payments each Guarantor makes pursuant to a Guaranty Agreement. As further security for the Borrower’s obligations, Hilbert is guaranteeing payment of all of the Borrower’s obligations and liabilities under the Reimbursement Agreements and other agreements securing the Reimbursement Agreement obligations of the Borrower pursuant to the Hilbert Guaranties. As further consideration for each Guarantor’s Guaranty Agreement, the Borrower has agreed to provide the applicable Guarantor access to use any telecommunications towers and certain strands of fiber optic cables constructed in each Guarantor’s county with the proceeds of the Series 2024 Bonds, and the Guarantor has pledged 100% of the membership interest of the Borrower to the Issuer, acting as agent, on behalf of each Guarantor. Performance or nonperformance by the Borrower or Hilbert in respect to their obligations under the Reimbursement Agreements or the Hilbert Guaranties does not reduce the Guarantors’ obligations under their respective Guaranty Agreement. The Reimbursement Agreements, the Hilbert Guaranties, and the agreements securing and providing other rights to the Guarantors in connection with the Reimbursement Agreements are NOT security for the Borrower’s obligations under the Loan Agreement and are NOT available as security for the Trustee or holders of the Series 2024 Bonds. The holders of the Series 2024 Bonds will NOT have any security interest in the equity of the Borrower.

### **SERIES 2024 BOND INSURANCE**

The following information under this heading has been furnished by the Series 2024 Insurer for use in this Limited Offering Memorandum. See also “BONDOWNERS’ RISKS - Bond Insurance Risk Factors,” and *Appendix D* – “FORMS OF THE INDENTURE, THE LOAN AGREEMENT, THE GUARANTY AGREEMENTS, AND THE REIMBURSEMENT AGREEMENTS” herein.

#### **Bond Insurance Policy**

Concurrently with the issuance of the Series 2024 Bonds, Build America Mutual Assurance Company (“BAM”) will issue its Municipal Bond Insurance Policy for the Series 2024 Bonds (the “Policy”). The Policy guarantees the scheduled payment of principal of and interest on the Series 2024 Bonds when due as set forth in the

form of the Policy included as an exhibit to this Official Statement. See *Appendix H* – “SPECIMEN MUNICIPAL BOND INSURANCE POLICY.”

The Policy is not covered by any insurance security or guaranty fund established under New York, California, Connecticut or Florida insurance law.

### **Build America Mutual Assurance Company [TO BE UPDATED AS NEEDED]**

[BAM is a New York domiciled mutual insurance corporation and is licensed to conduct financial guaranty insurance business in all fifty states of the United States and the District of Columbia. BAM provides credit enhancement products solely to issuers in the U.S. public finance markets. BAM will only insure obligations of states, political subdivisions, integral parts of states or political subdivisions or entities otherwise eligible for the exclusion of income under section 115 of the U.S. Internal Revenue Code of 1986, as amended. No member of BAM is liable for the obligations of BAM.

The address of the principal executive offices of BAM is: 200 Liberty Street, 27th Floor, New York, New York 10281, its telephone number is: 212-235-2500, and its website is located at: [www.buildamerica.com](http://www.buildamerica.com).

BAM is licensed and subject to regulation as a financial guaranty insurance corporation under the laws of the State of New York and in particular Articles 41 and 69 of the New York Insurance Law.

BAM’s financial strength is rated “AA/Stable” by S&P Global Ratings, a business unit of Standard & Poor's Financial Services LLC (“S&P”). An explanation of the significance of the rating and current reports may be obtained from S&P at [www.standardandpoors.com](http://www.standardandpoors.com). The rating of BAM should be evaluated independently. The rating reflects S&P’s current assessment of the creditworthiness of BAM and its ability to pay claims on its policies of insurance. The above rating is not a recommendation to buy, sell or hold the Series 2024 Bonds, and such rating is subject to revision or withdrawal at any time by S&P, including withdrawal initiated at the request of BAM in its sole discretion. Any downward revision or withdrawal of the above rating may have an adverse effect on the market price of the Series 2024 Bonds. BAM only guarantees scheduled principal and scheduled interest payments payable by the issuer of the Series 2024 Bonds on the date(s) when such amounts were initially scheduled to become due and payable (subject to and in accordance with the terms of the Policy), and BAM does not guarantee the market price or liquidity of the Series 2024 Bonds, nor does it guarantee that the rating on the Series 2024 Bonds will not be revised or withdrawn.

### **Capitalization of BAM**

BAM’s total admitted assets, total liabilities, and total capital and surplus, as of June 30, 2022 and as prepared in accordance with statutory accounting practices prescribed or permitted by the New York State Department of Financial Services were \$490.5 million, \$187.1 million and \$303.4 million, respectively.

BAM is party to a first loss reinsurance treaty that provides first loss protection up to a maximum of 15% of the par amount outstanding for each policy issued by BAM, subject to certain limitations and restrictions.

BAM’s most recent Statutory Annual Statement, which has been filed with the New York State Insurance Department and posted on BAM’s website at [www.buildamerica.com](http://www.buildamerica.com), is incorporated herein by reference and may be obtained, without charge, upon request to BAM at its address provided above (Attention: Finance Department). Future financial statements will similarly be made available when published.

BAM makes no representation regarding the Series 2024 Bonds or the advisability of investing in the Series 2024 Bonds. In addition, BAM has not independently verified, makes no representation regarding, and does not accept any responsibility for the accuracy or completeness of this Official Statement or any information or disclosure

contained herein, or omitted herefrom, other than with respect to the accuracy of the information regarding BAM, supplied by BAM and presented under the heading “SERIES 2024 BOND INSURANCE”.

### **Additional Information Available from BAM**

*Credit Insights Videos.* For certain BAM-insured issues, BAM produces and posts a brief Credit Insights video that provides a discussion of the obligor and some of the key factors BAM’s analysts and credit committee considered when approving the credit for insurance. The Credit Insights videos are easily accessible on BAM’s website at [www.buildamerica.com/videos](http://www.buildamerica.com/videos). (The preceding website address is provided for convenience of reference only. Information available at such address is not incorporated herein by reference.)

*Credit Profiles.* Prior to the pricing of bonds that BAM has been selected to insure, BAM may prepare a pre-sale Credit Profile for those bonds. These pre-sale Credit Profiles provide information about the sector designation (e.g. general obligation, sales tax); a preliminary summary of financial information and key ratios; and demographic and economic data relevant to the obligor, if available. Subsequent to closing, for any offering that includes bonds insured by BAM, any pre-sale Credit Profile will be updated and superseded by a final Credit Profile to include information about the gross par insured by CUSIP, maturity and coupon. BAM pre-sale and final Credit Profiles are easily accessible on BAM’s website at [www.buildamerica.com/credit-profiles](http://www.buildamerica.com/credit-profiles). BAM will produce a Credit Profile for all bonds insured by BAM, whether or not a pre-sale Credit Profile has been prepared for such bonds. (The preceding website address is provided for convenience of reference only. Information available at such address is not incorporated herein by reference.)

*Disclaimers.* The Credit Profiles and the Credit Insights videos and the information contained therein are not recommendations to purchase, hold or sell securities or to make any investment decisions. Credit-related and other analyses and statements in the Credit Profiles and the Credit Insights videos are statements of opinion as of the date expressed, and BAM assumes no responsibility to update the content of such material. The Credit Profiles and Credit Insight videos are prepared by BAM; they have not been reviewed or approved by the issuer of or the underwriter for the Bonds, and the issuer and underwriter assume no responsibility for their content.

BAM receives compensation (an insurance premium) for the insurance that it is providing with respect to the Bonds. Neither BAM nor any affiliate of BAM has purchased, or committed to purchase, any of the Series 2024 Bonds, whether at the initial offering or otherwise.]

### **BONDOWNERS’ RISKS**

The following discussion of risk factors should be read in conjunction with all other parts of this Limited Offering Memorandum. This discussion of risk factors is not, and is not intended to be, exhaustive.

#### **Limited Obligations**

The Series 2024 Bonds and the interest thereon are limited obligations of the Issuer and will not constitute general obligations of the Issuer, the State of Wisconsin, or any political subdivision thereof within the meaning of any State of Wisconsin constitutional provision or statutory limitation and shall not be a charge against their general credit or taxing powers. The Issuer is obligated to make payments on the Series 2024 Bonds only to the extent of payments made by the Borrower on the Promissory Note or from any amounts received pursuant to the Guaranty Agreements. The Borrower’s ability to repay the Series 2024 Bonds will depend on the overall financial condition of the Borrower, and each Guarantor’s ability to make payments pursuant to the respective Guaranty Agreement will depend on the overall financial condition of each Guarantor.

#### **Risks Related to the Business of the Borrower Generally**

Timely payment of all indebtedness of the Borrower, including debt service owing on the Series 2024 Bonds, will depend on the Borrower’s ability to operate the Project and the ability to generate revenues solely from the Project sufficient to pay all operating expenses and debt service. The Borrower’s revenues depend upon its sales of wireless internet and telephone communications services to businesses, governmental units and residents of rural communities.

The Borrower cannot predict what effects any potential changes in retail competition or increased regulation may have on its business operations and financial condition, but the effects could be significant.

*The Borrower is a new company whose only expected revenue is from the Project.* The Borrower is in the early stages of developing its operations and has not yet attained operating cash flows to support its operations. Additionally, the Borrower will need to make significant investments in property and equipment and plans to continue material capital expenditures through [December 31, 20\_\_]. No representation or assurance can be made that revenues will be realized by the Borrower in amounts sufficient to meet the obligations of the Borrower under the Loan Agreement. Realization of sufficient revenues over the term of the Series 2024 Bonds is subject, to among other things, the timely completion of the Project, the capabilities of the Borrower as an operator of the facilities, the profitability of the Borrower, future economic conditions, and the supply, demand and applicable prices for the Borrower's products and services, which are unpredictable and may affect revenues, operating and maintenance expenses, and payment of debt service on the Bonds.

*Construction and Site Acquisition Risk.* The Borrower is dependent upon certain contractors, suppliers, and their manufacturing and delivery capabilities, which may be adversely affected by supply chain disruptions, natural disasters, or other limiting factors. While the Borrower is aggressively pursuing supply agreements and contracts that correlate to the Project, there is no guaranty that the Borrower will be able to meet its timelines if suppliers and contractors have supply chain disruptions or manufacturer shortages. The Borrower is also reliant on contractors for certain engineering and site acquisition activities that may delay or add cost to the project if land is not acquirable under anticipated terms or if rights of way are denied due to local zoning or regulatory proceedings.

*Ramp-up Risk.* The Borrower was formed in 2024, and will need to continue to ramp up operations to achieve the timelines of the Project. The ramp up is contingent upon access to additional labor, additional equipment, and continued development of management and operational structures, all of which may be impacted by execution, supply chain and labor availability.

*Permit Risks.* To construct and operate the Project, the Borrower must obtain certain permits and approvals that if not obtained as currently anticipated by the Borrower may delay or increase cost of the construction of the Project or limit the ability of the Borrower to operate the Project as planned. This could have a material adverse effect on the Borrower's anticipated financial performance and ability to generate revenues sufficient to pay debt service on the Series 2024 Bonds.

*Affiliate Relationships.* The Borrower depends on its construction affiliates, its data core affiliate, and the sales and marketing organization of its retail and wholesale wireless affiliate for many operational needs. The ongoing availability of those services and of labor for those affiliates could be impacted by certain economic conditions, by their own execution, or by other factors beyond the control of the Borrower.

*Achieving Revenue Assumptions.* The Borrower has assumed that [40% of homes passed with fiber will subscribe to its services and will additionally ramp up to 70% over ten years]. Furthermore, the Borrower has assumed [a minimum of 80 fixed broadband subscribers per tower constructed along with rents from at least one national carrier]. While the estimated subscribers and revenues have been achieved in the past by affiliates of the Borrower, there is no guarantee that the Borrower will not encounter additional competition, general economic conditions or other issues that prevent it from achieving its estimated revenue streams.

*Changes in available technology could increase competition and capital costs.* The telecommunications industry has experienced rapid changes in the last several years. The development of wireless, cable and satellite technologies has significantly increased the commercial viability of alternatives to traditional data and voice services and enhanced the capabilities of networks. In order to remain competitive, the Borrower continues to deploy a more sophisticated and robust fiberoptic and wireless network, as well as research other new technologies. If the new technologies the Borrower is adopting or on which it has focused its research efforts fail to be cost-effective and accepted by customers, the Borrower's ability to remain competitive could be materially adversely affected.

*Changes to federal and state government regulations and decisions in regulatory proceedings could materially adversely affect the Borrower.* The Borrower is regulated by the Federal Communications Commission ("FCC") and some state and local agencies. Adverse rulings by the FCC relating to broadband issues could impede the Borrower's

ability to manage its networks and recover costs and lessen incentives to invest in its networks. The development of new technologies also has created or potentially could create conflicting regulation between the FCC and various state and local authorities, which may involve lengthy litigation to resolve and may result in outcomes unfavorable to the Borrower. The Borrower complies with Section 106 coordinations and the National Environmental Policy Act, as amended (“NEPA”) requirements imposed by the FCC which can delay construction or render certain locations as unacceptable after considerable time and expense. Additionally, new laws or regulations, changes to the existing regulatory framework at the federal, state, or local level, or appropriations by such governmental or regulatory bodies, including those that incentivize business models or technologies different from the Borrower’s, could restrict the ways in which the Borrower manages its business and/or competes with its competitors, and could impose additional costs, impair revenue opportunities, or incentivize additional competition.

*Increasing competition in the telecommunications infrastructure industry could adversely affect the Borrower’s operating results.* The Borrower has wireless and fiberoptic competitors in its service areas and competes for customers based principally on price, service/device offerings, transmission quality, coverage area and customer service. In addition, the Borrower is likely to experience growing competition from providers offering services using alternative technologies. The Borrower expects market saturation and differentiation to continue to cause the telecommunication industry’s customer growth rate to moderate in comparison with historical growth rates, leading to increased competition for customers. This competition will continue to put pressure on pricing and margins as companies compete for potential customers. The Borrower’s ability to respond will depend, among other things, on continued improvement in network quality and customer service and effective marketing of attractive products and services, and cost management. These efforts will involve significant expenses and require strategic management decisions on, and timely implementation of, equipment choices and deployment, and service offerings.

*Equipment failures, natural disasters and terrorist attacks may materially adversely affect the Borrower’s operations.* Major equipment failures or natural disasters, including severe weather, terrorist acts or other breaches of network or IT security that affect the Borrower’s wireless networks, including telephone switching offices, microwave links, third-party-owned local and long-distance networks on which the Borrower relies, the Borrower’s cell sites or other equipment, could have a material adverse effect on the Borrower’s operations. While the Borrower has insurance coverage for some of these events, the Borrower’s inability to operate its wireless systems, even for a limited time period, may result in significant expenses, a loss of customers or impair the Borrower’s ability to attract new customers, which could have a material adverse effect on the Borrower’s business, results of operations and financial condition.

For a further description of factors that could affect the Borrower’s financial standing and operations in the future, see “*Forward-Looking Statements*” in this Limited Offering Memorandum.

## **Guaranty Agreements**

The ability of each Guarantor to honor its obligations under its respective Guaranty Agreement may depend on, among other things, its access to the capital markets at the time it is called on to perform under its respective Guaranty Agreement. For information concerning the current financial status of each Guarantor, see “*Appendix C*” herein.

The obligations of each Guarantor under its respective Guaranty Agreement is limited to its pro rata share, which may be further reduced upon a redemption of all or a portion of the Series 2024 Bonds pursuant to the terms of the applicable Guaranty Agreement. See “*GUARANTY AGREEMENTS*.”

There can be no assurance that the credit strength of each Guarantor will be maintained. A decline in the credit rating of any Guarantor could result in a decline in the rating assigned to the Series 2024 Bonds from time to time. Such a decline could in turn affect the market price and marketability of the Series 2024 Bonds. **Each Guarantor’s obligations under its respective Guaranty Agreement is several and NOT joint with any other Guarantor’s obligations under its respective Guaranty Agreement.** For more information concerning the Guarantors, see *Appendix C* hereto.



## **Risks Associated With County Mortgages, Grant Program Liens, and Other Security and Rights Granted to the Guarantors and Pursuant to the Grant Program**

The County Mortgages are **NOT** security for the Borrower's obligations under the Loan Agreement and are **NOT** available as security for the Trustee or holders of the Series 2024 Bonds. The holders of the Series 2024 Bonds will **NOT** have any security interest in the Project Property or facilities comprising the Project. The Reimbursement Agreements, the Hilbert Guaranties, and the agreements securing and providing other rights to the Guarantors in connection with the Reimbursement Agreements are **NOT** security for the Borrower's obligations under the Loan Agreement and are **NOT** available as security for the Trustee or holders of the Series 2024 Bonds. The holders of the Series 2024 Bonds will **NOT** have any security interest in Hilbert's equity ownership interest in the Borrower.

The Reimbursement Agreements contain numerous conditions precedent to each disbursement of the proceeds of the Series 2024 Bonds to the Borrower, including, as applicable, the Borrower obtaining title insurance, surveys, Phase I environmental assessments, and other documents, certificates, and agreements as may be reasonably requested by the applicable Series 2024 Participating County. These conditions and others as set forth in the Reimbursement Agreement may affect the Borrower's business operations and the timing of the Project's implementation. See *Appendix D – "FORMS OF THE INDENTURE, THE LOAN AGREEMENT, THE GUARANTY AGREEMENTS, AND THE REIMBURSEMENT AGREEMENTS."*

The Grant Program Liens are **NOT** security for the Borrower's obligations under the Loan Agreement and are **NOT** available as security for the Trustee or holders of the Series 2024 Bonds.

## **Hilbert and Its Subsidiaries and Other Holdings (other than the Borrower) Are Not Obligated For The Borrower's Obligations Under the Loan Agreement**

Hilbert, its subsidiaries, and other holdings (other than the Borrower) are **NOT** obligated to make payments or otherwise provide security for the Borrower's obligations under the Loan Agreement and are **NOT** available as security for the Trustee or holders of the Bonds. Hilbert is obligated to make payments to the Participating Counties under the Hilbert Guaranties and also is obligated to make payments to the Bug Tussel 1 Counties under the Hilbert Bug Tussel 1 Guaranties, and may have other competing interests. There can be no assurances that Hilbert will be able to fully perform under the Hilbert Guaranties if there are events of default under the Hilbert Bug Tussel 1 Guaranties for which Hilbert has had to perform and vice versa. There are no intercreditor arrangements between the secured parties under the Hilbert Guaranties and the Hilbert Bug Tussel 1 Guaranties.

## **Guarantors' Extraordinary Optional Redemption**

Under certain circumstances, the Series 2024 Bonds are subject to acceleration at a price of par. In the event the Series 2024 Bonds are accelerated pursuant to the Indenture, upon the unanimous election of the Guarantors (provided no Guarantor is in default under its respective Guaranty Agreement), the Guarantors may elect, in their sole discretion, to redeem the Series 2024 Bonds. See "*THE SERIES 2024 BONDS – Redemption,*" and See *Appendix D – "FORMS OF THE INDENTURE, THE LOAN AGREEMENT, THE GUARANTY AGREEMENTS, AND THE REIMBURSEMENT AGREEMENTS."*

## **Enforceability of Remedies**

All legal opinions with respect to the enforceability of the Indenture, the Loan Agreement, and the other Transaction Documents, will be expressly subject to a qualification that enforceability thereof may be limited by bankruptcy, reorganization, insolvency, moratorium, fraudulent conveyance or other similar laws affecting creditors' rights generally, and by applicable principles of equity if equitable remedies are sought. In addition, enforcement of any Transaction Document will be subject to certain defenses available to guarantors and security providers generally. If one or more of these laws or defenses are applicable, a party may have no liability or decreased liability under the Transaction Documents to which it is a party.

## **Bankruptcy**

Bankruptcy, receivership or other similar proceedings and equity principles may delay or otherwise adversely affect the Bondowners' rights to receive payment as well as the enforcement of Bondowners' rights in the property granted as security for the Series 2024 Bonds. The federal bankruptcy, state receivership or other similar laws may have an adverse effect on the ability of the Trustee and the Bondowners to enforce their right to payment and claim to the security granted by the Indenture, the Loan Agreement, and the other Transaction Documents, as applicable. In particular, the filing by, or against, the Borrower for relief under Title 11 of the United States Code (the "Bankruptcy Code") could cause a delay, reduction or cessation of payments under the Indenture or the other Transaction Documents, as applicable, and accordingly under the Series 2024 Bonds. Pursuant to section 362(a) of the Bankruptcy Code, the filing of a bankruptcy petition creates an "automatic stay" that enjoins litigation against the debtor or its property, and other efforts by creditors to enforce their liens or claims, including the liens and claims held by the Trustee, pending further order of the bankruptcy court. Accordingly, the Trustee would need to obtain the permission of the bankruptcy court (which can carry a heavy burden to establish "cause") before any payments or collections can be pursued from the Borrower and applied to the Series 2024 Bonds (potentially even from moneys in the possession of the Trustee) and before any rights or remedies can be exercised by the Trustee under the Indenture or the other Financing Documents or otherwise with respect to the Series 2024 Bonds or against the Borrower, and possibly in certain cases, against the Guarantors.

Likewise, federal bankruptcy law permits the adoption of a reorganization plan even though it has not been accepted by the Owners of at least a majority in aggregate principal amount of the Series 2024 Bonds Outstanding, if the Bondowners are provided with the benefit of the security represented by their original lien and deferred cash payments over time totaling at least the present value of the allowed amount of their claim, of a value of at least equal to the value of the collateral securing payment or, alternatively, with the "indubitable equivalent" of the value of such lien. In addition, if the bankruptcy court concludes that the Bondowners have "adequate protection," it may (1) substitute other security subject to the lien of the Bondowners; and (2) subordinate the lien of the Bondowners (a) to claims by persons supplying goods and services to the Borrower after bankruptcy and (b) to the administrative expenses of the bankruptcy proceeding, including claims for the repayment of postpetition financings. In the event of a bankruptcy, receivership or other similar proceeding involving the Borrower, the amount realized by the Bondowners might depend on a court's interpretation of, among other concepts, "secured claim," "indubitable equivalent" and "adequate protection" under the then existing circumstances. The court may also have the power to invalidate certain provisions of the Transaction Documents that make bankruptcy and or other similar proceedings by the Borrower, or the Borrower's insolvency or failure to pay its debts as and when they become due, an event of default thereunder. In addition, such provisions may be invalid or void ab initio as a matter of federal or state statutory or common law, irrespective of a court's affirmative ruling or other intervention.

During the course of a bankruptcy, receivership or other similar proceeding involving the Borrower, under section 506 of the Bankruptcy Code or other similar provisions of applicable state law, the Trustee may only be entitled to accrue postpetition interest on claims against the Borrower, and potentially recover certain fees and expenses, to the extent the value of the underlying collateral exceeds the aggregate amount of the Bondowners' claims. If the applicable claims are undercollateralized, there would be no entitlement to fees or interest otherwise accruing on such claims during the proceeding, and such claims would be bifurcated under section 506 between a secured claim and an unsecured claim, unless the Trustee is eligible to, and does, elect under section 1111(b) of the Bankruptcy Code to have the applicable claims treated as fully secured. Such an election, if made, may affect recoveries under the Series 2024 Bonds, and whether such affect is negative or positive will depend on the circumstances at the time of the proposed election.

## **Amendment of the Indenture and the Loan Agreement**

Certain amendments to the Indenture and the Loan Agreement may be made without the consent of Bondowners, and other amendments thereto may be made with the consent of the Owners of a majority in aggregate principal amount of the outstanding Series 2024 Bonds. Such amendments may adversely affect the security of the Bondowners. See *Appendix D – "FORMS OF THE INDENTURE, THE LOAN AGREEMENT, THE GUARANTY AGREEMENTS, AND THE REIMBURSEMENT AGREEMENTS."*

## **Bond Insurance Risk Factors**

In the event the Series 2024 Insurer is unable to make payment of its obligations under the Bond Insurance Policy, the Series 2024 Bonds are payable solely from the moneys received pursuant to the applicable Transaction Documents. In the event the Series 2024 Insurer becomes obligated to make payments with respect to the Bond Insurance Policy, no assurance is given that such event will not adversely affect the market price of the Series 2024 Bonds or the marketability (liquidity) for the Series 2024 Bonds.

The insured rating on the Series 2024 Bonds is dependent in part on the financial strength of the Series 2024 Insurer and its claim paying ability. The Series 2024 Insurer's financial strength and claims paying ability are predicated upon a number of factors which could change over time. No assurance is given that the long-term ratings of the Series 2024 Insurer and of the insured rating on the Series 2024 Bonds will not be subject to downgrade and such event could adversely affect the market price of the Series 2024 Bonds or the marketability (liquidity) for the Series 2024 Bonds. See "*DESCRIPTION OF RATINGS*" herein.

The obligations of the Series 2024 Insurer are contractual obligations and in an event of default by the Series 2024 Insurer, the remedies available may be limited by applicable bankruptcy law or state law related to insolvency of insurance companies.

None of the Issuer, the Borrower or the Underwriter have made independent investigation into the claims paying ability of the Series 2024 Insurer and no assurance or representation regarding the financial strength or projected financial strength of the Series 2024 Insurer is given. Thus, when making an investment decision, potential investors should carefully consider the ability of the Issuer to pay its obligations under the Bond Insurance Policy and the claims paying ability of the Series 2024 Insurer, particularly over the life of the investment. See "*SERIES 2024 BOND INSURANCE*" herein for further information provided by the Series 2024 Insurer and the Bond Insurance Policy, which includes further instructions for obtaining current financial information concerning the Series 2024 Insurer.

To the extent the Series 2024 Insurer makes payments directly or indirectly (e.g., by paying through the Paying Agent or Trustee), on account of principal of or interest on the Bonds, (i) the Series 2024 Insurer will be subrogated to the rights of such Bondowners of the Series 2024 Bonds to receive the amount of such principal and interest from the Borrower, with interest thereon, (ii) will otherwise be treated as the owner of such rights to the amount of such principal and interest, (iii) the Series 2024 Bonds shall remain Outstanding for all purposes, not be defeased or otherwise satisfied and not be considered paid by the Issuer or the Borrower, and (iv) the assignment and pledge of the trust estate and all covenants, agreements and other obligations of the Issuer and the Borrower to the registered Bondowners shall continue to exist and shall run to the benefit of the Series 2024 Insurer. Additionally, to the extent the Series 2024 Insurer makes payments directly or indirectly (e.g., by paying through the Paying Agent or Trustee), on account of principal of or interest on the Bonds, and such amounts are attributable to and remain unpaid by a Series 2024 Participating County, including Policy Costs thereon, the Series 2024 Insurer will have the sole right (in place of the Trustee on behalf of Bondowners) to exercise remedies under the applicable Guaranty Agreement, as well as, additional rights thereunder. Except as set forth in the Indenture, the Series 2024 Insurer's prior written consent is required for all amendments and supplements to the Bond Insurer Documents (as defined in the Indenture), including the Guaranty Agreements. While the Series 2024 Bonds remain outstanding, and barring certain defaults of the Series 2024 Insurer under the Policy, as further set forth therein, the Issuer and the Borrower shall not issue Additional Bonds (other than the Series 2024 Bonds) without the prior written consent of the Series 2024 Insurer. See "*SERIES 2024 BOND INSURANCE*" herein and *Appendix D – "FORMS OF THE INDENTURE, THE LOAN AGREEMENT, THE GUARANTY AGREEMENTS, AND THE REIMBURSEMENT AGREEMENTS."*

## **Forward-Looking Statements**

This Limited Offering Memorandum contains certain statements that are "forward-looking" statements within the meaning of Section 27A of the Securities Act of 1933, as amended and Section 21E of the Securities Exchange Act of 1934, as amended. All statements other than statements of historical facts included in this Limited Offering Memorandum, including without limitation statements that use terminology such as "estimate," "plan," "budget," "expect," "intend," "anticipate," "believe," "may," "will," "continue," and similar expressions, are forward-looking statements. These forward-looking statements include, among other things, the projections and assumptions

included in “THE BORROWER’S PROJECTED DEBT SERVICE COVERAGE AND KEY OPERATING STATISTICS” herein, and all discussions related to the Borrower’s operations and expectations regarding future operations, revenues, capital resources, and expenditures for capital projects. Although the Borrower believes that the assumptions upon which the forward-looking statements contained in this Limited Offering Memorandum are based, are reasonable, any of the assumptions could prove to be inaccurate and, as a result, the forward-looking statements based on those assumptions also could be incorrect. All phases of the operations of the Borrower involve risks and uncertainties, many of which are outside the control of the Borrower and any one of which, or a combination of which, could materially affect the results of the Borrower’s operations and whether the forward-looking statements ultimately prove to be correct. Factors that could cause actual results to differ from those expected include, but are not limited to, general economic conditions such as inflation and interest rates, both nationally and in Wisconsin where the Project is located; unanticipated expenses; the ability of the Borrower to obtain customers; the capabilities of the Borrower’s management; the Borrower’s ability to operate the Project and the ability to generate revenues solely from the Project sufficient to pay all operating expenses and debt service; changes in available technology; changes to federal and state government regulations and decisions in regulatory proceedings; increased competition in the wireless industry; and other risks discussed in this Limited Offering Memorandum. The Underwriters make no representation as to the accuracy of the projections contained herein or as to the assumptions on which the projections are based.

## **ABSENCE OF MATERIAL LITIGATION**

### **Issuer**

There is not now pending or, to the knowledge of the Issuer, threatened, any litigation restraining or enjoining the issuance or delivery of the Series 2024 Bonds or questioning or affecting the validity of the Series 2024 Bonds or the proceedings or authority under which they are to be issued. There is no litigation pending or, to its knowledge, threatened, which in any manner questions the right of the Issuer to enter into the Loan Agreement or to secure the Series 2024 Bonds in the manner provided in the Indenture.

### **Borrower**

There is no litigation pending or, to the knowledge of the Borrower, threatened against the Borrower, which in any manner questions the right or ability of the Borrower to enter into the Loan Agreement or to fulfill the obligations imposed upon the Borrower thereby.

### **Hilbert**

There is no litigation pending or, to the knowledge of Hilbert, threatened against Hilbert, which in any manner questions the right or ability of Hilbert to enter into the Hilbert Guaranties or any other agreement granting security to the Guarantors or to fulfill the obligations imposed upon Hilbert thereby. Hilbert is from time to time involved in various legal actions consistent with the general experience of entities of similar nature and size. While the ultimate outcome of such proceedings currently pending cannot be predicted with certainty, Hilbert believes that the resolution of these legal actions will not have a material adverse effect on the operation or condition, financial or otherwise, of Hilbert.

### **Guarantors**

There is no litigation pending or, to the knowledge of each Guarantor, threatened, against such Guarantor, which in any manner questions the right or ability of such Guarantor to enter into its respective Guaranty Agreement or to fulfill the obligations imposed upon such Guarantor thereby or which would materially adversely affect its financial condition or operations or the validity or enforceability of, or its ability to make payments under, its respective Guaranty Agreement.

## **LEGAL MATTERS**

All legal matters incidental to the authorization and issuance of the Series 2024 Bonds by the Issuer are subject to the approval of Husch Blackwell LLP, Bond Counsel. Certain legal matters will be passed upon for the

Issuer by its counsel, Quarles & Brady LLP; for the Borrower by its counsel, Husch Blackwell LLP; for each of Price County, Lafayette County, Sawyer County and Taylor County by its special counsel, Attolles Law, s.c., for each of the other Participating Counties by its special counsel, Quarles & Brady LLP; for the Series 2024 Insurer, by its counsel; and for the Underwriters by their counsel, Ballard Spahr LLP.

## TAX MATTERS

**[TO BE UPDATED BY BOND COUNSEL]**

### General

In the opinion of Bond Counsel, under existing law, interest on the Series 2024 Bonds is included in gross income for federal income tax purposes pursuant to the Internal Revenue Code of 1986, as amended (the “Code”). See *Appendix E* – “FORM OF BOND COUNSEL OPINION.”

### United States Tax Consequences Related to the Bonds

The following is a summary of certain United States federal income tax consequences generally applicable to initial holders of Bonds. This summary does not consider all possible federal income tax consequences of the purchase, ownership, or disposition of the Bonds, and is not intended to reflect the individual tax position of any particular beneficial owner in light of such beneficial owner's individual circumstances. Moreover, except as expressly indicated, this summary is limited to those persons who purchase Bonds at the issue price, which is the first price at which a substantial amount of the Series 2024 Bonds is sold to the public, and who hold Bonds as “capital assets” within the meaning of Section 1221 of the Code (generally, property held for investment). This summary does not address beneficial owners that may be subject to special tax rules, such as banks, insurance companies, dealers in securities or currencies, purchasers that hold Bonds as a hedge against currency risks or as part of a straddle with other investments or as part of a “synthetic security” or other integrated investment (including a “conversion transaction”) comprising a bond and one or more other investments, or United States Holders (as defined below) that have a “functional currency” other than the United States dollar. This summary is applicable only to a person (a “*United States Holder*”) who or that is the beneficial owner of Bonds and is (a) an individual citizen or resident of the United States, (b) a corporation or an entity taxable as a corporation created or organized under the laws of the United States or any State (including the District of Columbia), (c) an estate whose income is subject to federal income taxation regardless of its source, or (d) a trust if a court within the United States can exercise primary supervision over the administration of the trust and one or more U.S. persons have the authority to control all substantial decisions of the trust. If a partnership or other entity taxable as a partnership for federal income tax purposes holds Bonds, the tax treatment of the partner will generally depend upon the status of the partner and the activities of the partnership. Partnerships holding Bonds should consult their own tax advisors regarding the tax consequences of an investment in Bonds. This summary is based on the United States tax laws and regulations currently in effect and as currently interpreted and does not take into account possible changes in the tax laws or interpretations thereof any of which may be applied retroactively. Except as provided below, it does not discuss the tax laws of any state, local, or foreign governments.

### United States Holders of Bonds

*Payments of Stated Interest.* In general, for a United States Holder, interest on a Bond will be taxable as ordinary income at the time it is received or accrued, depending on the United States Holder’s method of accounting for federal income tax purposes.

*Original Issue Discount on Bonds.* To the extent that the issue price of the Bonds is less than the stated principal amount payable at maturity, such Bonds will be considered to be issued with original issue discount unless the amount of original issue discount is “de minimis.” For purposes of the foregoing, the “issue price” means the first

price at which a substantial amount of the Bonds are sold to the public. The amount of original issue discount with respect to a Bond will be “de minimis” if the amount of discount is less than one-fourth of 1% of the principal amount payable at maturity multiplied by the number of complete years from the issue date until the maturity date.

If the amount of discount with respect to a Bond is more than “de minimis,” then the Bond will contain original issue discount and owners of the Bonds will be required to include original issue discount in income. The Code contains a number of very complex provisions requiring holders of debt instruments with original issue discount to include such original issue discount in income as it accrues (generally on a constant-yield method) over the life of the debt instrument. In the case of a Bond with original issue discount, the owner may be required to include the original issue discount in income before the owner receives the associated cash payment, regardless of the owner's regular method of accounting for tax purposes. Any such original issue discount that is included in income is treated in the same manner as interest. Any original issue discount that is included in income by an owner with respect to a Bond will increase the holder's tax basis in the Bonds.

The Code contains certain provisions relating to the accrual of original issue discount (including de minimis original issue discount) in the case of subsequent purchasers of obligations such as the Bonds. Owners who do not purchase Bonds in the initial public offering should consult their own tax advisors with respect to the tax consequences of the acquisition and ownership of Bonds.

Owners who purchase Bonds in the initial public offering but at a price different than the initial offering price at which a substantial amount of that maturity of the Bonds was sold to the public should consult their own tax advisors with respect to the tax consequences of the acquisition and ownership of the Bonds.

*Bond Premium on Bonds.* To the extent that the issue price of the Bonds is more than the principal amount payable at maturity, the Bonds will be considered to have “bond premium” equal to the difference between the issue price and the stated redemption price at maturity. For purposes of the foregoing, the issue price means the first price at which a substantial amount of each maturity of the Bonds were ultimately sold to the public. Under Section 171 of the Code, a holder of a Bond may elect to treat such excess as “amortizable bond premium”, in which case the amount of interest required to be included in the taxpayer's income each year with respect to interest on the Bond will be reduced by the amount of amortizable bond premium allocable (based on the Bond's yield to maturity) to that year. If such an election is made, the amount of each reduction in interest income will result in a corresponding reduction in the taxpayer's adjusted basis in the Bond. Any election to amortize bond premium is applicable to all taxable debt instruments held by the taxpayer at the beginning of the first taxable year to which the election applies or thereafter acquired by the taxpayer and may not be revoked without the consent of the IRS. Owners of Bonds should consult with their tax advisors regarding the calculation and treatment of bond premium for federal income tax purposes, as well as the manner of making the election.

*Bonds Purchased at a Market Discount.* A Bond will be treated as acquired at a market discount (market discount bond) if the amount for which a United States Holder purchases the Bond after the original issuance is less than the Bond's adjusted issue price, unless such difference is less than a specified de minimis amount. In general, any payment of principal or any gain recognized on the maturity or disposition of a market discount bond will be treated as ordinary income to the extent that such gain does not exceed the accrued market discount on the Bond. Alternatively, a United States Holder of a market discount bond may elect to include market discount in income currently over the life of the market discount bond. That election applies to all debt instruments with market discount acquired by the electing United States Holder on or after the first day of the first taxable year to which the election applies and may not be revoked without the consent of the IRS. If an election is made to include market discount in income currently, the tax basis of the Bond in the hands of the United States Holder will be increased by the market discount thereon as such discount is included in income.

Market discount generally accrues on a straight-line basis unless the United States Holder elects to accrue such discount on a constant yield-to-maturity basis. That election is applicable only to the market discount bond with respect to which it is made and is irrevocable. A United States Holder of a market discount bond that does not elect to include market discount in income currently generally will be required to defer deductions for interest on borrowings allocable to the Bond in an amount not exceeding the accrued market discount on such Bond until maturity or disposition of the Bond.

*Purchase, Sale, Exchange, and Retirement of Bonds.* A United States Holder's tax basis in a Bond generally will equal its cost, increased by any original issue discount or market discount included in the United States Holder's income with respect to the Bond, and reduced by the amount of any amortizable bond premium applied to reduce interest on the Bond and any principal payments received. A United States Holder generally will recognize gain or loss on the sale, exchange, or retirement of a Bond equal to the difference between the amount realized on the sale, exchange or retirement (not including any amount attributable to accrued but unpaid interest) and the United States Holder's tax adjusted basis in the Bond. Except to the extent described above under *Bonds Purchased at a Market Discount*, gain or loss recognized on the sale, exchange or retirement of a Bond will be capital gain or loss and will be long-term capital gain or loss if the Bond was held for more than one year. The material modification of the terms of any Bond may result in a deemed reissuance thereof, in which event a United States Holder may recognize taxable gain or loss without any corresponding receipt of proceeds.

*Backup Withholding.* United States Holders may be subject to backup withholding (currently at a rate of 24%) on payments of interest, principal and, in some cases, disposition proceeds of the Bonds, if they fail to provide an accurate taxpayer identification number on a Form W-9, "Request for Taxpayer Identification Number and Certification," or a valid substitute form, or have been notified by the IRS of a failure to report all interest and dividends, or otherwise fail to comply with the applicable requirements of backup withholding rules. Backup withholding is not an additional tax. Any amounts withheld under the backup withholding rules will be allowed as a credit against the United States Holder's United States federal income tax liability (and may entitle the United States Holder to a refund) provided the required information is timely furnished to the IRS. Prospective United States Holders should consult their tax advisors concerning the application of backup withholding rules.

*Medicare Tax Affecting United States Holders.* For taxable years beginning after December 31, 2012, a United States Holder that is an individual or estate, or a trust that does not fall into a special class of trusts that is exempt from such tax, will be subject to a Medicare tax on the lesser of (1) the United States Holder's "net investment income" for the taxable year or (2) the excess of the United States Holder's modified adjusted gross income for the taxable year over a certain threshold. A United States Holder's net investment income will generally include its interest income and its net gains from the disposition of the Bonds, unless such interest income or net gains are derived in the ordinary course of the conduct of a trade or business (other than a trade or business that consists of certain passive or trading activities). A United States Holder that is an individual, estate, or trust, should consult its own tax advisor regarding the applicability of the Medicare tax.

*Information Reporting.* In general, information reporting requirements will apply with respect to payments to a United States Holder of principal and interest (and with respect to annual accruals of original issue discount) on the Bonds, and with respect to payments to a United States Holder of any proceeds from a disposition of the Bonds. This information reporting obligation, however, does not apply with respect to certain United States Holders including corporations, tax-exempt organizations, qualified pension and profit sharing trusts, and individual retirement accounts.

Any payments of interest and original issue discount on Bonds to a Non-United States Holder generally will be reported to the IRS and to the Non-United States Holder, whether or not such interest or original issue discount is exempt from United States withholding tax pursuant to a tax treaty or the portfolio interest exemption. Copies of these information returns also may be made available under the provisions of a specific treaty or agreement to the tax authorities of the country in which the payee resides.

Information reporting requirements will apply to a payment of the proceeds of the disposition of a Bond by or through (a) a foreign office of a custodian, nominee, other agent, or broker that is a United States person, (b) a foreign custodian, nominee, other agent, or broker that derives 50% or more of its gross income for certain periods from the conduct of a trade or business in the United States, (c) a foreign custodian, nominee, other agent, or broker that is a controlled foreign corporation for United States federal income tax purposes, or (d) a foreign partnership if at any time during its tax year one or more of its partners are United States persons who, in the aggregate, hold more than 50% of the income or capital interest of the partnership or if, at any time during its taxable year, the partnership is engaged in the conduct of a trade or business within the United States, unless the custodian, nominee, other agent, broker, or foreign partnership has documentary evidence in its records that the beneficial owner is not a United States person and certain other conditions are met, or the beneficial owner otherwise establishes an exemption.

The federal income tax discussion set forth above is included for general information only and may not be applicable depending upon a beneficial owner's particular situation. Beneficial owners should consult their tax advisors with respect to the tax consequences of the purchase, ownership, and disposition of the Bonds, including the tax consequences under state, local, foreign, and other tax laws and the possible effects of changes in federal or other tax laws.

## DESCRIPTION OF RATINGS

The Series 2024 Bonds are expected to be assigned a bond rating of "[ ]" by S&P Global Ratings, a business unit of Standard & Poor's Financial Services LLC (the "Rating Agency") based on the assumption that BAM will deliver the Municipal Bond Insurance Policy upon the issuance of the Series 2024 Bonds. The Series 2024 Bonds have been assigned an underlying bond rating of "[ ]" by the Rating Agency based on the assumptions that each Guarantor will execute its respective Guaranty Agreement in favor of the Trustee upon the issuance of the Series 2024 Bonds.

The ratings reflect only the views of the Rating Agency, and any explanation of the significance of the ratings may be obtained only from the Rating Agency. Such ratings are dependent upon the rating of the Guarantors and BAM, and accordingly, such ratings may be lowered or withdrawn in the event that the rating of any Guarantor or BAM is lowered or is withdrawn. The ratings for the Series 2024 Bonds are subject to revision, suspension, or withdrawal at any time by the Rating Agency, and any such revision, suspension, or withdrawal may affect the market price or marketability of the Series 2024 Bonds. A rating is not a recommendation to buy, sell, or hold the Series 2024 Bonds.

A further explanation of the rating by the Rating Agency may be obtained from the Rating Agency.

## UNDERWRITING

The Underwriters have agreed to purchase all (but not less than all) of the Series 2024 Bonds at a purchase price of \$[ ] (which equals the par amount of the Series 2024 Bonds of \$ , less an Underwriters' discount of \$ ), pursuant to a Bond Purchase Agreement entered into among the Issuer, Samuel A. Ramirez & Company, Inc., as representative ("Ramirez") on behalf of itself, Robert W. Baird & Co. Incorporated and Oppenheimer & Co. Inc., and the Borrower (the "Bond Purchase Agreement"). Pursuant to the Bond Purchase Agreement, the Borrower has agreed to indemnify the Underwriters and the Issuer against certain liabilities, including certain liabilities arising out of or based upon any untrue statements or alleged untrue statements contained in this Limited Offering Memorandum or omissions of material facts from this Limited Offering Memorandum. The obligation of the Underwriters to accept delivery of the Series 2024 Bonds is subject to the various conditions of the Bond Purchase Agreement.

In the ordinary course of their various business activities, the Underwriters and their respective affiliates, officers, directors, and employees may purchase, sell or hold a broad array of investments and may actively trade securities, derivatives, loans, commodities, currencies, credit default swaps, and other financial instruments for their own account and for the accounts of customers. Such investment and trading activities may involve or relate to assets, securities and/or instruments of the Issuer (whether directly, as collateral securing other obligations or otherwise) and/or persons and entities with relationships with the Issuer. The Underwriters and their respective affiliates also may communicate independent investment recommendations, market advice or trading ideas and/or publish or express independent research views in respect of such assets, securities or instruments and at any time may hold, or recommend to clients that they should acquire, long and/or short positions in such assets, securities and instruments.

In the ordinary course of its business, the Underwriters and/or certain of their affiliates have in the past and may in the future engage in investment banking, commercial banking or other transactions of a financial nature with the Borrower, Hilbert and their respective affiliates, for which they have received, or may receive, customary compensation.

In addition, certain of the Underwriters and the initial purchasers may have entered into distribution agreements with other broker-dealers (that have not been designated by the Issuer as Underwriters or are not the initial purchasers) for the distribution of the Series 2024 Bonds at the original issue prices. Such agreements generally



provide that the relevant Underwriter or initial purchaser will share a portion of its underwriting compensation or selling concession with such broker-dealers.

## CONTINUING DISCLOSURE

### **[TO BE UPDATED UPON REVIEW OF CDA LOOKBACK]**

In accordance with the requirements of Rule 15c2-12 (the “Rule”) of the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended, the Borrower and each Guarantor will enter into separate Continuing Disclosure Agreements, each dated as of [September] 1, 2024 (each, a “*Continuing Disclosure Agreement*” and collectively, the “*Continuing Disclosure Agreements*”), with the Trustee (together with any successor dissemination agent, the “*Dissemination Agent*”). Pursuant to each Continuing Disclosure Agreement, the Borrower and each Guarantor will covenant for the benefit of the Bondowners to provide, or cause to be provided, to the Municipal Securities Rulemaking Board (the “*MSRB*”) (i) the annual audited financial statements of the Borrower, and the annual audited financial statements of the applicable Guarantor, respectively (the “*Annual Report*”) within the time period set forth in the applicable Continuing Disclosure Agreement and (ii) notices (“*Material Event Notices*”) of the occurrence of certain listed events respecting the Series 2024 Bonds within ten business days after their occurrence. The specific nature of the information to be contained in the annual reports for the Borrower and each Guarantor and the notices of material events is set forth in *Appendix F – “FORM OF CONTINUING DISCLOSURE AGREEMENTS.”*

The Borrower and each Guarantor is solely responsible for providing the Annual Reports and any Material Event Notices. The Issuer, in its capacity as Issuer, has no responsibility or liability to the Bondowners or any other person for making, monitoring or the content of any disclosures made by or on behalf of the Borrower or each Guarantor.

Each Guarantor also participates in separate continuing disclosure agreements in connection with municipal securities issuances unrelated to the issuance of the Series 2024 Bonds.

## FINANCIAL STATEMENTS

[The financial statements of the Borrower as of and for the fiscal year ended December 31, 2023, included in *Appendix B* to this Limited Offering Memorandum have been audited by [\_\_\_\_\_], independent certified public accountants, to the extent and for the periods indicated in their reports thereon.]

The financial statements of Fond du Lac County as of and for the fiscal year ended [December 31, 2023], included in *Appendix C-1* to this Limited Offering Memorandum have been audited by [\_\_\_\_\_], independent certified public accountants, to the extent and for the periods indicated in their reports thereon. The financial statements of Iowa County as of and for the fiscal year ended [December 31, 2023], included in *Appendix C-2* to this Limited Offering Memorandum have been audited by [\_\_\_\_\_], independent certified public accountants, to the extent and for the periods indicated in their reports thereon. The financial statements of Forest County as of and for the fiscal year ended [December 31, 2023], included in *Appendix C-3* to this Limited Offering Memorandum have been audited by [\_\_\_\_\_], independent certified public accountants, to the extent and for the periods indicated in their reports thereon. The financial statements of Price County as of and for the fiscal year ended [December 31, 2023], included in *Appendix C-4* to this Limited Offering Memorandum have been audited by [\_\_\_\_\_], independent certified public accountants, to the extent and for the periods indicated in their reports thereon. The financial statements of Jefferson County as of and for the fiscal year ended [December 31, 2023], included in *Appendix C-5* to this Limited Offering Memorandum have been audited by [\_\_\_\_\_], independent certified public accountants, to the extent and for the periods indicated in their reports thereon. The financial statements of Lafayette County as of and for the fiscal year ended [December 31, 2023], included in *Appendix C-6* to this Limited Offering Memorandum have been audited by [\_\_\_\_\_], independent certified public accountants, to the extent and for the periods indicated in their reports thereon. The financial statements of Marathon County as of and for the fiscal year ended [December 31, 2023], included in *Appendix C-7* to this Limited Offering Memorandum have been audited by [\_\_\_\_\_], independent certified public accountants, to the extent and for the periods indicated in their reports thereon. The financial statements

of Waushara County as of and for the fiscal year ended [December 31, 2023], included in *Appendix C-8* to this Limited Offering Memorandum have been audited by [\_\_\_\_], independent certified public accountants, to the extent and for the periods indicated in their reports thereon. The financial statements of Sawyer County as of and for the fiscal year ended [December 31, 2023], included in *Appendix C-9* to this Limited Offering Memorandum have been audited by [\_\_\_\_], independent certified public accountants, to the extent and for the periods indicated in their reports thereon. The financial statements of Taylor County as of and for the fiscal year ended [December 31, 2023], included in *Appendix C-10* to this Limited Offering Memorandum have been audited by [\_\_\_\_], independent certified public accountants, to the extent and for the periods indicated in their reports thereon.

**COUNTY AUDITOR DISCLOSURE LANGUAGE TO BE ADDED AS NEEDED** [\_\_\_\_] has not been engaged to perform and has not performed, since the date of its reports included herein in *Appendix C-[ ]* and *Appendix C-[ ]*, any procedures on the financial statements addressed in these reports. [\_\_\_\_] has also not performed any procedures related to this Limited Offering Memorandum.

### MISCELLANEOUS

The references herein to the Series 2024 Bonds, the Indenture, the Guaranty Agreements, the Promissory Note, and the Loan Agreement are brief outlines of certain provisions thereof and do not purport to be complete. For full and complete statements of such provisions reference is made to such documents. Copies of the documents mentioned under this heading are on file at the offices of Samuel A. Ramirez & Company, Inc., New York, New York and the Issuer and following delivery of the Series 2024 Bonds will be on file at the offices of the Trustee.

It is anticipated that CUSIP identification numbers will be printed on the Series 2024 Bonds, but neither the failure to print such numbers on any Bond nor any error in the printing of such numbers shall constitute cause for a failure or refusal by the purchaser thereof to accept delivery of and pay for any Series 2024 Bonds.

The attached Appendices are integral parts of this Limited Offering Memorandum and must be read together with all of the foregoing statements.

This Limited Offering Memorandum has been approved, after due investigation on their parts, by the Issuer solely with respect to the information under the headings “*THE ISSUER*” and “*ABSENCE OF MATERIAL LITIGATION – Issuer*” and by the Borrower with respect to the remaining information herein, for distribution by the Underwriters to prospective purchasers of the Series 2024 Bonds. The information herein under the heading “*THE SERIES 2024 BONDS - DTC and Its Participants*” has been provided by DTC. The information in *Appendix C* has been provided by each of the Guarantors.

*(Remainder of Page Left Intentionally Blank)*

The execution and delivery of this Limited Offering Memorandum has been duly authorized by the Borrower.

**BUG TUSSEL 2, LLC**

By: \_\_\_\_\_  
Name:  
Title:

## APPENDIX A

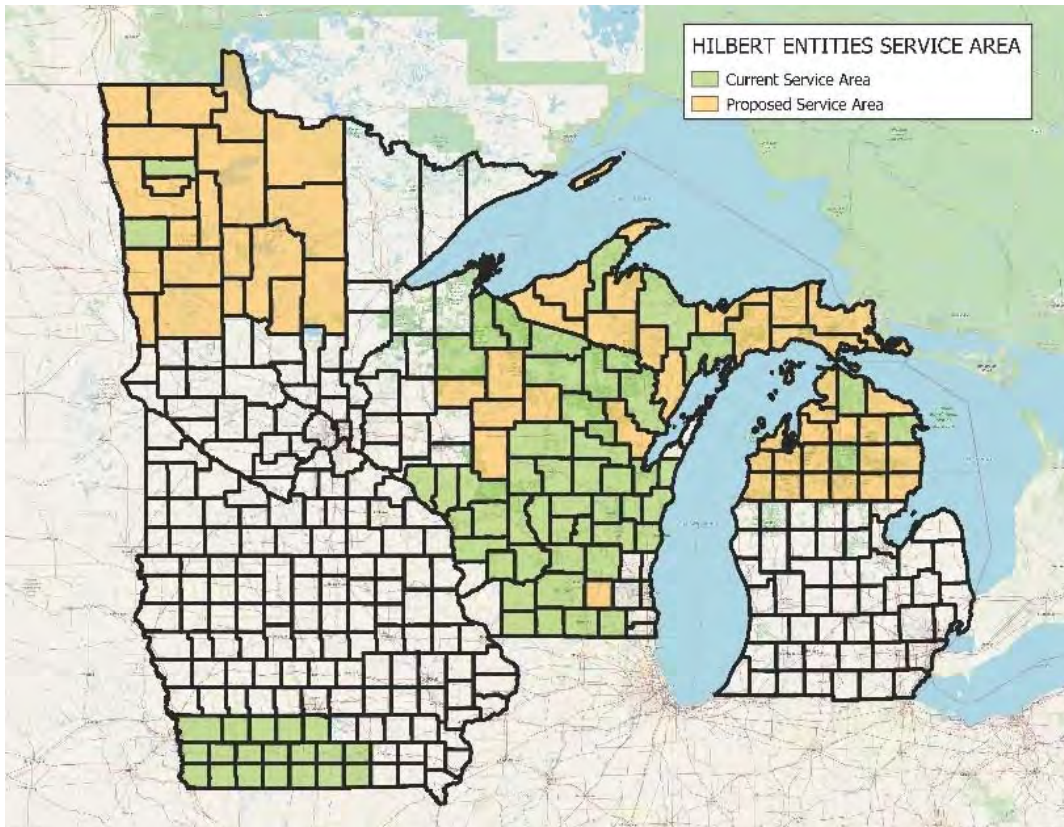
**[TO BE UPDATED BY BORROWER, CONSIDER ADDING DISCLOSURE RE BUG TUSSEL 1 PROJECTS/STATUS]**

### **The Borrower and Hilbert Communications, LLC**

The Borrower, a Wisconsin limited liability company, is a wholly-owned subsidiary of Hilbert Communications, LLC (“*Hilbert*”). The Borrower was created as a special purpose entity for the sole purpose of owning and operating the Project to provide fiberoptic transmissions, wireless internet and telephone communications services and infrastructure to businesses, governmental units and residents of rural communities where such service is currently unavailable, unreliable, or is prohibitively expensive.

Hilbert, in addition to the Borrower, wholly owns Bug Tussel Wireless LLC (“*BTW*”), Northwoods Communication Technologies LLC (“*Northwoods*”), Midwest Data Core LLC (“*MDC*”), Michigan Wireless LLC (“*Michigan*”), Red Tail Tower LLC (“*Red Tail*”), KES Excavating Services, LLC (“*KES*”), Cloud 1 Services LLC and Cloud 1 LLC (aggregately “*Cloud 1*” and, together with Hilbert, *BTW*, *Northwoods*, *MDC*, *Michigan*, *Red Tail*, *KES* and the Borrower, each a “*Hilbert Entity*” and, collectively, the “*Hilbert Entities*”). Hilbert was formed in 2008 to consolidate into one ownership structure the assets and operations of several entities working together to construct and promote rural telecommunications infrastructure. *BTW* was formed in 2003 and has been providing services to two national carriers for the past 20 years. **For the avoidance of doubt, Hilbert, BTW, Northwoods, MDC, Michigan, Red Tail, KES and Cloud 1 are NOT obligated to make payments or otherwise provide security for the Borrower’s obligations under the Loan Agreement and are NOT available as security for the Trustee or holders of the Bonds.**

The Hilbert Entities provide fixed wireless broadband, cellular or fiberoptic services at speeds from 1 Mbps to 10 Gbps to rural residences and businesses as well as to large national carriers on a wholesale basis throughout 71 counties in Wisconsin, Iowa, Minnesota and Michigan and they have plans to enter 57 additional counties in the near future as depicted in the maps below (not all such future operations will be funded with Bond proceeds).

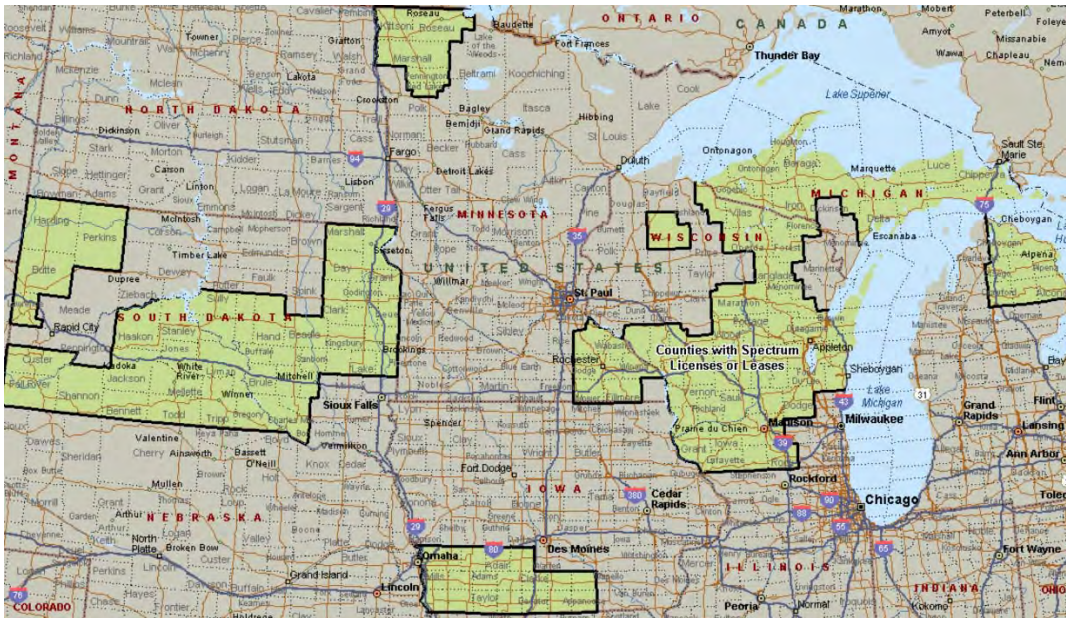


\*Areas shaded above in green reflect the Hilbert Entities’ current operations; areas shaded in orange reflect the anticipated operations of the Hilbert Entities.

BTW also has a multi-year contract with a national carrier to provide construction, roaming and management services throughout many of these counties beginning in 2016 which is renewable by the carrier through 2031. BTW has intercarrier roaming or connection agreements with the three largest domestic cellular carriers in the United States. BTW also has a National Agency Agreement with AT&T to sell AT&T’s product line in rural markets in the Great Lakes and Northern Plains Regions of AT&T with provisions to expand beyond those two markets.

BTW utilizes the switching, routing and peering capabilities of MDC through a data center located in Madison, Wisconsin that participates in peering arrangements with over 25 popular data traffic and content companies. A high percent (in excess of 50%) of BTW’s traffic is offloaded directly to providers thereby reducing latency and cost. The facilities and efficiencies of these networks will be made available to the Borrower.

Michigan is among the largest rural license holders of CMRS (Commercial Mobile Radio Services) spectrum in the United States. These licenses allow the provision of 4G LTE and 5G services and will likely be used in future generations of wireless technology. Michigan holds title of over 35 million Mhz POPs (population times the number of Mhz of spectrum) in the Upper Midwest as depicted in the map below:



\*Areas shaded in green above indicate where the Hilbert Entities have access to FCC licenses either through ownership or Long-term DeFacto Spectrum Leases. Access indicated above may not include the entire county in some instances.

Cloud 1 provides site acquisition, engineering, regulatory, zoning and permitting services to their affiliates and to third parties. Cloud 1 will be handling right of way acquisition, site acquisition and regulatory for the Borrower at cost. Cloud 1, upon proper approvals and completion of land leases, easements or right of way agreements, hands sites and other real estate to Red Tail for construction. Red Tail provides construction management, tower construction, and fiberoptic construction services to its affiliates and to third parties. In December, 2022, Hilbert acquired the KES. KES is a fiber installation contractor with an experienced management team and employee base. KES has the capacity to operate multiple fiber installation crews and can manage and perform large scale fiber construction projects. KES now manages Borrower’s fiber installation projects.

As of July 1, 2023, the Hilbert Entities were operating or constructing 364 mobility broadband sites for a national wireless carrier, were operating or constructing 363 wireless broadband sites, and were operating or constructing approximately 2200 miles of fiberoptic cable with an agreement to construct and operating an additional 1,000 miles by December 31, 2026. BTW continues to operate approximately 35 sites for a national carrier that operate with LTE data and 2G voice in Central Wisconsin. The Hilbert Entities own interests between 50% and 100% either directly or through joint ventures in approximately 100 towers as of July 1, 2023, with roughly 80 additional towers in development.

The Hilbert Entities operate out of a corporate headquarters facility and warehouse and prebuild facility located in Green Bay, Wisconsin. Hilbert also operates its flagship AT&T retail location in Baraboo, Wisconsin and routes AT&T activations from ten sales regions into that office. Another five sales regions were added in 2022 along with retail offices in Shawano, Wisconsin and Platteville, Wisconsin which were added in 2023.

The Hilbert Entities compete well in the retail arena with superior customer support, a highly reliable network and a drive to serve unserved areas. Its fiber initiatives are “first to market” in unserved or underserved markets along with the trademark customer support and network reliability. Hilbert has a wholesale niche with two national carriers by providing low-cost wholesale data, highly reliable network transport, and adaptability to meet carrier needs for construction timelines and design.

*Bug Tussel 1, LLC's Deployment of Assets Funded with the Series 2021 Bonds and the Series 2022 Bonds*

As of July 1, 2023, the Borrower has expended or requested to expend 90% of the Project Fund related to the Series 2021 Project.

Engineering on all portions of the fiberoptic project is nearing completion. Permitting for the fiberoptic portion of the project is approaching 80% complete. The Borrower and its subcontractors have up to twenty (20) crews working on the fiber plowing and directional boring with certain portions of the middle mile fiberoptic network likely being operational late this year.

On the tower portion of the Series 2021 Project, nearly all of the tower sites have land leases secured. These leased tower sites are currently in the federal and state environmental regulatory and local government zoning and permitting processes. The Borrower anticipates that five (5) more project towers will be completed by the end of 2023.

As of July 1, 2023, the Borrower has expended or requested to expend 50% of the Project Fund related to the Series 2022 Project.

Engineering on all portions of the Series 2022 fiberoptic project is nearing completion. Permitting for this year's fiberoptic build plan is approaching 100% completion.

On the tower portion of the Series 2022 Project, the Company continues to pursue land leases for the Series 2022 tower sites. These leased tower sites are currently in the federal and state environmental regulatory and local government zoning and permitting processes. The Borrower anticipates that thirty (30) Series 2022 Project towers will be completed by the end of 2023.

The Borrower has been able to effectively mitigate any supply chain issues or labor shortages and believes it is somewhat ahead of schedule on the implementation of the overall project. Fiber construction will accelerate as contiguous routes complete permitting. All construction crews have been effectively identified and contracted for the Series 2021 and Series 2022 Projects.

The Borrower has also been preselling its fiberoptic broadband service and has in excess of 1,200 pre-subscription interests identified. The broadband preselling efforts will continue to ramp up with a target goal of 5,000 identified pre-subscriptions by year end 2022. The Borrower's pro forma information included in "THE BORROWER'S PROJECTED DEBT SERVICE COVERAGE AND KEY OPERATING STATISTICS" projected zero, 1,000 and 4,500 fiberoptic customers at the end of 2022, 2023 and 2024, respectively. The Company has instituted a process of identifying the social impact of number of unserved and underserved broadband customers who are being provided service as a result of the Series 2021 or Series 2022 projects.

**APPENDIX B**

**Audited Financial Statements of the Borrower**



**APPENDIX C-1**

**Audited Financial Statements of Fond du Lac County, Wisconsin**

**APPENDIX C-2**

**Audited Financial Statements of Iowa County, Wisconsin**

**APPENDIX C-3**

**Audited Financial Statements of Forest County, Wisconsin**

**APPENDIX C-4**

**Audited Financial Statements of Price County, Wisconsin**

**APPENDIX C-5**

**Audited Financial Statements of Jefferson County, Wisconsin**

**APPENDIX C-6**

**Audited Financial Statements of Lafayette County, Wisconsin**

**APPENDIX C-7**

**Audited Financial Statements of Marathon County, Wisconsin**

**APPENDIX C-8**

**Audited Financial Statements of Waushara County, Wisconsin**



**APPENDIX C-9**

**Audited Financial Statements of Sawyer County, Wisconsin**

**APPENDIX C-10**

**Audited Financial Statements of Taylor County, Wisconsin**

## **APPENDIX D**

### **Forms of the Indenture, the Loan Agreement, the Guaranty Agreements, and the Reimbursement Agreements**

**APPENDIX E**

**Form of Bond Counsel Opinion**

\_\_\_\_\_, 2024

\$\_[\_\_\_\_\_]

**Fond du Lac County, Wisconsin  
Taxable Revenue Bonds, Series 2024  
(Bug Tussel 2, LLC Project) (Social Bonds)**

We have acted as bond counsel in connection with the issuance by Fond du Lac County, Wisconsin (the “Issuer”), of its \$[\_\_\_\_\_] Taxable Revenue Bonds, Series 2024 (Bug Tussel 2, LLC Project) (Social Bonds) (the “Series 2024 Bonds”). We have investigated the law and examined such certified proceedings, including specimen bonds and other papers as we deemed necessary to render this opinion.

The Series 2024 Bonds are issued pursuant to an Indenture of Trust dated as of [September] 1, 2024 (the “Indenture”), by and between the Issuer and U.S. Bank Trust Company, National Association, as trustee (the “Trustee”) and authorized pursuant to a resolution adopted by the Issuer on [May \_\_], 2024 (the “Resolution”), and the Issuer has loaned the bond proceeds to Bug Tussel 2, LLC, a Wisconsin limited liability company (the “Borrower”). The loan is evidenced by the Borrower’s promissory note in the amount of \$[\_\_\_\_\_] (the “Series 2024 Promissory Note”). Pursuant to the Loan Agreement dated as of [September] 1, 2024 (the “Loan Agreement”), between the Issuer and the Borrower, the Borrower agrees to make payments sufficient to pay when due the principal of, premium, if any, and interest on the Series 2024 Bonds, and such payments and other revenues under the Loan Agreement and the rights of the Issuer thereunder are pledged and assigned by the Issuer as security for the Series 2024 Bonds.

The Series 2024 Bonds are payable solely from: (i) payments by the Borrower on the Series 2024 Promissory Note or pursuant to the Loan Agreement (excluding any amounts payable by the Borrower to the Issuer pursuant to the Loan Agreement for any indemnity payments) and (ii) all cash and securities held from time to time in certain trust funds held by the Trustee under the Indenture (the “Pledged Revenues”).

As to factual matters material to our opinion, we have relied upon representations of the Issuer and the Borrower contained in the Bond Purchase Agreement dated [September \_\_], 2024, among Samuel A. Ramirez & Company, Inc., as representative for the underwriters, and the Issuer, with the Letter of Representations from the Borrower and accepted and agreed to by the Issuer (the “Bond Purchase Agreement”), the Loan Agreement and the Indenture and certificates of representatives of the Borrower and public officials (including certifications as to the use of Series 2024 Bond proceeds and the operation and use of the Project), without undertaking to verify the same by independent investigation.

We have not passed upon any matters relating to the business, properties, affairs or condition (financial or otherwise) of the Borrower, and no inference should be drawn that we have expressed any opinion on matters relating to the ability of the Borrower to perform its obligations under the contracts described herein.

The rights of the owners of the Series 2024 Bonds and the enforceability of the Series 2024 Bonds, the Indenture, the Loan Agreement, the Series 2024 Promissory Note and the Bond Purchase Agreement may be subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors’ rights heretofore or hereafter enacted to the extent constitutionally applicable and that their enforcement may be subject to the exercise of judicial discretion in accordance with general principles of equity.

Based upon the foregoing, we are of the opinion that, as of the date hereof:

The Issuer is a political subdivision of the State of Wisconsin, duly and validly created and existing under the Constitution and laws of the State of Wisconsin and has the power to issue the Series 2024 Bonds and to enter into and perform under the Bond Purchase Agreement, the Loan Agreement and the Indenture.

The Bond Purchase Agreement, the Loan Agreement, the Indenture and the Series 2024 Promissory Note have been duly authorized, executed and delivered by the respective parties thereto and are valid, binding and enforceable

obligations of such parties. All rights of the Issuer under the Loan Agreement and the Series 2024 Promissory Note have been validly assigned to the Trustee under the Indenture.

The Indenture creates a valid first lien on the revenues pledged thereunder and on the rights of the Issuer under the Loan Agreement (except for the right to enforce certain limited provisions of the Loan Agreement), subject, however, to the requirement under current law that it is necessary that the Trustee file appropriate Uniform Commercial Code continuation statements at such intervals required by applicable law and that the Trustee maintain physical possession of any money or instruments that may constitute or evidence the revenues pledged under the Indenture.

The Series 2024 Bonds have been duly authorized, executed and delivered by the Issuer and, assuming all Series 2024 Bonds have been authenticated by the Trustee, the Series 2024 Bonds are valid and binding special and limited obligations of the Issuer, payable solely from the Pledged Revenues, and not from any other revenues, funds or assets of the Issuer. The Series 2024 Bonds and the interest payable thereon do not constitute a charge against the general credit of the Issuer. Neither the faith and credit nor the taxing powers of the Issuer, the State of Wisconsin or any political subdivision thereof is pledged to the payment of the principal of or interest or premium, if any, on the Series 2024 Bonds.

Under existing laws, interest on the Series 2024 Bonds is included in gross income for federal income tax purposes pursuant to the Internal Revenue Code of 1986, as amended.

This opinion is limited to the matters specifically stated in this letter, and no further opinion is to be implied or may be inferred beyond the opinions specifically stated herein. Unless otherwise stated herein, we have made no independent investigation regarding factual matters. This opinion is based solely on the state of the law as of the date of this opinion, and we specifically disclaim any obligation to monitor any of the matters stated in this opinion or to advise the persons entitled to rely on this opinion of any change in law or fact after the date of this opinion which might affect any of the opinions stated herein.

Very truly yours,

**APPENDIX F**

**Form of Continuing Disclosure Agreements**

**APPENDIX G**

**Form of Investor Letter**

\_\_\_\_\_, 2024

U.S. Bank Trust Company, National Association, as Trustee 1555 North RiverCenter Drive, Suite 203 Milwaukee, WI 53212	Samuel A. Ramirez & Company, Inc. 61 Broadway, 29th Floor New York, NY 10006
Robert W. Baird & Co. Incorporated 777 E Wisconsin Avenue 25th Floor Milwaukee, WI 53202-5391	Oppenheimer & Co. Inc. [ ]

\$[ ]  
FOND DU LAC COUNTY, WISCONSIN  
TAXABLE REVENUE BONDS, SERIES 2024  
(BUG TUSSEL 2, LLC PROJECT) (SOCIAL BONDS)

Ladies and Gentlemen:

The undersigned (the “Investor”) is purchasing Fond du Lac County, Wisconsin Taxable Revenue Bonds, Series 2024 (Bug Tussel 2, LLC Project) (Social Bonds) (the “Bonds”) issued by Fond du Lac County, Wisconsin (the “Issuer”) pursuant to that certain Indenture of Trust, dated as of [September] 1, 2024 (the “Indenture”), between the Issuer and U.S. Bank Trust Company, National Association, as trustee. In connection with the Investor’s purchase of the Bonds, the Issuer, Bug Tussel 2, LLC (the “Company”), Samuel A. Ramirez & Company, Inc. (“Ramirez”), Robert W. Baird & Co. Incorporated (“Baird”) and Oppenheimer & Co. Inc. (“Oppenheimer” and, together with Baird and Ramirez, the “Underwriters”) have requested and the Investor has agreed to execute and deliver this letter (this “Investor Letter”). Capitalized terms used herein and not otherwise defined shall have the meaning ascribed to them in the LOM (as defined below).

In connection with such purchase, the undersigned hereby represents, warrants, covenants, and agrees as follows:

1. The Investor is a “qualified institutional buyer” within the meaning of Rule 144A promulgated and adopted by the Securities and Exchange Commission pursuant to the Securities Act of 1933, as amended (the “Securities Act”) and is purchasing a portion of the Bonds or the beneficial interest therein.
2. The Investor has authority to purchase the Bonds or beneficial interest therein and to execute this letter and any other instruments and documents required to be executed by the Investor in connection with the purchase of the Bonds or beneficial interest therein.
3. The Investor has the knowledge and experience in financial and business matters, including purchase and ownership of revenue bonds, as to be capable of evaluating the merits and risks of an investment in the Bonds. The Bonds are a financially suitable investment for the Investor consistent with its investment policies, needs and objectives. The Investor represents that it is able to bear the economic risk of an investment in the Bonds, including an entire loss of its investment.
4. The Investor has received a final Limited Offering Memorandum related to the Bonds (the “LOM”). The Investor acknowledges that it has undertaken its own independent analysis of the LOM and based its decision to invest solely on the content of the LOM.

5. The Investor acknowledges that it has not relied upon any advice, counsel, representation or other information of the Issuer, Ramirez, Baird or Oppenheimer in connection with the Investor's purchase of the Bonds or beneficial interest therein.

6. The Investor and its advisors have had a reasonable opportunity (a) to ask questions of and receive answers from the Company concerning the terms and conditions of the offering of the Bonds and (b) to obtain (i) additional information necessary to verify the accuracy of the information obtained by, or made available to, the Investor and (ii) information and materials the Investor regards as relevant to evaluate properly the merits and risks of an investment in the Bonds.

7. The Investor further acknowledges that the Underwriters have not provided any recommendation to purchase the Bonds to the Investor.

8. The Investor is purchasing the Bonds or beneficial interest therein for investment for its own account and is not purchasing the Bonds or beneficial interest therein for resale, distribution, or other disposition, and the Investor has no present intention to resell, distribute, or otherwise dispose of all or any part of the Bonds or beneficial interest therein. The Investor acknowledges that the transfer of the Bonds or beneficial interest therein is currently restricted pursuant to the terms of Section 2.06 of the Indenture which provides that a transfer may be made only to another purchaser who is a "qualified institutional buyer" described above. Transfer is further restricted to denominations of Bonds in "Authorized Denominations" only, being denominations of \$100,000, or any integral multiples of \$5,000 in excess thereof. Reference is further made to the section of the LOM related to the Bonds captioned "NOTICE TO INVESTORS."

9. The Investor agrees that it will not offer, sell, pledge or otherwise transfer the Bonds, prior to the expiration of the applicable holding period with respect to restricted securities set forth in Rule 144A, except where:

- a. (1) the security is eligible for resale pursuant to Rule 144A, to a person who the seller reasonably believes is a Qualified Institutional Buyer that purchases for its own account or for the account of a Qualified Institutional Buyer in a transaction meeting the requirements of Rule 144A, (2) in a transaction meeting the requirements of Rule 144 under the Securities Act, or (3) in accordance with another exemption from the registration requirements of the Securities Act;
- b. to the Company or any subsidiary thereof; or
- c. pursuant to an effective registration statement under the Securities Act and, in each case described in this Section 9, in accordance with any applicable securities laws of any state of the United States or any other applicable jurisdiction.

10. The Investor acknowledges that the Bonds are a speculative investment; that there is a high degree of risk in investing in the Bonds.

11. In connection with the initial purchase of the Bonds, the Investor acknowledges that, under Rule 144A(d)(4) of the Securities Act, upon its request, certain financial information with respect to the Company is required to be provided to the Investor (e.g., the Company's most recent balance sheet and profit and loss and retained earnings statements, and similar financial statements for such part of the two preceding fiscal years as the Company has been in operation) (the "Financial Information") and, as of the date hereof, certain of such Financial Information which is available has been included by the Company in the LOM.

12. Other than the addressees hereto, the representations, agreements and acknowledgements contained in this letter may not be relied upon by any person. Without limiting the generality of the foregoing, nothing in this letter will be deemed to relieve any party of its obligations under any federal or state securities laws.

13. This letter shall be binding upon the undersigned as of the date first written above.

Very truly yours,



**APPENDIX H**

**Specimen Municipal Bond Insurance Policy**

**BOND PURCHASE AGREEMENT**

**[\$[PAR AMOUNT]]  
FOND DU LAC COUNTY, WISCONSIN  
TAXABLE REVENUE BONDS, SERIES 2024  
(BUG TUSSEL 2, LLC PROJECT) (SOCIAL BONDS)**

[\_\_\_\_\_] , 2024

Fond du Lac County, Wisconsin  
City/County Government Center  
160 S. Macy Street  
Fond du Lac, WI 54935

Ladies and Gentlemen:

Samuel A. Ramirez & Company, Inc. (the “**Representative**”) on behalf of itself, Robert W. Baird & Co. Incorporated and Oppenheimer & Co. Inc. (together, the “**Underwriters**”) offers to enter into this Bond Purchase Agreement, including the Letter of Representations attached hereto as **Exhibit B** (the “**Letter of Representations**”) and all other Exhibits attached hereto (the “**Bond Purchase Agreement**”) with Fond du Lac County, Wisconsin (the “**Issuer**”), with the approval of Bug Tussel 2, LLC, a Wisconsin limited liability company (the “**Company**”), which, upon your acceptance of this offer, will be binding upon the Issuer, the Company and the Underwriters. Unless otherwise provided, terms not otherwise defined herein shall have the same meanings as set forth in the Indenture or the Limited Offering Memorandum (each as defined herein). This offer is made subject to your acceptance of this Bond Purchase Agreement on or before 5:00 P.M., EST on this date.

The Issuer desires to issue its \$[PAR AMOUNT] Taxable Revenue Bonds, Series 2024 (Bug Tussel 2, LLC Project) (Social Bonds) (the “**Bonds**” or “**Series 2024 Bonds**”).

The Bonds shall be issued for the acquisition, construction, installation, and equipping of certain telecommunications infrastructure that includes, among other things (i) acquisition of tower sites by purchase or lease of land and equipping such sites with towers and electronics to provide broadband, high speed cellular, emergency communications and point to point (P2P) data communications; (ii) constructing fiberoptic data transmission facilities (cable and electronics) between towers, key community facilities, businesses and residential aggregation points; (iii) where appropriate, connecting individual premises into the broadband network including the cost of Consumer Premise Equipment (CPE); (iv) payment of capitalized interest; (v) funding of a debt service reserve fund for the Bonds; (vi) payment of such project costs located in the counties of Fond du Lac, Iowa, Forest, Price, Jefferson, Lafayette, Marathon, Waushara, Sawyer and Taylor, each a political subdivision of the State of Wisconsin (each a “**Participating County**” and together, the “**Participating Counties**”); and (vii) payment of certain costs of issuance related to the issuance of the Bonds, all of which will be for the purpose of providing fiberoptic transmissions, wireless internet and telephone communications services and infrastructure to businesses, governmental units and residents of rural communities where such service is currently unavailable, unreliable, or is prohibitively expensive (collectively, the “**Project**”).

The Bonds will be issued pursuant to an Indenture of Trust dated as of [September] 1, 2024 (the “**Indenture**”), between the Issuer and U.S. Bank Trust Company, National Association, as trustee (the “**Trustee**”) and pursuant to resolutions of the Issuer adopted on May 21, 2024 and [\_\_\_\_\_] , 2024 (collectively, the “**Resolution**”). Contemporaneously with the execution of the Indenture, the Issuer and

the Company will enter into a Loan Agreement dated as of [September] 1, 2024 (the “**Loan Agreement**”) between the Issuer and the Company.

The Bonds will be payable solely from the payments made by the Company pursuant to the Loan Agreement. The Bonds will be further secured by: (i) a Guaranty Agreement, dated as of [September] 1, 2024, from Fond du Lac County (“**Fond du Lac County**”) to the Trustee and the Bond Insurer (as defined below), pursuant to which Fond du Lac County will guarantee the payment of its pro rata share of the debt service reserve fund amount on the Bonds (the “**Fond du Lac County Guaranty**”); (ii) a Guaranty Agreement, dated as of [September] 1, 2024, from Iowa County (“**Iowa County**”) to the Trustee and the Bond Insurer, pursuant to which Iowa County will guarantee the payment of its pro rata share of the debt service reserve fund amount on the Bonds (the “**Iowa County Guaranty**”); (iii) a Guaranty Agreement, dated as of [September] 1, 2024, from Forest County (“**Forest County**”) to the Trustee and the Bond Insurer, pursuant to which Forest County will guarantee the payment of its pro rata share of the debt service reserve fund amount on the Bonds (the “**Forest County Guaranty**”); (iv) a Guaranty Agreement, dated as of [September] 1, 2024, from Price County (“**Price County**”) to the Trustee and the Bond Insurer, pursuant to which Price County will guarantee the payment of its pro rata share of the debt service reserve fund amount on the Bonds (the “**Price County Guaranty**”); (v) a Guaranty Agreement, dated as of [September] 1, 2024, from Jefferson County (“**Jefferson County**”) to the Trustee and the Bond Insurer, pursuant to which Jefferson County will guarantee the payment of its pro rata share of the debt service reserve fund amount on the Bonds (the “**Jefferson County Guaranty**”); (vi) a Guaranty Agreement, dated as of [September] 1, 2024, from Lafayette County (“**Lafayette County**”) to the Trustee and the Bond Insurer, pursuant to which Lafayette County will guarantee the payment of its pro rata share of the debt service reserve fund amount on the Bonds (the “**Lafayette County Guaranty**”); (vii) a Guaranty Agreement, dated as of [September] 1, 2024, from Marathon County (“**Marathon County**”) to the Trustee and the Bond Insurer, pursuant to which Marathon County will guarantee the payment of its pro rata share of the debt service reserve fund amount on the Bonds (the “**Marathon County Guaranty**”); (viii) a Guaranty Agreement, dated as of [September] 1, 2024, from Waushara County (“**Waushara County**”) to the Trustee and the Bond Insurer, pursuant to which Waushara County will guarantee the payment of its pro rata share of the debt service reserve fund amount on the Bonds (the “**Waushara County Guaranty**”); (ix) a Guaranty Agreement, dated as of [September] 1, 2024, from Sawyer County (“**Sawyer County**”) to the Trustee and the Bond Insurer, pursuant to which Sawyer County will guarantee the payment of its pro rata share of the debt service reserve fund amount on the Bonds (the “**Sawyer County Guaranty**”); and (x) a Guaranty Agreement, dated as of [September] 1, 2024, from Taylor County (“**Taylor County**” and, together with Fond du Lac County, Iowa County, Forest County, Price County, Jefferson County, Lafayette County, Marathon County, Waushara County and Sawyer County, the “**Counties**”) to the Trustee and the Bond Insurer, pursuant to which Taylor County will guarantee the payment of its pro rata share of the debt service reserve fund amount on the Bonds (the “**Taylor County Guaranty**” and, together with the Fond du Lac County Guaranty, the Iowa County Guaranty, the Forest County Guaranty, the Price County Guaranty, the Jefferson County Guaranty, the Lafayette County Guaranty, the Marathon County Guaranty, the Waushara County Guaranty and the Sawyer County Guaranty, the “**Guarantees**”).

The Company will enter into separate Reimbursement Agreements, each dated as of [September] 1, 2024 (collectively, the “**Reimbursement Agreements**”) with each of the Counties pursuant to which the Company will reimburse certain amounts to the Counties. Hilbert Communications, LLC (“**Hilbert**”) will provide guaranties to each of the Counties (collectively, the “**Hilbert Guarantees**”) in connection with the Company’s obligations under the Reimbursement Agreements.

The Company has received a commitment from Build America Mutual Assurance Company (the “**Bond Insurer**”) for the issuance of a Municipal Bond Insurance Policy (the “**Bond Insurance Policy**”) insuring the scheduled payment of principal and interest on the 2024 Bonds when due.

Each Participating County will enter into an Intergovernmental Agreement dated [September \_\_], 2024, to appoint the Issuer as the issuer of the Bonds for the purpose of financing the Project on behalf of the Borrower, and as an agent on behalf of the Participating Counties with respect to the Pledge of Membership Agreement, dated as of [September \_\_], 2024, by and between Hilbert, and the Issuer for the benefit of the Participating Counties, and other counties as may be joined to the Intergovernmental Agreement after the date thereof.

The “**Project Documents**” include any material agreement entered into in connection with the Project, excluding any Transaction Document, with total payments by or to the Company in excess of \$1,000,000 or with a term greater than one (1) year.

1. **Purchase Price.** Upon the terms and conditions and upon the basis of the respective representations and covenants set forth herein and in the Letter of Representations, the Underwriters hereby agree to purchase from the Issuer, and the Issuer hereby agrees to sell to the Underwriters, all (but not less than all) of the Bonds. The purchase price of the Bonds and a maturity table is set forth in **Exhibit A** hereto. Such purchase price shall be paid at the Closing (defined herein) in accordance with Section 9 hereof.

2. **Execution; Effective Date.** This Bond Purchase Agreement shall become legally effective upon its acceptance by the Issuer, as evidenced by the signature of an authorized representative of the Issuer, in the space provided therefor below.

3. **Limited Public Offering.** The Underwriters agree to make an initial bona fide limited public offering of all of the Bonds at not in excess of the public offering prices set forth on Exhibit A attached hereto, and, subject to Section 2 hereof, may subsequently change such offering price without any requirement of prior notice. The Bonds will be offered only to “Qualified Institutional Buyers” within the meaning of Rule 144A promulgated under the Securities Act of 1933, as amended (the “**Securities Act**”). The Underwriters may offer and sell Bonds to certain dealers (including dealers depositing bonds into investment trusts), money market funds (including money market funds sponsored or managed by the Underwriters) and others at prices lower than such public offering prices. The Underwriters also reserve the right to: (i) over-allot or effect transactions which stabilize or maintain the market price of the Bonds at levels above those that might otherwise prevail in the open market and (ii) discontinue such stabilizing, if commenced, at any time without prior notice.

4. **The Representative.** The Representative, on behalf of the Underwriters, is duly authorized to execute this Bond Purchase Agreement. The Representative shall represent at the Closing that it was, at the time of the execution of this Bond Purchase Agreement, and is, at the time of the Closing, an entity duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization.

#### 5. **Limited Offering Memorandum**

(a) The Company has previously delivered, or caused to be delivered, to the Underwriters, the Preliminary Limited Offering Memorandum dated [September \_\_, 2024] (the “**Preliminary Limited Offering Memorandum**”) in a “**designated electronic format**,” as defined in the Municipal Securities Rulemaking Board’s (“**MSRB**”) Rule G-32 (“**Rule G-32**”). The Company will prepare or cause to be prepared a final Limited Offering Memorandum (the “**Limited Offering Memorandum**”) relating to the Bonds, which will be (i) dated the date of this Bond Purchase Agreement, (ii) complete within the meaning of the United States Securities and Exchange Commission’s Rule 15c-12, as amended (the “**Rule**”), (iii) in a “designated electronic format” and (iv) substantially in the form of the most recent version of the Preliminary Limited Offering Memorandum provided to the Underwriters

before the execution hereof. Such final Limited Offering Memorandum, including the cover page thereto, all exhibits, schedules, appendices, maps, charts, pictures, diagrams, reports, and statements included or incorporated therein or attached thereto, and all amendments and supplements thereto that may be authorized for use with respect to the Bonds, is herein referred to as the “**Limited Offering Memorandum.**” Until the Limited Offering Memorandum has been prepared and is available for distribution, the Company shall provide to the Underwriters sufficient quantities of the Preliminary Limited Offering Memorandum (which may be in electronic form) as the Representative deems necessary to satisfy the obligations of the Underwriters under the Rule with respect to distribution to each potential customer, upon request, of a copy of the Preliminary Limited Offering Memorandum.

(b) The Preliminary Limited Offering Memorandum has been prepared for use by the Underwriters in connection with the public offering, sale and distribution of the Bonds. Except for the information in the Preliminary Limited Offering Memorandum under the captions “THE ISSUER” and “ABSENCE OF MATERIAL LITIGATION – Issuer” (together, the “**Issuer Portions**”) and the captions “THE BONDS – Bonds in Book-Entry-Form,” and “UNDERWRITING,” the Company hereby represents and warrants that the Preliminary Limited Offering Memorandum was deemed final as of its date for purposes of the Rule, except for the omission of such information which is dependent upon the final pricing of the Bonds for completion, all as permitted to be excluded by Section (b)(1) of the Rule. The Issuer hereby represents and warrants that the information in the Issuer Portions of the Preliminary Limited Offering Memorandum was deemed final as of its date for purposes of the Rule, except for the omission of such information which is dependent upon the final pricing of the Bonds for completion, all as permitted to be excluded by Section (b)(1) of the Rule.

(c) The Company represents that it has reviewed and approved the information in the Limited Offering Memorandum and hereby authorizes the Limited Offering Memorandum to be used by the Underwriters in connection with the public offering and sale of the Bonds. The Issuer represents that it has reviewed and approved the information in the Issuer Portions of the Limited Offering Memorandum and hereby authorizes the Limited Offering Memorandum to be used by the Underwriters in connection with the public offering and sale of the Bonds. The Company ratifies and consents to the use by the Underwriters prior to the date hereof of the Preliminary Limited Offering Memorandum in connection with the public offering of the Bonds. The Company shall provide, or cause to be provided, to the Representative as soon as practicable after the date of the Issuer’s acceptance and the Company’s approval of this Bond Purchase Agreement (but, in any event, not later than within seven (7) business days after the Issuer’s acceptance and the Company’s approval of this Bond Purchase Agreement and in sufficient time to accompany any confirmation that requests payment from any customer) the Limited Offering Memorandum which is complete as of the date of its delivery to the Underwriters. The Issuer and the Company shall provide the Limited Offering Memorandum, or cause the Limited Offering Memorandum to be provided, (i) in a “designated electronic format” consistent with the requirements of Rule G-32 and (ii) in a printed format in such quantity as the Representative shall request in order for the Underwriters to comply with Section (b)(4) of the Rule and the rules of the MSRB.

(d) If, after the date of this Bond Purchase Agreement to and including the date the Underwriters are no longer required to provide a Limited Offering Memorandum to potential customers who request the same pursuant to the Rule (the earlier of (i) ninety (90) days from the “end of the underwriting period” (as defined in the Rule) and (ii) the time when the Limited Offering Memorandum is available to any person from the MSRB, but in no case less than twenty-five (25) days after the “end of the underwriting period” for the Bonds, the Issuer becomes aware of any fact or event which might or would cause the Issuer portions of the Limited Offering Memorandum, as then supplemented or amended, to contain any untrue statement of a material fact or to omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading, or if it is necessary to amend or supplement the Limited Offering Memorandum to comply with law, the Issuer will notify the

Representative (and for the purposes of this clause provide the Representative with such information as it may from time to time request), and if, in the reasonable opinion of the Representative, such fact or event requires preparation and publication of a supplement or amendment to the Limited Offering Memorandum, the Issuer will forthwith prepare and furnish, at the Company's expense (in a form and manner approved by the Representative), either an amendment or a supplement to the Limited Offering Memorandum so that the statements in the Limited Offering Memorandum as so amended and supplemented will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading or so that the Limited Offering Memorandum will comply with law; provided, however, that for all purposes of this Bond Purchase Agreement and any certificate delivered by the Issuer in accordance herewith, the Issuer makes no representations with respect to the descriptions in the Preliminary Limited Offering Memorandum or the Limited Offering Memorandum of The Depository Trust Company, New York, New York ("**DTC**"), or its book-entry-only system. If such notification shall be subsequent to the Closing, the Issuer and the Company shall furnish such certificates and other documents as the Representative may reasonably deem necessary to evidence the truth and accuracy of such supplement or amendment to the Limited Offering Memorandum. The Issuer and the Company shall provide any such amendment or supplement, or cause any such amendment or supplement to be provided, (i) in a "designated electronic format" consistent with the requirements of Rule G-32 and (ii) in a printed format in such quantity as the Representative shall request in order for the Representative to comply with Section (b)(4) of the Rule and the rules of the MSRB.

(e) The Underwriters hereby agree to timely file the Limited Offering Memorandum (and any amendment or supplement to the Limited Offering Memorandum prepared in accordance with Section 3(d) above) with the MSRB through its Electronic Municipal Market Access ("**EMMA**") system. Unless otherwise notified in writing by the Representative, the Issuer and the Company can assume that the "end of the underwriting period" for purposes of the Rule is the date of the Closing.

The Company and the Trustee will enter into a Continuing Disclosure Agreement dated as of [September] 1, 2024 (the "**Company Disclosure Agreement**") pursuant to which the Company agrees to provide ongoing disclosure about the Company and the Project for the benefit of the Bondholders as required by Section (b)(5)(i) of the Rule, in the form attached as Appendix F to the Preliminary Limited Offering Memorandum, with such changes as may be agreed to by the Representative. Each of the Counties will also enter into a Continuing Disclosure Agreement dated as of [September] 1, 2024 (the "**County Disclosure Agreements**") and, together with the Company Disclosure Agreement, the "**Disclosure Agreements**") pursuant to which each County agrees to provide ongoing disclosure about such County for the benefit of the Bondholders as required by Section (b)(5)(i) of the Rule.

## 6. **Representations of the Issuer.**

(a) The Issuer is a political subdivision of the State of Wisconsin (the "**State**"). Under the laws of the State of Wisconsin, particularly Section 66.1103 of the Wisconsin Statutes, as amended (the "Act"), the Issuer is authorized under the Act to (i) construct, equip, reequip, acquire by gift, lease or purchase, install, reconstruct, rebuild, rehabilitate, improve, supplement, replace, maintain, repair, enlarge, extend, or remodel industrial projects; (ii) borrow money and issue the Bonds; (iii) enter into revenue agreements with eligible participants with respect to the Project; and (iv) enter into this Bond Purchase Agreement, the Indenture, the Loan Agreement, and any other documents required in connection with the issuance of the Bonds, including any Transaction Document, to which the Issuer is a party (collectively, the "**Issuer Documents**").

(b) The Issuer has full power and authority to consummate the transactions contemplated to be consummated by it in the Issuer Documents, the Resolution and Limited Offering

Memorandum, and the Issuer has duly authorized and approved the execution and delivery of the same as well as any and all such other agreements and documents as may be required to be executed, delivered or received by the Issuer in order to carry out, give effect to and consummate the transactions contemplated herein, in the Letter of Representations and in the Limited Offering Memorandum.

(c) The Bonds, when issued, delivered and paid for as provided herein and in the Indenture will have been duly authorized, issued and delivered and will constitute valid and binding limited obligations of the Issuer enforceable in accordance with their terms and entitled to the benefits and security of the Indenture and Loan Agreement (subject in each instance to applicable bankruptcy, reorganization, insolvency, moratorium or other similar law or laws affecting the enforcement of creditors' rights generally or relating to a public body such as the Issuer, as from time to time in effect, and further subject to the availability of applicable equitable principles).

(d) Under no circumstances shall the Bonds and the interest thereon be or become an indebtedness or obligation of the State, within the purview of any constitutional or statutory limitation or provision, or a charge against the credit of, or a pledge of the taxing power of, the State or any political subdivision thereof payable from any sources other than the receipts, revenues and income derived pursuant to the Loan Agreement and related documents. The Bonds shall be limited obligations of the Issuer, and no taxes are required to be levied for the payment of the principal of, premium, if any, and interest on the Bonds; such principal of, premium, if any, and interest on the Bonds being payable (except as otherwise provided in the Indenture) solely out of receipts, revenues and income to be received by the Issuer as proceeds from the sale of the Bonds or payments or prepayments to be made under the Loan Agreement and pledged under the Indenture from receipts, revenues, and income payable under the Loan Agreement, from certain receipts, revenues and income on deposit with the Trustee pursuant to the Indenture and from certain income, if any, from the temporary investment of any of the foregoing. The Issuer does not have any obligation to levy taxes for payment of principal of, premium, if any, and interest on the Bonds.

(e) The execution and delivery by the Issuer of the Issuer Documents, the Bonds, and other documents contemplated herein, the Letter of Representations or in the Limited Offering Memorandum to be executed and delivered by the Issuer, and compliance by the Issuer with their provisions, and the assignment of the Loan Agreement (except for certain limited rights of the Issuer) to the Trustee, do not and will not, in any material respect, conflict with or constitute on the part of the Issuer a breach of or a default under any charter, agreement or other instrument to which the Issuer is a party or under any existing law, court or administrative regulation, decree, order, agreement, indenture, mortgage or lease by which the Issuer is subject or by which it or any of its properties may be bound; provided, no representation is made with respect to Federal or State securities laws, rules or regulations.

(f) Except for the information which is permitted to be omitted from the Preliminary Limited Offering Memorandum pursuant to Section (b)(1) of the Rule, the information in Issuer Portions of the Limited Offering Memorandum is and, as of the Closing Date, will be correct in all material respects and such information does not contain and will not contain any untrue statement of a material fact and does not omit and will not omit to state a material fact required to be stated therein or necessary to make the statements in such Limited Offering Memorandum; in light of the circumstances under which they were made, not misleading.

(g) There is no action, suit, proceeding, inquiry or investigation at law or in equity pending against the Issuer in any court, public board or body or to the Issuer's knowledge, threatened against the Issuer in any court, public board or body (or, to the Issuer's knowledge, any basis therefor), wherein an unfavorable decision, ruling or finding would adversely affect (1) the transactions contemplated hereby or by the Issuer Documents or by the Limited Offering Memorandum, (2) the

validity of the Bonds or the Issuer Documents, (3) any proceeding of the Issuer taken with respect to the issuance or sale of the Bonds or with respect to the Issuer Documents, or (4) the existence or powers of the Issuer insofar as they relate to the authorization, sale and issuance of the Bonds or the execution or delivery of the Issuer Documents or the pledge or application of moneys and security to the Bonds.

(h) The Issuer agrees to cooperate reasonably with the Underwriters and their counsel in any endeavor to qualify the Bonds for offering and sale under the securities or “blue sky” laws of such jurisdictions of the United States as the Representative may request; provided, however, that the Issuer shall not be required with respect to the offer or sale of the Bonds to consent to suit or to consent to service of process in any jurisdiction or take any action which it deems unreasonably burdensome and shall not be deemed to have made any representations with regard to securities or “blue sky” laws of any State or the securities laws of the United States. The Issuer consents to the use by the Underwriters of the Preliminary Limited Offering Memorandum and drafts thereof prior to the availability of the Limited Offering Memorandum in obtaining such qualification, subject to the right of the Issuer to withdraw such consent for cause by written notice to the Representative. The Issuer shall not be obligated to pay any expenses or costs (including legal fees) incurred in connection with such qualification.

(i) The Issuer has not been in default at any time as to principal or interest with respect to any obligation issued or guaranteed by the Issuer for the benefit of the Company, and the Issuer is not in default under the Indenture or Loan Agreement.

(j) Any certificate signed by an authorized officer of the Issuer and delivered to the Underwriters shall be deemed a representation and warranty by the Issuer to the Underwriters as to the statements made therein.

(k) Prior to the Closing, the Issuer will not offer or issue any bonds, notes or other obligations for borrowed money or incur any material liabilities, direct or contingent, payable from or secured by any of the revenues which will secure the Bonds without the prior approval of the Representative.

(l) As of the date of the Closing, there will not be any material adverse change in the financial position, results of operations, or condition, financial or otherwise, of the Issuer from that described in the Limited Offering Memorandum other than in the ordinary course of business or as may be otherwise disclosed to the Underwriters in accordance with this Bond Purchase Agreement.

7. **Issuer Participation.** The Underwriters acknowledge that the Issuer has not participated in the preparation of the Preliminary Limited Offering Memorandum or the Limited Offering Memorandum and has made no independent investigation and has furnished no information contained in the Preliminary Limited Offering Memorandum or the Limited Offering Memorandum, except the information contained in the Issuer Portions of the Preliminary Limited Offering Memorandum and the Limited Offering Memorandum, and that except for the Issuer Portions of the Preliminary Limited Offering Memorandum and the Limited Offering Memorandum, the Issuer assumes no responsibility with respect to the sufficiency, accuracy or completeness of any of the information contained in the Preliminary Limited Offering Memorandum and the Limited Offering Memorandum or any other document used in connection with the public offering, sale and distribution of the Bonds.

8. **Covenants of the Issuer.**

(a) The Issuer shall not supplement or amend the Preliminary Limited Offering Memorandum or the Limited Offering Memorandum or cause the Preliminary Limited Offering



Memorandum or the Limited Offering Memorandum to be supplemented or amended without the prior written consent of the Representative and the Company.

(b) The Issuer shall promptly advise the Underwriters and the Company, by written notice, if the Issuer, after the date of this Bond Purchase Agreement and prior to the Closing Date, has actual knowledge of facts or circumstances that would, or would reasonably be expected to, result in any of the representations of the Issuer set forth herein, if made at the time of such notice, becoming materially untrue or misleading.

(c) The Issuer agrees to promptly provide written notice to the Representative and the Company, of any litigation, action, suit or proceeding or investigation at law or in equity before or by any court, public board, or body brought against the Issuer with respect to the Bonds, the Preliminary Limited Offering Memorandum, the Limited Offering Memorandum or the other Issuer Documents or the transactions described therein (in the case of a notice by the Issuer) during the period from the date hereof to and including the date which is twenty-five (25) days following the end of the underwriting period (the “**Update Period**”).

(d) The Issuer will cooperate with the Underwriters in arranging for the qualification of the Bonds for sale and the determination of their eligibility for investment under the laws of such jurisdictions as the Representative shall designate, and will cooperate with the Underwriters to continue such qualification in effect so long as required for distribution of the Bonds; provided, however, that the Issuer will not be required to execute a special or general consent to service of process or qualify as a foreign corporation in connection with any such qualification in any jurisdiction. The Company shall pay all reasonable expenses and costs (including reasonable legal fees) incurred in connection with such qualification.

9. **Delivery of, and Payment for, the Bonds.** Prior to or at 10:00 A.M., EST, on or about [September \_\_], 2024, or at such other time or date as shall have been agreed upon by the Issuer, the Company and the Representative (the “**Closing Date**”), the Issuer will deliver, or cause to be delivered, to the Underwriters, the Bonds, in definitive form as fully registered bonds bearing CUSIP numbers (provided neither the printing of a wrong CUSIP number on any Bond nor the failure to print a CUSIP number thereon shall constitute cause to refuse delivery of any Bond) in the denominations of one Bond per maturity date of the Bonds, registered in the name of Cede & Co., as nominee for DTC, duly executed and authenticated by the Trustee, together with the other documents hereinafter mentioned and the other moneys required by the Indenture to be provided by the Issuer, subject to the conditions contained herein, the Trustee shall hold the Bonds as custodian for DTC under its Fast Automated Securities Transfer System (“**FAST**”).

Delivery of the Bonds as aforesaid shall be made at the offices of Husch Blackwell LLP or such other place as may be agreed upon by the Representative and the Issuer. Such payment and delivery is herein called the “**Closing**.” The Bonds will be delivered initially as fully registered bonds, one bond certificate representing each maturity of the Bonds and registered in the name of Cede & Co.

10. **Certain Conditions to Underwriters’ Obligations.** The obligations of the Underwriters hereunder shall be subject to the performance by the Issuer and the Company of its obligations to be performed hereunder and the Letter of Representations and to the following conditions:

(a) At the time of Closing, the Resolution shall have been adopted and shall be in full force and effect and shall not have been amended, modified or supplemented except as may have been agreed to in writing by the Representative, the Bonds shall have been approved by the Issuer, the proceeds of the sale of the Bonds shall be applied as described in the Limited Offering Memorandum and

the Indenture, and there shall have been duly adopted and there shall be in full force and effect such resolutions and/or ordinances as, in the opinion of Quarles & Brady LLP (“**Issuer’s Counsel**”), shall be necessary in connection with the transactions contemplated hereby; and at or prior to the Closing, the Underwriters shall have received each of the following:

(i) the Indenture, the Loan Agreement, the Guarantees, the Reimbursement Agreements, the other Issuer Documents and the other Transaction Documents, each duly executed and delivered by the respective parties thereto, with such amendments, modifications or supplements as may have been agreed to in writing by the Representative;

(ii) any and all requirements, deliverables, and/or conditions contained within any of the Guarantees or Reimbursement Agreements shall have been satisfied, or explicitly waived by the applicable County, in a form satisfactory to Underwriters’ Counsel;

(iii) final approving opinion of Bond Counsel dated the Closing Date, addressed to the Issuer, the Trustee, the Bond Insurer (or a reliance letter provided thereto), the Underwriters and the Company, in substantially the form set forth as Appendix E of the Limited Offering Memorandum in a form satisfactory to Underwriters’ Counsel;

(iv) a supplemental opinion of Bond Counsel dated the Closing Date, addressed to the Underwriters, in a form satisfactory to Underwriters’ Counsel covering the opinion points set forth in **Exhibit C**;

(v) an opinion of Ballard Spahr LLP, Underwriters’ Counsel, dated the Closing Date, addressed to the Underwriters, in form and substance satisfactory to the Representative;

(vi) an opinion of Issuer’s Counsel dated the Closing Date, addressed to the Issuer, the Trustee, the Underwriters and the Company, in a form satisfactory to Underwriters’ Counsel and in the form set forth in **Exhibit D**;

(vii) an opinion of Husch Blackwell LLP, counsel to the Company and Hilbert, dated the Closing Date, addressed to the Company, the Issuer, Issuer’s Counsel, the Participating Counties, the Underwriters, and the Trustee, in a form satisfactory to Underwriters’ Counsel and in the form set forth in **Exhibit E**;

(viii) opinions of Quarles & Brady LLP, counsel to each of the Counties, with the exception of Price County, Lafayette County, Sawyer County and Taylor County, in respect to each of the Counties, with the exception of Price County, Lafayette County, Sawyer County and Taylor County, addressed to the Company, the Underwriters, the Bond Insurer, and the Trustee in a form satisfactory to Underwriters’ Counsel and in the form set forth in **Exhibit F**;

(ix) opinions of Attolles Law, s.c., counsel to to Price County, Lafayette County, Sawyer County and Taylor County, addressed to the Company, the Underwriters, the Bond Insurer, and the Trustee in a form satisfactory to Underwriters’ Counsel and in the form set forth in **Exhibit G**;

(x) a certificate of the Issuer, dated as of the Closing Date, signed by an official of the Issuer, to the effect that (A) all of the representations of the Issuer contained herein and in the Issuer Documents are true, complete and correct in all material respects (except to the extent any representation itself is qualified by “materiality,” “Material Adverse Effect” or a similar qualifier, in which case, it is true and correct in all respects) as of the Closing Date; (B) the Issuer has

complied in all material respects with all of the agreements and conditions of this Bond Purchase Agreement and the Issuer Documents to be performed or satisfied by it at or prior to the Closing; (C) the Issuer has performed all of the covenants in the Issuer Documents required to be performed therein by the Closing Date; (D) the Issuer is not in default under this Bond Purchase Agreement or any other Issuer Document; (E) the Issuer is not in material breach of any covenant on its part contained in any Issuer Document which is to be performed or complied with by the Issuer at or prior to the Closing Date; and (F) the information contained in the Issuer Portions of the Preliminary Limited Offering Memorandum and the Limited Offering Memorandum did not as of their respective dates thereof and does not as of the Closing Date contain an untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading;

(xi) a certificate of the Company, dated as of the Closing Date, signed by an authorized representative of the Company, to the effect that (A) all of the representations and warranties of the Company contained herein and in the Transaction Documents to which the Company is a party (collectively, the “**Company Documents**”) are true, complete and correct as of the Closing Date; (B) the Company has complied in all material respects with all agreements and conditions of this Bond Purchase Agreement and the Company Documents to be performed or satisfied by it at or prior to the Closing; (C) the Company has performed all of the covenants required to be performed herein and by the Company Documents at or prior to the Closing; (D) the Company is not in default under this Bond Purchase Agreement or any Company Document; (E) the Preliminary Limited Offering Memorandum and the Limited Offering Memorandum did not as of their respective dates and do not as of the Closing Date contain an untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; provided, however, that the Company does not make any representation (x) to the Underwriters as to the reoffering prices specified on the inside cover page of the Limited Offering Memorandum or the information included in or omitted from the Preliminary Limited Offering Memorandum and the Limited Offering Memorandum under the caption “**UNDERWRITING**,” (y) to the Issuer as to Issuer Portions, or (z) regarding DTC or its book-entry only system, including the information under the caption “**THE BONDS –Bonds in Book-Entry Only Form**”; (F) the Company is not in material breach of any covenant on its part contained in any Company Document which is to be performed or complied with by the Company at or prior to the Closing Date; (G) the Company is not in breach of or in default under, and no event has occurred and is continuing which, with the passage of time or the giving of notice, or both, would constitute a breach of or default under State law, or any applicable law or administrative regulation of the State or the United States or any applicable judgment or decree or, any indenture, financing agreement, note, resolution, agreement, lease or other instrument to which the Company is a party or is otherwise subject or by which it or its properties may be bound, in each case which breach or default would have a Material Adverse Effect and (H) such other matters as may be reasonably requested by the Underwriters have been addressed;

(xii) a certificate of an officer of the Trustee, acceptable to the Representative, dated the Closing Date, to the effect that the Indenture and the Transaction Documents to which the Trustee is a party have been duly authorized, executed and delivered by the Trustee and, assuming due authorization, execution and delivery thereof by the Issuer and other counterparties, as applicable, constitute a valid and binding agreement of the Trustee enforceable against the Trustee in accordance with their terms, and the Bonds have been authenticated in accordance with the Indenture by duly authorized officers or signatories of the Trustee; and an incumbency certificate of the Trustee, in form and content acceptable to the Representative and Issuer’s Counsel, dated the Closing Date, with respect to the officers or other signatories of the Trustee

who have executed, authenticated and delivered the Bonds, the Indenture, and all other financing documents to be signed by the Trustee;

(xiii) a certificate from an officer of each County, dated the Closing Date, in a form satisfactory to Underwriters' Counsel;

(xiv) a certificate from an officer of Hilbert, dated the Closing Date, in a form satisfactory to Underwriters' Counsel;

(xv) the Limited Offering Memorandum, and the use thereof for purposes of reoffering the Bonds, is authorized by the Issuer and the Company;

(xvi) the written consent from each applicable party for inclusion of each set of financial statements in the Preliminary Limited Offering Memorandum and Limited Offering Memorandum, in a form satisfactory to Underwriters' Counsel;

(xvii) a specimen of the Bonds;

(xviii) certified copies of the Resolution and all other resolutions and ordinances of the Issuer relating to the issuance and/or sale of the Bonds, as applicable, and evidence of approval of the Bonds by the Issuer;

(xix) to the extent necessary to perfect the security interest, receipts or other evidence that financing statements have been or will be filed for record with the governmental authority of the State, with respect to the security interests granted by the Indenture, Loan Agreement, and the other Transaction Documents;

(xx) Investor letters, substantially in the form attached to the Limited Offering Memorandum executed by each investor in the Bonds;

(xxi) a certified copy of the resolutions adopted by the Company authorizing and approving the Company to execute and deliver this Bond Purchase Agreement and the other Company Documents to otherwise carry out the transaction contemplated by the Limited Offering Memorandum and approving the issuance of the Bonds;

(xxii) a certified copy of the resolutions adopted by the Issuer authorizing and approving the transaction, the issuance of the Bonds, and the execution and delivery of the Issuer Documents to otherwise carry out the transaction contemplated by the Limited Offering Memorandum;

(xxiii) certified copies of the resolutions adopted by each County authorizing and approving the transaction and the execution and delivery of each Guaranty and respective Reimbursement Agreements to otherwise carry out the transaction contemplated by the Limited Offering Memorandum;

(xxiv) insurance certificates of the Company evidencing compliance with the insurance requirements of the Loan Agreement, to the effect that the insurance coverage complies with the requirements of the Loan Agreement;

(xxv) all other certificates and opinions required by the Loan Agreement, the Indenture, and other Transaction Documents for the issuance thereunder of the Bonds not specifically heretofore set forth;

(xxvi) lien and litigation searches with respect to the Company and Hilbert, in each County, and the State, in a form satisfactory to Underwriters' Counsel;

(xxvii) consent, subordination, and release of collateral from certain existing lenders of Hilbert, in a form satisfactory to Underwriters' Counsel;

(xxviii) an opinion of counsel to the Bond Insurer, addressed the Issuer, the Representative, and the Trustee in the form set forth in the Bond Insurance commitment;

(xxix) a certificate of the Bond Insurer, dated as of the Closing Date, signed by an official of the Bond Insurer, in the form set forth in the Bond Insurance commitment;

(xxx) evidence of the issuance and delivery by the Bond Insurer of its Bond Insurance Policy;

(xxxi) written evidence from S&P Global Ratings ("S&P") of the underlying municipal bond rating of "[ ]" assigned by S&P to the Bonds;

(xxxii) written evidence from S&P of the insured municipal bond rating of "[ ]" assigned by S&P to the Bonds;

(xxxiii) a Blanket DTC Letter of Representations executed by the Issuer and accepted by DTC;

(xxxiv) a DTC 144A rider in respect to the Bonds, executed by the Issuer and accepted by DTC; and

(xxxv) such additional legal opinions, certificates, proceedings, instruments, and other documents as Underwriters' Counsel and Issuer's Counsel may reasonably request to evidence compliance by the Issuer and the Company with legal requirements, the truth and accuracy, as of the time of Closing, of the representations of the Issuer herein contained and of the representations of the Company contained in the Letter of Representations, and the due performance or satisfaction by the Issuer at or prior to such time of all agreements then to be performed and all conditions then to be satisfied by the Issuer and the Company.

All such opinions, certificates, letters, agreements and documents will be in compliance with the provisions hereof only if they are satisfactory in form and substance to the Representative. The Issuer and the Company will furnish the Underwriters with such conformed copies or photocopies of such opinions, certificates, letters, agreements and documents relating to the Bonds as the Representative may reasonably request.

If the Issuer or the Company is unable to satisfy any of the conditions to the obligations of the Underwriters contained in this Bond Purchase Agreement and such condition is not waived by the Representative, or if the obligations of the Underwriters to purchase and accept delivery of the Bonds shall be terminated or cancelled for any reason permitted by this Bond Purchase Agreement, this Bond Purchase Agreement shall terminate and neither the Underwriters nor the Issuer shall be under further

obligation hereunder; except that the respective obligations of the Issuer, the Company and the Underwriters set forth in Sections 1 and 14 hereof, shall continue in full force and effect.

11. **Termination.** The Underwriters may terminate this Bond Purchase Agreement, without liability therefor, by notification to the Issuer and the Company, if, at any time subsequent to the date of this Bond Purchase Agreement at or prior to the Closing Date:

(a) Any legislation, ordinance or regulation shall be enacted or be actively considered for enactment with an effective date prior to the Closing, by any governmental body, department or agency of the Issuer or the State, or a decision by any court of competent jurisdiction within the State shall be rendered that, in the reasonable opinion of the Representative, materially and adversely affects the market price of the Bonds and, as a result, the Bonds cannot be sold at a price that is agreeable to the Underwriters and the Company; or

(b) A stop order, ruling, regulation or Offering Memorandum by, or on behalf of, the Securities and Exchange Commission or any other governmental agency having jurisdiction of the subject matter shall be issued or made to the effect that the issuance, offering or sale of obligations of the general character of the Bonds, or the issuance, offering or sale of the Bonds, is in violation or would be in violation of any provision of the federal securities laws, including but not limited to, the Securities Act or the Securities Exchange Act of 1934, as amended and as then in effect (the “**Exchange Act**”); or

(c) Any legislation shall be enacted by the Congress of the United States, or a decision by a court of the United States shall be rendered, to the effect that obligations of the general character of the Bonds or the Bonds are not exempt from registration under or from other requirements of the Securities Act or the Exchange Act or that the qualification and registration of the Indenture as an indenture would be required under the Trust Indenture Act of 1939, as amended (the “**Trust Indenture Act**”); or

(d) Any event shall have occurred or any information shall have become known to the Underwriters which causes the Underwriters to reasonably believe that the Offering Memorandum as then amended or supplemented includes an untrue statement of a material fact, or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; or

(e) Additional material restrictions not in force and not previously under discussion as of the date hereof shall have been imposed upon trading in securities generally by any governmental authority or by any national securities exchange; or

(f) Any national securities exchange, or any governmental authority, shall impose, as to the Bonds or obligations of the general character of the Bonds, any material restrictions not now in force, or increase materially those now in force, with respect to the extension of credit by, or the charge to the net capital requirements of, the Underwriters or broker-dealers; or

(g) Any proceeding shall be pending or threatened by the Securities and Exchange Commission against the Issuer; or

(h) There shall have occurred any outbreak of hostilities or other national or international calamity or crisis or a financial crisis, the effect of such outbreak, calamity or crisis, or escalation of the same, on the financial markets of the United States being such as, in the reasonable opinion of the Underwriters, would affect materially and adversely the ability of the Underwriters to market the Bonds; or

(i) Trading shall be suspended, or new or additional trading or loan restrictions shall be imposed, by The New York Stock Exchange or other national securities exchange or governmental authority, the effect of which on the financial markets of the United States is such as, in the reasonable judgment of the Representative, would materially adversely affect the market for or market price of the Bonds; or

(j) There shall have occurred any change in the financial condition or affairs of the Issuer or the Company, the effect of which is, in the reasonable judgment of the Representative, so material and adverse as to make it impracticable or inadvisable to proceed with the offering or delivery of the Bonds on the terms and in the manner contemplated by the Offering Memorandum; or

(k) A general banking moratorium shall have been established by federal or New York authorities; or

(l) The President of the United States, the Office of Management and Budget, the Securities and Exchange Commission, the Federal Reserve Board, the Department of Treasury, the Internal Revenue Service or any other governmental body, department, agency or instrumentality of the United States that has jurisdiction over any of the transactions contemplated by the Limited Offering Memorandum shall take or propose to take any action or implement or propose regulations or rulings which, in the Representative's reasonable opinion, materially adversely affects the market price of the Bonds or causes the Offering Memorandum to be misleading in any material respect; or

(m) There shall have occurred a default with respect to the debt obligations of, or the institution of proceedings under any federal bankruptcy laws by or against, any state of the United States or any city or political subdivision located in the United States having a population of over 500,000, the effect of which, in the reasonable opinion of the Representative, would materially and adversely affect the ability of the Underwriters to market the Bonds and, as a result, the Bonds cannot be sold at a price that is agreeable to the Representative and the Company; or

(n) There shall have occurred a default with respect to the debt obligations of, or the institution of proceedings under any federal bankruptcy laws by or against, any political subdivision located in the State (including the State itself), the effect of which, in the reasonable opinion of the Representative, would materially and adversely affect the ability of the Underwriters to market the Bonds and, as a result, the Bonds cannot be sold at a price that is agreeable to the Representative and the Company; or

(o) The Issuer and the Company shall fail to deliver the Limited Offering Memorandum to the Underwriters as provided in Section 5 hereof; provided, however, that the Underwriters may not terminate their obligations hereunder as a result of the failure of the Issuer and the Company to deliver such Limited Offering Memorandum unless such failure materially affects the Underwriters' marketing and sale of the Bonds or subjects the Underwriters to compliance infractions under the Securities and Exchange Commission or the MSRB delivery requirements; or

(p) The Company shall have failed to deliver any Company Document; or

(q) Any rating of the Bond Insurer or the Bonds shall have been downgraded or withdrawn by a national rating service or put on credit watch with negative implications after the date hereof, the effect of which, in the reasonable opinion of the Underwriters, is to materially adversely affect the market for or market price of the Bonds or the ability of the Underwriters to enforce contracts for sale of the Bonds; or

(r) The marketability of the Bonds or the market price thereof, in the reasonable opinion of the Representative, has been materially and adversely affected by disruptive events, occurrences or conditions in the securities or debt markets and, as a result, the Bonds cannot be sold at a price that is agreeable to the Representative and the Company; or

(s) The Issuer or the Company shall fail to meet any condition to Closing set forth in Section 7 of this Bond Purchase Agreement, and such condition has not been waived in writing by the Representative.

Upon the occurrence of a Termination Event and the termination of this Bond Purchase Agreement by the Underwriters, all obligations of the Issuer, the Company and the Underwriters under this Bond Purchase Agreement shall terminate, without further liability, except that: (i) the Issuer and the Company promptly shall return any funds deposited with it by the Underwriters, and (ii) the Issuer, the Company and the Underwriters shall pay their respective expenses as set forth in Section 12 below.

12. **Additional Covenants.** The Issuer and the Company covenant and agree with the Underwriters as follows:

(a) The Issuer and the Company shall furnish or cause to be furnished to the Underwriters as many copies of the Offering Memorandum as the Underwriters may reasonably request; and

(b) Before revising, amending or supplementing the Offering Memorandum, the Issuer and the Company shall furnish a copy of the revised Offering Memorandum or such amendment or supplement to the Underwriters. If, in the opinion of the Issuer, the Company, Issuer's Counsel, the Representative, and Underwriters' Counsel a supplement or amendment to the Offering Memorandum is required, the Issuer and the Company will supplement or amend the Offering Memorandum in a form and in a manner approved by the Issuer's Counsel and Underwriters' Counsel.

13. **Survival of Representations.** Unless otherwise set forth herein, all representations and agreements of the Issuer and the Underwriters hereunder and the representations and agreements of the Company in the Letter of Representations shall remain operative and in full force and effect, and shall survive the delivery of the Bonds and any termination of this Bond Purchase Agreement by the Underwriters pursuant to the terms hereof.

14. **Payment of Expenses.** If the Bonds are sold to the Underwriters by the Issuer:

(a) except as otherwise paid from the proceeds of the Bonds, the Company shall pay any expenses incident to the performance of the obligations hereunder, including, but not limited to: (i) the cost of the preparation, reproduction and printing, distribution, mailing, execution, delivery, filing and recording, as the case may be, of the Indenture, the Transaction Documents, this Bond Purchase Agreement, the Preliminary Limited Offering Memorandum, the Limited Offering Memorandum and all other agreements and documents required in connection with the consummation of the transactions contemplated hereby; (ii) the cost of the preparation, engraving, printing, execution and delivery of the definitive Bonds; (iii) the fees and disbursements of Issuer's Counsel and Counsel to the Counties, and any other experts retained by the Issuer, the Counties, and the Company; (iv) the fees of the Trustee; (v) the fees of Underwriters' Counsel; (vi) the cost of transportation and lodging for officials of the Issuer in connection with attending meetings and the Closing; (vii) the cost of qualifying the Bonds and determining their eligibility for investment under the laws of such jurisdictions as the Underwriters may designate; and (viii) the fees of the Issuer; and



(b) The Underwriters shall pay (i) the cost of preparing and publishing all advertisements relating to the Bonds upon commencement of the offering of the Bonds; (ii) the cost of the transportation and lodging for the Underwriters to attend meetings and the Closing; (iii) any fees of the MSRB in connection with the issuance of the Bonds; (iv) the cost of obtaining a CUSIP number assignment for the Bonds; and (v) all other expenses incurred by them in connection with the public offering, sale, and the distribution of the Bonds.

15. **Notices.** Any notice or other communication to be given to the Issuer under this Bond Purchase Agreement may be given by delivering the same in writing at Fond du Lac County, Wisconsin, City/County Government Center, 160 South Macy Street, Fond du Lac, WI 54935. Any notice or other communication to be given to the Underwriters under this Bond Purchase Agreement may be given by delivering the same in writing to the Representative at Samuel A. Ramirez & Company, Inc., 61 Broadway, 29<sup>th</sup> Floor, New York, NY 10006. Any notice or other communications to be given to the Company under this Bond Purchase Agreement may be given by delivering the same in writing at Bug Tussel 2, LLC, c/o Hilbert Communications, LLC, 417 Pine St., Green Bay, WI 54301, Attn: Jason Wied, CEO or via email: jason.wied@bugtusselwireless.com.

16. **Parties.** This Bond Purchase Agreement is made solely for the benefit of the Issuer, the Company and the Underwriters (including the successors or assigns of the either) and no other person shall acquire or have any right hereunder or by virtue hereof.

17. **Governing Law.** This Bond Purchase Agreement shall be governed by and construed in accordance with the laws of the State of New York.

18. **Arm's Length Transaction.** The Issuer and the Company each acknowledges that each Underwriter is not acting as a municipal advisor as defined in Section 15B of the Securities Exchange Act of 1934, as amended, and that each Underwriter does not have a fiduciary duty as such to the Issuer or the Company in connection with the offering and purchase and sale of the Bonds. The Issuer and the Company on its own behalf and the Underwriters acknowledge and agree that (i) the purchase and sale of the Bonds pursuant to this Bond Purchase Agreement is an arm's-length commercial transaction between the Issuer, the Company and the Underwriters, (ii) in connection with such transaction, each Underwriter is acting solely as a principal and is not acting as a municipal advisor (within the meaning of Section 15B of the Exchange Act), financial advisor or fiduciary to the Issuer or the Company, (iii) each Underwriter has not assumed an advisory or fiduciary responsibility to the Issuer or the Company with respect to this Bond Purchase Agreement, the offering of the Bonds and the transaction contemplated hereby and the discussions, undertakings and procedures leading hereto (irrespective of whether such Underwriter or their affiliates have provided other services or is currently providing other services to the Issuer or the Company on other matters), (iv) the only obligations that each Underwriter has to the Issuer or the Company with respect to the transaction contemplated hereby expressly are set forth in this Bond Purchase Agreement and the Letter of Representations, (v) each Underwriter has financial and other interests that differ from those of the Issuer and the Company and (vi) each of the Issuer and the Company has consulted with its own legal, accounting, tax, financial and other advisors, as applicable, to the extent it has deemed appropriate in connection with the offering of the Bonds.

19. **General.** This Bond Purchase Agreement may be executed in several counterparts, each of which shall be regarded as an original and all of which will constitute one and the same instrument. The section headings of this Bond Purchase Agreement are for convenience of reference only and shall not affect its interpretation.

20. **Severability.** If any provision of this Bond Purchase Agreement shall be held or deemed to be or shall, in fact, be invalid, inoperative or unenforceable as applied in any particular case in any

jurisdiction or jurisdictions, or in all jurisdictions because it conflicts with any provisions of any Constitution, statute, rule of public policy, or any other reason, such circumstances shall not have the effect of rendering the provision in question invalid, inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions of this Bond Purchase Agreement invalid, inoperative or unenforceable to any extent whatever.

21. **Performance by Issuer.** Notwithstanding anything in this Bond Purchase Agreement, to the contrary, the Issuer shall be under no obligation to take any action or execute, prepare, or deliver any instrument or document until it shall have received assurances satisfactory to it that the Company or the Trustee shall pay in advance or reimburse it (at the Issuer's option) for its reasonable expenses incurred or to be incurred in connection with the taking of such action (including reasonable attorneys' fees), and shall be indemnified against any possible liability arising out of the taking of such action.

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If you agree with the foregoing, please sign this Bond Purchase Agreement and return it to the Underwriters. This Bond Purchase Agreement shall become a binding agreement between you and the Underwriters when at least the counterpart of this letter shall have been signed by or on behalf of each of the parties hereto.

Very truly yours,

**SAMUEL A. RAMIREZ & COMPANY, INC., as  
Representative of the Underwriters**

By: \_\_\_\_\_  
Name:  
Title:

**Accepted and Agreed to:**

**FOND DU LAC COUNTY, WISCONSIN**

By: \_\_\_\_\_  
Name: Steven A. Abel  
Title: County Chairperson

By: \_\_\_\_\_  
Name: Lisa Freiberg  
Title: County Clerk

**Approved:**

**BUG TUSSEL 2, LLC**

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT A**

**PURCHASE PRICE**

**Purchase Price of the Bonds:** \$[ ] (par amount of \$[ ] less an underwriters' discount of \$[ ]).

**SERIAL BONDS**

<b>Maturity Year</b> ( 1)	<b>Principal Amount</b>	<b>Interest Rate</b>	<b>Yield</b>	<b>Price</b>
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**[/PAR AMOUNT]  
[ ]% TERM BONDS MATURING [ ]  
Yield: [ ]%, Price: [ ]**

**Redemption provisions of the Bonds** (Capitalized terms not defined herein shall have the meanings ascribed to them in the Indenture.):

*Optional Redemption.* The Series 2024 Bonds maturing after [ ] 1, 20 ] are subject to redemption by the Issuer, in whole or in part, at the option of the Borrower, which may be exercised upon the written direction of the Borrower, on or after [ ] 1, 20 ], at a redemption price equal to 100% of the principal amount thereof, without premium, plus accrued interest thereon to the redemption date. Payment of the redemption price pursuant to Section 3.01(a) of the Indenture shall be made with Eligible Funds.

*Extraordinary Optional Redemption.*

Damage, Destruction, Eminent Domain, Court Order or Legislative Change. The Series 2024 Bonds are subject to redemption in whole, or in part, at the option of the Borrower, on any Business Day, at a redemption price equal to 100% of the principal amount thereof, without premium, plus accrued interest thereon to the redemption date upon the occurrence of the following conditions (in all such cases, excluding any Series 2024 Participating County exercising remedies under the Reimbursement Documents, and excluding any and all actions or omissions, whether direct or indirect, by any Series 2024 Participating County, including, without limitation, foreclosure or other action transferring title or rights with respect to the Facilities or any component of the Project and legislative or administrative action taken by any Series 2024 Participating County): (A) all or a portion of the Facilities within a particular

Series 2024 Participating County shall have been damaged or destroyed to such extent that, in the opinion of the Borrower expressed in a certificate of the Borrower Representative filed with the Issuer and the Trustee following such damage or destruction, (i) the completion of the Project financed with the Series 2024 Bonds will be delayed for at least six months, (ii) it is not practicable or desirable to rebuild, repair or restore the Facilities within a period of six consecutive months following such damage or destruction, or (iii) the Borrower is or will be thereby prevented from carrying on its normal operations in a material manner at any portion of the Facilities for a period of at least six consecutive months; or (B) title to or the temporary use of all or substantially all of the Facilities in a particular Series 2024 Participating County shall have been taken under the exercise of the power of eminent domain by any governmental authority to such extent that, in the opinion of the Borrower expressed in a certificate of a Borrower Representative filed with the Issuer and the Trustee, (i) the completion of the Project will be delayed for at least six months or (ii) the Borrower is or will be thereby prevented from carrying on its normal operations in a material manner at any portion of the Facilities for a period of at least six consecutive months; or (C) any court or administrative body of competent jurisdiction shall enter a judgment, order or decree requiring the Borrower to cease all or any substantial part of its operations at any portion of the Facilities in a particular Series 2024 Participating County to such extent that, in the opinion of the Borrower expressed in a certificate of a Borrower Representative filed with the Issuer and the Trustee, the Borrower is or will be thereby prevented from carrying on its normal operations in a material manner at the Facilities for a period of at least six consecutive months; or (D) as a result of any changes in the Constitution of Wisconsin or the Constitution of the United States of America or of legislative or administrative action (whether state or federal) or by final decree, judgment or order of any court or administrative body (whether state or federal), the Loan Agreement shall have become void or unenforceable or impossible to perform in accordance with the intent and purposes of the parties as expressed in the Loan Agreement, or unreasonable burdens or excessive liabilities shall have been imposed on the Issuer or the Borrower, in the opinion of the Issuer or the Borrower, as applicable, expressed in a certificate of an Issuer Representative or a Borrower Representative, as applicable, filed with the Trustee, as a consequence of the Series 2024 Bonds or the Series 2024 Promissory Note being Outstanding, including without limitation federal, state or other ad valorem, property, income or other taxes not being imposed on the Facilities in a particular Series 2024 Participating County owed by the Borrower as of the date of the Loan Agreement. In the event that the Bonds are subject to redemption under Section 3.01(b)(1) of the Indenture, and all Facilities located within a Series 2024 Participating County have been subject to the above-described conditions, upon the redemption of the portion of the Bonds representing the Facilities in such Series 2024 Participating County, such Series 2024 Participating County's Pro Rata Share shall be reduced by a corresponding amount. For the avoidance of doubt, if a Series 2024 Participating County's Pro Rata Share is reduced to zero pursuant to its Limited Guaranty Agreement, then such Series 2024 Participating County shall be released from its obligations under its applicable Limited Guaranty Agreement in accordance with the terms and conditions set forth therein. Payment of the redemption price pursuant to Section 3.01(b)(1) of the Indenture shall be made with Eligible Funds.

At the Option of the 2024 Participating Counties. The Series 2024 Bonds are subject to redemption in whole, but not in part, at the option of the 2024 Participating Counties, so long as the 2024 Participating Counties are not in default under the Limited Guaranty Agreements, on any Business Day, at a redemption price equal to 100% of the principal amount thereof, without premium, plus accrued interest thereon to the redemption date upon the occurrence of each of the following conditions: (A) an Event of Default has occurred and is continuing, (B) the Series 2024 Bonds have been accelerated pursuant to the terms hereof and (C) all of the 2024 Participating Counties have unanimously agreed to exercise their option to redeem the Series 2024 Bonds. Series 2024 Bonds redeemed pursuant to Section 3.01(b)(2) of the Indenture are payable by 2024 Participating Counties in accordance with Section 4.05(d) of the Indenture. Payment of the redemption price pursuant to Section 3.01(b)(2) of the Indenture shall be made with Eligible Funds.

*Mandatory Redemption from Unused Proceeds.* The Series 2024 Bonds shall be redeemed prior to Stated Maturity, from any amounts of proceeds of the Series 2024 Bonds transferred from the Series 2024 Participating County Project Accounts in the Series 2024 Project Fund to the Series 2024 Bond Fund as provided in Section 4.03 of the Indenture upon the closing of the Series 2024 Participating County Project Accounts in the Series 2024 Project Fund. If there are moneys remaining in the Series 2024 Participating County Project Accounts in the Series 2024 Project Fund upon the closing thereof pursuant to Section 4.07 of the Loan Agreement and Section 4.03 of the Indenture, the Trustee shall establish a redemption date, which shall be within 45 days of the Trustee’s receipt of the certificate of a Borrower Representative establishing the Completion Date. The redemption price shall be 100% of the principal amount of the Series 2024 Bonds or portions thereof so redeemed, plus accrued interest to the redemption date. The Trustee shall call such Series 2024 Bonds for redemption and shall give notice of redemption without the necessity of any action by the Issuer or the Borrower. Payment of the redemption price pursuant to Section 3.01(c) of the Indenture shall be made with Eligible Funds.

*Mandatory Sinking Fund Redemption of the Series 2024 Bonds.* The Series 2024 Bonds maturing [ ] 1, 20[ ] and 20[ ] are subject to mandatory sinking fund redemption prior to maturity on [ ] 1 in each of the years and in the principal amount thereof shown in the following tables at a redemption price equal to 100% of the principal amount being redeemed, plus interest accrued thereon to the date fixed for redemption:

Term Bonds Maturing on [ ] 1, 20[ ]

<u>Payment Dates</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
([ ] 1)		

Term Bonds Maturing on [ ] 1, 20[ ]

<u>Payment Dates</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
([ ] 1)		

## EXHIBIT B

### LETTER OF REPRESENTATIONS

\_\_\_\_\_, 2024

Fond du Lac County, Wisconsin  
City/County Government Center  
160 S. Macy Street  
Fond du Lac, WI 54935

Samuel A. Ramirez & Company, Inc., as Representative of the Underwriters  
61 Broadway, 29<sup>th</sup> Floor  
New York, NY 10006

Ladies and Gentlemen:

Pursuant to a Bond Purchase Agreement, dated the date hereof (the “Bond Purchase Agreement”), between Fond du Lac County, Wisconsin (the “Issuer”) and Samuel A. Ramirez & Company, Inc. (the “Representative”) on behalf of itself, Robert W. Baird & Co. Incorporated and Oppenheimer & Co. Inc. (together, the “Underwriters”), which Bug Tussel 2, LLC (the “Company”) has approved, the Issuer proposes to sell its \$[PAR AMOUNT] Taxable Revenue Bonds, Series 2024 (Bug Tussel 2, LLC Project) (Social Bonds) (the “Bonds”) to the Underwriters.

The offering of the Bonds is described in a Limited Offering Memorandum, dated the date hereof (the “Limited Offering Memorandum”). Capitalized terms used and not defined herein have the meanings assigned to them in the Bond Purchase Agreement, or, if not defined therein, the Limited Offering Memorandum.

The Bonds are being issued pursuant to the laws of the State of Wisconsin, particularly Section 66.1103 of the Wisconsin Statutes, as amended (the “Act”) and an Indenture of Trust dated as of [September] 1, 2024 (the “Indenture”), between the Issuer and U.S. Bank Trust Company, National Association, as trustee (the “Trustee”), and pursuant to a resolution of the Issuer. The Bonds are special, limited obligations of the Issuer, payable solely from and secured by the Trust Estate (as defined in the Indenture). The Bonds are not and never will become general obligations of the Issuer, and the Bonds will be deemed not to constitute a debt of the State of Wisconsin (the “State”), or of any other political subdivision of the State or a pledge of the faith and credit of the State or any other political subdivision of the State. The issuance of the Bonds does not obligate, directly, indirectly or contingently, the State or any political subdivision thereof to levy any taxes or appropriate or expend any funds for the payment of the principal of, or interest on the Bonds. The Bonds are payable solely from the sources described therein and the holders thereof will never have the right to demand payment from moneys derived by taxation or any revenues of the Issuer except the funds pledged to the payment thereof.

Contemporaneously with the execution of the Indenture, the Issuer and the Company will enter into the following documents (collectively, the “Bond Documents”): (i) the Loan Agreement, dated as of [September] 1, 2024 (the “Loan Agreement”); (ii) a Guaranty Agreement, dated as of [September] 1, 2024, from Fond du Lac County (“Fond du Lac County”) to the Trustee and the Bond Insurer, pursuant to which Fond du Lac County will guarantee the payment of its pro rata share of the debt service reserve fund amount on the Bonds (the “Fond du Lac County Guaranty”); (iii) a Guaranty Agreement, dated as of [September] 1, 2024, from Iowa County (“Iowa County”) to the Trustee and the Bond Insurer, pursuant to which Iowa County will guarantee the payment of its pro rata share of the debt service reserve fund

amount on the Bonds (the “Iowa County Guaranty”); (iv) a Guaranty Agreement, dated as of [September] 1, 2024, from Forest County (“Forest County”) to the Trustee and the Bond Insurer, pursuant to which Forest County will guarantee the payment of its pro rata share of the debt service reserve fund amount on the Bonds (the “Forest County Guaranty”); (v) a Guaranty Agreement, dated as of [September] 1, 2024, from Price County (“Price County”) to the Trustee and the Bond Insurer, pursuant to which Price County will guarantee the payment of its pro rata share of the debt service reserve fund amount on the Bonds (the “Price County Guaranty”); (vi) a Guaranty Agreement, dated as of [September] 1, 2024, from Jefferson County (“Jefferson County”) to the Trustee and the Bond Insurer, pursuant to which Jefferson County will guarantee the payment of its pro rata share of the debt service reserve fund amount on the Bonds (the “Jefferson County Guaranty”); (vii) a Guaranty Agreement, dated as of [September] 1, 2024, from Lafayette County (“Lafayette County”) to the Trustee and the Bond Insurer, pursuant to which Lafayette County will guarantee the payment of its pro rata share of the debt service reserve fund amount on the Bonds (the “Lafayette County Guaranty”); (viii) a Guaranty Agreement, dated as of [September] 1, 2024, from Marathon County (“Marathon County”) to the Trustee and the Bond Insurer, pursuant to which Marathon County will guarantee the payment of its pro rata share of the debt service reserve fund amount on the Bonds (the “Marathon County Guaranty”); (ix) a Guaranty Agreement, dated as of [September] 1, 2024, from Waushara County (“Waushara County”) to the Trustee and the Bond Insurer, pursuant to which Waushara County will guarantee the payment of its pro rata share of the debt service reserve fund amount on the Bonds (the “Waushara County Guaranty”); (x) a Guaranty Agreement, dated as of [September] 1, 2024, from Sawyer County (“Sawyer County”) to the Trustee and the Bond Insurer, pursuant to which Sawyer County will guarantee the payment of its pro rata share of the debt service reserve fund amount on the Bonds (the “Sawyer County Guaranty”); (xi) a Guaranty Agreement, dated as of [September] 1, 2024, from Taylor County (“Taylor County” and, together with Fond du Lac County, Iowa County, Forest County, Price County, Jefferson County, Lafayette County, Marathon County, Waushara County and Sawyer County, the “Counties”) to the Trustee and the Bond Insurer, pursuant to which Taylor County will guarantee the payment of its pro rata share of the debt service reserve fund amount on the Bonds (the “Taylor County Guaranty” and, together with the Fond du Lac County Guaranty, the Iowa County Guaranty, the Forest County Guaranty, the Price County Guaranty, the Jefferson County Guaranty, the Lafayette County Guaranty, the Marathon County Guaranty, the Waushara County Guaranty and the Sawyer County Guaranty, the “Guarantees”); (xii) separate Reimbursement Agreements, each dated as of [September] 1, 2024 (collectively, the “Reimbursement Agreements”) with each of the Counties pursuant to which the Company will reimburse certain amounts to the Counties; and (xiii) all other Transaction Documents as defined in the Indenture.

The Company will undertake, pursuant to the Continuing Disclosure Agreement dated as of the date of delivery of the Bonds (the “Continuing Disclosure Agreement”), to provide annual audited financial statements, certain operating and financial information and notices of certain events relating to the Bonds. A description of this undertaking is set forth in the Limited Offering Memorandum.

In order to induce you to enter into the Bond Purchase Agreement and to make the sale and purchase and reoffering of the Bonds therein contemplated, the Company hereby represents, warrants and agrees with each of you as follows:

(a) The Company is a limited liability company duly organized and validly existing and in good standing under the laws of the State of Wisconsin and has all necessary material licenses and permits required to date to carry on its business and to operate the Project.

(b) The Company has the full right, power and authority to enter into, deliver and perform (i) the Limited Offering Memorandum; (ii) the Continuing Disclosure Agreement; (iii) the Bond Purchase Agreement; (iv) the Project Documents, if any; (v) the Bond Documents to which it is a party, and (vi) such other documents that are required by the Representative in



connection with the purchase of the Bonds hereunder (collectively, the “Company Documents”) and to perform other acts and obligations as provided for in each of the foregoing documents; provided that to the extent any of the Company Documents were executed prior to the date hereof, the Company had, as of the applicable date of execution, the requisite legal right, power and authority to enter into and perform its obligations thereunder.

(c) The Company has not received any notice of an alleged violation and the Company is not in violation of any zoning, land use or other similar law or regulation applicable to the Project which would have, or would reasonably be expected to have a Material Adverse Effect. For purposes of the Bond Purchase Agreement, with respect to the Company, a “Material Adverse Effect” means a material adverse effect on (i) the execution, delivery or performance by the Company of its obligations hereunder, under a Company Document; (ii) the issuance of the Bonds; (iii) the validity and enforceability of the Company Documents; (iv) the transactions contemplated by the Company Documents and/or the Limited Offering Memorandum; or (v) the business, operations, properties, management or condition (financial or otherwise) of the Company.

(d) The execution and delivery by the Company of the Company Documents and the other documents contemplated herein and therein and the compliance with the provisions of any and all of the foregoing documents and the application of the proceeds of the Bonds, together with certain other moneys, for the purposes described in the Limited Offering Memorandum, do not and will not conflict with or result in the breach of any of the terms, conditions or provisions of, or constitute a material default under, (i) the Articles of Organization or the Operating Agreement of the Company; (ii) any other material agreement, indenture, mortgage, lease or instrument by which the Company or any of their property is bound; or (iii) any existing law or court or administrative regulation, decree or order which is applicable to the Company.

(e) No default, event of default or, to the Company’s knowledge, event which, with notice or lapse of time, or both, would constitute an event of default under the Company Documents or any other material agreement or material instrument to which the Company is a party or by which it is bound or to which any of its respective property is subject has occurred and is continuing and no condition exists with respect to the Company that, with the passage of time or with the giving of notice or both, would constitute a default or Event of Default, as applicable, under any of the Company Documents.

(f) The Company has duly authorized and approved by all necessary action (i) the distribution and delivery of each of the Preliminary Limited Offering Memorandum and the Limited Offering Memorandum and the use thereof by the Underwriters; and (ii) any necessary action required to be taken by it for (a) the issuance and sale of the Bonds by the Issuer upon the terms and conditions set forth herein, in the Limited Offering Memorandum and in the Indenture; (b) the approval of the Bonds and the Indenture; (c) the approval and execution of the Limited Offering Memorandum; and (d) the execution, delivery and performance of the remaining Company Documents and any and all such other agreements and documents as may be required to be executed, delivered and performed by the Company in order to carry out, effectuate and consummate the transactions contemplated on the Company’s part by the Company Documents.

(g) At the Closing, no liens, encumbrances, covenants, conditions and restrictions, if any, will be then-existing (other than those previously disclosed to, with receipt thereof acknowledged by, the Representative or created on the date thereof pursuant to the Company Documents) which would interfere with or impair the operation, or materially adversely affect the

value, of the Project or the Company's other assets, given the purposes for which the same are being used.

(h) The Preliminary Limited Offering Memorandum did not, as of its date and as of the date hereof, and the Limited Offering Memorandum did not, as of its date, and will not as of the Closing Date, contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements made therein, in light of the circumstances under which they are made, not misleading; provided, however, that the Company does not make any representation or warranty as to the information under the captions: "THE BONDS – Bonds in Book-Entry Form," and "UNDERWRITING," and further makes no representation (A) to the Underwriters as to the reoffering prices specified on the inside cover page of the Limited Offering Memorandum or the information included in or omitted from the Preliminary Limited Offering Memorandum and the Limited Offering Memorandum under the caption "UNDERWRITING," (B) to the Issuer as to Issuer Portions, or (C) regarding DTC or its book-entry only system, including the information under the caption "THE BONDS – Bonds in Book-Entry Form." The Company hereby consents to the use of the Limited Offering Memorandum in connection with the limited offering of the Bonds by the Underwriters with Qualified Institutional Buyers and confirms that it has consented to the use of the Preliminary Limited Offering Memorandum for such purpose prior to the availability of the Limited Offering Memorandum.

(i) The Company will not take or omit to take any action which will in any way cause or result in the proceeds of the Bonds being applied in a manner other than as provided in the Bond Documents or as described in the Limited Offering Memorandum.

(j) Except as may be described in the Limited Offering Memorandum, there is no action, suit, proceeding, inquiry or investigation at law or in equity or before or by any public board or body pending or, to the knowledge of the Company, threatened in writing against the Company, or their respective members, or to the knowledge of the Company any meritorious basis therefor, wherein an unfavorable decision, ruling or finding would, or would reasonably be expected to, have a Material Adverse Effect, or would in any way contest the existence or powers of the Company.

(k) The Bond Purchase Agreement is, and upon their execution and delivery the other Company Documents will be, the legal, valid and binding obligations of the Company enforceable in accordance with their respective terms (subject to any applicable bankruptcy, reorganization, insolvency, moratorium or other laws affecting the enforcement of creditors' rights generally from time to time in effect and to applicable legal principles and procedural requirements if equitable and other specific remedies are sought and subject to the qualification that enforcement of the indemnification provisions of the Bond Purchase Agreement may be limited by Federal or State securities laws as the same may have been interpreted by judicial decisions).

(l) The Company agrees to cooperate reasonably with the Underwriters and their counsel in any endeavor to qualify the Bonds for offering and sale under the securities or "blue sky" laws of such jurisdictions of the United States as the Representative may reasonably request, provided that the Company shall not be required to qualify to do business in any jurisdiction where it is not now so qualified, or to take any action which would subject it to general service of process in any jurisdiction where it is not now so qualified, or to take any action which would subject it to general service of process in any jurisdiction where it is not now so subject. The

Company shall pay all reasonable expenses and costs (including reasonable legal fees) incurred in connection with such qualification.

(m) Subsequent to the date of the Preliminary Limited Offering Memorandum, there have been no material adverse changes in the assets, liabilities or condition of the Company, financial or otherwise, and neither the operations nor the properties of the Company have been adversely affected in any substantial way as the result of any fire, explosion, accident, strike, riot, flood, windstorm, earthquake, embargo, war or act of God.

(n) The Company is not in breach of or in default of, and no event has occurred and is continuing which, with the passage of time or the giving of notice, or both, would constitute a breach of or default of, the law of the State or the United States or administrative regulation of the State or the United States or any applicable judgment or decree or any indenture, financing agreement, note, resolution, agreement, or other instrument to which the Company is a party, or by which it or its properties are bound that would reasonably be expected to have a Material Adverse Effect.

(o) The proceeds received from the sale of the Bonds shall be used in accordance with the Indenture and as described in the Limited Offering Memorandum.

(p) The Company is not in default beyond any applicable cure period in the performance, observance or fulfillment of any material obligations, covenants or conditions contained in any Company Document executed prior to the date hereof that could reasonably be expected to have a Material Adverse Effect. No condition known to the Company exists that, with the giving of notice or the lapse of time or both, would constitute such a material default, or that would permit the counterparty to terminate a Company Document executed prior to the date hereof to which it is a party. To the knowledge of the Company, no counterparty to any Company Document executed prior to the date hereof is in default in the performance, observance or fulfillment of any material obligations, covenants or conditions contained in any of the Company Documents that could reasonably be expected to have a Material Adverse Effect.

(q) The factual information that was prepared by the Company was provided in good faith and to the best of the Company's knowledge was as of the date it was delivered and is as of the date hereof accurate and correct in all material respects and, in each case, to the best of the Company's knowledge, none of the factual information referenced above, as of the date hereof, is inaccurate in any material respect.

(r) Any undertakings of the Company arising from a Company Document which has been executed on or before the Closing Date represent valid and enforceable undertakings of the Company.

(s) Except for any obligations described in the Preliminary Limited Offering Memorandum, the Limited Offering Memorandum and the Company Documents, the Company has not incurred any liability, direct or contingent, nor, since the date of the Preliminary Limited Offering Memorandum, has there been any material adverse change in or effect on (i) the business, operations, properties, management or condition (financial or otherwise) of the Company, whether or not arising from transactions in the ordinary course of business, or (ii) its ability to perform its obligations under the Company Documents.

(t) To the extent the Company enters into a contract with an affiliate, (i) such affiliate has the right, power and authority to enter into, deliver and perform such contract; (ii)

such contract is legally valid and enforceable against such affiliate; and (iii) such contract represents an arms' length transaction between the Company and the affiliate.

(u) The Company is not required to register as an "investment company" within the meaning of the Investment Company Act of 1940, as amended, and is not "controlled" by a company required to register as an "investment company" under the Investment Company Act of 1940, as amended.

(v) There are no contracts or other documents to which the Company is a party that are material to the Company and material to an investor for purposes of deciding whether to invest in the Bonds that have not been described or referred to in the Preliminary Limited Offering Memorandum and the Limited Offering Memorandum.

(w) Any certificate signed by an authorized officer of the Company and delivered to the Underwriters, the Issuer or the Trustee shall be deemed a representation and warranty of the Company (and not the individual executing such certificate) to the Underwriters, the Issuer or the Trustee as to the statements made therein.

(x) At all times since its formation, (i) the Company has been a single purpose entity created for the purposes, among other things, of financing, acquiring, constructing, owning and operating the Project, as defined in the Bond Purchase Agreement, and the "Project," as defined in the Loan Agreement, and certain earlier iterations thereof, and related facilities and the activities related or incident thereto; (ii) the Company has not engaged in any business unrelated to the acquisition, construction, ownership and operation of the Project and certain earlier iterations thereof, and related facilities and the activities related or incident thereto; and (iii) the Company does not have any assets, liabilities or obligations other than those related to the Project, as defined in the Bond Purchase Agreement, and the "Project," as defined in the Loan Agreement, and related facilities.

(y) The Company has not currently entered into any Project Documents and currently does not hold or purport to hold any material personal or real property related to the Project.

(z) All approvals, consents, and orders of any governmental authority, board, agency, or commission having jurisdiction that are required to have been obtained for the construction and operation of the Project have been obtained or will be obtained prior to the Closing Date other than those that are not yet required to be obtained as of the Closing Date. The Company has no reason to believe that it will not be able to obtain any approvals, consents, and orders of any governmental authority, board, agency, or commission having jurisdiction that are required to have been obtained for the construction and operation of the Project that will not be obtained as of the Closing Date.

(aa) The Company has not entered into any continuing disclosure undertakings pursuant to Rule 15c2-12 prior to the date hereof.

(bb) Hilbert has not failed to comply with any prior continuing disclosure undertakings entered into by or on behalf of Hilbert pursuant to Rule 15c2-12.

(cc) The Company shall not supplement or amend the Limited Offering Memorandum or cause the Limited Offering Memorandum to be supplemented or amended without the prior written consent of the Representative.

(dd) Except with respect to the Articles of Organization dated as of [\_\_\_\_], 2024, and effective on the Closing Date and the Sole Member Operating Agreement dated as of [\_\_\_\_], 2024, and effective on the Closing Date, the Company shall not otherwise amend, terminate, or rescind, and will not agree to any amendment, termination, or rescission of any organizational documents of the Company prior to the Closing Date without the prior written consent of the Representative, which shall not be unreasonably withheld, conditioned or delayed.

(ee) The Company shall promptly advise the Underwriters, by written notice, of any matter arising or discovered after the date of the Bond Purchase Agreement and prior to the Closing Date that if existing or known on the date hereof would render any of the representations or warranties set forth herein to be untrue or misleading or is reasonably expected to adversely affect the correctness or completeness of any statement of material fact regarding the Company contained in the Limited Offering Memorandum; or any developments that affect the accuracy and completeness of the key representations (within the meaning of Rule 15c2-12) regarding the Company contained in the Limited Offering Memorandum that may occur during the Update Period.

(ff) Prior to the Closing Date and other than as set forth in the Company Documents, the Company shall not create, assume, or guarantee any indebtedness payable from, or pledge or otherwise encumber, the revenues, assets, properties, funds, or interests that will be pledged pursuant to the Indenture as part of the Trust Estate.

(gg) The Company shall not undertake any course of action inconsistent with satisfaction of the requirements applicable to it as set forth in the Bond Purchase Agreement or any of the Company Documents.

(hh) The Company shall cooperate with the Underwriters in the qualification of the Bonds for offering and sale and the determination of their eligibility for investment under the laws of such jurisdictions as the Representative may designate.

(ii) On or prior to the Closing Date, the Company will enter the Continuing Disclosure Agreement with the Trustee substantially in the form attached to the Preliminary Limited Offering Memorandum and will comply with the requirements contained therein.

(jj) The Company agrees that it will not take or omit to take any action within its reasonable control that would prevent the Bonds from being issued and delivered to the Underwriters on the Closing Date as provided in the Bond Purchase Agreement.

(kk) The Company agrees to promptly provide written notice to the Representative, of any litigation, action, suit or proceeding or investigation at law or in equity before or by any court, public board, or body brought against the Company in writing with respect to the Bonds, the Preliminary Limited Offering Memorandum, the Limited Offering Memorandum or the other Company Documents or the transactions described therein during the Update Period.

If, after the date of the Limited Offering Memorandum to and including the date the Underwriters are no longer required to provide a Limited Offering Memorandum to potential customers who request the same pursuant to the Rule (the earlier of (i) 90 days from the “end of the underwriting period” (as defined in the Rule) and (ii) the time when the Limited Offering Memorandum is available to any person from a nationally recognized municipal securities repository, but in no case less than 25 days after the “end of the underwriting period” for the Bonds), any event shall occur which might or would cause the Limited Offering Memorandum, as then supplemented or amended, to contain an untrue statement of a

material fact or to omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, the Company shall notify the Issuer and the Underwriters and, if in the opinion of counsel to the Company, the Issuer or the Representative, such event requires the preparation and publication of a supplement or amendment to the Limited Offering Memorandum, the Company will request the Issuer to cause the Limited Offering Memorandum to be amended or supplemented in a form and in a manner approved in writing by the Representative. All costs of any such amendment shall be borne by the Company. The Closing Date shall be the end of the underwriting period, unless the Representative shall have otherwise advised the Issuer and the Company in writing on or prior to the Closing Date.

For twenty-five days from the date of the end of the underwriting period (as described in the previous paragraph), the Company will (a) not participate in the issuance of any amendment of or supplement to the Limited Offering Memorandum to which, after being furnished with a copy, the Underwriters or the Issuer shall reasonably object in writing or which shall be disapproved by counsel to the Underwriters or the Issuer and (b) if any event relating to or affecting the Bonds or the Issuer or the Company shall occur as a result of which it is necessary, in the opinion of counsel for the Company, the Underwriters or the Issuer, to amend or supplement the Limited Offering Memorandum in order to make the Limited Offering Memorandum not misleading in the light of the circumstances under which the statements therein were made, forthwith prepare and furnish to the Underwriters and the Issuer (at the expense of the Company) a reasonable number of copies of an amendment of or supplement to the Limited Offering Memorandum (in form and substance satisfactory to counsel for the Underwriters and counsel to the Issuer) which will amend or supplement the Limited Offering Memorandum so that it will not contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. For the purposes of this subsection, the Company will furnish such information with respect to itself as you may from time to time reasonably request.

The Company agrees to indemnify and hold harmless the Issuer, each of the Counties, the Underwriters, the members, directors, officers, employees and agents of the Issuer, each of the Counties, and the Underwriters and each person who controls the Issuer, each of the Counties, or the Underwriters within the meaning of either the Securities Act or the Exchange Act against any and all losses, claims, damages or liabilities, joint or several, to which they or any of them may become subject under the Securities Act, the Exchange Act or other federal or state statutory law or regulation, at common law or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon (i) a claim in connection with the public offering of the Bonds to the effect that the Bonds or any related security are required to be registered under the Securities Act or the Indenture is required to be qualified under the Trust Indenture Act, (ii) any untrue statement or alleged untrue statement of a material fact contained in the Preliminary Limited Offering Memorandum or the Limited Offering Memorandum (or in any supplement or amendment thereto) or the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, and agrees to reimburse each such indemnified party, as incurred, for any reasonable third party legal or third party other expenses reasonably incurred by them in connection with investigating or defending any such loss, claim, damage, liability or action; provided, however, that the Company will not be liable in any such case to the Underwriters to the extent that any such loss, claim, damage or liability arises out of or is based upon any such untrue statement or alleged untrue statement or omission or alleged omission made in the Preliminary Limited Offering Memorandum or the Limited Offering Memorandum, or in any amendment thereof or supplement thereto, in reliance upon and in conformity with written information furnished to the Company by or on behalf of the Underwriters specifically for inclusion therein, such information being limited to the information appearing under the caption "UNDERWRITING" and information relating to the initial offering prices of the Bonds appearing on the inside cover of the Limited Offering

Memorandum or to the Issuer to the extent that any such loss, claim, damage or liability arises out of or is based upon any such untrue statement or alleged untrue statement or omission or alleged omission made in the Preliminary Limited Offering Memorandum or the Limited Offering Memorandum, or in any amendment thereof or supplement thereto, in reliance upon and in conformity with written information furnished to the Company by or on behalf of the Issuer specifically for inclusion therein, such information being limited to the information appearing under the caption "THE ISSUER." This indemnity agreement will be in addition to any liability which the Company may otherwise have.

Promptly after receipt by an indemnified party under this paragraph of notice of the commencement of any action, such indemnified party will, if a claim in respect thereof is to be made against the indemnifying party under this paragraph, notify the Company in writing of the commencement thereof; but the failure so to notify the Company (i) will not relieve the Company from liability under the preceding paragraph unless and to the extent it did not otherwise learn of such action and such failure results in the forfeiture by the Company of substantial rights and defenses; and (ii) will not, in any event, relieve the Company from any obligations that it might otherwise have to any indemnified party other than the indemnification obligation provided in the preceding paragraph. The Company shall be entitled to appoint counsel of its choice at the expense of the Company to represent the indemnified party in any action for which indemnification is sought (in which case the Company shall not thereafter be responsible for the fees and expenses of any separate counsel retained by the indemnified party or parties except as set forth below); provided, however, that such counsel shall be reasonably satisfactory to the indemnified party. Notwithstanding the Company's election to appoint counsel to represent the indemnified party in an action, the indemnified party shall have the right to employ separate counsel (including local counsel), and the Company shall bear the reasonable third party fees, costs and expenses of such separate counsel if (i) the use of counsel chosen by the Company to represent the indemnified party would present such counsel with a conflict of interest; (ii) the actual or potential defendants in, or targets of, any such action include both the indemnified party and the Company, and the indemnified party shall have reasonably concluded that there may be legal defenses available to it and/or other indemnified parties which are different from or additional to those available to the Company; (iii) the Company shall not have employed counsel reasonably satisfactory to the indemnified party to represent the indemnified party within a reasonable time after notice of the institution of such action; or (iv) the Company shall authorize the indemnified party to employ separate counsel at the expense of the Company. The Company will not, without the prior written consent of the indemnified parties, settle or compromise or consent to the entry of any judgment with respect to any pending or threatened claim, action, suit or proceeding in respect of which indemnification or contribution may be sought hereunder (whether or not the indemnified parties are actual or potential parties to such claim or action) unless such settlement, compromise or consent includes an unconditional release of each indemnified party from all liability arising out of such claim, action, suit or proceeding for which the Company is obligated for indemnification as provided herein.

In the event that the indemnity provided is unavailable to or insufficient to hold harmless an indemnified party for any reason, the Company and the Underwriters agree to contribute to the aggregate losses, claims, damages and liabilities (including legal or other expenses reasonably incurred in connection with investigating or defending same) (collectively "Losses") to which the Company and the Underwriters may be subject in such proportion as is appropriate to reflect the relative benefits received by the Company on the one hand and by the Underwriters on the other from the offering of the Bonds. If the allocation provided by the immediately preceding sentence is unavailable for any reason, the Company and the Underwriters shall contribute in such proportion as is appropriate to reflect not only such relative benefits but also the relative fault of the Company on the one hand and of the Underwriters on the other in connection with the statements or omissions which resulted in such Losses, as well as any other relevant equitable considerations. In no case shall the Underwriters be responsible for any amount in excess of the purchase discount or commission applicable to the Bonds purchased by the Underwriters under the Bond Purchase Agreement. Benefits received by the Company shall be deemed to be equal to

the total net proceeds from the offering (before deducting expenses) received by it, and benefits received by the Underwriters shall be deemed to be equal to the total purchase discounts and commissions in each case set forth in the Limited Offering Memorandum. Relative fault shall be determined by reference to, among other things, whether any untrue or any alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information provided by the Company on the one hand or the Underwriters on the other, the intent of the parties and their relative knowledge, information and opportunity to correct or prevent such untrue statement or omission. The Company and the Underwriters agree that it would not be just and equitable if contribution were determined by pro rata allocation or any other method of allocation which does not take into account the equitable considerations referred to above. Notwithstanding the provisions of this paragraph, no person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. For purposes of this paragraph, each person who controls the Underwriters within the meaning of either the Securities Act or the Exchange Act and each director, officer, employee and agent of the Underwriters shall have the same rights to contribution as the Underwriters, and each person who controls the Company within the meaning of either the Securities Act or the Exchange Act and each official, director, officer and employee of the Company shall have the same rights to contribution as the Company, subject in each case to the applicable terms and conditions of this paragraph.

Except as disclosed in the Limited Offering Memorandum, the Company is not engaged in termination proceedings as to its participation in third party reimbursement, insurance or payment arrangements nor has it received notice that its current participation in any third party reimbursement, insurance or payment arrangement is subject to any contest, termination or suspension as a result of alleged violations or any noncompliance with participation requirements.

The representations, warranties, agreements and indemnities herein shall survive the Closing under the Bond Purchase Agreement and any investigation made by or on behalf of any of you or any person who controls any of you of any matters described in or related to the transactions contemplated hereby and by the Indenture, the Loan Agreement, the Continuing Disclosure Agreement, the Bond Purchase Agreement and the Limited Offering Memorandum.

The Company hereby agrees to pay the expenses described in the Bond Purchase Agreement, subject to the provisions of the Bond Purchase Agreement and to pay any expenses incurred in amending or supplementing the Limited Offering Memorandum pursuant to the Bond Purchase Agreement or this Letter of Representations.

This Letter of Representations shall be binding upon and inure solely to the benefit of each of you and the Company and, to the extent set forth herein, persons controlling any of you, and their respective members, officers, employees, agents and personal representatives, successors and assigns, and no other person or firm shall acquire or have any right under or by virtue of this Letter of Representations. No recourse under or upon any obligation, covenant or agreement contained in this Letter of Representations shall be had against any officer or director of the Company as individuals.

All tax returns (federal, state and local) required to be filed by or on behalf of the Company as of the date hereof (giving effect to any extension of filing date therefor) have been filed, and all taxes shown thereon to be due, including interest and penalties, except such, if any, as are being actively contested by the Company in good faith, have been paid or adequate reserves have been made for payment thereof.

Except for (A) the information under the captions "THE BONDS – Bonds in Book-Entry Form," (B) the maturities, interest rates and prices specified on the inside cover page of the Limited Offering Memorandum or the information included in or omitted from the Preliminary Limited Offering



Memorandum and the Limited Offering Memorandum under the caption “UNDERWRITING,” (C) the Issuer Portions and (D) information regarding DTC or its book-entry only system, including the information under the caption “THE BONDS – Bonds in Book-Entry Form,” the Company hereby confirms that the Preliminary Limited Offering Memorandum was “deemed final” as of its date for purposes of SEC Rule 15c2-12.

The Company acknowledges and agrees that: (i) the primary role of the Underwriters is to purchase the Bonds for resale to investors in an arm’s length, commercial transaction between the Issuer, the Company and the Underwriters in which the Underwriters are acting solely as a principal and is not acting as a municipal advisor, financial advisor, agent or fiduciary to the Issuer or the Company; (ii) the Underwriters have not assumed any advisory or fiduciary responsibility to the Issuer or the Company with respect to the transaction contemplated hereby and the discussions, undertakings and procedures leading thereto; (iii) the only obligations that the Underwriters have to the Issuer or the Company with respect to the transaction contemplated hereby are expressly set forth in the Bond Purchase Agreement (provided that nothing in this clause shall be construed to eliminate any state law requirement of good faith and fair dealing between parties to a commercial transaction); (iv) the Company has consulted with its own legal, accounting, tax, financial and other advisors, as applicable, to the extent it has deemed appropriate; and (v) the Underwriters have financial and other interests that differ from those of the Issuer and the Company.

This Letter of Representations may be executed in any number of counterparts and all such counterparts shall together constitute one and the same instrument.

Very truly yours,

BUG TUSSEL 2, LLC

By: \_\_\_\_\_  
Name:  
Title:

Accepted and Agreed to:

SAMUEL A. RAMIREZ & COMPANY, INC., as Representative

By: \_\_\_\_\_  
Name:  
Title:

FOND DU LAC COUNTY, WISCONSIN

By: \_\_\_\_\_  
Name: Steven A. Abel  
Title: County Chairperson

By: \_\_\_\_\_  
Name: Lisa Freiberg  
Title: County Clerk

## **EXHIBIT C**

### **BOND COUNSEL SUPPLEMENTAL OPINION POINTS**

1. The Approving Opinion is incorporated herein by reference, and the addressees hereof may rely on the Approving Opinion to the same extent as if it was addressed to you.
2. The Bonds are exempt from registration under the Securities Act of 1933, as amended, and the Indenture is exempt from qualification under the Trust Indenture Act of 1939, as amended.
3. The statements in the Preliminary Limited Offering Memorandum and the Limited Offering Memorandum under the captions “INTRODUCTION – Security for the Bonds,” “THE BONDS” (except for information regarding DTC), “SECURITY AND SOURCE OF PAYMENT FOR THE BONDS,” “TAX MATTERS,” and in Appendix D thereto insofar as such statements purport to summarize certain provisions of the Bonds, the Transaction Documents or provisions of federal or state of Wisconsin income tax laws relating to interest on the Bonds are accurate in all material respects and present a fair summary of the matters described therein, and we have no reason to believe that the statements contained under such captions of the Preliminary Limited Offering Memorandum, as of its date and as of the date of the Bond Purchase Agreement, and the Limited Offering Memorandum, as of its date and as of the date hereof, contain any untrue statement of a material fact or omits to state a material fact that is necessary to make the statements made therein, in light of the circumstance under which they were made, not misleading.

**EXHIBIT D**

**FORM OF ISSUER'S COUNSEL OPINION**

[\_\_\_\_\_, 2024]

Fond du Lac County  
City/County Government Center  
160 South Macy Street  
Fond du Lac, WI 54935

U.S. Bank Trust Company, National Association  
1555 North RiverCenter Drive, Suite 203  
Milwaukee, WI 53212

Husch Blackwell LLP  
511 North Broadway, Suite 1100  
Milwaukee, WI 53202

Samuel A. Ramirez & Company, Inc., as  
Representative  
61 Broadway, 29<sup>th</sup> Floor  
New York, NY 10006

Re: [\$\_\_\_\_\_] Fond du Lac County, Wisconsin, Taxable Revenue Bonds, Series 2024  
(Bug Tussel 2, LLC Project) (Social Bonds)

Ladies and Gentlemen:

We have acted as special counsel to Fond du Lac County, Wisconsin (the "Issuer") in connection with the authorization and issuance by the Issuer of the above-referenced issue of Bonds (the "Bonds"). Among other things we have examined:

- a. a Loan Agreement (the "Loan Agreement") dated as of [September] 1, 2024 between the Issuer and Bug Tussel 2, LLC, a Wisconsin limited liability company (the "Borrower");
- b. an Indenture of Trust (the "Indenture") dated as of [September] 1, 2024 between the Issuer and U.S. Bank Trust Company, National Association, as Trustee;
- c. a Bond Purchase Agreement (the "Bond Purchase Agreement") dated September [\_\_\_], 2024 between the Issuer and Samuel A. Ramirez & Company, Inc. as representative of the underwriters for the Bonds and the Letter of Representations by the Borrower and accepted and agreed to by Samuel A. Ramirez & Company, Inc. and the Issuer;
- d. a specimen copy of the Bonds;
- e. certified copies of resolutions adopted by the Issuer's governing body on May 21, 2024 and [\_\_\_\_\_] 2024 relating to the issuance of the Bonds (the "Issuer Resolutions");
- f. other certificates of the Issuer; and
- g. such other documents, instruments, certificates and opinions that we consider necessary in order to render this opinion.

The documents referred to in a., b., c., and d. above are hereinafter collectively referred to as the "Bond Documents."

In rendering our opinions, we have made the following assumptions:

(a) Other than with respect to the Issuer, we have assumed the due execution and delivery of documents submitted to us by Husch Blackwell LLP, as bond counsel for the Bonds, in the form so submitted by all parties thereto, and that all legal requirements applicable to such parties, as to the issuance of the Bonds, and the documents and instruments executed in connection therewith have been satisfied. We have assumed that the proceedings adopted by the Issuer with respect to the Bonds comply with the procedural requirements of Section 66.1103 of Wisconsin Statutes, as amended (the "Act").

(b) With certain exceptions, we are qualified to practice law only in the State of Wisconsin and we do not purport to be experts on, or express any opinion herein concerning, any law other than the present internal laws of the State of Wisconsin.

(c) This opinion deals only with specific legal issues that it explicitly addresses and no opinions shall be implied as to matters not so addressed. Without limiting the foregoing, we express no opinion herein as to any provision affording indemnification, or any provision waiving the right to jury trial, and we give no opinion as to zoning, land use or subdivision laws and regulations, matters relating to federal or state tax or securities laws, and procedural compliance with the Act.

(d) We bring to your attention the fact that our legal opinions are an expression of professional judgment and are not a guarantee of a result. Additionally, we do not undertake to advise you of matters which may come to our attention subsequent to the date hereof which may affect our legal opinions expressed herein.

(e) Our opinions are limited to the extent that validity or enforceability of any document is limited by:

- (1) applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance, marshaling and other similar laws in effect from time to time affecting the rights and remedies of creditors, theories regarding the adequacy or sufficiency of consideration and/or fair value;
- (2) limitations imposed by general principles of equity upon the specific enforceability of any of the remedies or other provisions of such documents and upon the availability of injunctive relief and other equitable remedies (regardless of whether enforcement is considered in proceedings at law or in equity); and
- (3) subject to the qualification that certain provisions of such documents may not be enforceable in whole or in part under the laws of the State of Wisconsin but the inclusion of such provisions does not affect the validity of any such documents as a whole and each of such documents contains legally adequate provisions for the realization of the principal legal rights and benefits.

In arriving at the opinions expressed below, we have examined and relied upon originals or copies, certified or otherwise identified to our satisfaction, of such records of the Issuer and have made such investigation of law as we have deemed appropriate. In delivering the opinions expressed below, we are relying upon facts certified as true in the certified transcript of the proceedings or represented to us as true by officers of the Issuer, and have not undertaken to verify any fact by independent investigation.

Based upon the foregoing, it is our opinion that:

1. The Issuer is a political subdivision duly organized and existing under the Constitution and laws of the State of Wisconsin, and has the corporate power and authority to carry out and consummate all transactions contemplated by the Bond Documents.

2. The Bond Documents have been duly authorized, executed and delivered by the Issuer, and assuming the due authorization, execution and delivery of the Loan Agreement, Indenture and Bond Purchase Agreement by the other parties thereto, the Bond Documents constitute legal, valid and binding obligations of the Issuer, enforceable in accordance with their respective terms.

3. Adoption of the Issuer Resolutions and the execution, delivery and performance of each Bond Document by the Issuer will not violate any provision of Wisconsin law or, to the best of our knowledge, any applicable judgment, order or regulation of any court or of any public or governmental agency or authority of the State of Wisconsin.

4. We are not representing the Issuer in any pending or threatened action, suit, proceeding, or investigation at law or in equity before or by any court, public board, or body wherein any unfavorable decision, ruling or finding would adversely affect the transactions contemplated by or the validity of the Bonds or the other Bond Documents.

5. The Issuer Resolutions were each validly adopted at meetings of the governing body of the Issuer duly called, noticed and held. Notice for such meetings was posted prior thereto and the media notified in conformity with the requirements of Section 19.84, Wisconsin Statutes, as amended.

As used herein, "our knowledge" means the conscious awareness of the attorneys in our firm who have been involved in providing legal services to the Issuer in connection with the Issuer Resolutions, the Bond Documents and the other documents that are the subject of our legal opinions set forth herein.

This opinion is given as of the date hereof and we assume no obligation to update, revise, or supplement this opinion to reflect any facts or circumstances that may hereafter come to our attention or any changes in law that may hereafter occur.

This opinion is furnished by us in our capacity as counsel to the Issuer and is subject to the following matters, which by your acceptance of this opinion you recognize and acknowledge: (1) that we have not been engaged to act, and have not acted, as counsel to any addressee of this opinion (an "Addressee") other than the Issuer for any purpose in connection with the issuance of the Bonds; (2) that no attorney-client relationship exists or has at any time existed between us and any Addressee other than the Issuer in connection with the Bonds or by virtue of this opinion; and (3) that this opinion is based upon our review of proceedings and other documents undertaken as part of our engagement with the Issuer, and in order to deliver this opinion we neither undertook any duties or responsibilities to any Addressee other than the Issuer nor conducted any activities in addition to those undertaken or conducted for the benefit of, and requested by, the Issuer. This opinion is not intended to be relied upon by any party to whom it is not specifically addressed.

**Very truly yours,**

## EXHIBIT E

### FORM OF COMPANY COUNSEL OPINION

Fond du Lac County, for itself and as collateral  
agent for the Participating Counties  
City/County Government Center  
160 South Macy Street  
Fond du Lac, WI 54935

U.S. Bank Trust Company, National Association  
1555 North RiverCenter Drive, Suite 203  
Milwaukee, WI 53212

Husch Blackwell LLP, as Bond Counsel  
511 North Broadway, Suite 1100  
Milwaukee, WI 53202

Samuel A. Ramirez & Company, Inc., as  
Representative  
61 Broadway, 29<sup>th</sup> Floor  
New York, NY 10006

Quarles & Brady LLP  
411 East Wisconsin Avenue  
Suite 2400  
Milwaukee, Wisconsin 53202-4428

To each Participating County set forth on Schedule  
I hereto

Re: \$[ ] Fond du Lac County, Wisconsin  
Taxable Revenue Bonds, Series 2024  
(Bug Tussel 2, LLC Project) (Social Bonds)

To Whom it May Concern:

We have served as borrower's counsel to Bug Tussel 2, LLC, a Wisconsin limited liability company (the "Borrower") and Hilbert Communications, LLC, a Wisconsin limited liability company (the "Guarantor") in connection with the issuance and sale by Fond du Lac County, Wisconsin (the "Issuer"), of the bonds referenced above (the "Bonds"), which are being issued pursuant to an Indenture of Trust dated as of [September] 1, 2024 (the "Indenture") between the Issuer and U.S. Bank Trust Company, National Association, as trustee (the "Trustee").

We are familiar with the Borrower and the Guarantor and their affairs, and we have examined the following documents relating to the Bonds:

- (a) Loan Agreement dated as of [September] 1, 2024 (the "Loan Agreement"), between the Issuer and the Borrower;
- (b) Indenture between the Issuer and the Trustee;
- (c) Promissory Note dated as of [September] 1, 2024 (the "Promissory Note"), from the Borrower to the Issuer, and assigned by the Issuer to the Trustee;
- (d) Preliminary Limited Offering Memorandum, dated as of [September ], 2024 (the "Preliminary Limited Offering Memorandum") and final Limited Offering Memorandum, dated as of September [ ], 2024, of the Borrower (collectively, the "Limited Offering Memorandum"), pursuant to which the Bonds have been sold;
- (e) Bond Purchase Agreement dated September [ ], 2024 (the "Bond Purchase Agreement"), among the Issuer and Samuel A. Ramirez & Company, Inc., as representative of the underwriters, with the



Letter of Representations from the Borrower and accepted and agreed to by the Issuer and the representative of the underwriters;

(f) Continuing Disclosure Agreement dated as of [September] 1, 2024, between the Borrower and the Trustee;

(g) the respective Reimbursement Agreements dated as of [September] 1, 2024 between the Borrower and (i) Fond du Lac County, (ii) Iowa County (iii) Forest County, (iv) Price County, (v) Jefferson County, (vi) Lafayette County, (vii) Marathon County, (viii) Waushara County, (ix) Sawyer County, and (x) Taylor County (each a “Participating County”);

(h) the respective Guaranty Agreements from the Guarantor to each Participating County (collectively, the “Guaranties”);

(i) the Pledge of Membership Interest Agreement dated as of [September] 1, 2024, between the Guarantor and the Issuer, as collateral agent (the “Pledge Agreement” and, together with the Guaranties, the “Hilbert Documents”);

(j) the form of Facilities Access Agreement, the form of the UCC filing statement and the form of Leasehold Mortgage;

The documents listed in (a) through (j) above are referred to herein as the “Transaction Documents.”

We have examined originals or copies of such records of the Borrower, Guarantor, certificates of public officials and other documents as we have deemed relevant and necessary to render this opinion. Also, in rendering this opinion, we have, with your permission, relied on the certificates of the Borrower and Guarantor delivered in connection with the issuance and sale of the Bonds (the “Certificates”) attached hereto as Exhibit A as to certain factual matters. In addition, we have assumed the following:

(i) The genuineness of the signatures of persons (other than those officer(s) of the Borrower and the Guarantor) signing all documents in connection with which this opinion is rendered on behalf of parties thereto;

(ii) The authenticity of all documents submitted to us as originals or execution copies;

(iii) The conformity to authentic original documents of all documents submitted to us as certified, conformed or photostatic copies;

(iv) That each of the parties to the Transaction Documents which are registered entities, other than the Borrower and the Guarantor, is a corporation, limited liability company or association duly organized and validly existing under the laws of its jurisdiction of incorporation or organization;

(v) That each of the parties to the Transaction Documents which are registered entities, other than the Borrower and the Guarantor, has the necessary right, power and authority to execute and deliver, and perform its obligations under the Transaction Documents; the transactions therein contemplated have been duly authorized by all parties thereto which are registered entities, other than the Borrower and the Guarantor; and the Transaction Documents constitute the legal, valid and binding obligations of all parties thereto, other than the Borrower and the Guarantor;

(vi) That the Transaction Documents have been duly executed, delivered and accepted by all parties thereto, other than the Borrower and the Guarantor;

(vii) That all natural persons who are signatories to the Transaction Documents were legally competent at the time of execution;

(viii) That the Borrower and the Guarantor have each received adequate consideration with respect to the execution and delivery of those Transaction Documents to which it is a party;

Based upon the foregoing, but subject to the assumptions, qualifications and limitations set forth herein, it is our opinion that:

1. Based solely on a certificate of the Wisconsin Department of Financial Institutions, the Borrower is a limited liability company duly organized and validly existing under the laws of the State of Wisconsin.

Based solely on a certificate of the Wisconsin Department of Financial Institutions, the Guarantor is a limited liability company duly organized and validly existing under the laws of the State of Wisconsin.

2. The Borrower is duly licensed or qualified to do business in the State of Wisconsin and each other state in which the ownership of property or the transaction of business by the Borrower requires that the Borrower be licensed or qualified and in which the failure to qualify would have a material adverse effect on the Borrower.

The Guarantor is duly licensed or qualified to do business in the State of Wisconsin and each other state in which the ownership of property or the transaction of business by the Guarantor requires that the Guarantor be licensed or qualified and in which the failure to qualify would have a material adverse effect on the Guarantor.

3. The Borrower has full right and authority to acquire, improve, equip and own and operate the Project (as that term is defined in the Loan Agreement) to be financed by the Bonds (the "Series 2024 Project") and conduct its business as contemplated in the Transaction Documents and the Limited Offering Memorandum and has the full right, authority and legal capacity to execute and deliver, and to consummate the transactions contemplated by, the Transaction Documents and to carry out the terms thereof.

The Guarantor has full right and authority to enter into and perform its obligations under the Hilbert Documents and has the full right, authority and legal capacity to execute and deliver, and to consummate the transactions contemplated by the Hilbert Documents and to carry out the terms thereof.

4. The Transaction Documents have been duly and validly authorized, executed and delivered by the Borrower and said Transaction Documents are valid and legally binding obligations of the Borrower, enforceable against the Borrower in accordance with the terms of such Transaction Documents.

5. The Hilbert Documents have been duly and validly authorized, executed and delivered by the Guarantor and said Hilbert Documents are valid and legally binding obligations of the Guarantor, enforceable against the Guarantor in accordance with the terms of such Hilbert Documents.

6. The execution and delivery of the Transaction Documents and the consummation of the transactions contemplated by the Transaction Documents and the carrying out of the terms thereof will not (a) constitute a breach or violation of the Articles of Organization or Operating Agreement of the Borrower or the Guarantor (in all such cases, as amended, amended and restated, or otherwise modified as of the date hereof); (b) violate any present law or administrative rule or regulation or any court order or decree to which the Borrower or the Guarantor is subject; (c) violate any provision of or result in a default under any

indenture, mortgage, deed of trust, indebtedness, agreement, judgment, decree, order, statute, rule or regulation to which the Borrower or the Guarantor is a party or by which it or any of its property is bound and which has been identified to us in the Certificates as being material to the financial condition of the Borrower or the Guarantor, taken as a whole, including without limitation, [the loan agreement and security agreement, each dated June 11, 2021, among Guarantor, certain of its affiliates, and American National Bank- Fox Cities **[COMPANY TO CONFIRM WHETHER NEW BUG TUSSEL ENTITY WILL BE PARTY TO/PART OF THIS LOAN AND STATUS OF LOAN]**], and those certain promissory notes and security agreements benefiting certain current and former unit holders and related parties of the Guarantor]; or (d) to our knowledge, result in the creation of any lien, charge or encumbrance on any property or assets of the Borrower or the Guarantor, except as contemplated by the Transaction Documents.

7. There is no action, suit, or proceeding, inquiry or investigation, either administrative or judicial, at law or in equity, before or by any court, governmental agency, board, or body pending, or, to the knowledge of such counsel after due inquiry, threatened against or affecting the Borrower or the Guarantor that seeks to (a) contest or affect the limited liability company existence or powers of the Borrower or the Guarantor; (b) contest or affect the power of the Borrower or the Guarantor to enter into and perform its obligations or consummate the transactions contemplated under the Transaction Documents; (c) in any way contest or affect the authority for the issuance and delivery of the Bonds or the validity of the Indenture or the Transaction Documents; or (d) restrain or enjoin the issuance or delivery of any of the Bonds or the collection of revenues pledged under the Loan Agreement.

8. Except for the filing of the Financing Statement in the appropriate governmental office, the execution and delivery by the Borrower of the Transaction Documents and the carrying out of the terms thereof do not require any approval or consent of, or filing or registration with, any governmental or other agency or authority, except as has been obtained or completed on or prior to the date hereof.

9. No permit, consent, approval, authorization, registration, filing with or other action is required to be obtained by the Borrower or the Guarantor from any governmental body or agency or judicial authority in connection with (a) the execution and delivery by the Borrower and Guarantor of the Transaction Documents to which either is a party or the Limited Offering Memorandum; (b) the issuance of the Bonds by the Issuer; (c) the consummation and performance by the Borrower and the Guarantor of its obligations under the Transaction Documents to which either is a party (other than in respect to obligations related to owning or operating the Project after the date hereof); or (d) the creation by the Borrower and the Guarantor of the security interests created by the Transaction Documents, in each case which has not already been obtained or taken and provided to the Trustee, other than any approvals, consents, registrations or filings necessary to perfect the liens and security interests created pursuant to the Transaction Documents.

10. The Pledge Agreement creates a security interest in favor of Issuer on behalf of the Participating Counties in all of the collateral described therein that is of the type in which a security interest can be created under the Code (as used herein, as defined in the Pledge Agreement).

11. The Financing Statement is in proper form so as to comply with the requirements of the Code and, assuming that (a) the Guarantor has rights in the Collateral (as defined in the Pledge Agreement) (the "Guarantor Collateral"); (b) the security interest in the Guarantor Collateral has attached under Article 9 of the Code; (c) the Financing Statement has been properly filed with, and accepted for filing by, the Wisconsin Department of Financial Institutions, as appropriate, and (d) the filing fees in connection with such filing have been paid, the Issuer, as collateral agent, will have a perfected security interest in the respective Guarantor Collateral described in the Financing Statement to the extent that a security interest may be perfected by the filing of a financing statement in the State under the Code.

12. As the date hereof, the Borrower has not obtained any permits, licenses, approval, consents, or other written authorizations for the ownership, development, use, construction, maintenance and operation of the Series 2024 Project site, the ownership, development, use, construction, maintenance and operation of the Series 2024 Project or the execution, delivery, and performance of the Transaction Document (collectively, "Governmental Approvals"). No Governmental Approval is required to have been issued as of this date for the current state of development of the Series 2024 Project by any local, state, or federal laws, rules and regulations applicable to the Project. To our knowledge, there is no reason to believe that any such Governmental Approval will be issued in an untimely manner or contain restrictions that would materially limit the operation of the Series 2024 Project.

13. The distribution of the Preliminary Limited Offering Memorandum and the execution, delivery, and distribution of the Limited Offering Memorandum have been duly authorized by the Borrower.

14. The execution, issuance and delivery by the Borrower of the Promissory Note does not require registration under the Securities Act of 1933, as amended.

15. To our knowledge, the statements and information contained in the Limited Offering Memorandum as it relates to the Borrower and the Guarantor and the Transaction Documents to which the Borrower and Guarantor are a party, including, without limitation, the information under the headings "INTRODUCTION", "ESTIMATED SOURCES AND USES OF FUNDS", "THE BORROWER, HILBERT AND THE PROJECT", "PLAN OF FINANCE," "SOCIAL BONDS SELF DESIGNATION," "REIMBURSEMENT AGREEMENTS AND HILBERT GUARANTIES," "BONDOWNERS' RISKS", "ABSENCE OF MATERIAL LITIGATION," and "CONTINUING DISCLOSURE" and Appendix A, as of the dates of the Limited Offering Memorandum, and are, as of the date hereof, true and correct in all material respects and do not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

Without having undertaken to determine independently, or to assume responsibility for, the accuracy, completeness, or fairness thereof, nothing has come to our attention that would lead us to believe that the Preliminary Limited Offering Memorandum, as of its date or as the date of Bond Purchase Agreement, or the final Limited Offering Memorandum, as of its date and as of the Closing Date (except for any financial or statistical data or projections contained or required to be contained therein and the information respecting DTC in the Limited Offering Memorandum and Appendices relating to the Counties' financial statements as to which no view need be expressed), contains or contained an untrue statement of a material fact or omits or omitted to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

The foregoing opinions are subject to the following additional assumptions and qualifications:

A. Wherever we indicate that our opinion with respect to the existence or absence of facts is "to our knowledge" or the like, our opinion is, with your permission, based solely on the Certificates and the current conscious awareness of facts or other information of the attorneys currently with our firm who have represented the Borrower in connection with the transactions contemplated by the Transaction Documents.

B. Our opinion is limited by:

- (i) Applicable bankruptcy, receivership, reorganization, insolvency, moratorium, fraudulent conveyance or transfer, and other laws and judicially developed doctrines relating to or affecting creditors' or secured creditors' rights and remedies generally;
- (ii) General principles of equity, regardless of whether such enforcement is considered in a proceeding in equity or at law, and limitations on the availability of specific performance, injunctive relief and other equitable remedies;
- (iii) The possibility that certain rights, remedies, waivers, and other provisions of the Transaction Documents may not be enforceable; nevertheless, such unenforceability will not render any of the Transaction Documents invalid as a whole or preclude (a) judicial enforcement of the obligation of the Borrower to repay the principal amount of the Promissory Note, amounts owed pursuant to the Loan Agreement, (b) acceleration of the obligation of the Borrower to repay such principal, together with such interest, upon a material default in a material provision of the Transaction Documents, or (c) enforcement in accordance with applicable law of the lien on the Real Property and the security interest in the other collateral created by the Transaction Documents upon maturity or upon acceleration as provided in clause (b) above;
- (iv) The requirement that the enforcing party act in a commercially reasonable manner and in good faith in exercising its rights under the Transaction Documents and comply with the provisions of part VI of article 9 of the Code; and
- (v) The possible rights of third parties to the extent that the consent of any third party is necessary for the valid creation of a lien or security interest in favor of Trustee and such consent has not been obtained.

C. Except for the organizational documents of the Borrower and the Guarantor and a certificate of status for each of the Borrower and the Guarantor issued by the Wisconsin Department of Financial Institutions, we have not examined the records of the Trustee, the Borrower or any court or any public, quasi-public, private or other office in any jurisdiction, or the files of our firm, and our opinions are subject to matters that an examination of such records would reveal.

D. We have made no examination of, and express no opinion as to, title to the real property, fixtures, personal property or other collateral described in the Transaction Documents or the existence of any liens, charges or encumbrances thereon. Further, we express no opinion as to the relative priority of the mortgage liens or security interests created or evidenced by any of the Transaction Documents.

The opinions expressed herein are limited to the federal laws of the United States and the laws of the State of Wisconsin in effect on the date hereof as they presently apply. These opinions are given as of the date hereof, they are intended to apply only to those facts and circumstances that exist as of the date hereof, and we assume no obligation or responsibility to update or supplement these opinions to reflect any facts or circumstances that may hereafter come to our attention or any changes in laws that may hereafter occur, or to inform the addressee(s) of any change in circumstances occurring after the date hereof that would alter the opinions rendered herein.

This opinion is limited to the matters set forth herein, and no opinion may be inferred or implied beyond the matters expressly contained herein. Except as expressly set forth herein, this opinion is being provided solely for the purpose of complying with the requirements of the Bond Purchase Agreement and is being rendered solely for the benefit of the addressee(s) hereof. This opinion may not be used or relied upon for any other purpose, relied upon by any other party, or filed with or disclosed to any governmental authority other than a court in connection with the enforcement or protection of the rights or remedies of the Trustee under any of the Transaction Documents or to a banking examiner or regulator in connection with an examination of any bank by such governmental authority, without our prior written consent.

**Schedule I**

## EXHIBIT A

### **Member's Certificates of Borrower and Guarantor**

The undersigned, [\_\_\_\_], hereby certifies as follows, on behalf of Bug Tussel 2, LLC (the "Company") and Hilbert Communications, LLC (the "Guarantor"), each a Wisconsin limited liability company, as the [President/Chief Executive Officer] of the Company and the Guarantor:

1. The undersigned is in a position to know the facts relevant to the matters certified below.
2. This Certificate is given for the purpose of the law firm of Husch Blackwell LLP ("HB") relying on it in connection with rendering its opinion dated the date hereof to Fond du Lac County, Wisconsin as issuer, Samuel A. Ramirez & Company, Inc., as representative of the underwriters, U.S. Bank Trust Company, National Association, as trustee, and Husch Blackwell LLP, as bond counsel, in connection with the contemplated \$[\_\_\_\_] Fond du Lac County, Wisconsin Taxable Revenue Bonds, Series 2024 (Bug Tussel 2, LLC Project) (Social Bonds) issuance (the "Bonds").
3. The company records of the Company and Guarantor provided to HB by the Company and Guarantor are accurate and complete and have not been amended, except as disclosed to HB.
4. The only indentures, mortgages, deeds of trust, indebtedness, or agreements, to which the Company or the Guarantor is a party or by which the Company or the Guarantor or any of their property is bound, and are material to the financial condition of the Company or the Guarantor are the [loan agreement and security agreement, each dated June 11, 2021, among the Guarantor, certain of its affiliates, and American National Bank- Fox Cities], and those certain promissory notes and security agreements benefiting certain current and former unit holders and related parties of the Guarantor.
5. There are no judgments, orders, writs, injunctions, decrees, determinations or awards to which the Company or the Guarantor is a party or by which the Company or the Guarantor or its property is bound.
6. There are no legal or governmental proceedings pending or, to the best of our knowledge, threatened or contemplated by governmental authorities or threatened by others or to which the Company or Guarantor is a party or to which any property of the Company or Guarantor is subject, other than ordinary routine litigation incident to the kind of business conducted by the Company or Guarantor, which, if determined adversely to the Company or Guarantor, would individually or in the aggregate have a material adverse effect on the financial position or results of operations of the Company or Guarantor considered as a whole.
7. There are no legal or governmental proceedings, pending or, to the best of our knowledge, threatened against the Company or the Guarantor or involving the project assets, or, to the best of our knowledge, any basis therefor, wherein an unfavorable decision, ruling or finding would have a material adverse effect on the legality, validity or enforceability of or the security for the Bonds, or the legality, validity or binding effect of the Indenture, the Bond Purchase Agreement, the Reimbursement Agreement, Loan Agreement, the Guaranty, the Leasehold Mortgage, or the Continuing Disclosure Agreement, or the transactions contemplated thereby.

This Certificate may be executed and delivered by facsimile transmission with the same effect as hand delivery of an executed original hereof.

*{Signature Page to Follow}*



**EXHIBIT F**

**FORM OF OPINION FOR COUNSEL TO COUNTIES**

[\_\_\_\_\_, 2024]

[\_\_\_\_\_] County

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

U.S. Bank Trust Company, National Association  
1555 North RiverCenter Drive, Suite 203  
Milwaukee, WI 53212

Husch Blackwell LLP  
511 North Broadway, Suite 1100  
Milwaukee, WI 53202

Samuel A. Ramirez & Company, Inc., as  
Representative  
61 Broadway, 29<sup>th</sup> Floor  
New York, NY 10006

Build America Mutual Assurance Company  
200 Liberty Street, 27th Floor  
New York, New York, 10281

Re: [\$\_\_\_\_\_] Fond du Lac County, Wisconsin, Taxable Revenue Bonds, Series 2024  
(Bug Tussel 2, LLC Project) (Social Bonds)

Ladies and Gentlemen:

We have acted as special counsel to [\_\_\_\_\_] County, Wisconsin (the "Guarantor") in connection with the Guaranty Agreement dated as of [\_\_\_\_\_, 2024] (the "Guaranty Agreement") by and between the Guarantor in favor of U.S. Bank Trust Company, National Association, as trustee (the "Trustee") and Build America Mutual Assurance Company, as insurer, with respect to a portion of the above-referenced issue of Bonds (the "Bonds"). Among other things we have examined:

- a. certified copies of resolutions adopted by the Guarantor's governing body on [\_\_\_\_\_, 2024] and [\_\_\_\_\_, 2024], relating to the issuance of the Bonds and the authorization of the Guaranty Agreement;
- b. certificates of the Guarantor;
- c. the Continuing Disclosure Agreement between the Guarantor and U.S. Bank Trust Company, National Association as dissemination agent (the "Continuing Disclosure Agreement"); and
- d. such other documents, instruments, certificates and opinions that we consider necessary in order to render this opinion.

In rendering our opinions, we have made the following assumptions:

- (a) We have assumed that (i) the Trustee has all requisite power and authority under all applicable laws, regulations and governing documents to execute, deliver and perform its obligations under the Guaranty Agreement and Continuing Disclosure Agreement, and the Trustee has complied with all legal requirements

pertaining to its status as such status related to its rights to enforce the Guaranty Agreement and Continuing Disclosure Agreement against the Guarantor, (ii) the Trustee has duly authorized, executed and delivered the Guaranty Agreement and Continuing Disclosure Agreement, (iii) the Trustee is validly existing and in good standing in all necessary jurisdictions, (iv) the Guaranty Agreement and Continuing Disclosure Agreement constitute valid and binding obligations, enforceable against the Trustee in accordance with their terms, (v) there has been no mutual mistake of fact or misunderstanding, or fraud, duress, or undue influence, in connection with the negotiation, execution or delivery of the Guaranty Agreement and Continuing Disclosure Agreement, and the conduct of all parties to the Guaranty Agreement and Continuing Disclosure Agreement has complied with any requirements of good faith, fair dealing and conscionability, and (vi) there are and have been no agreements or understandings among the parties, written or oral, and there is and has been no usage of trade or course of prior dealing among the parties, that would, in either case, define, supplement or qualify the terms of the Guaranty Agreement and Continuing Disclosure Agreement. For purposes of the opinions set forth herein, we have assumed that the Bonds constitute the valid and binding obligations of Fond du Lac County, Wisconsin, as issuer, in accordance with their terms.

(b) With certain exceptions, we are qualified to practice law only in the State of Wisconsin and we do not purport to be experts on, or express any opinion herein concerning, any law other than the present internal laws of the State of Wisconsin.

(c) This opinion deals only with specific legal issues that it explicitly addresses and no opinions shall be implied as to matters not so addressed. Without limiting the foregoing, we express no opinion herein as to any provision affording indemnification, or any provision waiving the right to jury trial, and we give no opinion as to zoning, land use or subdivision laws and regulations or matters relating to federal or state tax or securities laws.

(d) We bring to your attention the fact that our legal opinions are an expression of professional judgment and are not a guarantee of a result. Additionally, we do not undertake to advise you of matters which may come to our attention subsequent to the date hereof which may affect our legal opinions expressed herein.

(e) Our opinions are limited to the extent that validity or enforceability of any document is limited by:

- (i) applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance, marshaling and other similar laws in effect from time to time affecting the rights and remedies of creditors, theories regarding the adequacy or sufficiency of consideration and/or fair value;
- (ii) limitations imposed by general principles of equity upon the specific enforceability of any of the remedies or other provisions of such documents and upon the availability of injunctive relief and other equitable remedies (regardless of whether enforcement is considered in proceedings at law or in equity); and
- (iii) subject to the qualification that certain provisions of such documents may not be enforceable in whole or in part under the laws of the State of

Wisconsin but the inclusion of such provisions does not affect the validity of any such documents as a whole and each of such documents contains legally adequate provisions for the realization of the principal legal rights and benefits.

In arriving at the opinions expressed below, we have examined and relied upon originals or copies, certified or otherwise identified to our satisfaction, of such records of the Guarantor and have made such investigation of law as we have deemed appropriate. In delivering the opinions expressed below, we are relying upon facts certified as true in the certified transcript of the proceedings or represented to us as true by officers of the Guarantor, and have not undertaken to verify any fact by independent investigation.

Based upon the foregoing, it is our opinion that:

1. The Guarantor is a political subdivision duly organized and existing under the Constitution and laws of the State of Wisconsin, and has the corporate power and authority to execute, deliver and perform the Guaranty Agreement and Continuing Disclosure Agreement.

2. Each of the Guaranty Agreement and Continuing Disclosure Agreement has been duly authorized, executed and delivered by the Guarantor, and each of the Guaranty Agreement and Continuing Disclosure Agreement constitutes the legal, valid and binding obligation of the Guarantor, enforceable against the Guarantor in accordance with its terms.

This opinion is given as of the date hereof and we assume no obligation to update, revise, or supplement this opinion to reflect any facts or circumstances that may hereafter come to our attention or any changes in law that may hereafter occur.

This opinion is furnished by us in our capacity as counsel to the Guarantor and is subject to the following matters, which by your acceptance of this opinion you recognize and acknowledge: (1) that we have not been engaged to act, and have not acted, as counsel to any addressee of this opinion (an "Addressee") other than the Guarantor for any purpose in connection with the Guaranty Agreement and Continuing Disclosure Agreement; (2) that no attorney-client relationship exists or has at any time existed between us and any Addressee other than the Guarantor in connection with the Guaranty Agreement and Continuing Disclosure Agreement or by virtue of this opinion; and (3) that this opinion is based upon our review of proceedings and other documents undertaken as part of our engagement with the Guarantor, and in order to deliver this opinion we neither undertook any duties or responsibilities to any Addressee other than the Guarantor nor conducted any activities in addition to those undertaken or conducted for the benefit of, and requested by, the Guarantor. This opinion is not intended to be relied upon by any party to whom it is not specifically addressed.

**Very truly yours,**

**EXHIBIT G**

**FORM OF OPINION FOR COUNSEL TO PRICE COUNTY, LAFAYETTE COUNTY, SAWYER COUNTY AND TAYLOR COUNTY**

\_\_\_\_\_, 2024

[\_\_\_\_\_] County

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

U.S. Bank Trust Company, National  
Association  
1555 North RiverCenter Drive, Suite 203  
Milwaukee, WI 53212

Husch Blackwell LLP  
511 North Broadway, Suite 1100  
Milwaukee, WI 53202

Samuel A. Ramirez & Company, Inc.  
61 Broadway, 29<sup>th</sup> Floor  
New York, NY 10006

Build America Mutual Assurance Company  
200 Liberty Street, 27<sup>th</sup> Floor  
New York, NY 10281

Ladies/Gentlemen:

We have acted as special counsel to [\_\_\_\_\_] County (the “Guarantor”) with respect to that certain (i) Guaranty Agreement dated as of \_\_\_\_\_, 2024 (the “Guaranty Agreement”) by and between the Guarantor and U.S. Bank Trust Company, National Association, as trustee (the “Trustee”) with respect to a portion of \$\_\_\_\_\_ Fond du Lac County, Wisconsin, Taxable Revenue Bonds, Series 2024 (Bug Tussel 2, LLC Project) (Social Bonds) (the “Bonds”) and (ii) Continuing Disclosure Agreement between the Guarantor and U.S. Bank Trust Company, National Association, as dissemination agent (the “Continuing Disclosure Agreement” and together with the Guaranty Agreement, each a “Loan Document” and collectively, the “Loan Documents”).

This opinion is provided to you at the request of the Guarantor. Except as otherwise indicated herein, capitalized definitional terms in this opinion have the meanings set forth in the Guaranty Agreement and the Continuing Disclosure Agreement, as applicable.

In rendering this opinion, we have, with your permission, relied on a certificate of the Guarantor as to certain factual matters and assumed, without investigation, verification or inquiry that:

(a) Each of the parties to the Loan Documents (i) other than the Guarantor, is duly organized and (ii) other than the Guarantor, is validly existing under the laws of its jurisdiction of incorporation or organization;

(b) Each of the parties to the Loan Documents other than the Guarantor has the necessary right, power and authority to execute and deliver, and perform its obligations under, the Loan Documents; the transactions contemplated by the Loan Documents have been duly

authorized by all parties thereto other than the Guarantor; and the Loan Documents constitute the legal, valid and binding obligations of all parties thereto other than the Guarantor;

(c) The Loan Documents have been duly executed, delivered, and accepted by all parties thereto other than the Guarantor;

(d) There is no oral or written agreement, understanding, course of dealing or usage of trade that affects the rights and obligations of the parties set forth in the Loan Documents, or that would have an effect on the opinions expressed herein; there are no judgments, decrees or orders that impair or limit the ability of the Guarantor to enter into, execute and deliver, and perform, observe and be bound by the Loan Documents and the transactions contemplated therein; all material terms and conditions of the relevant transactions among the parties to the Loan Documents are correctly and completely reflected in the Loan Documents; and there has been no waiver of any of the provisions of the Loan Documents by conduct of the parties or otherwise;

(e) All natural persons who are signatories to the Loan Documents were legally competent at the time of execution; all signatures on behalf of parties on the Loan Documents, and the other documents reviewed by us are genuine; the copies of all documents submitted to us are accurate and complete, each such document that is original is authentic and each such document that is a copy conforms to an authentic original; and the documents executed and delivered by the parties are in substantially the same form as the forms of those documents that we have reviewed in rendering this opinion; and

(f) The Guarantor has received adequate consideration with respect to the execution and delivery of the Loan Documents.

Based upon the foregoing, but subject to the assumptions, qualifications and limitations set forth herein, we are of the opinion that:

1. The Guarantor is a political subdivision existing under the Constitution and laws of the State of Wisconsin, and has the power and authority to execute, deliver and perform the Loan Documents.

2. Each of the Loan Documents has been duly authorized, executed and delivered by the Guarantor, and each of the Loan Documents constitutes the legal, valid and binding obligation of the Guarantor, enforceable against the Guarantor in accordance with its terms.

The foregoing opinions are subject to the following additional assumptions and qualifications:

A. Our opinion is limited by:

(i) Applicable bankruptcy, receivership, reorganization, insolvency, moratorium, fraudulent conveyance or transfer, and other laws and judicially developed doctrines relating to or affecting creditors' or secured creditors' rights and remedies generally;

(ii) General principles of equity, regardless of whether such enforcement is considered in a proceeding in equity or at law, and limitations on the availability of specific performance, injunctive relief and other equitable remedies; and

(iii) The possibility that certain rights, remedies, waivers, and other provisions of the Loan Documents may not be enforceable; nevertheless, such unenforceability will not render any of the Loan Documents invalid as a whole or substantially interfere with the practical realization of the principal benefits provided by the Loan Documents, except for the economic consequences resulting from any delay imposed by, or any procedure required by, applicable law.

B. We have not examined the records of the Guarantor, U.S. Bank Trust Company, National Association, any other Person, or any court or any public, quasi-public, private or other office in any jurisdiction, or the files of our firm, and our opinions are subject to matters that an examination of such records would reveal.

We are licensed to practice law in the State of Wisconsin. The opinions expressed herein are limited to the laws of the State of Wisconsin in effect on the date hereof as they presently apply and we express no opinion herein as to the laws of any other jurisdiction. These opinions are given as of the date hereof, they are intended to apply only to those facts and circumstances that exist as of the date hereof, and we assume no obligation or responsibility to update or supplement these opinions to reflect any facts or circumstances that may hereafter come to our attention or any changes in laws that may hereafter occur, or to inform any addressees of any change in circumstances occurring after the date hereof that would alter the opinions rendered herein.

This opinion is limited to the matters set forth herein, and no opinion may be inferred or implied beyond the matters expressly contained herein. Except as expressly set forth herein, this opinion is being provided solely at the request of the Guarantor, and is being rendered solely for the benefit of the addressees hereof. This opinion may not be used or relied upon for any other purpose, relied upon by any other party, or filed with or disclosed to any governmental authority other than a court in connection with the enforcement or protection of the rights or remedies of an addressee hereof under any of the Loan Documents or to a banking examiner or regulator in connection with an examination of an addressee hereof by such governmental authority, without our prior written consent.

Very truly yours,

[ \_\_\_\_\_ ]

BY



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**INDENTURE OF TRUST**

---

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Dated as of [\_\_\_\_\_] 1, 2024

Between

**FOND DU LAC COUNTY, WISCONSIN,**  
as Issuer

and

**U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION,**  
as Trustee

Relating to:

**[\$[Principal Amount]  
Fond du Lac County, Wisconsin  
Taxable Revenue Bonds, Series 2024  
(Bug Tussel 2, LLC Project) (Social Bonds)**



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## INDENTURE OF TRUST

This INDENTURE OF TRUST, dated as of [\_\_\_\_\_] 1, 2024 (the “Indenture”), between FOND DU LAC COUNTY, WISCONSIN, a political subdivision of the State of Wisconsin (the “Issuer”), and U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, a national banking association duly organized and existing and authorized to accept and execute trusts of the character herein set out under the laws of the United States, as trustee (the “Trustee”).

### W I T N E S S E T H

WHEREAS, Section 66.1103 of the Wisconsin Statutes (the “Act”) authorizes the Issuer to issue revenue bonds to finance a project; and

WHEREAS, the Act authorizes the Issuer to make loans to a participant, in connection with financing a project; and

WHEREAS, pursuant to the Act and Section 66.0301, of the Wisconsin Statutes, a county, or two or more counties acting pursuant to an intergovernmental agreement, may serve as the Issuer for revenue bonds; and

WHEREAS, portions of the Project (defined below) will be constructed and installed in the following counties: Fond du Lac, [Forest], [Iowa], [Jefferson], [Lafayette], [Marathon], [Price], [Sawyer], [Taylor], [and] [Waushara] (each a “Participating County”); and

WHEREAS, the Participating Counties have entered into an Intergovernmental Agreement dated as of [\_\_\_\_\_] [\_\_], 2024, providing that, among other things, Fond du Lac County, Wisconsin shall serve as the Issuer for the Bonds; and

WHEREAS, the Issuer has authorized the issuance of taxable revenue bonds and the loan of the proceeds of such revenue bonds to Bug Tussel 2, LLC, a Wisconsin limited liability company (the “Borrower”) pursuant to a loan agreement dated even herewith (the “Loan Agreement”) for the purpose of paying certain costs of the Project (as hereinafter defined), which Project is or will be located in the Participating Counties; and

WHEREAS, the Issuer’s Governing Body has found and determined: (i) that the Project is a qualified project under the Act; (ii) that the Borrower is a qualified participant under the Act; and (iii) that the financing of the Project will serve a public purpose and will in all respects conform to the provisions and requirements of the Act; and

WHEREAS, the Borrower has now requested that the Issuer issue the Bonds (as hereinafter defined) to provide for the financing of the Project; and

WHEREAS, the execution and delivery of this Indenture have been in all respects duly and validly authorized by resolution of the Issuer’s Governing Body; and

WHEREAS, all things necessary to make the Bonds, when authenticated by the Trustee as in this Indenture provided, the legal, valid and binding limited obligations of the Issuer according to the import thereof, and to constitute this Indenture a valid pledge and assignment of the Trust Estate (as hereinafter defined) have been done and performed; and

NOW, THEREFORE, THIS INDENTURE WITNESSETH:

The Issuer, in consideration of the premises and the acceptance by the Trustee of the trusts hereby created and of the purchase and acceptance of the Bonds (as hereinafter defined) by the Owners (as hereinafter defined) thereof, in order to secure the payment of the principal of, and interest on, the Bonds according to their tenor and effect and the performance and observance by the Issuer of all its covenants expressed herein and in the Bonds, does hereby pledge, and convey, assign and grant to the Trustee a security interest in, the property described in paragraphs (a), (b), (c) and (d) below (said property referred to herein as the "Trust Estate"):

(a) all right, title and interest of the Issuer (including, but not limited to, the right to enforce any of the terms thereof) in, to and under (1) the Promissory Note; (2) the Loan Agreement (but not including the Issuer's Unassigned Rights), the Pledged Revenues, and all other payments owing to the Issuer and paid by the Borrower under the Loan Agreement and the Promissory Note, and (3) all financing statements or other instruments or documents evidencing, securing or otherwise relating to the loan of the proceeds of the Bonds; and

(b) the money and investments from time to time held by or on behalf of the Trustee in the funds and accounts under the terms of this Indenture (provided that any moneys or obligations deposited with or paid to the Trustee for the redemption or payment of Bonds which are deemed to have been paid in accordance with Article V hereof shall not constitute a part of the Trust Estate but will be held for and applied only to the payment of such Bonds); and

(c) any and all other property (real, personal or mixed) of every kind and nature from time to time, by delivery or by writing of any kind, pledged, assigned or transferred as and for additional security under this Indenture by the Issuer or by anyone on its behalf or with its written consent to the Trustee, which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms hereof; and

(d) any and all proceeds of, income from, and earnings on, any of the foregoing;

TO HAVE AND TO HOLD all the same to the Trustee and its successors and assigns forever;

BUT IN TRUST, NEVERTHELESS, upon the terms and trusts herein set forth for the equal and proportionate benefit, security and protection of all Owners of the Bonds issued under and secured by this Indenture, without privilege, priority or distinction as to lien or otherwise of any of the Bonds over any of the others except as otherwise expressly provided herein;

PROVIDED, HOWEVER, that if the Issuer, its successors or assigns, shall well and truly pay or cause to be paid the principal of the Bonds and interest due or to become due thereon, at the times and in the manner mentioned in the Bonds, according to the true intent and meaning thereof, or shall provide, as permitted hereby, for the payment thereof by depositing with the Trustee sums sufficient to pay the entire amount due or to become due thereon, and shall well and truly keep, perform and observe all the covenants and conditions pursuant to the terms of this Indenture to be kept, performed and observed by it and shall pay to the Trustee all sums of money due or to become due to it in accordance with the terms and provisions hereof; then upon such final payment this

Indenture and the rights hereby granted shall cease, terminate, and become null and void; otherwise this Indenture to be and remain in full force and effect.

## ARTICLE I

### DEFINITIONS, RULES OF CONSTRUCTION

#### Section 1.01. Definitions of Words and Terms.

All words and phrases defined in the preambles of this Indenture shall have the same meaning in this Indenture, except as otherwise appears in this Section. In addition, the following terms shall have the following meanings, unless the context otherwise requires:

“Access Agreements” means, collectively, the Access Agreements, each dated as of [\_\_\_\_\_] [\_\_\_], 2024, from the applicable Participating County to the Trustee, as supplemented or amended from time to time pursuant to the provisions thereof and hereof, and each is an “Access Agreement”.

“Act” means Section 66.1103 of the Wisconsin Statutes, as amended from time to time.

“Additional Bonds” means additional bonds issued by the Issuer pursuant to Section 2.10 hereof.

“Affiliate” means any Person which “controls,” is “controlled” by, or is under common “control” with, the Borrower. For purposes of this definition, a Person “controls” another Person when the first Person possesses or exercises directly, or indirectly through one or more other affiliates or related entities, the power to direct the management and policies of the other Person, whether through the ownership of voting rights, membership, the power to appoint members, trustees or directors, by contract, or otherwise.

“Authorized Denominations” means denominations of \$100,000 or any multiple of \$5,000 in excess thereof.

“BAM Policy Payment Account” has the meaning given to such term in Section 11.01(c) hereof.

“Bankruptcy Condition” means (i) the filing of a petition in bankruptcy by or against the Borrower or the Issuer as debtor under the United States Bankruptcy Code, 11 U.S.C. Sections 101 et seq., or (ii) the commencement or continuance of other judicial proceedings with respect to the Borrower or the Issuer as debtor under similar or successor federal or state bankruptcy, reorganization or insolvency laws.

“Bond Counsel” means any legal counsel selected by the Borrower and reasonably acceptable to the Issuer and the Trustee who shall be nationally recognized as expert in matters pertaining to the validity of obligations of governmental issuers and experienced in the financing of utility facilities.

“Bond Fund” means the fund by that name created by Section 4.03 of this Indenture.

“Bond Insurer” means Build America Mutual Assurance Company, or any successor thereto.

“Bond Insurer Documents” means this Indenture, the Loan Agreement, the Series 2024 Promissory Note and the Limited Guaranty Agreements.

“Bondowner” means the Owner of a Bond.

“Bond Purchase Agreement” means the Bond Purchase Agreement dated as of [\_\_\_\_\_] [\_\_\_], 2024 among the Issuer, the Underwriter and the Borrower.

“Bonds” means, collectively, the Series 2024 Bonds and any Additional Bonds.

“Book-Entry System” means the global book-entry system used by a Securities Depository appointed pursuant to Section 2.03 hereof to effect the transfer of beneficial ownership interests in the Bonds.

“Borrower” means Bug Tussel 2, LLC, a Wisconsin limited liability company, and its permitted successors and assigns under the Loan Agreement.

“Borrower Continuing Disclosure Agreement” means the Continuing Disclosure Agreement dated as of [\_\_\_\_\_] [\_\_\_], 2024 between Borrower and U.S. Bank Trust Company, National Association, as dissemination agent, as supplemented or amended from time to time pursuant to the provisions thereof and hereof.

“Borrower Representative” means the President or Chief Financial Officer of the Borrower and such other person or persons at the time designated to act on behalf of the Borrower in matters relating to this Indenture and the Loan Agreement as evidenced by a written certificate furnished to the Issuer and the Trustee containing the specimen signature of such person or persons and signed on behalf of the Borrower by its Member. Such certificate may designate an alternate or alternates, each of whom shall be entitled to perform all duties of the Borrower Representative.

“Business Day” means a day other than (a) a Saturday, Sunday or legal holiday, and (b) a day on which banks located in any city in which the designated corporate trust office of the Trustee or of any Paying Agent is located are required or authorized by law to remain closed.

“Closing Date” means [\_\_\_\_\_] [\_\_\_], 2024.

“Code” means the Internal Revenue Code of 1986, as amended, and, when appropriate, any statutory predecessor or successor thereto, and all applicable regulations thereunder and any applicable official rulings, announcements, notices, procedures and judicial determinations relating to the foregoing.

“Completion Date” means the completion date of the Project as determined in accordance with Section 4.06 of the Loan Agreement.

“Continuing Disclosure Agreements” means, collectively, the County Continuing Disclosure Agreements and the Borrower Continuing Disclosure Agreement.



“Cost of Issuance Fund” means the fund by that name created by Section 4.03 of this Indenture.

“Costs of Issuance” means the costs of issuing the Bonds, including but not limited to the following:

- (a) underwriter’s compensation (whether realized directly or derived through purchase of the Bonds at a discount below the price at which they are expected to be sold to the public);
- (b) counsel fees (including Bond Counsel, underwriter’s counsel, Issuer’s counsel, and counsel to the Guarantors, as well as any other specialized counsel fees incurred in connection with the borrowing);
- (c) financial advisor fees of any financial advisor to the Issuer or the Borrower incurred in connection with the issuance of such Bonds;
- (d) rating agency fees, bond insurance fees and premiums, if any;
- (e) Trustee, escrow agent and Paying Agent fees;
- (f) accountant fees and other expenses related to issuance of such Bonds;
- (g) printing costs (for such Bonds and of the preliminary and final limited offering memorandum or other offering document relating to such Bonds); and
- (h) fees and expenses of the Issuer incurred in connection with the issuance of such Bonds.

“Counsel” means an attorney acceptable to the Issuer, duly admitted to practice law before the highest court of any state, including an attorney for the Borrower, Issuer or Trustee.

“County Continuing Disclosure Agreements” means, collectively, the Continuing Disclosure Agreement, each dated as of [\_\_\_\_\_] [\_\_\_], 2024, each between the applicable Participating County and U.S. Bank Trust Company, National Association, as dissemination agent, as supplemented or amended from time to time pursuant to the provisions thereof and hereof, and each is a “County Continuing Disclosure Agreement.”

“Date of Issuance” means, for the Series 2024 Bonds, [\_\_\_\_\_] [\_\_\_], 2024, the date of original issuance of the Series 2024 Bonds, and for any other Additional Bonds issued hereunder, the date of original issuance of such series of Additional Bonds.

“Debt Service Reserve Account” refers to any account by such name created for a particular series of Bonds created under Section 4.09 of this Indenture or in any Supplemental Indentures providing for the issuance of Additional Bonds.

“Debt Service Reserve Fund” means the trust fund described in Section 4.09 of this Indenture.

“Defeasance Obligations” means:

(a) Government Obligations which are not subject to redemption prior to maturity; or

(b) obligations of any state or political subdivision of any state, the interest on which is excluded from gross income for federal income tax purposes and which meet the following conditions:

(1) either (A) the obligations are not subject to redemption prior to maturity or (B) the trustee for such obligations has been given irrevocable instructions concerning their call and redemption and the issuer of such obligations has covenanted not to redeem such obligations other than as set forth in such instructions;

(2) the obligations are secured by cash or noncallable Government Obligations that may be applied only to payment of principal of, and interest on, such obligations;

(3) the sufficiency of such cash and noncallable Government Obligations to pay in full all principal of, and interest on, such obligations has been verified by the report of an independent certified public accountant (a “Verification”) and no substitution of Government Obligations shall be permitted except with cash or other Government Obligations and upon delivery of a new Verification;

(4) such cash and Government Obligations serving as security for the obligations are held in an irrevocable escrow by an escrow agent or a trustee in trust for the owners of such obligations, at least one year has passed since the establishment of such escrow and the issuer of such obligations is not, and has not been since the establishment of such escrow, a debtor in a proceeding commenced under the United States Bankruptcy Code;

(5) the Trustee has received an Opinion of Counsel that such cash and Government Obligations are not available to satisfy any other claims, including those against the trustee or escrow agent;

(6) the Trustee has received an unqualified opinion of nationally recognized bankruptcy counsel to the effect that the payment of principal of and interest on such obligations made from such escrow would not be avoidable as preferential payments and recoverable under the United States Bankruptcy Code should the obligor or any other Person liable on such obligations become a debtor in a proceeding commenced under the United States Bankruptcy Code; and

(7) the obligations are rated in the highest rating category by a nationally recognized securities rating service.

“Electronic Notice” means notice transmitted by electronic mail or facsimile.

“Eligible Costs of the Project” means the following categorical costs of providing the

Project:

- (a) the “Costs of Issuance,” as defined in this Indenture;
- (b) the “Capitalized Interest Costs,” namely interest on the Bonds from the Issuance Date to the Completion Date;
- (c) the “Engineering Costs,” namely the architectural and engineering costs and other costs which are or were necessary for the design and planning of the Project;
- (d) the “Project Costs,” namely those costs of acquiring, constructing and installing the Project;
- (e) taxes related to the Project and insurance premiums related to the Project.

“Eligible Funds” means (i) any amounts (including investment earnings) in the Bond Fund which have been held by the Trustee for the Minimum Holding Period and not subject to any lien of any Guarantor, or (ii) any amounts paid to the Trustee from any of the Guarantors.

“Event of Default” has the meaning given such term in Section 7.01 hereof; provided, that when used with reference to the Loan Agreement, “Event of Default” shall have the meaning assigned thereto in Section 8.01 of the Loan Agreement; provided further, that when used in reference to a Transaction Document, “Event of Default” shall have the meaning assigned thereto or any other equivalent term used therein.

“Facilities” means the facilities financed, in whole or in part, with the proceeds of the Bonds, which are described generally in Exhibit A to the Loan Agreement.

“Fond du Lac County Series 2024 Debt Service Reserve Subaccount” means the account by such name created under Section 4.03 hereof within the Series 2024 Debt Service Reserve Account in the Debt Service Reserve Fund.

“Fond du Lac County Series 2024 Debt Service Reserve Subaccount Requirement” means, initially, \$[\_\_\_\_\_], and thereafter, the Pro Rata Share of Payment for Fond du Lac County multiplied by the Series 2024 Debt Service Reserve Requirement; provided, that, the aggregate dollar amount of payments under Fond du Lac County’s Limited Guaranty Agreement shall in no event be greater than the Guaranteed Amount.

[“Forest County Series 2024 Debt Service Reserve Subaccount” means the account by such name created under Section 4.03 hereof within the Series 2024 Debt Service Reserve Account in the Debt Service Reserve Fund.]

[“Forest County Series 2024 Debt Service Reserve Subaccount Requirement” means, initially, \$[\_\_\_\_\_], and thereafter, the Pro Rata Share of Payment for Forest County multiplied by the Series 2024 Debt Service Reserve Requirement; provided, that, the aggregate dollar amount of payments under Forest County’s Limited Guaranty Agreement shall in no event be greater than the Guaranteed Amount.]

“Government Obligations” means the following:

(a) bonds, notes, certificates of indebtedness, treasury bills or other securities constituting direct obligations of, or obligations the principal of and interest on which are wholly and unconditionally guaranteed by, the United States of America; and

(b) evidences of direct ownership of a proportionate or individual interest in future interest or principal payments on specified direct obligations of, or obligations the payment of the principal of and interest on which is unconditionally guaranteed by, the United States of America, which obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state thereof in the capacity of custodian.

“Guaranteed Amount” in respect to a Participating County, has the meaning set forth in the applicable Limited Guaranty Agreement.

“Guarantors” means each of the Participating Counties.

“Hilbert” means Hilbert Communications, LLC, a Wisconsin limited liability company.

“Hilbert Guaranty Agreements” means, collectively, the Guaranty Agreements, each dated as of [\_\_\_\_\_] [\_\_\_], 2024, from Hilbert to, respectively, each of the Participating Counties, as supplemented or amended from time to time pursuant to the provisions thereof and hereof, and each is a “Hilbert Guaranty Agreement”.

“Indenture” means this Indenture of Trust between the Issuer and the Trustee, as from time to time amended and supplemented by Supplemental Indentures in accordance with the provisions of this Indenture.

“Insured Obligations” has the meaning given to such term in Section 11.01 hereof.

“Insurer Default” has the meaning given to such term in Section 11.03(e) hereof.

“Interest Payment Date” means [\_\_\_\_\_] 1] and [\_\_\_\_\_] 1] of each year beginning on [\_\_\_\_\_] 1, 20\_\_\_\_].

“Intergovernmental Agreement” means the Intergovernmental Agreement by and among the Participating Counties, dated [\_\_\_\_\_] [\_\_\_], 2024, as may be amended and supplemented in order to add any additional Participating Counties.

[“Iowa County Series 2024 Debt Service Reserve Subaccount” means the account by such name created under Section 4.03 hereof within the Series 2024 Debt Service Reserve Account in the Debt Service Reserve Fund.]

[“Iowa County Series 2024 Debt Service Reserve Subaccount Requirement” means, initially, \$[\_\_\_\_\_] and thereafter, the Pro Rata Share of Payment for Iowa County multiplied by the Series 2024 Debt Service Reserve Requirement; provided, that, the aggregate dollar amount of payments under Iowa County’s Limited Guaranty Agreement shall in no event be greater than the Guaranteed Amount.]

“Issuer” means Fond du Lac County, Wisconsin, a political subdivision of the State of Wisconsin.

“Issuer Representative” means the individuals designated as Authorized Signatories of the Issuer with respect to the Bonds by a resolution of the Issuer’s Governing Body, and such other person or persons at the time designated to act on behalf of the Issuer in matters relating to this Indenture and the Loan Agreement as evidenced by a written certificate furnished to the Trustee containing the specimen signature of such person or persons and signed on behalf of the Issuer. Such certificate may designate an alternate or alternates, each of whom shall be entitled to perform all duties of the Issuer Representative.

“Issuer’s Governing Body” means the Board of Supervisors of the Issuer.

“Issuer’s Unassigned Rights” means the Issuer’s rights under Sections 4.08 (relating to use of the facilities and related matters), 6.03 (relating to indemnification), 6.13 (relating to payment of expenses), 6.15 (relating to payment of costs of issuance and expenses), 8.04 (relating to payment of attorneys’ fees) and Section 9.08 (relating to payment of the Issuer’s expenses) of the Loan Agreement.

[“Jefferson County Series 2024 Debt Service Reserve Subaccount” means the account by such name created under Section 4.03 hereof within the Series 2024 Debt Service Reserve Account in the Debt Service Reserve Fund.]

[“Jefferson County Series 2024 Debt Service Reserve Subaccount Requirement” means, initially, \$[\_\_\_\_\_], and thereafter, the Pro Rata Share of Payment for Jefferson County multiplied by the Series 2024 Debt Service Reserve Requirement; provided, that, the aggregate dollar amount of payments under Jefferson County’s Limited Guaranty Agreement shall in no event be greater than the Guaranteed Amount.]

“Joinder Agreement” means the Counterpart and Joinder to Intergovernmental Agreement to be executed by each Participating County.

[“Lafayette County Series 2024 Debt Service Reserve Subaccount” means the account by such name created under Section 4.03 hereof within the Series 2024 Debt Service Reserve Account in the Debt Service Reserve Fund.]

[“Lafayette County Series 2024 Debt Service Reserve Subaccount Requirement” means, initially, \$[\_\_\_\_\_], and thereafter, the Pro Rata Share of Payment for Lafayette County multiplied by the Series 2024 Debt Service Reserve Requirement; provided, that, the aggregate dollar amount of payments under Lafayette County’s Limited Guaranty Agreement shall in no event be greater than the Guaranteed Amount.]

“Late Payment Rate” means the annual rate of interest equaling the least of (i) the highest rate of interest applicable to any series of the Bonds plus [\_\_] basis points ([\_\_]‰); (ii) [\_\_]‰; and (iii) the maximum rate permissible under applicable laws limiting interest rates. Interest at the Late Payment Rate on any amount owing to the Bond Insurer shall be computed on the basis of the actual number of days elapsed in a 360 day year composed of twelve 30-day months.

“Limited Guaranty Agreements” means, collectively, the Guaranty Agreements for outstanding Bonds, from the applicable Guarantor to the Trustee, as supplemented or amended from time to time pursuant to the provisions thereof and hereof, and each is a “Limited Guaranty Agreement”.

“Limited Offering Memorandum” means the final Limited Offering Memorandum related to the Series 2024 Bonds dated as of [\_\_\_\_\_] [\_\_], 2024.

“Loan” means the loan of the proceeds of the Bonds made by the Issuer to the Borrower pursuant to the Loan Agreement.

“Loan Agreement” means the Loan Agreement, dated as of [\_\_\_\_] [\_\_], 2024, between the Issuer and the Borrower, as from time to time amended or supplemented by Supplemental Loan Agreements in accordance with the provisions of Article X hereof.

“Mandatory Sinking Fund Payment” means the amount required by Section 3.01(d) to be paid on any single date for the retirement of Term Bonds.

[“Marathon County Series 2024 Debt Service Reserve Subaccount” means the account by such name created under Section 4.03 hereof within the Series 2024 Debt Service Reserve Account in the Debt Service Reserve Fund.]

[“Marathon County Series 2024 Debt Service Reserve Subaccount Requirement” means, initially, \$[\_\_\_\_], and thereafter, the Pro Rata Share of Payment for Marathon County multiplied by the Series 2024 Debt Service Reserve Requirement; provided, that, the aggregate dollar amount of payments under Marathon County’s Limited Guaranty Agreement shall in no event be greater than the Guaranteed Amount.]

“Minimum Holding Period” means, with respect to any funds, a continuous period of one hundred twenty-five (125) days during which (a) the Trustee holds such funds in the Bond Fund and (b) no Bankruptcy Condition has occurred.

“Mortgages” means, collectively, all Mortgage and Security Agreements, or Leasehold Mortgage, Assignment of Leases and Rents, Security Agreement, and Fixture Financing Statement from the Borrower to the applicable Participating County, related to various real property on which towers financed by the Bonds are located as supplemented or amended from time to time pursuant to the provisions thereof and hereof, and each is a “Mortgage”.

“Opinion of Bond Counsel” means a written opinion of Bond Counsel.

“Opinion of Counsel” means a written opinion of Counsel.

“Outstanding” means with respect to Bonds, as of the date of determination, all Bonds theretofore authenticated and delivered under this Indenture, except:

- (a) Bonds theretofore cancelled by the Trustee or delivered to the Trustee for cancellation as provided in Section 2.09 of this Indenture;

(b) Bonds for whose payment or redemption money or Defeasance Obligations in the necessary amount have been deposited with the Trustee or any Paying Agent in trust for the owners of such Bonds as provided in Section 5.01 of this Indenture, provided that, if such Bonds are to be redeemed, notice of such redemption has been duly given pursuant to this Indenture or provision therefor satisfactory to the Trustee has been made;

(c) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered under this Indenture; and

(d) Bonds alleged to have been destroyed, lost, or stolen which have been paid as provided in Section 2.08 of this Indenture;

provided, however, that pursuant to Section 12.02 certain Bonds shall be disregarded and deemed not to be Outstanding for certain purposes.

“Owner” means, in respect of a Bond, the Person or Persons in whose name the Bond is registered on the bond registration books maintained by the Trustee pursuant to Section 2.06 hereof.

“Participants” means those financial institutions for whom the Securities Depository effects book entry transfers and pledges of securities deposited with the Securities Depository, as such listing of Participants exists at the time of such reference.

“Participating Counties” means, initially, and with respect to the Series 2024 Bonds, and only for so long as such Series 2024 Bonds remain outstanding, the counties of Fond du Lac, [Forest], [Iowa], [Jefferson], [Lafayette], [Marathon], [Price], [Sawyer], [Taylor], [and] [Waushara], each a political subdivision of the State of Wisconsin, and each is a “Participating County” and subsequently, with respect to any Additional Bonds, such other counties, each in Wisconsin, as are specified in the applicable Supplemental Indenture.

“Paying Agent” means the Trustee and any other commercial bank or trust institution organized under the laws of any state of the United States of America or any national banking association designated pursuant to this Indenture or any Supplemental Indenture as paying agent for any Bonds at which the principal of, and interest on, such Bonds shall be payable.

“Permitted Encumbrances” means:

- (a) liens in favor of a Participating County;
- (b) the lien and security interest of the Loan Agreement, the Mortgage, the Pledge of Membership Interest Agreement or any lien related to and permitted by any other Transaction Documents;
- (c) liens for taxes, assessments, and other governmental charges not delinquent, or if delinquent are being contested in good faith by appropriate proceedings and as to which the Borrower shall have set aside on its books adequate reserves with respect thereto;
- (d) mechanic's, laborer's, materialman's, supplier's or vendor's liens filed of record, so long as (i) within forty-five (45) days after the filing of any such lien against the

Property, Borrower promptly discharges the same by payment or filing a bond or otherwise as permitted by Law and acceptable to Mortgagee, or (ii) Mortgagee's security has been protected by the filing of a bond or otherwise in a manner satisfactory to Mortgagee in its sole and absolute discretion, Borrower shall have the right to contest in good faith any lien, provided that Borrower does so diligently and without prejudice to Mortgagee;

- (e) liens in respect of judgments or awards in an amount of \$50,000 or less, with respect to which the Borrower is in good faith currently prosecuting an appeal or proceedings for review, and with respect to which the Borrower shall have secured a stay of execution pending such appeal or proceedings for review, provided the Borrower shall have set aside on its books adequate reserves with respect thereto;
- (f) utility, access and other easements and rights-of-way, restrictions, encumbrances and exceptions that do not materially affect the marketability of title to such Property and do not in the aggregate materially impair the use of such Property for the purposes for which it is held by the Borrower;
- (g) such minor defects and irregularities of title as normally exist with respect to property similar in character to the Property affected thereby and which do not materially affect the marketability of title to or value of such Property and do not materially impair the use of such Property for the purposes for which it is held by the Borrower;
- (h) zoning laws, ordinances or regulations and similar restrictions that are not violated by the Property affected thereby;
- (i) statutory liens and rights of setoff granted to banks or other financial institutions with respect to funds on deposit in the ordinary course of business;
- (j) any other lien or encumbrance created or incurred in the ordinary course of business which does not secure, directly or indirectly, the repayment of borrowed money or the payment of installment sales contracts or capital leases and which, individually or in the aggregate, does not materially impair the value or the utility of the Property subject to such lien or encumbrance;
- (k) any exceptions contained in the title insurance policy and endorsements thereto with respect to the Property subject to the Mortgages acceptable to the Guarantors;
- (l) subordinated liens on Property securing indebtedness subordinated to the Bonds,
- (m) liens arising by reason of (1) good faith deposits with the Borrower in connection with tenders, leases of real estate, bids or contracts (other than contracts for the payment of money), (2) deposits by the Borrower to secure public or statutory obligations, or to secure, or in lieu of, surety, stay or appeal bonds, (3) deposits as security for the payment of taxes or assessments or other similar charges, (4) deposits with, or the giving of any form of security to, any municipality or governmental or other public authority for any purpose at any time as required by



law or governmental regulation as a condition to the transaction of any business or the exercise of any privilege or license, or to enable the Borrower to maintain self-insurance or to participate in any funds established to cover any insurance risks or in connection with workers compensation, unemployment insurance, pensions or profit sharing plans or other social security plans or programs, or to share in the privileges or benefits required for corporations participating in such arrangements, and (5) additional cash deposits required by any Transaction Documents;

- (n) rights reserved to, or vested in, any municipality or governmental or other public authority by virtue of any franchise, license, contract or statute to control or regulate any Property, or to use such Property in any manner, or to purchase, or designate a purchaser of or order the sale of, any Property upon payment of cash or reasonable compensation therefor, or to terminate any franchise, license or other rights;
- (o) all right, title and interest of the state, municipalities and the public in and to tunnels, bridges and passageways over, under or upon a public way;
- (p) liens existing as of the Closing Date upon the equity and membership interests in the Borrower granted to (i) the Participating Counties pursuant to the Pledge of Membership Interest Agreement and (ii) granted to certain former and current unitholders and affiliated parties of Hilbert in connection with indebtedness owed by Hilbert to such unitholders and affiliated parties, and in either (i) or (ii), the proceeds thereof, whether now owned or hereafter acquired;
- (q) liens related to the State's Broadband Expansion Grant program pursuant to Wis. Stat. § 196.504(2)(a) ("Grant Program") and the power of the Wisconsin State Building Commission pursuant to Wis. Stat. § 13.48(30) to authorize the issuance of bonds to fund the Grant Program, which do not materially impair the value of the Property and do not materially impair the use of such Property for the purposes for which it is held by the Borrower;
- (r) liens existing as of the Closing Date in favor of American National Bank-Fox Cities pursuant to the loan agreement between such party and the Company and other co-borrowers dated June 11, 2021, and the security agreement dated as of June 11, 2021 from the Company and other co-borrowers in favor of American National Bank-Fox Cities; [and]
- (s) [\_\_\_\_\_]<sup>2</sup>.

"Permitted Investments" means, if and to the extent the same are at the time legal for investment of funds held under this Indenture:

- (a) Government Obligations which are not subject to redemption prior to maturity.

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<sup>2</sup> NTD: To be updated as necessary.

(b) Defeasance Obligations (only to the extent used for the defeasance of the Bonds pursuant to Article V, Satisfaction and Discharge, of this Indenture).

(c) U.S. dollar denominated deposit accounts, certificates of deposit, federal funds and bankers' acceptances with domestic commercial banks which either (a) have a rating on their short-term certificates of deposit on the date of purchase in the highest short-term rating category of a nationally recognized rating agencies, (b) are insured at all times by the Federal Deposit Insurance Corporation, or (c) are collateralized with direct obligations of the United States of America at one hundred two percent (102%) valued daily. All such certificates must mature no more than three hundred sixty (360) days after the date of purchase. (Ratings on holding companies are not considered as the rating of the bank).

(d) Investments in money market funds subject to SEC Rule 2a-7 and rated in the highest short-term rating category of a nationally recognized rating agency.

(e) Investments agreements provided or guaranteed by a financial institution with a long-term rating in one (1) of the three (3) highest rating categories of a nationally recognized rating agency at the time the agreement is entered into.

(f) Other forms of investments (including repurchase agreements) approved in writing by the Authority and provided or guaranteed by a financial institution with a long-term rating in one (1) of the three (3) highest rating categories of a nationally recognized rating agency at the time the agreement is entered into. In the event such obligations are variable rate obligations, the interest rate on such obligations must be reset not less frequently than annually.

“Person” means any natural person, firm, association, corporation, partnership, limited liability company, limited liability partnership, joint stock company, joint venture, trust, unincorporated organization or firm, or a government or any agency or political subdivision thereof or other public body.

“Pledged Revenues” means all revenues and income derived by or for the account of the Issuer from or for the account of the Borrower pursuant to the terms of the Loan Agreement, the Promissory Note, and this Indenture, including, without limitation (i) all payments and prepayments by the Borrower on the Promissory Note or pursuant to Section 6.13 of the Loan Agreement, but excluding any amounts derived by the Issuer for its own account pursuant to the enforcement of the Issuer's Unassigned Rights and (ii) all cash and securities held from time to time in the funds and accounts established hereunder, and the investment earnings thereon.

“Pledge of Membership Interest Agreement” means the Pledge of Membership Interest Agreement, dated as of [\_\_\_\_\_] [\_\_\_], 2024, by Hilbert in favor of the Issuer, as agent, for the benefit of the Participating Counties, as the same may be supplemented, amended, amended and restated or otherwise modified in accordance with its terms.

“Preliminary Limited Offering Memorandum” means the Preliminary Limited Offering Memorandum related to the Series 2024 Bonds dated as of [\_\_\_\_\_] [\_\_\_], 2024.

["Price County Series 2024 Debt Service Reserve Subaccount" means the account by such name created under Section 4.03 hereof within the Series 2024 Debt Service Reserve Account in the Debt Service Reserve Fund.]

["Price County Series 2024 Debt Service Reserve Subaccount Requirement" means, initially, \$[\_\_\_\_\_], and thereafter, the Pro Rata Share of Payment for Price County multiplied by the Series 2024 Debt Service Reserve Requirement; provided, that, the aggregate dollar amount of payments under Price County's Limited Guaranty Agreement shall in no event be greater than the Guaranteed Amount.]

"Pro Rata Share" means, with respect to a Participating County for a particular series of Bonds, the applicable Participating County's share of the amount necessary to replenish the applicable Debt Service Reserve Account for such series of Bonds calculated as follows: the Outstanding principal amount of the series of Bonds allocated to such Participating County pursuant to its Limited Guaranty Agreement, divided by the total principal amount of the series of Bonds to which such Limited Guaranty Agreement relates, then Outstanding. Pro Rata Share shall be calculated by the Trustee on the date of issuance of a particular series of Bonds, on each principal and interest payment date a particular series of Bonds, and on any date the Pro Rata Share of another Participating County whose Limited Guaranty Agreement relates to the same series of Bonds is reduced pursuant to the terms thereof, and in each case, memorialized on such date by the Trustee.

"Pro Rata Share of Payment" means, with respect to the Series 2024 Bonds and each Participating County, the same percentage as such Participating County's "Pro Rata Share," as defined in the applicable Limited Guaranty Agreement, as may be reduced pursuant to Section [2(c)] thereunder. By way of illustration, if, on a Principal Payment Date, a Participating County's Pro Rata Share is 7.00%, then such Participating County's Pro Rata Share of Payment of the Principal Payment is 7.00%. The Participating County shall not be responsible for the Pro Rata Share of Payment or pro rata share related to the replenishment of the Series 2024 Debt Service Reserve Account guaranteed by any other Participating County. The Participating Counties are not responsible for the direct payment of any Interest Payment or Principal Payment.

"Project" means the acquisition, construction, installation and equipping of the Facilities, as more particularly described on Exhibit A to the Loan Agreement.

"Project Enterprise" means the operation of wireless internet and telephone communications services to businesses, governmental units and residents of rural communities.

"Project Fund" means the fund by that name created by Section 4.03 hereof.

"Project Plans and Specifications" means the Borrower's architectural and engineering drawings and other plans and specifications for the Project, as amended from time to time in accordance with Section 4.05 of the Loan Agreement.

"Promissory Note" means, collectively, the Borrower's promissory notes in the form of Exhibit B to the Loan Agreement, dated the Date of Issuance, issued in the principal amount of the applicable series of Bonds payable to the order of the Issuer.

“Property” means with respect to the Borrower, any and all rights, title and interests of the Borrower in the Pledged Revenues, all property of the Borrower financed with proceeds of the Bonds, all property pledged under the Mortgages, all property pledged under the Security Agreements, and all property pledged under the Pledge of Membership Interest Agreement.

“Rating Agency” means any nationally recognized securities rating service that maintains a rating on any of the Bonds.

“Regular Record Date” means the fifteenth (15th) day (whether or not a Business Day) of the calendar month immediately preceding each Interest Payment Date.

“Reimbursement Agreements” means, collectively, the Reimbursement Agreements between the applicable Participating County and the Borrower, as supplemented or amended from time to time pursuant to the provisions thereof and hereof, and each is a “Reimbursement Agreement”.

“Reimbursement Documents” means, collectively, the Hilbert Guaranty Agreements, the Reimbursement Agreements, the Mortgages, the Access Agreements, the Pledge of Membership Interest Agreement, any other agreement or instrument securing the obligations of the Borrower or the Hilbert to the Participating Counties, and any and all amendments or supplements to any of the foregoing.

“Replacement Bonds” means Bonds issued to the beneficial owners of such Bonds in accordance with Section 2.03 hereof.

“Requisition” means a requisition of the Borrower substantially in the form of Exhibit C to the Loan Agreement.

[“Sawyer County Series 2024 Debt Service Reserve Subaccount” means the account by such name created under Section 4.03 hereof within the Series 2024 Debt Service Reserve Account in the Debt Service Reserve Fund.]

[“Sawyer County Series 2024 Debt Service Reserve Subaccount Requirement” means, initially, \$[\_\_\_\_\_], and thereafter, the Pro Rata Share of Payment for Sawyer County multiplied by the Series 2024 Debt Service Reserve Requirement; provided, that, the aggregate dollar amount of payments under Sawyer County’s Limited Guaranty Agreement shall in no event be greater than the Guaranteed Amount.]

“Securities Act” means the Securities Act of 1933, as amended.

“Securities Depository” means The Depository Trust Company, New York, New York, and its successors and assigns, or any successor securities depository appointed pursuant to Section 2.03 hereof.

“Security Agreements” means, collectively, the Security Agreements between each of the Participating Counties and the Borrower related to the grant of a security interest in the fiber financed with proceeds of the Bonds by the Borrower to the applicable Participating County, as the same may be supplemented, amended, amended and restated or otherwise modified from time to time.

“Series 2024 Bonds” means the \$[Principal Amount] Fond du Lac County, Wisconsin, Taxable Revenue Bonds, Series 2024 (Bug Tussel 2, LLC Project) (Social Bonds).

“Series 2024 Bond Insurance Policy” means Policy No. [\_\_\_\_\_] issued by the Bond Insurer in relation to the Series 2024 Bonds.

“Series 2024 Debt Service Reserve Account” means the account by such name created under Section 4.03 hereof.

“Series 2024 Debt Service Reserve Requirement” means an amount equal to the maximum annual debt service on the Series 2024 Bonds as of any calculation date. The Series 2024 Debt Service Reserve Requirement as of the Closing Date is \$[\_\_\_\_\_].

“Series 2024 Debt Service Reserve Subaccount Requirements” means, as applicable, the Fond du Lac County Series 2024 Debt Service Reserve Subaccount Requirement, [the Forest County Series 2024 Debt Service Reserve Subaccount Requirement], [the Iowa County Series 2024 Debt Service Reserve Subaccount Requirement], [the Jefferson County Series 2024 Debt Service Reserve Subaccount Requirement], [the Lafayette County Series 2024 Debt Service Reserve Subaccount Requirement], [the Marathon County Series 2024 Debt Service Reserve Subaccount Requirement], [the Price County Series 2024 Debt Service Reserve Subaccount Requirement], [the Sawyer County Series 2024 Debt Service Reserve Subaccount Requirement], [the Taylor County Series 2024 Debt Service Reserve Subaccount Requirement] and [the Waushara County 2024 Debt Service Reserve Subaccount Requirement].

“Series 2024 Promissory Note” means the Promissory Note from the Borrower to the Issuer related to the Series 2024 Bonds.

“Special Record Date” means, with respect to any Bond, the date established by the Trustee in connection with the payment of overdue interest on such Bond pursuant to Section 2.04 hereof.

“State” means the State of Wisconsin.

“Stated Maturity” when used with respect to any Bond or any installment of interest thereon means the date specified in such Bond as the fixed date on which the principal of such Bond or such installment of interest is due and payable.

“Supplemental Indenture” means any indenture supplemental or amendatory to this Indenture entered into by the Issuer and the Trustee pursuant to Article IX of this Indenture.

“Supplemental Loan Agreement” means any agreement supplemental or amendatory to the Loan Agreement entered into by the Issuer and the Borrower pursuant to Article X hereof.

[“Taylor County Series 2024 Debt Service Reserve Subaccount” means the account by such name created under Section 4.03 hereof within the Series 2024 Debt Service Reserve Account in the Debt Service Reserve Fund.]

[“Taylor County Series 2024 Debt Service Reserve Subaccount Requirement” means, initially, \$[\_\_\_\_\_], and thereafter, the Pro Rata Share of Payment for Taylor County multiplied by

the Series 2024 Debt Service Reserve Requirement; provided, that, the aggregate dollar amount of payments under Taylor County’s Limited Guaranty Agreement shall in no event be greater than the Guaranteed Amount.]

“Term Bonds” means Bonds that are subject to mandatory sinking fund redemption prior to their scheduled maturity date or dates calculated to retire such Bonds on or before their specified maturity date or dates.

“Transaction Documents” means this Indenture, the Loan Agreement, the Promissory Note, the Bonds, the Intergovernmental Agreement, the Limited Guaranty Agreements, the Hilbert Guaranty Agreements, the Reimbursement Agreements, the Mortgages, the Access Agreements, the Security Agreements, the Pledge of Membership Interest Agreement, the Bond Purchase Agreement, the Preliminary Limited Offering Memorandum, the final Limited Offering Memorandum, and the Continuing Disclosure Agreements, including any and all amendments or supplements to any of the foregoing; provided, however, that when the words “Transaction Documents” are used in the context of the authorization, execution, delivery, approval or performance of Transaction Documents by a particular party, the same shall mean only those Transaction Documents that provide for or contemplate authorization, execution, delivery, approval or performance by such party.

“Trustee” means U.S. Bank Trust Company, National Association, and its successor or successors and any other corporation or association which at any time may be substituted in its place pursuant to and at the time serving as trustee under this Indenture.

“Trust Estate” has the meaning set forth in the Granting Clauses of this Indenture.

“Underwriter” means Samuel A. Ramirez & Company, Inc., as representative for itself, Robert W. Baird & Co. Incorporated, and Oppenheimer & Co. Inc.

“United States Bankruptcy Code” means the United States Bankruptcy Reform Act of 1978, as amended from time to time, or any substitute or replacement legislation.

[“Waushara County Series 2024 Debt Service Reserve Subaccount” means the account by such name created under Section 4.03 hereof within the Series 2024 Debt Service Reserve Account in the Debt Service Reserve Fund.]

[“Waushara County Series 2024 Debt Service Reserve Subaccount Requirement” means, initially, \$[\_\_\_\_\_], and thereafter, the Pro Rata Share of Payment for Waushara County multiplied by the Series 2024 Debt Service Reserve Requirement; provided, that, the aggregate dollar amount of payments under Waushara County’s Limited Guaranty Agreement shall in no event be greater than the Guaranteed Amount.]

**Section 1.02. Rules of Construction.**

For all purposes of this Indenture, except as otherwise expressly provided or unless the context otherwise requires, the following rules of construction apply in construing the provisions of this Indenture:

- (a) The terms defined in this Article include the plural as well as the singular.

(b) All accounting terms not otherwise defined herein shall have the meanings assigned to them, and all computations herein provided for shall be made, in accordance with generally accepted accounting principles to the extent applicable. The term “generally accepted accounting principles” refers to such principles in effect on the date of the determination, certification, computation or other action to be taken hereunder using or involving such terms provided, as applied to any entity that operates a utility or other discrete enterprise of a type with respect to which particular accounting principles from time to time shall have been generally adapted or modified, the term “generally accepted accounting principles” shall include the adaptations or modifications.

(c) All references in this instrument to designated “Articles,” “Sections” and other subdivisions are to be the designated Articles, Sections and other subdivisions of this instrument as originally executed.

(d) The words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision hereof.

(e) The Article and Section headings herein and in the Table of Contents are for convenience only and shall not affect the construction hereof.

(f) Whenever an item or items are listed after the word “including,” such listing is not intended to be a listing that excludes items not listed.

(g) The word “or” is not intended to be exclusive, but is intended to permit or encompass one, more or all of the alternatives conjoined.

(h) Any terms not defined herein but defined in the Loan Agreement shall have the meanings set forth in the Loan Agreement unless the context clearly requires otherwise.

### **Section 1.03. Characteristics of Certificate or Opinion.**

Every certificate or Opinion of Counsel with respect to compliance with a condition or covenant provided for in this Indenture shall include: (i) a statement that the person or persons making such certificate or opinion have read such covenant or condition and the definitions herein relating thereto; (ii) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate are based; (iii) a statement that, in the opinion of the signers, they have made or caused to be made such examination or investigation as is necessary to enable them to express an informed opinion as to whether or not such condition or covenant has been complied with; and (iv) a statement whether, in the opinion of the signers, such condition or covenant has been complied with.

Reference is made to Section 12.03 for further provisions relating to the content of such certificates and opinions.

**ARTICLE II**

**THE BONDS**

**Section 2.01. Authorization of Bonds; Terms of Bonds.**

(a) No Bonds may be issued under this Indenture except in accordance with the provisions of this Article. The total principal amount of Bonds that may be issued under this Indenture is limited as provided in this Section.

(b) The aggregate principal amount of the Bonds that may be authenticated and delivered and Outstanding under this Indenture is limited to and shall not exceed \$250,000,000.

(c) There shall be issued under and secured by this Indenture a series of Bonds designated “FOND DU LAC COUNTY, WISCONSIN TAXABLE REVENUE BONDS, SERIES 2024 (BUG TUSSEL 2, LLC PROJECT) (SOCIAL BONDS)” in the aggregate original principal amount of \$[Principal Amount], for the purpose of providing funds to make a loan to the Borrower to be used, with other available funds, to finance the Project as provided in Section 4.05 hereof. The Series 2024 Bonds mature as follows:

<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>

(d) The Bonds shall be issuable as fully registered bonds without coupons, in Authorized Denominations, in substantially the form set forth in Exhibit A attached to this Indenture, with such necessary or appropriate variations, omissions and insertions as are permitted or required by this Indenture. The Bonds may have endorsed thereon such legends or text as may be necessary or appropriate to conform to any applicable rules and regulations of any governmental authority or any custom, usage or requirement of law with respect thereto. The Bonds shall be numbered from R-1 consecutively upward in order of issuance or in such other manner as the Trustee shall designate. Additional Bonds shall be in the form set forth in a Supplemental Indenture pursuant to which such Additional Bonds are issued.

(e) The Series 2024 Bonds shall bear interest from the Date of Issuance, payable on each Interest Payment Date as herein provided, commencing on [\_\_\_\_ 1, 20\_\_], until payment of the principal or redemption price thereof is made or provided for, whether at



Stated Maturity, upon redemption or acceleration, or otherwise. Interest shall be computed on the basis of a 360-day year of twelve 30-day months.

(f) The Series 2024 Bonds may forthwith upon the execution and delivery of this Indenture, or from time to time thereafter, be executed by the proper officers of the Issuer and delivered to the Trustee for authentication, and shall thereupon be authenticated and delivered by the Trustee, but only upon receipt by the Trustee of the following:

(1) A copy, certified by the Clerk of the Issuer, of the resolution adopted by the Issuer's Governing Body authorizing the issuance of the Bonds and the execution of this Indenture, the Loan Agreement and the other Transaction Documents to which it is a party;

(2) A copy, certified by the Member and/or another authorized officer of the Borrower, of the resolutions adopted by the Borrower's Members authorizing the execution and delivery of the Loan Agreement and the other Transaction Documents to which it is a party, and approving this Indenture and the issuance and sale of the Bonds;

(3) Original executed counterparts of the Transaction Documents;

(4) Original executed counterparts of closing certificates of the Issuer, Borrower, Trustee and Underwriter containing the substance required under the Bond Purchase Agreement;

(5) A request and authorization to the Trustee on behalf of the Issuer, executed by an Issuer Representative, to authenticate and thereafter to deliver the Bonds to the Underwriter upon payment to the Trustee, for the account of the Issuer, of the purchase prices thereof, and directing the Trustee as to the disposition of the proceeds of the Bonds. The Trustee shall be entitled to rely conclusively upon such request and authorization as to the name of the Underwriter and the amounts of such purchase prices;

(6) An Opinion of Bond Counsel stating in effect and subject to customary assumptions and qualifications, that the Bonds, when issued and executed by the Issuer and authenticated and delivered by the Trustee, will be the valid and binding limited obligations of the Issuer in accordance with their terms and entitled to the benefits of and secured by the lien of this Indenture and the Limited Guaranty Agreements;

(7) Evidence from a Rating Agency that the Series 2024 Bonds will carry an investment grade rating of at least BBB- / Baa3 or the equivalent;

(8) Opinion(s) of Counsel to the Participating Counties that the Limited Guaranty Agreements have been duly authorized, executed and delivered and are enforceable against the Participating Counties in accordance with their terms; and

(9) Receipt of the final Series 2024 Bond Insurance Policy.

When the documents specified above have been filed with the Trustee, and when the Series 2024 Bonds shall have been executed and authenticated as required by this Indenture, the Trustee shall deliver such Series 2024 Bonds to or upon the order of the Underwriter thereof, but only upon payment to the Trustee of the purchase price of the Series 2024 Bonds. The proceeds of the sale of the Series 2024 Bonds, including accrued interest thereon, if any, shall be immediately paid over to the Trustee, and the Trustee shall deposit and apply such proceeds as provided in Article IV hereof.

**Section 2.02. Limited Obligations.**

As provided in the Act, the Bonds shall be limited obligations of the Issuer payable by it solely from the Pledged Revenues and proceeds derived by the Trustee pursuant to the Limited Guaranty Agreements. The Bonds shall not constitute a debt or obligation of the Issuer, the Participating Counties, the State of Wisconsin or any political subdivision thereof within the meaning of any State of Wisconsin constitutional provision or statutory limitation and shall not be a charge against their general credit or taxing powers. The sole obligation of each Participating County is with respect to its respective Limited Guaranty Agreement.

**Section 2.03. Book-Entry System; Securities Depository.**

Unless provided otherwise in a Supplemental Indenture for any Additional Bonds, the Bonds shall initially be registered in the name of Cede & Co., the nominee for the initial Securities Depository, and no beneficial owner will receive certificates representing their respective interests in the Bonds, except in the event the Trustee issues Replacement Bonds as provided in this Section. It is anticipated that during the term of the Bonds, the Securities Depository will make book entry transfers among its Participants and receive and transmit payment of principal of, and interest on, such Bonds to the Participants until and unless the Trustee authenticates and delivers Replacement Bonds to the beneficial owners as described in the following paragraph. With respect to Bonds held in a Book-Entry System, the Issuer and the Trustee shall have no responsibility or obligation to any Participants. Without limiting the immediately preceding sentence, the Issuer and the Trustee shall have no responsibility or obligation with respect to (a) the accuracy of the records of the Securities Depository or any Participant with respect to the beneficial ownership interests in the Bonds, (b) the delivery to any Participant or any other Person, other than the registered owner of a Bond as shown in the Bond Register, of any notice with respect to the Bonds, including any notice of redemption, (c) the payment to any Participant or any other Person, other than a registered owner of a Bond as shown in the Bond Register, of any amount with respect to principal of, or interest on, the Bonds, (d) any consent given by the Securities Depository as registered owner of the Bonds or (e) the selection by the Securities Depository or any Participant of any beneficial owners to receive payment if Bonds are redeemed in part.

If (1) the Borrower determines (A) that the Securities Depository is unable to properly discharge its responsibilities, or (B) that the Securities Depository is no longer qualified to act as a securities depository and registered clearing agency under the Securities Exchange Act of 1934, as amended (the "1934 Act"), or (C) that the continuation of a Book Entry System to the exclusion of the Bonds being issued to any Bondowner other than the Securities Depository or its nominee is no longer in the best interests of the beneficial owners of such Bonds, or (2) the Trustee receives written notice from Participants having interests in not less than 50% of the principal amount of the Bonds Outstanding, as shown on the records of the Securities Depository (and certified to such effect by the

Securities Depository), that the Participants have determined that the continuation of a Book Entry System to the exclusion of any Bonds being issued to any Bondowner other than the Securities Depository or its nominee is no longer in the best interests of the beneficial owners of the Bonds, then the Trustee shall notify the Bondowners of such determination or such notice and of the availability of bond certificates to owners requesting the same, and the Trustee shall register in the name of and authenticate and deliver Replacement Bonds to the beneficial owners or their nominees in principal amounts representing the interest of each, making such adjustments as it may find necessary or appropriate as to accrued interest and previous calls for redemption; provided, that in the case of a determination under (1)(A) or (1)(B) of this paragraph, the Borrower, with the consent of the Trustee, may select a successor securities depository in accordance with the following paragraph to effect book-entry transfers. In such event, all references to the Securities Depository herein shall relate to the period of time when the Securities Depository has possession of at least one Bond which is held in its Book Entry System. If the Securities Depository resigns and the Borrower, the Trustee or Bondowners are unable to select a qualified successor of the Securities Depository in accordance with the following paragraph, then the Trustee shall authenticate and cause delivery of Replacement Bonds to Bondowners, as provided herein. The Trustee may rely on information from the Securities Depository and its Participants as to the names of the beneficial owners of the Bonds. The cost of printing, registration, authentication, and delivery of Replacement Bonds shall be paid by the Borrower.

In the event the Securities Depository resigns, is unable to properly discharge its responsibilities, or is no longer qualified to act as a securities depository and registered clearing agency under the 1934 Act, the Borrower may appoint a successor Securities Depository, provided the Trustee receives written evidence satisfactory to the Trustee with respect to the ability of the successor Securities Depository to discharge its responsibilities. Any such successor Securities Depository shall be a securities depository which is a registered clearing agency under the 1934 Act, or other applicable statute or regulation that operates a securities depository upon reasonable and customary terms. The Trustee upon its receipt of a Bond or Bonds for cancellation shall cause the delivery of Bonds to the successor Securities Depository in appropriate denominations and form as provided herein.

#### **Section 2.04. Method and Place of Payment.**

The principal of, and interest on, the Bonds shall be payable in any coin or currency of the United States of America which on the respective dates of payment thereof is legal tender for the payment of public and private debts.

The principal of all Bonds shall be payable by check at maturity or upon earlier redemption to the Persons in whose names such Bonds are registered on the Bond Register (as defined in Section 2.06 hereof) at the maturity or redemption date thereof, upon the presentation and surrender of such Bonds at the designated corporate trust office of the Trustee or of any Paying Agent.

The interest payable on each Bond on any Interest Payment Date shall be paid by the Trustee to the registered owner of such Bond as shown on the Bond Register at the close of business on the Regular Record Date for such interest, (1) by check of the Trustee sent to the Owner by first class mail at the Owner's address as it appears on the Bond Register or at such other address as is furnished to the Trustee in writing by such Owner, or (2) with respect to Bonds held by a Securities Depository, or at the written request addressed to the Trustee by any Owner of Bonds in the aggregate principal amount of at least \$1,000,000 (or, if the principal amount of the Outstanding Bonds is less

than \$1,000,000, the Owner of all Outstanding Bonds), by electronic wire transfer in immediately available funds to the bank for credit to the ABA routing number and account number filed with the Trustee no later than a Regular Record Date for any interest payment, that all such payments be made by wire transfer.

Interest on any Bond that is due and payable but not paid on the date due (“Defaulted Interest”) shall cease to be payable to the Owner of such Bond on the relevant Regular Record Date and shall be payable to the Owner in whose name such Bond is registered at the close of business on a special record date (the “Special Record Date”) for the payment of such Defaulted Interest, which Special Record Date shall be fixed in the following manner. The Borrower shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each Bond and the date of the proposed payment (which date shall be such as will enable the Trustee to comply with the next sentence hereof), and shall deposit with the Trustee at the time of such notice an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment; money deposited with the Trustee shall be held in trust for the benefit of the Owners of the Bonds entitled to such Defaulted Interest as provided in this Section. Following receipt of such funds the Trustee shall fix the Special Record Date for the payment of such Defaulted Interest which shall be not more than fifteen (15) nor less than ten (10) days prior to the date of the proposed payment and not less than ten (10) days after the receipt by the Trustee of the notice of the proposed payment. The Trustee shall promptly notify the Borrower of such Special Record Date and, in the name and at the expense of the Borrower, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first class postage prepaid, to each Owner of a Bond entitled to such notice at the address of such Owner as it appears on the bond register not less than ten (10) days prior to such Special Record Date.

Subject to the foregoing provisions of this Section, each Bond delivered under this Indenture upon transfer of or in exchange for or in lieu of any other Bond shall carry all the rights to interest accrued and unpaid, and to accrue, which were carried by such other Bond and each such Bond shall bear interest from such date, that neither gain nor loss in interest shall result from such transfer, exchange or substitution.

#### **Section 2.05. Execution and Authentication.**

The Bonds shall be executed on behalf of the Issuer by the manual or facsimile signatures of an Issuer Representative and shall be authenticated by the Trustee. If any officer whose manual or facsimile signature appears on any Bonds shall cease to hold such office before the authentication and delivery of such Bonds, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such person had remained in office until delivery. Any Bond may be signed by such persons as at the actual time of the execution of such Bond shall be the proper officers to sign such Bond although at the date of such Bond such persons may not have been such officers.

No Bond shall be secured by, or be entitled to any lien, right or benefit under, this Indenture or be valid or obligatory for any purpose, unless there appears on such Bond a certificate of authentication substantially in the form provided for in Exhibit A hereto, executed by the Trustee by the manual signature of an authorized representative of the Trustee, and such certificate upon any Bond shall be conclusive evidence, and the only evidence, that such Bond has been duly authenticated and delivered hereunder. At any time and from time to time after the execution and delivery of this

Indenture, the Issuer may deliver Bonds executed by the Issuer to the Trustee for authentication and the Trustee shall authenticate and deliver such Bonds as in this Indenture provided and not otherwise.

**Section 2.06. Registration, Transfer and Exchange of Bonds.**

The Trustee shall cause to be kept at its designated corporate trust office a register in which, subject to such reasonable regulations as it may prescribe, the Trustee shall provide for the registration, transfer and exchange of Bonds as herein provided (referred to herein as the “Bond Register”). The Trustee is hereby appointed “bond registrar” for the purpose of registering Bonds and transfers of Bonds as herein provided.

Bonds may be transferred or exchanged only upon the Bond Register maintained by the Trustee as provided in this Section (and while the Bonds are registered in the name of a Securities Depository, as provided in Section 2.03). Upon surrender for transfer or exchange of any Bond at the designated corporate trust office of the Trustee, the Issuer shall execute, and the Trustee shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Bonds of the same Stated Maturity, of any Authorized Denominations and of a like aggregate principal amount.

Every Bond presented or surrendered for transfer or exchange shall (if so required by the Issuer or the Trustee, as bond registrar) be duly endorsed, or be accompanied by a written instrument of transfer in form satisfactory to the Trustee, as bond registrar, duly executed by the Owner thereof or his attorney or legal representative duly authorized in writing.

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

No service charge shall be made for any registration, transfer or exchange of Bonds, but the Trustee or Securities Depository may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any transfer or exchange of Bonds, and such charge shall be paid before any such new Bond shall be delivered. The fees and charges of the Trustee for making any transfer or exchange and the expense of any bond printing necessary to effect any such transfer or exchange shall be paid by the Borrower. In the event any Owner fails to provide a correct taxpayer identification number to the Trustee, the Trustee may impose a charge against such Owner sufficient to pay any governmental charge required to be paid as a result of such failure. To the extent permitted by Section 3406 of the Code, such amount may be withheld by the Trustee from amounts otherwise payable to such Owner hereunder or under the Bonds.

The Trustee shall not be required (i) to transfer or exchange any Bond during a period beginning at the opening of business fifteen (15) days before the day of the first mailing of a notice of redemption of Bonds and ending at the close of business on the day of such mailing, or (ii) to transfer or exchange any Bond so selected for redemption, in whole or in part, during a period beginning at the opening of business on any Regular Record Date for such Bonds and ending at the close of business on the relevant Interest Payment Date therefor.

The Issuer, the Borrower, the Trustee and any agent of the Issuer, the Borrower or the Trustee may treat the Person in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of principal of, and interest on, such Bond and for all other purposes whatsoever, except as otherwise provided in this Indenture, whether or not such Bond is overdue, and, to the extent permitted by law, neither the Issuer, the Borrower, the Trustee nor any such agent shall be affected by notice to the contrary.

The Person in whose name any Bond shall be registered on the Bond Register shall be deemed and regarded as the absolute owner thereof for all purposes, except as otherwise provided in this Indenture, and payment of or on account of the principal of, and interest on, any such Bond shall be made only to or upon the order of the Owner thereof or his legal representative, but such registration may be changed as herein 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.

At reasonable times and under reasonable regulations established by the Trustee, the bond register maintained by the Trustee may be inspected and copied by the Issuer, the Borrower, or the Owners of 10% or more in principal amount of Bonds Outstanding or the authorized representative thereof, provided that the ownership of such Owner and the authority of any such designated representative shall be evidenced to the satisfaction of the Trustee.

Notwithstanding any other provision hereof, the Series 2024 Bonds may not be registered in the name of, or transferred to, any person except a Qualified Institutional Buyer (as defined in Rule 144A under the Securities Act of 1933, as amended); provided, however, that while any Series 2024 Bonds are held as Book-Entry Bonds pursuant to Section 2.03 hereof, Series 2024 Bonds registered in the name of The Depository Trust Company, a New York corporation (“DTC”) or its nominee shall be deemed to comply with this Section so long as each Beneficial Owner of such Book-Entry Bonds is a Qualified Institutional Buyer. The Trustee shall have no responsibility for, or liability in connection with, determining whether any Beneficial Owner of Book-Entry Bonds is a Qualified Institutional Buyer. On the Closing Date, the initial investors in the Series 2024 Bonds shall be required to deliver an Investor Letter to the Underwriter in the form attached to the Limited Offering Memorandum.

The Series 2024 Bonds shall bear a legend in substantially the following form:

THIS BOND IS A “RESTRICTED SECURITY” WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT. THE HOLDER HEREOF, BY PURCHASING OR OTHERWISE ACQUIRING THIS BOND, (1) REPRESENTS THAT IT IS A “QUALIFIED INSTITUTIONAL BUYER” (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT); AND (2) AGREES THAT IT WILL NOT RESELL OR OTHERWISE TRANSFER THIS BOND EXCEPT PURSUANT TO AN EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT TO A PURCHASER REPRESENTING THAT IT IS A QUALIFIED INSTITUTIONAL BUYER.

### **Section 2.07. Temporary Bonds.**

Pending the preparation of definitive Bonds, the Issuer may execute, and upon request of the Issuer the Trustee shall authenticate and deliver, temporary Bonds which are printed, lithographed, typewritten, or otherwise produced, in any denomination, substantially of the tenor of the definitive Bonds in lieu of which they are issued, with such appropriate insertions, omissions, substitutions and other variations as the officers executing such Bonds may determine, as evidenced by their execution of such Bonds. If temporary Bonds are issued, the Issuer will cause definitive Bonds to be prepared without unreasonable delay. After the preparation of definitive Bonds, the temporary Bonds shall be exchangeable for definitive Bonds upon surrender of the temporary Bonds at the designated corporate trust office of the Trustee, without charge to the Owner. Upon surrender for cancellation of any one or more temporary Bonds, the Trustee shall authenticate and deliver in exchange therefor a like principal amount of definitive Bonds of Authorized Denominations. Until so exchanged, temporary Outstanding Bonds shall in all respects be entitled to the security and benefits of this Indenture.

### **Section 2.08. Mutilated, Destroyed, Lost and Stolen Bonds.**

If (i) any mutilated Bond is surrendered to the Trustee, or the Issuer and the Trustee receive evidence to their satisfaction of the destruction, loss or theft of any Bond, and (ii) there is delivered to the Issuer and the Trustee such security or indemnity as may be required by them to save each of them harmless, then, in the absence of notice to the Issuer or the Trustee that such Bond has been acquired by a bona fide purchaser, the Issuer shall execute and upon its request the Trustee shall authenticate and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost or stolen Bond, a new Bond of the same Stated Maturity and of like tenor and principal amount, bearing a number not contemporaneously outstanding.

In case any such mutilated, destroyed, lost or stolen Bond has become or is about to become due and payable, the Issuer in its discretion may, instead of issuing a new Bond, pay such Bond.

Upon the issuance of any new Bond under this Section, the Issuer and the Trustee may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses connected therewith.

Every new Bond issued pursuant to this Section in lieu of any destroyed, lost or stolen Bond, shall constitute an original additional contractual obligation of the Issuer, whether or not the destroyed, lost or stolen Bond shall be at any time enforceable by anyone, and shall be entitled to all the security and benefits of this Indenture equally and ratably with all other Outstanding Bonds.

The provisions of this Section are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or stolen Bonds.

### **Section 2.09. Cancellation of Bonds.**

All Bonds surrendered for payment, redemption, transfer, exchange or replacement, if surrendered to the Trustee, shall be promptly cancelled by the Trustee, and, if surrendered to any Paying Agent other than the Trustee, shall be delivered to the Trustee and, if not already cancelled,

shall be promptly cancelled by the Trustee. The Issuer or the Borrower may at any time deliver to the Trustee for cancellation any Bonds previously authenticated and delivered hereunder, which the Issuer or the Borrower may have acquired in any manner whatsoever, and all Bonds so delivered shall be promptly cancelled by the Trustee. No Bond shall be authenticated in lieu of or in exchange for any Bond cancelled as provided in this Section, except as expressly provided by this Indenture. All cancelled Bonds held by the Trustee shall be destroyed and disposed of by the Trustee in accordance with applicable record retention requirements. The Trustee shall execute and deliver to the Issuer and the Borrower a certificate describing the Bonds so cancelled and destroyed.

**Section 2.10. Additional Bonds.**

(a) The Issuer shall not issue any other bonds or obligations having a lien on the Trust Estate except for Additional Bonds issued pursuant to this Section.

(b) Additional Bonds may be issued for any legal purpose permitted by the Act.

(c) Additional Bonds must be issued by [\_\_\_\_\_] [\_\_\_], 20[\_\_\_].

(d) The terms and provisions relating to a series of Additional Bonds shall be as set forth in the Supplemental Indenture providing for the issuance of such series of Additional Bonds. Each series of Additional Bonds, upon execution on behalf of the Issuer, shall be deposited with the Trustee for authentication and delivery, and the Trustee shall authenticate and deliver such Additional Bonds upon receipt by the Trustee of the following:

(1) a copy, certified by an Issuer Representative, of a resolution and/or evidence of any other official actions taken by the Issuer authorizing, or an opinion of Bond Counsel to the effect that no additional official action is required to authorize, (i) the execution and delivery of the Supplemental Indenture providing for the issuance of the Additional Bonds of such series and setting forth the terms of such Additional Bonds, (ii) the execution and delivery of any amendments or supplements to each of the Transaction Documents required by the issuance of such series of Additional Bonds (or an opinion of counsel that no such amendment is required), and (iii) issuance, sale, execution and delivery of such series of Additional Bonds;

(2) an original executed counterpart or a copy, certified by an Issuer Representative, of this Indenture, together with original executed counterparts or certified copies of all Supplemental Indentures executed and delivered since the date of issuance of the 2024 Bonds;

(3) an original executed counterpart or a copy, certified by an Issuer Representative, of the Supplemental Indenture providing for the issuance of the Additional Bonds of such series and setting forth terms of such Additional Bonds;

(4) an original executed counterpart or a copy, certified by the Issuer Representative and Borrower Representative, as applicable, of any amendments or supplements to the Transaction Documents to which each is a party;

(5) an opinion or opinions of counsel to the Borrower, addressed to the Issuer and the Trustee, to the effect that amendments and supplements, if any, to the



Transaction Documents to which it is a party have been duly authorized, executed and delivered by, and constitute the valid and binding obligations of, the Borrower enforceable against the Borrower; provided, that such opinion or opinions of counsel may take exception as to the effect of, or for restrictions or limitations imposed by or resulting from, bankruptcy, insolvency, reorganization, arrangement, fraudulent conveyance, moratorium and other laws relating to or affecting creditors' rights, to the application of equitable principles, to the exercise of judicial discretion in appropriate cases, and that no opinion is being rendered with respect to any indemnification, contribution, penalty, choice of law, choice of forum, choice of venue, waiver or severability provisions under the financing documents;

(6) a request and authorization of the Issuer, signed by an Issuer Representative, to the Trustee to authenticate and, upon receipt of the purchase price, to deliver such series of Additional Bonds to or upon the order of the purchasers of such series of Additional Bonds;

(7) a certificate of the Borrower signed by a Borrower Representative stating that (i) no Event of Default, nor any event or condition that with notice or the passage of time or both would constitute an Event of Default, has occurred and is continuing under the Transaction Documents as of the date of issuance of such series of Additional Bonds and (ii) the issuance of such series of Additional Bonds, in and of itself, will not cause an Event of Default or default under the Transaction Documents;

(8) a final approving opinion of Bond Counsel addressed to the Trustee, duly executed;

(9) an Opinion of Counsel of the Borrower that the conditions of this Section for the issuance of such Additional Bonds have been satisfied;

(10) the agreement of the Borrower to pay the administrative fees and expense of the Issuer and the Trustee in connection with the issuance of a series of Additional Bonds;

(11) evidence from a Rating Agency that such Additional Bonds will carry an investment grade rating of at least BBB - / Baa3 or the equivalent;

(12) opinion(s) of Counsel to the Participating Counties that the Guaranty Agreements have been duly authorized, executed and delivered and are enforceable against the Participating Counties in accordance with their terms; and

(13) if applicable, receipt of the final bond insurance policy relating to the Additional Bonds.

## ARTICLE III

### REDEMPTION AND PURCHASE OF BONDS

#### Section 3.01. Redemption of Bonds.

The Series 2024 Bonds are subject to optional and mandatory redemption prior to Stated Maturity as follows:

(a) *Optional Redemption.* The Series 2024 Bonds maturing after [\_\_\_\_\_ 1, 20\_\_] are subject to redemption by the Issuer, in whole or in part, at the option of the Borrower, which may be exercised upon the written direction of the Borrower, on or after [\_\_\_\_\_ 1, 20\_\_], at a redemption price equal to 100% of the principal amount thereof, without premium, plus accrued interest thereon to the redemption date. Payment of the redemption price pursuant to this Section 3.01(a) shall be made with Eligible Funds.

(b) *Extraordinary Optional Redemption.*

(1) Damage, Destruction, Eminent Domain, Court Order or Legislative Change. The Series 2024 Bonds are subject to redemption in whole, or in part, at the option of the Borrower, on any Business Day, at a redemption price equal to 100% of the principal amount thereof, without premium, plus accrued interest thereon to the redemption date upon the occurrence of the following conditions (in all such cases, excluding any Participating County exercising remedies under the Reimbursement Documents, and excluding any and all actions or omissions, whether direct or indirect, by any Participating County, including, without limitation, foreclosure or other action transferring title or rights with respect to the Facilities or any component of the Project and legislative or administrative action taken by any Participating County): (A) all or a portion of the Facilities within a particular Participating County shall have been damaged or destroyed to such extent that, in the opinion of the Borrower expressed in a certificate of the Borrower Representative filed with the Issuer and the Trustee following such damage or destruction, (i) the completion of the Project will be delayed for at least six months, (ii) it is not practicable or desirable to rebuild, repair or restore the Facilities within a period of six consecutive months following such damage or destruction, or (iii) the Borrower is or will be thereby prevented from carrying on its normal operations in a material manner at any portion of the Facilities for a period of at least six consecutive months; or (B) title to or the temporary use of all or substantially all of the Facilities in a particular Participating County shall have been taken under the exercise of the power of eminent domain by any governmental authority to such extent that, in the opinion of the Borrower expressed in a certificate of a Borrower Representative filed with the Issuer and the Trustee, (i) the completion of the Project financed with the Series 2024 Bonds will be delayed for at least six months or (ii) the Borrower is or will be thereby prevented from carrying on its normal operations in a material manner at any portion of the Facilities for a period of at least six consecutive months; or (C) any court or administrative body of competent jurisdiction shall enter a judgment, order or decree requiring the Borrower to cease all or any substantial part of its operations at any portion of the Facilities to such extent that, in the opinion of the Borrower expressed in a certificate of a Borrower

Representative filed with the Issuer and the Trustee, the Borrower is or will be thereby prevented from carrying on its normal operations in a material manner at the Facilities for a period of at least six consecutive months; or (D) as a result of any changes in the Constitution of Wisconsin or the Constitution of the United States of America or of legislative or administrative action (whether state or federal) or by final decree, judgment or order of any court or administrative body (whether state or federal), the Loan Agreement shall have become void or unenforceable or impossible to perform in accordance with the intent and purposes of the parties as expressed in the Loan Agreement, or unreasonable burdens or excessive liabilities shall have been imposed on the Issuer or the Borrower, in the opinion of the Issuer or the Borrower, as applicable, expressed in a certificate of an Issuer Representative or a Borrower Representative, as applicable, filed with the Trustee, as a consequence of the Series 2024 Bonds or the Series 2024 Promissory Note being Outstanding, including without limitation federal, state or other ad valorem, property, income or other taxes not being imposed on the Facilities owed by the Borrower as of the date of the Loan Agreement. In the event that the Bonds are subject to redemption under this section, and all Facilities located within a Participating County have been subject to the above-described conditions, upon the redemption of the portion of the Bonds representing the Facilities in such Participating County, such Participating County's Pro Rata Share shall be reduced by a corresponding amount. For the avoidance of doubt, if a Participating County's Pro Rata Share is reduced to zero pursuant to its Limited Guaranty Agreement, then such Participating County shall be released from its obligations under its applicable Limited Guaranty Agreement in accordance with the terms and conditions set forth therein. Payment of the redemption price pursuant to this Section 3.01(b)(1) shall be made with Eligible Funds.

(2) At the Option of the Guarantors. The Series 2024 Bonds are subject to redemption in whole, but not in part, at the option of the Guarantors, so long as the Guarantors are not in default under the Limited Guaranty Agreements, on any Business Day, at a redemption price equal to 100% of the principal amount thereof, without premium, plus accrued interest thereon to the redemption date upon the occurrence of each of the following conditions: (A) an Event of Default has occurred and is continuing, (B) the Bonds have been accelerated pursuant to the terms hereof and (C) all of the Guarantors have unanimously agreed to exercise their option to redeem the Series 2024 Bonds. Series 2024 Bonds redeemed pursuant to this section are payable by the Guarantors in accordance with Section 4.08(d) hereof. Payment of the redemption price pursuant to this Section 3.01(b)(2) shall be made with Eligible Funds.

(c) Mandatory Redemption from Unused Proceeds. The Series 2024 Bonds shall be redeemed prior to Stated Maturity, from any amounts transferred from the Project Fund to the Bond Fund as provided in Section 4.05 hereof upon the closing of the Project Fund. If there are moneys remaining in the Project Fund upon the closing thereof pursuant to Section 4.07 of the Loan Agreement and Section 4.05 hereof, the Trustee shall establish a redemption date, which shall be within forty-five (45) days of the Trustee's receipt of the certificate of a Borrower Representative establishing the Completion Date. The redemption price shall be 100% of the principal amount of the Bonds or portions thereof so redeemed, plus accrued interest to the redemption date. The Trustee shall call such Series 2024 Bonds

for redemption and shall give notice of redemption without the necessity of any action by the Issuer or the Borrower. Payment of the redemption price pursuant to this Section 3.01(c) shall be made with Eligible Funds.

(d) *Mandatory Sinking Fund Redemption of the Series 2024 Bonds.* The Series 2024 Bonds maturing [\_\_\_\_ 1, 20\_\_] and [\_\_\_\_ 1, 20\_\_] are subject to mandatory sinking fund redemption prior to maturity on [\_\_\_\_ 1] in each of the years and in the principal amount thereof shown in the following table at a redemption price equal to 100% of the principal amount being redeemed, plus interest accrued thereon to the date fixed for redemption:

Term Bonds Maturing on [\_\_\_\_ 1, 20\_\_]

<u>Payment Dates</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
[__ 1, 20__]	\$ [____]	[__]%
[__ 1, 20__]	[____]	[__]%
[__ 1, 20__]	[____]	[__]%
[__ 1, 20__]	[____]	[__]%
[__ 1, 20__] (maturity)	[____]	[__]%
	\$[____]	

Term Bonds Maturing on [\_\_\_\_ 1, 20\_\_]

<u>Payment Dates</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
[__ 1, 20__]	\$ [____]	[__]%
[__ 1, 20__]	[____]	[__]%
[__ 1, 20__]	[____]	[__]%
[__ 1, 20__]	[____]	[__]%
[__ 1, 20__]	[____]	[__]%
[__ 1, 20__]	[____]	[__]%
[__ 1, 20__]	[____]	[__]%
[__ 1, 20__]	[____]	[__]%
[__ 1, 20__] (maturity)	[____]	[__]%
	\$[____]	

**Section 3.02. Election to Redeem; Notice to Trustee.**

In case of any redemption of Series 2024 Bonds pursuant to Section 3.01(a) or Section 3.01(b)(1), the Borrower, and in the case of any redemption of the Series 2024 Bonds pursuant to Section 3.01(b)(2), the Issuer on behalf of all of the Guarantors, at least thirty (30) days prior to the redemption date fixed, by the Borrower if under Section 3.01(a) or 3.01(b)(1), and by the Issuer on behalf of all of the Guarantors if under Section 3.01(b)(2) (unless a shorter notice shall be satisfactory to the Trustee) give written notice to the Issuer, the Guarantors if under Section 3.01(a) or Section 3.01(b)(1) and to the Borrower if under Section 3.01(b)(2), and the Trustee directing the Trustee to

call the Series 2024 Bonds for redemption and give notice of redemption and specifying the redemption date, the principal amount, and maturities of the Series 2024 Bonds to be called for redemption, the applicable redemption price or prices and the provision or provisions of this Indenture pursuant to which such the Series 2024 Bonds are to be called for redemption.

The foregoing provisions of this Section shall not apply in the case of any redemption of Series 2024 Bonds pursuant to Section 3.01(c) or Section 3.01(d), and the Trustee shall call such Series 2024 Bonds for redemption and shall give notice of redemption pursuant to such mandatory redemption requirements without the necessity of any action by the Issuer or the Borrower and whether or not the Trustee shall hold in the Bond Fund money available and sufficient to effect the required redemption.

**Section 3.03. Selection of Bonds to Be Redeemed; Bonds Redeemed in Part.**

Bonds may be redeemed only in Authorized Denominations. If less than all Bonds are to be redeemed pursuant to Section 3.01(a), Section 3.01(b)(1) or Section 3.01(d) hereof, such Bonds shall be redeemed from the Stated Maturity or Stated Maturities selected by the Borrower and if pursuant to Section 3.01(b)(2), as selected by the Issuer on behalf of all of the Guarantors. If less than all Bonds of a particular Stated Maturity are to be redeemed, the particular Bonds or portions thereof to be redeemed shall be selected by the Trustee from the Bonds which have not previously been called for redemption, by such method as the Trustee shall deem fair and appropriate and which may provide for the selection for partial redemption (in Authorized Denominations) of Bonds in accordance with the operational arrangements of the Securities Depository then in effect; provided that no partial redemption shall leave Outstanding a Bond which is not an Authorized Denomination, unless such amount is the only amount Outstanding, then such final Bond of that series may be in that amount; and provided, further, that such selection shall be made by the Securities Depository for Bonds held in a Book-Entry System.

Any Bond which is to be redeemed only in part shall be surrendered at the place of payment therefor (with, if the Issuer or the Trustee so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the Issuer and the Trustee duly executed by, the Owner thereof or his attorney or legal representative duly authorized in writing), and the Issuer shall execute and the Trustee shall authenticate and deliver to the Owner of such Bond, without service charge, a new Bond or new Bonds of the same Stated Maturity of any Authorized Denominations as requested by such Owner in aggregate principal amount equal to and in exchange for the unredeemed portion of the principal of the Bond so surrendered. If the Owner of any such Bond shall fail to present such Bond to the Trustee for payment and exchange as aforesaid, said Bond shall, nevertheless, become due and payable on the redemption date to the extent of the principal amount called for redemption (and to that extent only).

In lieu of surrender under the preceding paragraph, payment of the redemption price of a portion of any Bond registered in the name of the Securities Depository or its nominee under a Book-Entry System may be made directly to the Owner thereof without surrender thereof, if there shall have been filed with the Trustee a written agreement of such Securities Depository that payment shall be so made and that such Owner will not sell, transfer or otherwise dispose of such Bond unless prior to delivery thereof such Owner shall present such Bond to the Trustee for notation thereon of the portion of the principal thereof redeemed or shall surrender such Bond in exchange for a new Bond or Bonds for the unredeemed balance of the principal of the surrendered Bond.

The Trustee shall promptly notify the Issuer and the Borrower in writing of the Bonds selected for redemption and, in the case of any Bond selected for partial redemption, the principal amount thereof to be redeemed.

#### **Section 3.04. Notice of Redemption.**

Unless waived by any Owner of Bonds to be redeemed, official notice of any redemption of Bonds pursuant to Section 3.01 hereof shall be given by the Trustee on behalf of the Issuer by mailing a copy of an official notice of such redemption by first class mail, at least twenty (20) days prior to the redemption date, to each Owner of Bonds to be redeemed at the address shown on the Bond Register or at such other address as is furnished in writing by such Owner to the Trustee; provided that no defect in or failure to give any such redemption notice shall affect the validity of proceedings for the redemption of any Bond not affected by such defect or failure.

All official notices of redemption shall be dated and shall include information which (a) identifies the Bonds to be redeemed by the name of the issue (including the name of the issuer and any series designation), CUSIP number, if any, date of issue, maturity date and any other descriptive information the Trustee deems desirable to accurately identify the Bonds to be redeemed and, if only a portion of some Bonds will be redeemed, the certificate numbers and the principal amount of those Bonds to be redeemed, (b) identifies the date on which the notice is published and the date on which the Bonds will be redeemed, (c) states the price at which the Bonds will be redeemed, (d) states that on the redemption date the redemption price will become due and payable upon each such Bond or portion thereof called for redemption, and that interest thereon shall cease to accrue from and after said date (unless sufficient moneys are not available to the Trustee to pay the redemption price); and (e) as to any Bonds to be redeemed pursuant to Section 3.01(a), (b) or (c), with respect to which Eligible Funds sufficient to pay the redemption price are not on deposit with the Trustee, states that such notice is conditional upon moneys or Government Obligations, or a combination thereof, which constitute Eligible Funds being on deposit with the Trustee in an amount sufficient to pay the redemption price on the redemption date, and that otherwise such redemption shall not be effective.

The failure of any Owner of Bonds to receive notice given as provided in this Section shall not affect the validity of any proceedings for the redemption of any Bonds. Any notice mailed as provided in this Section shall be conclusively presumed to have been duly given and shall become effective upon mailing, whether or not any Owner receives such notice.

So long as the Securities Depository is effecting book entry transfers of the Bonds, the Trustee shall provide the notices specified in this Section to the Securities Depository. It is expected that the Securities Depository shall, in turn, notify its Participants and that the Participants, in turn, will notify or cause to be notified the beneficial owners. Any failure on the part of the Securities Depository or a Participant, or failure on the part of a nominee of a beneficial owner of a Bond (having been sent notice from the Trustee, the Securities Depository, a Participant or otherwise) to notify the beneficial owner of the Bond so affected, shall not affect the validity of the redemption of such Bond.

#### **Section 3.05. Deposit of Redemption Price; Bonds Payable on Redemption**

##### **Date.**

On or before any redemption date, the Issuer shall deposit with the Trustee or with a Paying Agent moneys or Government Obligations, or a combination thereof, provided by the

Borrower, in an amount sufficient to pay the redemption price of all the Bonds which are to be redeemed on that date. Such moneys and Government Obligations shall be held in trust for the benefit of the Persons entitled to such redemption price and shall not be deemed to be part of the Trust Estate.

With respect to notice of any redemption of the Bonds pursuant to Section 3.01(a) or (b), unless moneys or Government Obligations, or a combination thereof, sufficient to pay the principal of, and interest on, the Bonds to be so redeemed, shall have been received by the Trustee on or prior to the redemption date, any notice of such redemption shall be of no force and effect, the Issuer shall not redeem such Bonds and the Trustee shall give notice, in the manner in which the notice of redemption was given, that such moneys or Government Obligations were not so received.

Notice of redemption having been given in accordance with Section 3.04 hereof and the deposit of funds for redemption having been made, (i) the Bonds or portions thereof so to be redeemed (together with accrued interest thereon to the redemption date) shall be due and payable on the redemption date and at the redemption price specified in the notice of redemption, and on and after such date such Bonds shall cease to bear interest, (ii) such Bonds or portions thereof shall cease to be entitled to any lien, benefit or security under this Indenture, and (iii) the Owners of such Bonds or portions thereof shall have no rights in respect thereof except to receive payment of the redemption price thereof and accrued interest thereon to the redemption date. Upon surrender of any such Bond so called for redemption, such Bond (or portion thereof) shall be paid at the redemption price specified in the notice of redemption. Installments of interest with a due date on or prior to the redemption date shall be payable to the Owners of the Bonds registered as such on the relevant Regular Record Dates according to the terms of such Bonds and the provisions of Section 2.04. If any Bond called for redemption shall not be paid upon surrender thereof for redemption, the Bond shall continue to bear interest until paid at the rate specified in the Bond.

## ARTICLE IV

### FUNDS AND ACCOUNTS, APPLICATION OF BOND PROCEEDS AND OTHER MONEY

#### **Section 4.01. Source of Payment.**

The principal of, and interest on, the Bonds shall be payable by the Issuer solely from the Pledged Revenues.

#### **Section 4.02. Pledged Revenues.**

The Pledged Revenues are hereby specifically, irrevocably and exclusively pledged to the punctual payment of the principal of, and interest on, the Bonds, and shall be used for no other purpose except as otherwise expressly authorized in this Indenture.

#### **Section 4.03. Creation of Funds and Accounts.**

There are hereby created and ordered to be established in the custody of the Trustee the following special trust funds and accounts in the name of the Issuer and the Borrower to be designated as follows:

(a) “Fond du Lac County, Wisconsin—Bug Tussel 2, LLC Bond Fund” (the “Bond Fund”).

(b) “Fond du Lac County, Wisconsin—Bug Tussel 2, LLC Cost of Issuance Fund” (the “Cost of Issuance Fund”).

(c) “Fond du Lac County, Wisconsin—Bug Tussel 2, LLC Project Fund” (the “Project Fund”).

(d) “Fond du Lac County, Wisconsin—Bug Tussel 2, LLC Debt Service Reserve Fund” (the “Debt Service Reserve Fund”) and within the Debt Service Reserve Fund, the Series 2024 Debt Service Reserve Account (“Series 2024 Debt Service Reserve Account”), which shall be a Debt Service Reserve Account, and within such Series 2024 Debt Service Reserve Account, subaccounts for each of the Participating Counties, as follows:

(1) Fond du Lac County Series 2024 Debt Service Reserve Subaccount;

(2) [Forest County Series 2024 Debt Service Reserve Subaccount];

(3) [Iowa County Series 2024 Debt Service Reserve Subaccount];

(4) [Jefferson County Series 2024 Debt Service Reserve Subaccount];

(5) [Lafayette County Series 2024 Debt Service Reserve Subaccount];

(6) [Marathon County Series 2024 Debt Service Reserve Subaccount];

(7) [Price County Series 2024 Debt Service Reserve Subaccount];

(8) [Sawyer County Series 2024 Debt Service Reserve Subaccount];

(9) [Taylor County Series 2024 Debt Service Reserve Subaccount]; and

(10) [Waushara County Series 2024 Debt Service Reserve Subaccount] (the subaccounts listed in (1) through ([10]), inclusive, collectively, the “Series 2024 Debt Service Reserve Subaccounts” and, individually, each a “Series 2024 Debt Service Reserve Subaccount”).

The Trustee shall create separate accounts or subaccounts within the Project Fund to be designated as follows:

(e) Fond du Lac County Project Account, which shall be applied solely to pay costs allocable to portions of the Project located in Fond du Lac County;

(f) [Forest County Project Account, which shall be applied solely to pay costs allocable to portions of the Project located in Forest County];

(g) [Iowa County Project Account, which shall be applied solely to pay costs allocable to portions of the Project located in Iowa County];



- (h) [Jefferson County Project Account, which shall be applied solely to pay costs allocable to portions of the Project located in Jefferson County];
- (i) [Lafayette County Project Account, which shall be applied solely to pay costs allocable to portions of the Project located in Lafayette County];
- (j) [Marathon County Project Account, which shall be applied solely to pay costs allocable to portions of the Project located in Marathon County];
- (k) [Price County Project Account, which shall be applied solely to pay costs allocable to portions of the Project located in Price County];
- (l) [Sawyer County Project Account, which shall be applied solely to pay costs allocable to portions of the Project located in Sawyer County];
- (m) [Taylor County Project Account, which shall be applied solely to pay costs allocable to portions of the Project located in Taylor County];
- (n) [Waushara County Project Account, which shall be applied solely to pay costs allocable to portions of the Project located in Waushara County]; and
- (o) Series 2024 Capitalized Interest Account.

The Trustee is authorized to establish separate accounts within the Bond Fund, Debt Service Reserve Fund or otherwise segregate money within the Bond Fund or the Debt Service Reserve Fund, on a book entry basis or in such other manner as the Trustee may deem necessary or convenient or as may be required by this Indenture, or as the Trustee shall be instructed by the Issuer or the Borrower. The Trustee is authorized to establish separate funds and accounts as required by any future Supplemental Indentures, including as related to funds and accounts as may be required or convenient for any Additional Bonds.

**Section 4.04. Deposit of Series 2024 Bond Proceeds and Other Money.**

The Issuer, for and on behalf of the Borrower, shall deposit with the Trustee all of the \$[\_\_\_\_\_] net proceeds of the Series 2024 Bonds (equal to the par amount of \$[\_\_\_\_\_] less the underwriter’s discount of \$[\_\_\_\_\_] ), and the Trustee shall deposit and transfer or credit such proceeds, together with any other money deposited with the Trustee as follows:

- (a) \$[\_\_\_\_\_] to the Series 2024 Capitalized Interest Account of the Project Fund;
- (b) \$[\_\_\_\_\_] to the Fond du Lac County Project Account of the Project Fund;
- (c) \$[\_\_\_\_\_] to the Forest County Project Account of the Project Fund;
- (d) \$[\_\_\_\_\_] to the Iowa County Project Account of the Project Fund;
- (e) \$[\_\_\_\_\_] to the Jefferson County Project Account of the Project Fund;

- (f)     [\$[\_\_\_\_\_]] to the Lafayette County Project Account of the Project Fund;]
- (g)     [\$[\_\_\_\_\_]] to the Marathon County Project Account of the Project Fund;]
- (h)     [\$[\_\_\_\_\_]] to the Price County Project Account of the Project Fund;]
- (i)     [\$[\_\_\_\_\_]] to the Sawyer County Project Account of the Project Fund;]
- (j)     [\$[\_\_\_\_\_]] to the Taylor County Project Account of the Project Fund;]
- (k)     [\$[\_\_\_\_\_]] to the Waushara County Project Account of the Project Fund ((b) through ((k) referred to collectively as the “Participating County Project Accounts”);]
- (l)     \$[\_\_\_\_\_] to the Fond du Lac County Series 2024 Debt Service Reserve Subaccount;
- (m)     [\$[\_\_\_\_\_]] to the Forest County Series 2024 Debt Service Reserve Subaccount;]
- (n)     [\$[\_\_\_\_\_]] to the Iowa County Series 2024 Debt Service Reserve Subaccount;]
- (o)     [\$[\_\_\_\_\_]] to the Jefferson County Series 2024 Debt Service Reserve Subaccount;]
- (p)     [\$[\_\_\_\_\_]] to the Lafayette County Series 2024 Debt Service Reserve Subaccount;]
- (q)     [\$[\_\_\_\_\_]] to the Marathon County Series 2024 Debt Service Reserve Subaccount;]
- (r)     [\$[\_\_\_\_\_]] to the Price County Series 2024 Debt Service Reserve Subaccount;]
- (s)     [\$[\_\_\_\_\_]] to the Sawyer County Series 2024 Debt Service Reserve Subaccount;]
- (t)     [\$[\_\_\_\_\_]] to the Taylor County Series 2024 Debt Service Reserve Subaccount;]
- (u)     [\$[\_\_\_\_\_]] to the Waushara County Series 2024 Debt Service Reserve Subaccount;]
- (v)     \$[\_\_\_\_\_] to the Cost of Issuance Fund (which includes bond insurance premium in the amount of \$[\_\_\_\_\_]);

and thereafter, to the Persons, funds or accounts specified in the request and authorization of the Issuer described in Section 2.01(f)(4) hereof.

**Section 4.05. Project Fund.**

The Trustee shall deposit into the applicable accounts in the Project Fund, when and as received:

- (a) a portion of the original proceeds of the Series 2024 Bonds as directed pursuant to Section 4.04 hereof;
- (b) interest earnings and other income on Permitted Investments required to be deposited in the Project Fund pursuant to Section 4.13 hereof;
- (c) any additional moneys which the Borrower may deliver to the Trustee from time to time with the instruction that such moneys be deposited into the Project Fund; and
- (d) moneys required to be deposited into the Project Fund under the terms of a Supplemental Indenture.

The Trustee is hereby authorized and directed to disburse moneys from the Project Fund to pay (or reimburse the Borrower for) the Engineering Costs, the Project Costs, and the Capitalized Interest Costs (as defined in the definition of “Eligible Costs of the Project” in Section 1.01 hereof). Except as otherwise provided below, such disbursements shall be made only upon Requisition of the Borrower meeting the requirements of and submitted in accordance with Section 4.04 of the Loan Agreement. The Trustee shall be fully protected in relying upon such Requisitions of the Borrower and, other than to act in good faith and to not act in a grossly negligent manner or engage in intentional misconduct, the Trustee shall have no duty or obligation to request any additional information or documentation to verify the truth and accuracy of the statements and representations contained therein or to otherwise make any investigation in connection therewith. The Trustee shall not be responsible for determining whether the funds on deposit in the Project Fund are sufficient to complete the Project. The Trustee is not required to inspect or supervise the Project or to obtain completion bonds or lien releases.

The Trustee is hereby authorized and directed to disburse moneys from the Series 2024 Capitalized Interest Account of the Project Fund to the Bond Fund to pay interest on the Series 2024 Bonds on each [\_\_\_\_\_ 1] and [\_\_\_\_\_ 1], commencing [\_\_\_\_\_ 1, 20\_\_] and ending [\_\_\_\_\_ 1, 20\_\_] or until such sooner date as the amount on deposit in the Series 2024 Capitalized Interest Account of the Project Fund is depleted. After the [\_\_\_\_\_ 1, 20\_\_] Interest Payment Date, any moneys in the Series 2024 Capitalized Interest Account of the Project Fund shall be transferred to one or more of the separate accounts in the Project Fund as directed by the Borrower.

Upon the occurrence of an Event of Default under this Indenture or the Loan Agreement, or the occurrence of an event which, with the passage of time or the giving of notice or both, would become an Event of Default under this Indenture or the Loan Agreement, no further disbursements may be made from the Project Fund, except in accordance with Article VII hereof.

Upon the closing of the Project Fund in accordance with Section 4.07 of the Loan Agreement, that portion of any remaining balance in the Project Fund shall be transferred to the Bond Fund and applied to effect the Mandatory Redemption from Unused Proceeds as set forth in Section 3.01(c) hereof. Any amounts remaining in the Bond Fund following the mandatory redemption in

accordance with Section 3.01(c) shall be held in the Bond Fund and applied pro rata to make the interest payments on the Series 2024 Bonds on the next succeeding Interest Payment Dates.

**Section 4.06. Cost of Issuance Fund.**

The Trustee shall deposit into the Cost of Issuance Fund, when and as received, a portion of original proceeds of the Series 2024 Bonds equal to \$[\_\_\_\_\_] (which includes bond insurance premium in the amount of \$[\_\_\_\_\_] as directed pursuant to Section 4.04 hereof.

The Trustee is hereby authorized and directed to disburse moneys from the Cost of Issuance Fund to pay (or reimburse the Borrower for) the Costs of Issuance (as defined in the definition of “Eligible Costs of the Project” in Section 1.01 hereof). Except as otherwise provided below, such disbursements shall be made only upon Requisition of the Borrower meeting the requirements of and submitted in accordance with Section 4.03 of the Loan Agreement. The Trustee shall be fully protected in relying upon such Requisitions of the Borrower and other than to act in good faith and to not act in a grossly negligent manner or engage in intentional misconduct, the Trustee shall have no duty or obligation to request any additional information or documentation to verify the truth and accuracy of the statements and representations contained therein or to otherwise make any investigation in connection therewith.

If an Event of Default shall have happened and be continuing, the Trustee may apply moneys in the Cost of Issuance Fund in accordance with Section 7.07 of this Indenture.

Any remaining balance in the Cost of Issuance Fund shall be transferred on a pro rata basis to the Participating County Accounts in the Project Fund related to such series of Bonds in accordance with Section 4.03 of the Loan Agreement.

**Section 4.07. [Reserved].**

**Section 4.08. Bond Fund.**

The Trustee shall deposit and credit to the Bond Fund in the Bond Fund, as and when received, the following:

- (a) That portion of the purchase price of Bonds paid by the Underwriter thereof equal to the accrued interest, if any, on the Series 2024 Bonds from the date thereof to the date of issuance and delivery thereof, as specified in the request and authorization of the Issuer described in Section 2.01(f)(4);
- (b) Each of the payments made by the Borrower on the Promissory Note and all payments made by the Borrower pursuant to Section 3.06 and 3.08 of the Loan Agreement;
- (c) Interest earnings and other income on Permitted Investments required to be deposited in the Bond Fund pursuant to Section 4.13 hereof;
- (d) Eligible Funds from the Guarantors to redeem the Bonds in accordance with Section 3.01 hereof; and

(e) All other moneys received by the Trustee under and pursuant to any of the provisions of this Indenture or the Loan Agreement, when accompanied by directions from the Person depositing such moneys that such moneys are to be paid into the Bond Fund.

The money in the Bond Fund shall be held in trust and shall be applied solely in accordance with the provisions of this Indenture to pay the principal of, and interest on, the Series 2024 Bonds as the same become due and payable at maturity, upon redemption, by acceleration or otherwise.

The Trustee is to receive from the Borrower pursuant to the Promissory Note the full amount of principal of, and interest due on, the Bonds on each Interest Payment Date, Stated Maturity, redemption date, or acceleration date, as the case may be.

The Trustee is authorized and directed to withdraw sufficient funds from the Bond Fund to pay principal of, and interest on, the Bonds as the same become due and payable at Stated Maturity or upon redemption and to make said funds so withdrawn available to any Paying Agent for the purpose of paying said principal and interest.

The Trustee, upon the written instructions from the Issuer given pursuant to written direction of the Borrower shall use excess moneys in the Bond Fund to redeem all or part of the Bonds Outstanding and to pay interest to accrue thereon prior to such redemption on the next succeeding redemption date for which the required redemption notice may be given or on such later redemption date as may be specified by the Borrower, in accordance with the provisions of Article III hereof, so long as the Borrower is not in default with respect to any payments under the Loan Agreement and to the extent said moneys are in excess of the amount required for payment of Bonds theretofore matured or called for redemption. The Borrower may cause such excess money in the Bond Fund or such part thereof or other money of the Borrower, as the Borrower may direct, to be applied by the Trustee on a best efforts basis for the purchase of Bonds in the open market for the purpose of cancellation at prices not exceeding the principal amount thereof plus accrued interest thereon to the date of such purchase.

Upon satisfaction and discharge of this Indenture in accordance with Article V hereof, all amounts remaining in the Bond Fund shall be paid to the Borrower.

**Section 4.09. Series 2024 Debt Service Reserve Account.**

The Trustee shall deposit into each Participating County's Series 2024 Debt Service Reserve Subaccounts in the Series 2024 Debt Service Reserve Account in the Debt Service Reserve Fund, when and as received, a portion of the original proceeds of the Series 2024 Bonds as directed pursuant to Section 4.04 hereof.

The Trustee shall deposit into the applicable Participating County's Series 2024 Debt Service Reserve Subaccount, when and as received:

(a) any monies received from the Borrower for deposit into the applicable Participating County's Series 2024 Debt Service Reserve Subaccount pursuant to Section 3.09 of the Loan Agreement; and

(b) each payment made by the applicable Participating County so that the amount on deposit in its respective Series 2024 Debt Service Reserve Subaccount is equal to such Participating County's Series 2024 Debt Service Reserve Subaccount Requirement pursuant to and as provided in the applicable Limited Guaranty Agreement and Section 7.13 of this Indenture.

On each Interest Payment Date, all investment earnings on the amounts in each of the Participating County's Series 2024 Debt Service Reserve Subaccounts shall be transferred to the Bond Fund for application to payment of interest on the Series 2024 Bonds; provided, that no such transfer shall be made if such transfer would cause the amount on deposit in applicable Participating County's Series 2024 Debt Service Reserve Subaccount to be below the applicable Participating County's Series 2024 Debt Service Reserve Subaccount Requirement, in which case the transfer shall be the maximum amount available to be transferred to the Bond Fund without causing the amount on deposit in the applicable Series 2024 Debt Service Reserve Subaccount to drop below the applicable Series 2024 Debt Service Reserve Subaccount Requirement.

If on any Interest Payment Date the available amount in the Bond Fund (after making all required deposits therein) shall be insufficient to pay the principal and interest then due on all of the Bonds, or, in the event that any principal or interest payments are recovered from Bondowners as a preferential payment under the United States Bankruptcy Code, in either case, the Trustee, upon receipt of written notice of such recovery from such Bondowners, shall transfer from each Participating County's Series 2024 Debt Service Reserve Subaccount such Participating County's Pro Rata Share of Payment of the amount of the deficit due on the Bonds secured by the Series 2024 Debt Service Reserve Account to the Bond Fund; provided, however, that any such transfer by the Trustee shall not relieve the Borrower of any of its obligations under the Promissory Note. In the event the Trustee shall transfer moneys to the Bond Fund from the Debt Service Reserve Account in order to fund a deficiency in the Bond Fund, it shall give prompt written notice to the Issuer, the Borrower, the Bond Insurer and the Participating Counties.

The Series 2024 Debt Service Reserve Account and any subaccounts therein are not available to secure any series of Bonds other than the Series 2024 Bonds, and provisions or terms related to Debt Service Reserve Accounts for any series of Additional Bonds will be specified in the applicable supplemental indenture pursuant to which such Additional Bonds are issued.

The Trustee shall value each Series 2024 Debt Service Reserve Subaccount on [\_\_\_\_\_ 1] of each year (or if such date is not a Business Day, on the next succeeding Business Day) (the "Valuation Date"), such value to be determined as the lower of cost or fair market value of all cash and investments in such Series 2024 Debt Service Reserve Subaccount. The fair market value of investments shall be determined in accordance with the price provided by pricing services and sources relied upon by the Trustee and the Trustee does not have any duty to independently value any investment other than by reference to the price provided by such services and sources. In the event the Trustee shall determine that the value of a Series 2024 Debt Service Reserve Subaccount is less than the applicable Series 2024 Debt Service Reserve Subaccount Requirement, it shall give prompt written notice to the Issuer, the Borrower and the Guarantors.

On such date as the entire outstanding principal amount of the Bonds shall become due, whether by acceleration, redemption, or upon stated maturity, the Trustee shall transfer to the

Bond Fund the remaining balance in each of the Series 2024 Debt Service Reserve Subaccount to be applied to the Series of Bonds that are secured by such Series 2024 Debt Service Reserve Subaccount.

The Borrower has agreed in the Loan Agreement that it shall deposit with the Trustee sufficient cash to cure such deficit in the manner provided in the Loan Agreement. Each Guarantor has agreed to guarantee the payment of its Pro Rata Share pursuant to the Limited Guaranty Agreements.

If on any Valuation Date the Trustee shall determine the value of a Series 2024 Debt Service Reserve Subaccount is in excess of the Series 2024 Debt Service Reserve Subaccount Requirement for such Series 2024 Debt Service Reserve Subaccount, the excess shall be transferred on that date first to the Guarantor whose Series 2024 Debt Service Reserve Subaccount contains the excess to the extent amounts under such Guarantor's Limited Guaranty Agreement have been drawn upon and not reimbursed by the Borrower, then to the Bond Fund and used to make the interest payments on the Bonds on the next succeeding Interest Payment Date.

The aggregate, maximum amount that any Participating County shall be required to contribute to a Series 2024 Debt Service Reserve Subaccount is set forth in the applicable Limited Guaranty Agreement.

Pursuant to the terms of each Limited Guaranty Agreement, the obligations of each Participating County under its respective Limited Guaranty Agreement will remain in full force and effect until all of the principal of, and interest on, the Bonds have been paid in full or the obligations of such Participating County are released or reduced due to (A)(1) the sale or other disposition of all or a portion of the Project located within a Participating County by the Borrower in accordance with Section 6.09 of the Loan Agreement without causing an Event of Default (as defined in the Loan Agreement) and (2) Bonds in an amount corresponding to all or a portion of the Project located within a Participating County are redeemed in accordance with Section 3.01(a) hereof, then the affected Participating County's Pro Rata Share will be reduced by a corresponding amount; (B) if pursuant to Section 3.01(c) hereof, unspent proceeds in the Participating County's Project Account are applied to redeem Bonds, provided all amounts due have been paid, the Participating County's Pro Rata Share will be reduced by a corresponding amount; or (C) if pursuant to Section 3.01(b)(1) hereof, all Bonds attributable to Facilities located within a particular Participating County have been redeemed subject to the conditions set forth in Section 3.01(b)(1) hereof, upon the redemption of the portion of the Bonds representing all the Facilities in the Participating County, provided all amounts due have been paid, the Participating County's Pro Rata Share will be reduced by a corresponding amount. For the avoidance of doubt, if all of the Bonds for which a Participating County has executed a Limited Guaranty Agreement have been redeemed under this Indenture and are no longer Outstanding, such Participating County's obligations under its related Limited Guaranty Agreement will terminate in accordance with the Limited Guaranty Agreement.

#### **Section 4.10. Payments Due on Non-Business Days.**

In any case where the Stated Maturity of principal of, or interest on, the Bonds or the date fixed for redemption of any Bonds shall be a day other than a Business Day, then payment of principal or interest need not be made on such date but may be made on the next succeeding Business Day with the same force and effect as if made on the Stated Maturity date or the date fixed for redemption, and no interest shall accrue for the period after such date.

**Section 4.11. Nonpresentment of Bonds.**

In the event any Bond shall not be presented for payment when the principal thereof becomes due, either at Stated Maturity, at the date fixed for redemption thereof, or otherwise, if funds sufficient to pay such Bond shall have been made available to the Trustee, all liability of the Issuer to the Owner thereof for the payment of such Bond, shall forthwith cease, terminate and be completely discharged, and thereupon it shall be the duty of the Trustee to hold such funds in trust in a separate trust account, without liability for interest thereon, for the benefit of the Owner of such Bond, who shall thereafter be restricted exclusively to such funds for any claim of whatever nature on his part under this Indenture or on or with respect to said Bond. Such cash in such segregated trust account shall thereafter no longer be considered Pledged Revenues and any such Bond shall no longer be deemed Outstanding under this Indenture. If any Bond shall not be presented for payment within three years following the date when such Bond becomes due, whether by maturity or otherwise, the Trustee shall repay to the Borrower the funds theretofore held by it for payment of such Bond, and such Bond shall, subject to the defense of any applicable statute of limitation, thereafter be an unsecured obligation of the Borrower, and the Owner thereof shall be entitled to look only to the Borrower for payment, and then only to the extent of the amount so repaid, and the Borrower shall not be liable for any interest thereon and shall not be regarded as a trustee of such money.

**Section 4.12. Money to Be Held in Trust.**

All money deposited with or paid to the Trustee for the funds and accounts held under this Indenture and all money deposited with or paid to any Paying Agent under any provision of this Indenture shall be held by the Trustee or Paying Agent in trust and shall be applied only in accordance with the provisions of this Indenture and the Loan Agreement, and, until used or applied as herein provided, shall (except as otherwise provided herein) constitute part of the Trust Estate and be subject to the lien, terms and provisions hereof and shall not be commingled with any other funds of the Issuer or the Borrower except as provided under Section 4.13 hereof for investment purposes. Neither the Trustee nor any Paying Agent shall be under any liability for interest on any money received hereunder except such as may be agreed upon.

**Section 4.13. Investment of Money.**

Money held in each of the funds and accounts under this Indenture shall, pursuant to written directions of the Borrower Representative, be invested and reinvested by the Trustee in accordance with the provisions of this Indenture in Permitted Investments which mature or are subject to redemption by the owner thereof prior to the date such funds are expected to be needed; provided, however, that if a Borrower Representative fails to provide such written directions to the Trustee, money as to which no written directions have been received shall be held uninvested in cash, with no liability for interest thereon. The Trustee hereby agrees to comply with the written directions of the Borrower Representative and all provisions hereof with respect to the investment of moneys in the funds and accounts under this Indenture. Absent gross negligence or willful misconduct, the Trustee may conclusively rely upon the Borrower's written investment directions as to both the suitability and legality of the directed investments. The Trustee may make any investments permitted by the provisions of this Section through its own bond department or short-term investment department and may pool money for investment purposes. Any such Permitted Investments shall be held by or under the control of the Trustee and shall be deemed at all times a part of the fund or account in which such money is originally held. The interest accruing on each fund or account and



any profit realized from such Permitted Investments shall be credited to such fund or account, and any loss resulting from such Permitted Investments shall be charged to such fund or account; except that any interest accruing on or profit realized from the Cost of Issuance Fund shall be credited to the Project Fund. The Trustee shall sell or present for redemption and reduce to cash a sufficient amount of such Permitted Investments whenever it shall be necessary to provide money in any fund or account for the purposes of such fund or account and the Trustee shall not be liable for any loss resulting from such investments. Any money that is to be used to pay principal of or interest on or the redemption price of Bonds shall be invested only in Government Obligations or shares of money market mutual funds that are registered with the U.S. Securities and Exchange Commission, meeting the requirements of Rule 2a 7 under the Investment Company Act of 1940 and that are rated in the highest rating category by at least one nationally recognized rating agency, such investments to mature or be subject to redemption at the option of the holder not later than (i) thirty (30) days from the date of the investment, or (ii) the date the Trustee anticipates such funds are to be applied.

The Trustee may elect to credit funds and accounts hereunder with moneys representing income or principal payments due on, or sales proceeds due in respect of, the investments deposited therein, or to credit funds and accounts with the investments it is directed to purchase with such moneys, in each case before actually receiving the requisite moneys from the payment source. Any such crediting shall be provisional in nature, and the Trustee shall be authorized to reverse such crediting in the event that it does not receive good funds with respect thereto. Nothing in this Indenture shall constitute a waiver of any of the Trustee's rights as a securities intermediary under Uniform Commercial Code § 9-206.

#### **Section 4.14. Records and Reports of Trustee.**

The Trustee agrees to maintain accurate records with respect to any and all money or investments held by the Trustee pursuant to the provisions of this Indenture. The Trustee shall furnish to the Borrower a monthly report on the status of each of the funds and accounts established under this Article which are held by the Trustee, showing the balance in each such fund or account as of the first day of the preceding month, the total of deposits to and the total of disbursements from each such fund or account, the dates of such deposits and disbursements, and the balance in each such fund or account on the last day of the preceding month. The Trustee shall render an annual accounting for each calendar year ending December 31 to the Issuer, the Borrower and any Bondowner requesting the same, showing in reasonable detail all financial transactions relating to the funds and accounts hereunder during the accounting period, including investment earnings and the balance in any funds or accounts created by this Indenture as of the beginning and close of such accounting period. The Issuer acknowledges (and by entering into the Loan Agreement the Borrower has acknowledged) that regulations of the Comptroller of the Currency grant the Issuer and the Borrower the right to receive brokerage confirmations of securities transactions as they occur. The Issuer specifically waives (and by entering into the Loan Agreement the Borrower has waived) such notification to the extent permitted by law and acknowledges that it will receive monthly and annual cash transaction statements, which will detail all investment transactions.

## ARTICLE V

### SATISFACTION AND DISCHARGE

#### **Section 5.01. Payment, Discharge and Defeasance of Bonds.**

Bonds will be deemed to be paid and discharged and no longer Outstanding under this Indenture and will cease to be entitled to any lien, benefit or security of this Indenture if the Issuer shall pay or provide for the payment of such Bonds in any one or more of the following ways:

- (a) by paying or causing to be paid the principal of, and interest on, such Bonds, as and when the same become due and payable;
- (b) by delivering such Bonds to the Trustee for cancellation; or
- (c) by depositing in trust with the Trustee or other Paying Agent moneys, Defeasance Obligations, or a combination of both, in an amount, together with the income or increment to accrue thereon, without consideration of any reinvestment thereof, sufficient to pay or redeem (when redeemable) and discharge the indebtedness on such Bonds at or before their respective maturity or redemption dates (including the payment of the principal of, and interest payable on, such Bonds to the Stated Maturity or redemption date thereof); provided that, if any such Bonds are to be redeemed prior to the Stated Maturity thereof, notice of such redemption is given in accordance with the requirements of this Indenture or provision satisfactory to the Trustee is made for the giving of such notice.

In any case, if the Bonds are rated by a Rating Service, the Bonds shall not be deemed to have been paid or discharged by reason of any deposit pursuant to paragraph (c) above unless such Rating Service shall have confirmed in writing to the Trustee that its rating will not be withdrawn or lowered as the result of any such deposit.

The foregoing notwithstanding, the liability of the Issuer in respect of such Bonds shall continue, but the Owners thereof shall thereafter be entitled to payment only out of the money and Defeasance Obligations deposited with the Trustee as aforesaid.

Moneys and Defeasance Obligations so deposited with the Trustee pursuant to this Section shall not be a part of the Trust Estate but shall constitute a separate trust fund for the benefit of the Persons entitled thereto. Such moneys and Defeasance Obligations shall be applied by the Trustee to the payment (either directly or through any Paying Agent, as the Trustee may determine) to the Persons entitled thereto, of the principal and interest for the payment of which such money and Defeasance Obligations have been deposited with the Trustee.

#### **Section 5.02. Satisfaction and Discharge of Indenture.**

This Indenture and the lien, rights and interests created by this Indenture shall cease, terminate and become null and void (except as to any surviving rights provided for in Section 5.03) if the following conditions are met:

- (a) the principal of and interest on all Bonds has been paid or the Bonds have otherwise been deemed to be paid and discharged by meeting the conditions of Section 5.01;

(b) all other sums payable under this Indenture with respect to the Bonds are paid or provision satisfactory to the Trustee is made for such payment; and

(c) the Trustee receives an Opinion of Counsel to the effect that all conditions precedent in this Section to the satisfaction and discharge of this Indenture have been complied with.

Thereupon, the Trustee shall execute (where appropriate) and deliver to the Issuer a termination statement and such instruments of satisfaction and discharge of this Indenture as may be necessary and shall pay, assign, transfer and deliver to the Borrower, or other Persons entitled thereto, all money, securities and other property then held by it under this Indenture as a part of the Trust Estate, which shall not include money or Defeasance Obligations held in trust by the Trustee as herein provided for the payment of the principal of, and interest on, the Bonds.

### **Section 5.03. Rights Retained After Discharge.**

Notwithstanding the satisfaction and discharge of this Indenture, the rights of the Trustee under Section 8.04 and the covenant of the Issuer under Section 6.06 shall survive, and the Trustee shall retain such rights, powers and duties under this Indenture as may be necessary and convenient for the payment of amounts due or to become due on the Bonds and the registration, transfer and exchange of Bonds as provided herein. Nevertheless, any money held by the Trustee or any Paying Agent for the payment of the principal of, or interest on, any Bond shall be subject to Section 4.10.

## **ARTICLE VI**

### **GENERAL AND PARTICULAR COVENANTS OF THE ISSUER**

#### **Section 6.01. Issuer to Issue Bonds and Execute Indenture.**

The Issuer represents and warrants that it is duly authorized under the Constitution and laws of the State to execute this Indenture, to issue the Bonds and to pledge and assign the Trust Estate in the manner and to the extent herein set forth; that all action on its part for the execution and delivery of this Indenture and the issuance of the Bonds has been duly and effectively taken; and that the Bonds in the hands of the Owners thereof are and will be valid and enforceable limited obligations of the Issuer according to the import thereof, subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights to the extent applicable and subject to the exercise of judicial discretion in appropriate cases.

#### **Section 6.02. Payment of Bonds.**

The Issuer covenants that it will promptly pay the principal of, and interest on, each Bond issued under this Indenture at the place, on the date and in the manner provided in said Bond according to the true intent and meaning thereof. The principal of, and interest on, the Bonds are payable solely from the Pledged Revenues, and nothing in the Bonds or this Indenture shall be considered as pledging any other funds or assets of the Issuer.

**Section 6.03. Performance of Covenants.**

The Issuer shall (to the extent within its control) faithfully perform or cause to be performed at all times any and all covenants, undertakings, stipulations and provisions which are to be performed by the Issuer contained in this Indenture, in the Bonds and in all proceedings pertaining thereto.

**Section 6.04. Inspection of Books.**

The Issuer covenants and agrees that all books and documents in its possession relating to the Bonds, the Pledged Revenues, this Indenture and the Loan Agreement, and the transactions relating thereto shall at all reasonable times be open to inspection by such accountants or other agent as the Trustee may from time to time designate. The Trustee covenants and agrees that all books and documents in its possession relating to the Bonds, the Pledged Revenues, this Indenture and the Loan Agreement, and the transactions relating thereto, shall be open to inspection by the Issuer during business hours upon reasonable notice.

**Section 6.05. Enforcement of Rights.**

The Issuer agrees that the Trustee, as assignee, transferee, pledgee, and owner of a security interest under this Indenture, in its name or in the name of the Issuer, may enforce all rights of the Issuer (other than the Issuer's Unassigned Rights) and the Trustee and all obligations of the Borrower under and pursuant to the Loan Agreement and any other Transaction Documents for and on behalf of the Bondowners, whether or not the Issuer is in default hereunder. The Loan Agreement and the Promissory Note shall be delivered to and held by the Trustee.

**Section 6.06. [Reserved].**

**Section 6.07. Financing Statements.**

The Trustee will cause (and the Issuer will cooperate with the Trustee in causing) appropriate continuation statements with respect to the initial financing statements filed in connection with the issuance of the Bonds, naming the Trustee as secured party with respect to the Trust Estate, to be duly filed and recorded in the appropriate state and county offices as required by the provisions of the Uniform Commercial Code or other similar law as adopted in the State and any other applicable jurisdiction, as from time to time amended, in order to perfect and maintain the security interests created by this Indenture, provided that the Trustee shall not be liable for any cost or expense in connection with any such filing or the preparation thereof, which cost or expense shall be paid, or reimbursed to the Trustee, by the Borrower in accordance with Section 6.13 of the Loan Agreement. Notwithstanding the foregoing, the Trustee shall not be responsible for and makes no representation as to the legality, effectiveness or sufficiency of any security document or for the creation, perfection, priority or protection of any lien securing the Bonds. The Trustee shall not be responsible for filing or for the sufficiency or accuracy of any financing statements initially filed to perfect security interests granted under this Indenture or other Transaction Document. The Trustee shall file continuation statements with respect to each financing statement relating to the Trust Estate filed by the Issuer or the Borrower at the time of the issuance of the Bonds; provided that a copy of the filed initial financing statement is timely delivered to the Trustee. In addition, unless the Trustee shall have been notified in writing by the Issuer or the Borrower that any such initial filing or description of collateral was or has

become defective, the Trustee shall be fully protected in (a) relying on such initial filing and descriptions in filing any financing or continuation statements or modifications thereto pursuant to this Section and (b) filing any continuation statements in the same filing offices as the initial filings were made. The Borrower shall be responsible for the customary fees charged by the Trustee for the preparation and filing of continuation statements and for the reasonable costs incurred by the Trustee in the preparation and filing of all continuation statements hereunder.

**Section 6.08. Rights under Loan Agreement and Other Documents.**

The Issuer covenants and agrees that except as provided herein and in the Loan Agreement it will not sell, assign, pledge, transfer, encumber or otherwise dispose of the Pledged Revenues. The Loan Agreement, a duly executed counterpart of which has been filed with the Trustee, sets forth covenants and obligations of the Issuer and the Borrower, including provisions that subsequent to the issuance of the Bonds and prior to their payment in full or provision for payment thereof in accordance with the provisions hereof, the Loan Agreement shall not be effectively amended, changed, modified, altered or terminated (other than as provided therein) without the written consent of the Trustee. The Issuer agrees that the Trustee in its own name may enforce all rights of the Issuer and all obligations of the Borrower under and pursuant to the Loan Agreement (other than the Unassigned Rights) and the Promissory Note for and on behalf of the Bondowners whether or not the Issuer is in default hereunder, but the Trustee shall not thereby be deemed to have assumed the obligations of the Issuer under the Loan Agreement and shall have no obligations thereunder except as expressly provided herein or therein. The Issuer hereby agrees to cooperate fully with the Trustee (at the expense of the Borrower) in any proceedings or to join in or commence in its own name any proceedings necessary to enforce the rights of the Issuer and all obligations of the Borrower under and pursuant to the Loan Agreement and the Promissory Note, if the Trustee shall so request.

**Section 6.09. Performance by Issuer.**

Notwithstanding anything in this Indenture to the contrary, the Issuer shall be under no obligation to take any action or execute, prepare or deliver any instrument or document until it shall have received assurances satisfactory to it that the Borrower shall pay in advance or reimburse it (at the Issuer's option) for its reasonable expenses incurred or to be incurred in connection with the taking of such action, (including reasonable attorneys' fees) and shall be indemnified against any liability arising out of the taking of such action.

**ARTICLE VII**

**EVENTS OF DEFAULT AND REMEDIES**

**Section 7.01. Events of Default.**

The term "Event of Default," wherever used with respect to this Indenture, means any one of the following events (whatever the reason for such event and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

- (a) default in the payment of any interest on any Bond after such interest has become due and payable; or
- (b) default in the payment of the principal of any Bond when the same becomes due and payable (whether at Stated Maturity, upon proceedings for redemption, by acceleration or otherwise); or
- (c) acceleration of the maturity of the Promissory Note pursuant to Section 8.02 of the Loan Agreement; or
- (d) the Issuer shall default in the performance, or breach, of any covenant or agreement in the Bonds or in this Indenture (other than as specified in clauses (a) and (b) above), and continuance of such default or breach for a period of thirty (30) days after there has been given to the Issuer, the Borrower, and the Guarantors by the Trustee (which shall only give notice at the written request of Owners of at least a majority in aggregate principal amount of the Bonds Outstanding), a written notice specifying such default or breach and requiring it to be remedied; provided, that if such default cannot be fully remedied within such thirty (30) day period, but can reasonably be expected to be fully remedied (which shall be set forth in a certificate of an Issuer Representative to the Trustee), such default shall not constitute an Event of Default if the Issuer shall immediately upon receipt of such notice commence the curing of such default and shall thereafter prosecute and complete the same with due diligence and dispatch;
- (e) any Event of Default under the Loan Agreement (subject to any applicable cure period) shall occur and be continuing and shall not have been waived; or
- (f) any Event of Default under any of the Limited Guaranty Agreements shall occur and be continuing (subject to any applicable cure period) and shall not have been waived.

With regard to any alleged default concerning which notice is given to the Borrower under the provisions of this Section, the Issuer has in the Loan Agreement granted the Borrower full authority for the account of the Issuer to perform any covenant or obligation, the nonperformance of which is alleged in said notice to constitute a default, in the name and stead of the Issuer, with full power to do any and all things and acts to the same extent that the Issuer could do and perform any such things and acts in order to remedy such default. The Trustee hereby acknowledges and agrees to give effect to such grant.

**Section 7.02. Acceleration of Maturity; Rescission and Annulment.**

Upon the happening of any Event of Default specified in Section 7.01(a)-(f) hereof, and the continuance of the same for the period, if any, specified in said Section, the Trustee shall, upon demand by Owners of a majority in aggregate principal amount of Bonds then Outstanding upon such occurrence, by notice in writing to the Issuer, the Borrower, and the Guarantors and upon being indemnified to its satisfaction, declare the entire principal amount of the Bonds then Outstanding and the interest accrued thereon immediately due and payable, and the said entire principal and accrued interest shall thereupon become and be immediately due and payable, and to the extent that the principal of the Promissory Note shall not have been declared to be immediately

due and payable, the Trustee shall request the Issuer to declare the principal of the Promissory Note to be immediately due and payable pursuant to Section 8.02 of the Loan Agreement.

At any time after such acceleration has occurred, but before any judgment or decree for payment of money due on any Bonds has been obtained by the Trustee as provided in this Article, the Owners of a majority in principal amount of the Bonds Outstanding may, by written notice to the Issuer, the Borrower, the Guarantors, and the Trustee, rescind and annul such acceleration and its consequences if:

- (a) there is deposited with the Trustee moneys sufficient to pay
  - (1) all overdue installments of interest on all Bonds,
  - (2) the principal of any Bonds which have become due otherwise than by such acceleration and interest thereon at the rate or rates prescribed therefor in such Bonds,
  - (3) interest upon overdue installments of interest at the rate or rates prescribed therefor in the Bonds, and
  - (4) all sums paid or advanced by the Trustee hereunder and the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel; and
- (b) all Events of Default, other than the non-payment of the principal of Bonds which have become due solely by such acceleration, have been cured or have been waived as provided in Section 7.10 of this Indenture.

No such rescission and annulment shall affect any subsequent default or impair any right consequent thereon.

### **Section 7.03. Exercise of Remedies by the Trustee.**

Upon the occurrence and continuance of any Event of Default under this Indenture, unless the same is waived as provided in this Indenture, the Trustee shall have the following rights and remedies, in addition to any other rights and remedies provided under this Indenture or by law:

- (a) *Right to Bring Suit, Etc.* The Trustee may pursue any available remedy at law or in equity by suit, action, mandamus or other proceeding to enforce the payment of the principal of, and interest on, the Bonds Outstanding, including interest on overdue principal and on overdue installments of interest, and any other sums due under this Indenture, to realize on or to foreclose any of its interests or liens under this Indenture or any other Transaction Document, to enforce and compel the performance of the duties and obligations of the Issuer as set forth in this Indenture and to enforce or preserve any other rights or interests of the Trustee under this Indenture with respect to any of the Trust Estate or otherwise existing at law or in equity.
- (b) *Exercise of Remedies at Direction of Bondowners.* Subject to Section 7.06, if requested in writing to do so by the Owners of not less than a majority in aggregate principal

amount of the Bonds Outstanding and if indemnified as provided in Section 8.02(e) of this Indenture, the Trustee shall exercise such one or more of the rights and powers conferred by this Section as the Trustee, being advised by Counsel, shall deem most expedient in the interests of the Owners of the Bonds; provided, however, that the Trustee shall have the right to decline to comply with any such request if the Trustee shall be advised by Counsel that the action so requested may not lawfully be taken or if the Trustee in good faith shall determine that such action would be unjustly prejudicial to the Owners of Bonds that are not parties to such request.

(c) *Appointment of Receiver.* Upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Trustee and of the Bondowners under this Indenture, the Trustee shall be entitled, as a matter of right, to the appointment of a receiver or receivers of the Trust Estate, pending such proceedings, with such powers as the court making such appointment shall confer.

(d) *Suits to Protect the Trust Estate.* The Trustee shall have the power to institute and to maintain such proceedings as it may deem expedient to prevent any impairment of the Trust Estate by any acts which may be unlawful or in violation of this Indenture and to protect its interests and the interests of the Bondowners in the Trust Estate, including the power to institute and maintain proceedings to restrain the enforcement of or compliance with any governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, rule or order would impair the security under this Indenture or be prejudicial to the interests of the Bondowners or the Trustee, or to intervene (subject to the approval of a court of competent jurisdiction) on behalf of the Bondowners in any judicial proceeding to which the Issuer, any of the Guarantors, or the Borrower is a party and which in the judgment of the Trustee has a substantial bearing on the interests of the Bondowners.

(e) *Enforcement Without Possession of Bonds.* All rights of action under this Indenture or any of the Bonds may be enforced and prosecuted by the Trustee without the possession of any of the Bonds or the production thereof in any suit or other proceeding relating thereto, and any such suit or proceeding instituted by the Trustee shall be brought in its own name as trustee of an express trust. Any recovery of judgment shall, after provision for the payment of the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and subject to the provisions of Section 7.07 hereof, be for the equal and ratable benefit of the Owners of the Bonds in respect of which such judgment has been obtained.

(f) *Restoration of Positions.* If the Trustee or any Bondowner has instituted any proceeding to enforce any right or remedy under this Indenture by suit, foreclosure, the appointment of a receiver, or otherwise, and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Trustee or to such Bondowner, then and in every case the Issuer, the Trustee and the Bondowners shall, subject to any final determination in such proceeding, be restored to their former positions and rights under this Indenture, and thereafter all rights and remedies of the Trustee and the Bondowners shall continue as though no such proceeding had been instituted.



(g) *Enforcement of Rights and Powers of Issuer under the Loan Agreement.* As the assignee of all right, title and interest of the Issuer in and to the Loan Agreement (except for the Issuer's Unassigned Rights), the Trustee is empowered to enforce each remedy, right and power granted to the Issuer under the Loan Agreement. In exercising any remedy, right or power thereunder or hereunder, the Trustee shall take any action which would best serve the interests of the Bondowners in the judgment of the Trustee, applying the standards described in Section 8.01 hereof.

**Section 7.04. Trustee May File Proofs of Claim.**

In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to the Issuer or any other obligor upon the Bonds or their creditors, the Trustee (irrespective of whether the principal of the Bonds shall then be due and payable, as therein expressed or by acceleration or otherwise, and irrespective of whether the Trustee shall have made any demand on the Issuer for the payment of overdue principal or interest) shall be entitled and empowered, by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of principal and interest owing and unpaid in respect of the Outstanding Bonds and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and of the Bondowners allowed in such judicial proceeding, and

(b) to collect and receive any money or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Bondowner to make such payments to the Trustee, and in the event that the Trustee shall consent to the making of such payments directly to the Bondowners, to pay to the Trustee any amount due to it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 8.04.

Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Bondowner any plan of reorganization, arrangement, adjustment or composition affecting the Bonds or the rights of any Owner thereof, or to authorize the Trustee to vote in respect of the claim of any Bondowner in any such proceeding.

**Section 7.05. Limitation on Suits by Bondowners.**

No Owner of any Bond shall have any right to institute any proceeding, judicial or otherwise, under or with respect to this Indenture, or for the appointment of a receiver or trustee or for any other remedy under this Indenture, unless:

(a) such Owner has previously given written notice to the Trustee of a continuing Event of Default;

(b) the Owners of not less than a majority in aggregate principal amount of the Bonds Outstanding shall have made written request to the Trustee to institute proceedings in respect of such Event of Default in its own name as Trustee under this Indenture;

(c) such Owner or Owners have offered to the Trustee indemnity as provided in Section 8.02(e) of this Indenture against the costs, expenses and liabilities to be incurred in compliance with such request;

(d) the Trustee for sixty (60) days after its receipt of such notice, request and offer of indemnity has failed to institute any such proceeding; and

(e) no direction inconsistent with such written request has been given to the Trustee during such sixty (60) day period by the Owners of a majority in aggregate principal amount of the Outstanding Bonds;

it being understood and intended that no one or more Owners of Bonds shall have any right in any manner whatever by virtue of, or by availing of, any provision of this Indenture to affect, disturb or prejudice the lien of this Indenture or the rights of any other Owners of Bonds, or to obtain or to seek to obtain priority or preference over any other Owners or to enforce any right under this Indenture, except in the manner herein provided and for the equal and ratable benefit of all Outstanding Bonds.

Notwithstanding the foregoing or any other provision in this Indenture, however, the Owner of any Bond shall have the right, which is absolute and unconditional, to receive payment of the principal of, and interest on, such Bond on the respective Stated Maturities expressed in such Bond (or, in the case of redemption, on the redemption dates), and nothing contained in this Indenture shall affect or impair the right of any Owner to institute suit for the enforcement of any such payment.

**Section 7.06. Control of Proceedings by Bondowners.**

The Owners of a majority in aggregate principal amount of Bonds then Outstanding shall have the right, at any time during the continuance of an Event of Default, by an instrument or instruments in writing executed and delivered to the Trustee (subject to the Trustee's right to indemnification as provided in Section 8.02(e) hereof):

(a) to require the Trustee to proceed to enforce this Indenture, either by judicial proceedings for the enforcement of the payment of the Bonds and the foreclosure of this Indenture, or otherwise; and

(b) to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee under this Indenture, provided that

(1) such direction shall not be in conflict with any rule of law or this Indenture,

(2) the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction,

(3) the Trustee shall not determine that the action so directed would be unjustly prejudicial to the Owners not taking part in such direction; and

(4) before taking any action hereunder which would result in the Trustee acquiring title to or taking possession of any portion or all of the Project, the Trustee may require such environmental inspections and tests of the Project and other environmental reviews as the Trustee deems necessary and, if the Trustee determines that the taking of title or possession of all or any portion of the Project will expose the Trustee to claims or damages resulting from environmental or ecological conditions in any way relating to the Project or any activities at the Project, the Trustee may decline to take title to or possession of the Project.

**Section 7.07. Application of Money Collected.**

Any money collected by the Trustee pursuant to this Article, together with any other sums then held by the Trustee as part of the Trust Estate, shall be applied in the following order, at the date or dates fixed by the Trustee and, in case of the distribution of such money on account of principal or interest upon presentation of the Bonds and the notation thereon of the payment if only partially paid and upon surrender thereof if fully paid:

First: To the payment of all amounts due the Trustee under Section 8.04 of this Indenture;

Second: To the payment of all amounts due the Issuer and each Participating County under Section 6.03 and 6.13(d) of the Loan Agreement;

Third: To the payment of the whole amount then due and unpaid upon the Outstanding Bonds for principal and interest, in respect of which or for the benefit of which such money has been collected, with interest (to the extent that such interest has been collected by the Trustee or a sum sufficient therefor has been so collected and payment thereof is legally enforceable) at the respective rate or rates prescribed therefor in the Bonds on overdue principal and on overdue installments of interest; and in case such proceeds shall be insufficient to pay in full the whole amount so due and unpaid upon such Bonds, then to the payment of such principal and interest, without any preference or priority, ratably according to the aggregate amount so due;

Fourth: To the Guarantors on a pro rata basis to the extent amounts under their respective Limited Guaranty Agreements have been drawn upon and not reimbursed by the Borrower; and

Fifth: The remainder, if any, to the Borrower or to whomsoever may be lawfully entitled to receive the same or as a court of competent jurisdiction may direct.

Whenever money is to be applied by the Trustee pursuant to the provisions of this Section, such money shall be applied by it at such times, and from time to time, as the Trustee shall determine, having due regard for the amount of such money available for application and the likelihood of additional money becoming available for such application in the future. Whenever the Trustee shall apply such money, it shall fix the date (which shall be an Interest Payment Date unless it shall deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal to be paid on such date shall cease to accrue. The Trustee

shall give such notice as it may deem appropriate of the deposit with it of any such money and of the fixing of any such date, and shall not be required to make payment to the Owner of any unpaid Bond until such Bond shall be presented to the Trustee for appropriate endorsement or for cancellation if fully paid.

**Section 7.08. Rights and Remedies Cumulative.**

No right or remedy herein conferred upon or reserved to the Trustee or to the Bondowners is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

**Section 7.09. Delay or Omission Not Waiver.**

No delay or omission of the Trustee or of any Owner of any Bond to exercise any right or remedy accruing upon an Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article or by law to the Trustee or to the Bondowners may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by the Bondowners, as the case may be.

**Section 7.10. Waiver of Past Defaults.**

Upon the written request of the Owners of a majority in aggregate principal amount of all Bonds then Outstanding, the Trustee shall waive any Event of Default hereunder and its consequences and rescind any declaration of maturity of principal of and interest on the Bonds; provided, however, that there shall not be waived: (i) any default in respect of a covenant or provision hereof which under Article IX cannot be modified or amended without the consent of the Owner of each Outstanding Bond affected or (ii) any default in the payment of the principal of, or interest on, any Bond unless prior to such waiver or rescission, all arrears of interest, or all arrears of payments of principal, with interest at the rate borne by the Bonds on all arrears of payments of principal until paid, as the case may be, and all expenses of the Trustee in connection with such default, shall have been paid or provided for, and in case of any such waiver or rescission, or in case any proceeding taken by the Trustee on account of any such default shall have been discontinued or abandoned or determined adversely, then and in every such case the Issuer, the Trustee and the Bondowners shall be restored to their former positions and rights hereunder, respectively, but no such waiver or rescission shall extend to any subsequent or other default, or impair any right consequent thereon.

Upon any such waiver, such default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured, for every purpose of this Indenture; but no such waiver shall extend to or affect any subsequent or other default or impair any right or remedy consequent thereon.

In addition, any waiver of any Event of Default under Section 7.01(e) above shall not be waived unless, in addition to the foregoing conditions, all of the Guarantors shall have consented to such waiver, provided no Guarantor is in default under its Limited Guaranty Agreement.

**Section 7.11. Advances by Trustee.**

If the Borrower shall fail to make any payment or perform any of its covenants in the Loan Agreement, the Trustee may, at any time and from time to time, use and apply any moneys held by it under this Indenture, or make advances, to effect payment or performance of any such covenant on behalf of the, Borrower. All moneys so used or advanced by the Trustee, together with interest at the Trustee's announced prime rate per annum, shall be repaid by the Borrower upon demand and such advances shall be secured under this Indenture prior to the Bonds. For the repayment of all such advances the Trustee shall have the right to use and apply any moneys at any time held by it under this Indenture, but no such use of moneys or advance shall relieve the Borrower from any default under the Loan Agreement. Nothing herein shall be construed as creating any obligation, duty or requirement of the Trustee to advance its own funds.

**Section 7.12. Notice to Bondowners of Default.**

The Trustee shall promptly give written notice by registered or certified mail to the Bondowners, the Issuer and the Guarantors of the occurrence of an Event of Default.

**Section 7.13. Payment Procedure Pursuant to the Limited Guaranty Agreements.**

As long as the Limited Guaranty Agreements shall be in full force and effect, the Issuer and the Trustee agree to comply with the provisions set forth in this Section, notwithstanding any provisions of this Indenture to the contrary.

(a) If, on any Interest Payment Date, there is a draw on the Series 2024 Debt Service Reserve Account to pay the principal of, or interest on the Series 2024 Bonds, the Trustee shall make a demand on the Borrower under the Loan Agreement to replenish the Series 2024 Debt Service Reserve Account as provided in Section 3.09 of the Loan Agreement. If the Borrower fails to make the payment pursuant to the Loan Agreement within five (5) days of the date of such draw, the Trustee shall make a demand under the Limited Guaranty Agreements, in respect to the replenishment of the applicable Series 2024 Debt Service Reserve Subaccount to equal the applicable Series 2024 Debt Service Reserve Subaccount Requirement. If any of the Guarantors have not made such payment within one hundred fifty (150) days of the date of the demand, the Trustee may pursue any of the remedies provided in this Indenture and in the applicable Limited Guaranty Agreement; provided, that, no Guarantor shall have any obligation to make a payment to the applicable Series 2024 Debt Service Reserve Subaccount in excess of their applicable Guaranteed Amount.

If there is a draw on the Series 2024 Debt Service Reserve Account to pay any amounts recovered from Bondowners as a preferential payment under the United States Bankruptcy Code, the Trustee shall make a demand under the Limited Guaranty Agreements, pro rata among the Limited Guaranty Agreements (in respect to their applicable Series 2024 Debt Service Reserve Subaccount Requirements), to pay such amount. If any of the Guarantors have not made such payment within one hundred fifty (150) days of the date of the demand, the Trustee may pursue any of the remedies provided in this Indenture; provided, that, no Guarantor shall have any obligation to make a payment to the applicable Series 2024 Debt Service Reserve Subaccount in excess of their applicable Guaranteed Amount.

If for any other reason, including a determination on a Valuation Date that the market value of the securities then on deposit in a Series 2024 Debt Service Reserve Subaccount is less than the Series 2024 Debt Service Reserve Subaccount Requirement for such Series 2024 Debt Service Reserve Subaccount, the Trustee shall make a demand on the Borrower under the Loan Agreement to replenish the Series 2024 Debt Service Reserve Subaccount as provided in Section 3.09 of the Loan Agreement. If the Borrower fails to make the payment pursuant to the Loan Agreement within five (5) days of the date required therein, the Trustee shall make a demand under the Limited Guaranty Agreements, pro rata among the Limited Guaranty Agreements. If any of the Guarantors have not made such payment within one hundred fifty (150) days of the date of the demand, the Trustee may pursue any of the remedies provided in this Indenture; provided, that, no Guarantor shall have any obligation to make a payment to the applicable Series 2024 Debt Service Reserve Subaccount in excess of their applicable Guaranteed Amount.

The Trustee shall keep a complete and accurate record of all funds deposited by the Guarantors into a Series 2024 Debt Service Reserve Subaccount. The Guarantors shall have the right to inspect such records at reasonable times upon reasonable notice to the Trustee.

Pursuant to the terms of each Limited Guaranty Agreement, the obligations of the Guarantors under their respective Limited Guaranty Agreement, do not include the payment of the principal, interest, or premium, if any, due on any Bonds upon acceleration, prepayment or redemption (other than mandatory sinking fund redemption or if the Guarantors exercise their rights under Section 3.01(b)(2) hereof).

#### **Section 7.14. Additional Rights of the Guarantors.**

(a) *Information to be given to the Guarantors.* For so long as the Limited Guaranty Agreements are in effect, the Trustee shall furnish the following information to each of the Guarantors:

(1) Notice of any Event of Default actually known to the Trustee within five (5) Business Days after knowledge thereof;

(2) Notice of the advance refunding or redemption of any of the Bonds, including the principal amount, maturities and CUSIP numbers thereof in the same manner in which notice must be provided to Bondowners related to such events;

(3) Notice of the resignation or removal of the Trustee or Paying Agent and the appointment of, and acceptance of duties by, any successor thereto, provided, however, the Issuer shall furnish notice of the removal of the Trustee and the appointment of and acceptance of duties by a successor Trustee following such removal, in either event, in the same manner in which notice must be provided to Bondowners related to such events;

(4) Notice of the commencement of any proceeding by or against the Issuer or the Borrower commenced under the United States Bankruptcy Code or any other applicable bankruptcy, insolvency, receivership, rehabilitation or similar law (an "Insolvency Proceeding"), provided the Trustee has actual knowledge of such

Insolvency Proceeding in the same manner in which notice must be provided to Bondowners related to such events;

(5) Notice of the making of any claim in connection with any Insolvency Proceeding seeking the avoidance as a preferential transfer of any payment of principal of, or interest on, the Bonds, provided the Trustee has actual knowledge of such claim, in the same manner in which notice must be provided to Bondowners related to such events; and

(6) a full transcript of all proceedings relating to the execution of any amendment or supplement to this Indenture or the Loan Agreement.

**Section 7.15. The Guarantors as Third Party Beneficiaries; Parties Interested Herein.**

To the extent that this Indenture confers upon or gives or grants to the Guarantors any right, remedy or claim under or by reason of this Indenture, the Guarantors are hereby explicitly recognized as being third-party beneficiaries hereunder and may enforce any such right remedy or claim conferred, given or granted hereunder.

Nothing in this Indenture expressed or implied is intended or shall be construed to confer upon, or to give or grant to any Person, other than the Issuer, the Trustee, the Borrower, the Guarantors, and the Owners of the Bonds, any right, remedy or claim under or by reason of this Indenture or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Indenture contained by and on behalf of the Issuer shall be for the sole and exclusive benefit of the Issuer, the Borrower, the Trustee, the Guarantors, and the Owners of the Bonds.

**Section 7.16. Suspension of Provisions Relating to the Guarantors.**

All provisions in this Indenture regarding consents, voting, approvals, directions, appointments or request by the Guarantors shall be deemed not to require or permit such consents, approvals, directions, appointments or requests by one or more of the Guarantors and shall be read as if the Guarantors were not mentioned therein during any time in which (a) a Guarantor is in default of its obligation to pay into a Debt Service Reserve Account after proper demand therefore has been made under the applicable Limited Guaranty Agreement or (b) a final non-appealable order of a court having competent jurisdiction in the premises shall be entered declaring any provision of the applicable Limited Guaranty Agreement (other than provisions of the Limited Guaranty Agreement relating to matters that solely benefit the Guarantor or that have no material adverse effect on the interests of the Issuer, the Borrower or the Trustee) at any time, for any reason, invalid and not binding on such Guarantor, or declaring any provision of the applicable Limited Guaranty Agreement (other than provisions of the Limited Guaranty Agreement relating to matters that solely benefit the Guarantor or that have no material adverse effect on the interests of the Issuer, the Borrower or the Trustee) null and void.

## ARTICLE VIII

### THE TRUSTEE AND PAYING AGENTS

#### **Section 8.01. Acceptance of Trusts; Certain Duties and Responsibilities.**

The Trustee accepts and agrees to execute the trusts imposed upon it by this Indenture, but only upon the following terms and conditions:

(a) Except during the continuance of an Event of Default:

(1) the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Indenture, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(2) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture or other applicable Transaction Documents; but in the case of any such certificates or opinions which by any provision hereof or thereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Indenture or other applicable Transaction Document.

(b) If an Event of Default has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of personal affairs.

(c) No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(1) this Subsection shall not be construed to limit the effect of Subsection (a) of this Section;

(2) the Trustee shall not be liable for any error of judgment made in good faith by an authorized officer of the Trustee, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts;

(3) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Owners of a majority in aggregate principal amount of the Outstanding Bonds relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Indenture or other Transaction Document; and

(4) no provision of this Indenture or any other Transaction Document shall require the Trustee to expend or risk its own funds or otherwise incur any



financial liability in the performance of any of its duties hereunder or thereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

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

### **Section 8.02. Certain Rights of Trustee.**

Except as otherwise provided in Section 8.01 of this Indenture:

(a) The Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties.

(b) The Trustee shall be entitled to rely upon a certificate of an Issuer Representative as to the sufficiency of any request or direction of the Issuer mentioned herein, the existence or non-existence of any fact or the sufficiency or validity of any instrument, paper or proceeding, or that a resolution in the form therein set forth has been adopted by the Issuer's Governing Body has been duly adopted, and is in full force and effect. The Trustee shall be entitled to rely upon a certificate of a Borrower Representative as to the sufficiency of any request or direction of the Borrower mentioned herein, the existence or non-existence of any fact or the sufficiency or validity of any instrument, paper or proceeding, or that a resolution in the form therein set forth has been adopted by the governing board of the Borrower has been duly adopted, and is in full force and effect.

(c) Whenever in the administration of this Indenture the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee (unless other evidence be herein specifically prescribed) may, in the absence of bad faith on its part, rely upon a certificate of an Issuer Representative.

(d) The Trustee may consult with counsel, and the written advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by the Trustee hereunder in good faith and in reliance thereon.

(e) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the Bondowners pursuant to this Indenture, unless such Bondowners shall have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities (except as may result from the Trustee's own negligence or willful misconduct) which might be incurred by it in compliance with such request or direction.

(f) The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, or other paper or document, but the

Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Issuer or the Borrower, personally or by agent or attorney.

(g) The Trustee assumes no responsibility for the correctness of the recitals contained in this Indenture or in the Bonds, except the certificate of authentication on the Bonds. The Trustee makes no representations to the value or condition of the Trust Estate or any part thereof, or as to the title thereto or as to the security afforded thereby or hereby, or as to the validity or sufficiency of this Indenture or of the Bonds. The Trustee shall not be accountable for the use or application by the Issuer or the Borrower of any of the Bonds or the proceeds thereof or of any money paid to or upon the order of the Issuer or the Borrower under any provision of this Indenture or the Loan Agreement.

(h) The Trustee, in its individual or any other capacity, may become the owner or pledgee of Bonds and may otherwise deal with the Issuer or the Borrower with the same rights it would have if it were not Trustee.

(i) All money received by the Trustee shall, until used or applied or invested as herein provided, be held in trust for the purposes for which they were received. Money held by the Trustee in trust hereunder need not be segregated from other funds except to the extent required by law or by this Indenture. The Trustee shall be under no liability for interest on any money received by it hereunder except as otherwise agreed with the Issuer or the Borrower.

(j) The Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys, and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder.

(k) The Trustee shall be under no responsibility to approve, evaluate or determine the independence of any expert or other skilled person selected by the Issuer or the Borrower for any of the purposes expressed in this Indenture or any other Transaction Document.

(l) Delivery to the Trustee of the audited financial statements of the Borrower and the report of the Borrower's independent auditors pursuant to Section 6.12 of the Loan Agreement is for safekeeping purposes only. The Trustee has no obligation to review or analyze such information and shall not be deemed to have constructive or actual notice of such information or determinable from such information. The Trustee may provide copies thereof to Owners or beneficial owners of the Bonds in accordance with Section 12.01 hereof.

(m) Absent gross negligence or willful misconduct, the Trustee shall have the right to accept and act upon instructions or directions, including funds transfer instructions, pursuant to this Indenture or the Loan Agreement sent by Electronic Means; provided, however, that the Issuer and the Borrower, as applicable, shall provide to the Trustee an incumbency certificate listing designated persons authorized to provide such instructions ("Authorized Officers"), which incumbency certificate shall be amended whenever a person is to be added or deleted from the listing. As used in this paragraph, "Electronic Means" means

a portable document format (“pdf”) or other replicating image attached to an unsecured email, secure electronic transmission (containing applicable authorization codes, passwords and/or authentication keys issued by the Trustee), or another method or system specified by the Trustee as available for use in connection with its services. If the Issuer or Borrower elects to give the Trustee instructions by Electronic Means and the Trustee in its discretion elects to act upon such instructions, the Trustee’s understanding of such instructions shall be deemed controlling absent unreasonableness, gross negligence or willful misconduct. The Issuer and the Borrower each agrees that the Trustee cannot determine the identity of the actual sender of such instructions and that the Trustee shall conclusively presume that instructions that purport to have been sent by an Authorized Officer listed on the incumbency certificate provided to the Trustee have been sent by such Authorized Officer absent gross negligence or willful misconduct by the Trustee in making such presumption. The Issuer and the Borrower shall be responsible for ensuring that only their respective Authorized Officers transmit such instructions to the Trustee, and the Issuer, the Borrower and their Authorized Officers are responsible to safeguard the use and confidentiality of applicable user and authorization codes, passwords and authentication keys provided by the Trustee, if any. The Trustee shall not be liable (absent gross negligence or willful misconduct) for any losses, costs, or expenses arising directly or indirectly from the Trustee’s reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction delivered by other means. Each of the Issuer and the Borrower agrees (i) to assume all risks (which do not include gross negligence or willful misconduct by the Trustee) arising out of its use of Electronic Means to submit instructions and directions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting instructions to the Trustee and that there may be more secure methods of transmitting instructions than the use of Electronic Means; (iii) that the security procedures (if any) to be followed in connection with its transmission of instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances; and (iv) that it will notify the Trustee immediately upon learning of any compromise or unauthorized use of the security procedures.

### **Section 8.03. Notice of Defaults.**

The Trustee shall not be required to take notice or be deemed to have notice of any default hereunder except failure by the Issuer to cause to be made any of the payments to the Trustee required to be made by Article IV of this Indenture, unless the Trustee shall be specifically notified in writing of such default by the Issuer, any of the Guarantors, the Borrower, or the Owners of at least 10% in principal amount of all Bonds Outstanding, and in the absence of such notice so delivered, the Trustee may conclusively assume there is no default except as aforesaid. Within thirty (30) days after the occurrence of any default hereunder of which the Trustee is required to take notice or has received notice as provided in this Section, the Trustee shall give written notice of such default by mail to all Owners of Bonds as shown on the bond register maintained by the Trustee, unless such default shall have been cured or waived; provided, however, that, except in the case of a default in the payment of the principal of, or interest on, any Bond, the Trustee shall be protected in withholding such notice if and so long as the Trustee in good faith determines that the withholding of such notice is in the interests of the Bondholders. For the purpose of this Section, the term “default” means any event which is, or after notice or lapse of time or both would become, an Event of Default.

#### **Section 8.04. Compensation and Reimbursement.**

The Trustee shall be entitled to payment or reimbursement:

(a) from time to time for reasonable compensation for all reasonable and necessary services rendered by it hereunder (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust);

(b) except as otherwise expressly provided herein, upon its request, for all reasonable expenses, disbursements and advances incurred or made by the Trustee in accordance with any provision of this Indenture (including the reasonable compensation and the expenses and disbursements of its agents and counsel), except any such expense, disbursement or advance as may be attributable to the Trustee's negligence, willful misconduct or bad faith; and

(c) to indemnify the Trustee for, and to hold it harmless against, any loss, liability or expense incurred without negligence or bad faith on its part, arising out of or in connection with the acceptance or administration of this trust, including the costs and expenses of defending itself against any claim or liability in connection with the exercise or performance of any of its powers or duties hereunder.

All such payments and reimbursements shall be made by the Borrower as provided in Section 6.13 of the Loan Agreement.

The Trustee shall promptly notify the Borrower in writing of any claim or action brought against the Trustee in respect of which indemnity may be sought against the Borrower, setting forth the particulars of such claim or action, and the Borrower will assume the defense thereof, including the employment of counsel satisfactory to the Trustee and the payment of all expenses. The Trustee may employ separate counsel in any such action and participate in the defense thereof, and the reasonable fees and expenses of such counsel shall not be payable by the Borrower unless such employment has been specifically authorized by the Borrower or if the Trustee has determined in good faith and upon the advice of counsel that there are defenses available to it that are not available to the Borrower or that are adverse to or in conflict with those available to the Borrower and cannot be effectively asserted by common counsel.

Pursuant to the provisions of the Loan Agreement, the Borrower has agreed to pay to the Trustee all reasonable fees, charges, advances and expenses of the Trustee, and the Trustee agrees to look only to the Borrower for the payment of all reasonable fees, charges, advances and expenses of the Trustee and any Paying Agent as provided in the Loan Agreement. The Trustee agrees that the Issuer shall have no liability for any fees, charges and expenses of the Trustee.

As security for the payment of such compensation, expenses, reimbursements and indemnity under this Section, the Trustee shall be secured under this Indenture by a lien prior to the Bonds and otherwise as provided in Section 7.07 hereof, and shall have the right to use and apply any trust moneys held by it under Article IV hereof.

**Section 8.05. Corporate Trustee Required; Eligibility.**

There shall at all times be a Trustee hereunder which shall be a bank or trust company organized and doing business under the laws of the United States of America or of any state thereof, authorized under such laws to exercise corporate trust powers, subject to supervision or examination by federal or state authority, and having a combined capital and surplus of at least \$50,000,000. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of such supervising or examining authority, then for the purposes of this Section, the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section, it shall resign immediately in the manner and with the effect specified in this Article.

**Section 8.06. Resignation and Removal of Trustee.**

(a) The Trustee may resign at any time by giving thirty (30) days' written notice thereof to the Issuer, the Guarantors, the Borrower and each Owner of Bonds Outstanding as shown by the list of Bondowners required by this Indenture to be kept at the office of the Trustee. If an instrument of acceptance by a successor Trustee shall not have been delivered to the Trustee within thirty (30) days after the giving of such notice of resignation, the resigning Trustee may, at the expense of the Borrower, petition any court of competent jurisdiction for the appointment of a successor Trustee.

(b) If the Trustee has or shall acquire any conflicting interest, it shall, within ninety (90) days after ascertaining that it has a conflicting interest, or within thirty (30) days after receiving written notice from the Issuer, the Borrower (so long as the Borrower is not in default under the Loan Agreement) or any Bondowner that it has a conflicting interest, either eliminate such conflicting interest or resign in the manner and with the effect specified in Subsection (a).

(c) The Trustee may be removed at any time by an instrument or concurrent instruments in writing delivered to the Borrower, the Issuer and the Trustee signed by the Owners of a majority in aggregate principal amount of the Outstanding Bonds. The Issuer, the Borrower, or any Bondowner may at any time petition any court of competent jurisdiction for the removal for cause of the Trustee.

(d) The Trustee may be removed at any time (so long as no Event of Default has occurred and is continuing under this Indenture) by an instrument in writing signed by the Borrower and delivered to the Trustee. The foregoing notwithstanding, the Trustee may not be removed by the Borrower unless written notice of the delivery of such instrument signed by a Borrower Representative is mailed to the Owners of all Bonds Outstanding under this Indenture, which notice indicates the Trustee will be removed and replaced by the successor trustee named in such notice, such removal and replacement to become effective not less than sixty (60) days from the date of such notice, unless the Owners of not less than a majority in aggregate principal amount of the Bonds Outstanding shall object in writing to such removal and replacement.

(e) If at any time:

(1) the Trustee shall fail to comply with subsection (b) after written request therefor by the Issuer, the Borrower or by any Bondowner, or

(2) the Trustee shall cease to be eligible under Section 8.05 and shall fail to resign after written request therefor by the Issuer, the Borrower or any Bondowner, or

(3) the Trustee shall become incapable of acting or shall be adjudged a bankrupt or insolvent or a receiver of the Trustee or of its property shall be appointed or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation,

then, in any such case, (i) the Issuer or the Borrower may remove the Trustee, or (ii) any Bondowner may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

(f) The Trustee shall give notice of each resignation of the Trustee and the successor Trustee shall give notice of such appointment of successor Trustee by mailing written notice of such event by first class mail, postage prepaid, to the Owners of Bonds as their names and addresses appear in the bond register maintained by the Trustee. Each notice shall include the name of the successor Trustee and the address of its designated corporate trust office.

(g) No resignation or removal of the Trustee and no appointment of a successor Trustee pursuant to this Article shall become effective until the acceptance of appointment by the successor Trustee under Section 8.08.

#### **Section 8.07. Appointment of Successor Trustee.**

If the Trustee shall resign, be removed or become incapable of acting, or if a vacancy shall occur in the office of Trustee for any cause, (i) the Issuer, with the written consent of the Borrower (so long as no Event of Default under the Loan Agreement has occurred and is continuing), or (ii) the Owners of a majority in aggregate principal amount of Bonds Outstanding (if an Event of Default hereunder or under the Loan Agreement has occurred and is continuing), by an instrument or concurrent instruments in writing delivered to the Issuer (in the case of delivery by Owners) and the retiring Trustee, shall promptly appoint a successor Trustee. In case all or substantially all the Trust Estate shall be in the possession of a receiver or trustee lawfully appointed, such receiver or trustee, by written instrument, may similarly appoint a temporary successor to fill such vacancy until a new Trustee shall be so appointed by the Issuer or the Bondowners. If, within thirty (30) days after such resignation, removal or incapability or the occurrence of such vacancy, a successor Trustee shall be appointed in the manner herein provided, the successor Trustee so appointed shall, forthwith upon its acceptance of such appointment, become the successor Trustee and supersede the retiring Trustee and any temporary successor Trustee appointed by such receiver or trustee. If no successor Trustee shall have been so appointed and accepted appointment in the manner herein provided, any Bondowner may petition any court of competent jurisdiction for the appointment of a successor Trustee, until a successor shall have been appointed as above provided. The successor so appointed

by such court shall immediately and without further act be superseded by any successor appointed as above provided. Every such successor Trustee appointed pursuant to the provisions of this Section shall be a bank with trust powers or trust company in good standing under the law of the jurisdiction in which it was created and by which it exists, meeting the eligibility requirements of this Article.

**Section 8.08. Acceptance of Appointment by Successor.**

Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to the Issuer, the Guarantors, the Borrower and the retiring Trustee an instrument accepting such appointment, and thereupon the resignation or removal of the retiring Trustee shall become effective and such successor Trustee, without any further act, deed or conveyance, shall become vested with all the estates, properties, rights, powers, trusts and duties of the retiring Trustee; but, on request of the Issuer or the successor Trustee, such retiring Trustee shall, upon payment of its charges, execute and deliver an instrument conveying and transferring to such successor Trustee upon the trusts herein expressed all the estates, properties, rights, powers and trusts of the retiring Trustee, and shall duly assign, transfer and deliver to such successor Trustee all property and money held by such retiring Trustee hereunder, subject nevertheless to its lien, if any, provided for in Section 8.04. Upon request of any such successor Trustee, the Issuer shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor Trustee all such estates, properties, rights, powers and trusts. The resignation of any Trustee and the instrument or instruments removing any Trustee and appointing a successor hereunder, together with all other instruments provided for in this Article, shall be forthwith filed and/or recorded by the successor trustee in each recording office, if any, where this Indenture shall have been filed and/or recorded.

No successor Trustee shall accept its appointment unless at the time of such acceptance such successor Trustee shall be qualified and eligible under this Article.

**Section 8.09. Merger, Consolidation and Succession to Business.**

Any corporation or association into which the Trustee may be merged or with which it may be consolidated, or any corporation or association resulting from any merger or consolidation to which the Trustee shall be a party, or any corporation or association succeeding to all or substantially all the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder, provided such corporation or association shall be otherwise qualified and eligible under this Article, and shall be vested with all the title to the whole property or Trust Estate and all the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any paper or any further act on the part of any of the parties hereto. In case any Bonds shall have been authenticated, but not delivered, by the Trustee then in office, any successor by merger or consolidation to such authenticating Trustee may adopt such authentication and deliver the Bonds so authenticated with the same effect as if such successor Trustee had itself authenticated such Bonds.

**Section 8.10. Co-Trustees and Separate Trustees.**

At any time or times, for the purpose of meeting the legal requirements of any jurisdiction in which any of the Trust Estate may at the time be located, or in the enforcement of any default or the exercise any of the powers, rights or remedies herein granted to the Trustee, or any other action which may be desirable or necessary in connection therewith, the Trustee shall have

power to appoint, and, upon the written request of the Trustee or of the Owners of at least a majority in aggregate principal amount of the Bonds Outstanding, the Issuer shall for such purpose join with the Trustee in the execution, delivery and performance of all instruments and agreements necessary or proper to appoint, one or more Persons approved by the Trustee either to act as co-trustee, jointly with the Trustee, of all, or any part of, the Trust Estate, or to act as separate trustee of any such property, in either case with such powers as may be provided in the instrument of appointment, and to vest in such Person or Persons in the capacity aforesaid, any property, title, right or power deemed necessary or desirable, subject to the other provisions of this Section. If the Issuer does not join in such appointment within fifteen (15) days after the receipt by it of a request so to do, or in case an Event of Default has occurred and is continuing, the Trustee alone shall have power to make such appointment.

Should any written instrument from the Issuer be required by any co-trustee or separate trustee so appointed for more fully confirming to such co-trustee or separate trustee such property, title, right or power, any and all such instruments shall, on request, be executed, acknowledged and delivered by the Issuer.

Every co-trustee or separate trustee shall, to the extent permitted by law, but to such extent only, be appointed subject to the following terms, namely:

(a) The Bonds shall be authenticated and delivered, and all rights, powers, duties and obligations hereunder in respect of the custody of securities, cash and other personal property held by, or required to be deposited or pledged with, the Trustee hereunder, shall be exercised solely, by the Trustee.

(b) The rights, powers, duties and obligations hereby conferred or imposed upon the Trustee in respect of any property covered by such appointment shall be conferred or imposed upon and exercised or performed by the Trustee or by the Trustee and such co-trustee or separate trustee jointly, as shall be provided in the instrument appointing such co-trustee or separate trustee, except to the extent that under any law of any jurisdiction in which any particular act is to be performed, the Trustee shall be incompetent or unqualified to perform such act, in which event such rights, powers, duties and obligations shall be exercised and performed by such co-trustee or separate trustee.

(c) The Trustee at any time, by an instrument in writing executed by it, with the concurrence of the Issuer evidenced by a resolution, may accept the resignation of or remove any co-trustee or separate trustee appointed under this Section, and, in case an Event of Default has occurred and is continuing, the Trustee shall have power to accept the resignation of, or remove, any such co-trustee or separate trustee without the concurrence of the Issuer. Upon the written request of the Trustee, the Issuer shall join with the Trustee in the execution, delivery and performance of all instruments and agreements necessary or proper to effectuate such resignation or removal. A successor to any co-trustee or separate trustee so resigned or removed may be appointed in the manner provided in this Section.

(d) No co-trustee or separate trustee hereunder shall be personally liable by reason of any act or omission of the Trustee, or any other such trustee hereunder.



(e) Any request, demand, authorization, direction, notice, consent, waiver or other act of Bondowners delivered to the Trustee shall be deemed to have been delivered to each such co-trustee and separate trustee.

**Section 8.11. Designation of Paying Agents.**

The Trustee is hereby designated and agrees to act as principal Paying Agent for and in respect to the Bonds. The Issuer may, with the consent of the Borrower, cause the necessary arrangements to be made through the Trustee and to be thereafter continued for the designation of alternate Paying Agents, if any, and for the making available of funds hereunder for the payment of the principal of, and interest on, the Bonds, or at the designated corporate trust office of said alternate Paying Agents. In the event of a change in the office of Trustee, the predecessor Trustee which has resigned or been removed shall cease to be trustee of any funds provided hereunder and Paying Agent for principal of, and interest on, the Bonds, and the successor Trustee shall become such Trustee and Paying Agent unless a separate Paying Agent or Agents are appointed by the Issuer in connection with the appointment pursuant to Section 8.07 of any successor Trustee; provided that if such appointment of such successor Trustee required the Borrower's consent, the appointment of any separate Paying Agent in connection therewith may not be made without the Borrower's consent. Any alternate or separate Paying Agent appointed pursuant to this Section may be removed by the Issuer with the consent of the Borrower.

**ARTICLE IX**

**SUPPLEMENTAL INDENTURES**

**Section 9.01. Supplemental Indentures without Consent of Bondowners.**

Without the consent of, or notice to, the Owners of any Bonds or the Guarantors, the Issuer and the Trustee may from time to time, and when required by this Indenture shall, enter into one or more Supplemental Indentures for any of the following purposes:

(a) to correct or amplify the description of any property at any time subject to the lien of this Indenture, or better to assure, convey and confirm unto the Trustee any property subject or required to be subjected to the lien of this Indenture, or to subject to the lien of this Indenture additional property;

(b) to evidence the appointment of a separate trustee or the succession of a new Trustee under this Indenture;

(c) to add to the covenants of the Issuer or to the rights, powers and remedies of the Trustee for the benefit of the Owners of the Bonds or to surrender any right or power herein conferred upon the Issuer;

(d) to cure any ambiguity, to correct or supplement any provision in this Indenture which may be inconsistent with any other provision herein or to make any other change, with respect to matters or questions arising under this Indenture, which shall not be inconsistent with the provisions of this Indenture, provided such action shall not materially adversely affect the interests of the Owners of the Bonds;

(e) to modify, eliminate or add to the provisions of this Indenture to such extent as shall be necessary to effect the qualification of this Indenture under the Trust Indenture Act of 1939, as amended, or under any similar federal statute hereafter enacted, or to permit the qualification of the Bonds for sale under the securities laws of the United States or any state of the United States; or

(f) to issue Additional Bonds pursuant to the terms hereof.

Any provision of this Indenture expressly recognizing or granting rights in or to the Guarantors may not be amended in any manner which affects the rights of the Guarantors hereunder, including (i) the principal amount of any series of Bonds (for the avoidance of doubt, excluding any Additional Bonds not subject to the Limited Guaranty Agreements guaranteeing obligations of the respective Bonds), (ii) the interest rate payable thereon, and (iii) the payment and maturity dates of the applicable Bonds, without the prior written consent of all of the Guarantors, and no Supplemental Indenture amending such provisions expressly recognizing or granting rights in or to the Guarantors shall become effective without the prior written consent of all of the Guarantors.

#### **Section 9.02. Supplemental Indentures with Consent of Bondowners.**

With the consent of all of the Guarantors and Owners of not less than a majority in aggregate principal amount of the Bonds then Outstanding affected by such Supplemental Indenture, the Issuer and the Trustee may enter into one or more Supplemental Indentures for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture or of modifying in any manner the rights of the Owners of the Bonds under this Indenture; provided, however, that the consent of the Owner of each affected Outstanding Bond shall be required for any such Supplemental Indenture which:

(a) changes the Stated Maturity of the principal of, or any installment of interest on, any Bond, or reduces the principal amount thereof or the interest thereon, or changes the circumstances under which any Bond may or must be redeemed, or changes the coin or currency in which any Bond or the interest thereon is payable, or impairs the right to institute suit for the enforcement of any such payment on or after the Stated Maturity thereof (or, in the case of redemption, on or after the redemption date); or

(b) reduces the percentage in principal amount of the Outstanding Bonds, the consent of the Owners of which is required for any such Supplemental Indenture, or the consent of the Owners of which is required for any waiver provided for in this Indenture of compliance with certain provisions of this Indenture or certain defaults hereunder and their consequences; or

(c) modifies the obligation of the Issuer to make payment on or provide funds for the payment of any Bond; or

(d) modifies or alters the provisions of the proviso to the definition of the term “Outstanding”; or

(e) modifies any of the provisions of this Section or Section 7.10 or 10.02, except, with respect to any modification of this Section or Section 7.10, to increase any percentage

provided thereby or to provide that certain other provisions of this Indenture cannot be modified or waived without the consent of the Owner of each Bond affected thereby;

(f) permits the creation of any lien ranking prior to or on a parity with the lien of this Indenture with respect to any of the Trust Estate or terminates the lien of this Indenture on any property at any time subject hereto or deprives the Owner of any Bond of the security afforded by the lien of this Indenture; or

(g) modifies any of the provisions of Section 2.10 related to the terms pursuant to which Additional Bonds may be issued hereunder.

The Trustee shall be entitled to rely upon an Opinion of Bond Counsel with respect to whether or not any Bonds would be affected by any Supplemental Indenture and any such determination shall be conclusive upon the Owners of all Bonds, whether theretofore or thereafter authenticated and delivered hereunder. The Trustee shall not be liable for any such determination made in good faith.

If at any time the Issuer shall request the Trustee to enter into any such Supplemental Indenture for any of the purposes of this Section, the Trustee shall, upon being satisfactorily indemnified with respect to expenses, cause notice of the proposed execution of such Supplemental Indenture to be mailed to each Owner of Bonds then Outstanding at the addresses appearing in the bond register. Such notice shall be prepared by the Issuer, briefly set forth the nature of the proposed Supplemental Indenture and state that copies thereof are on file at the designated corporate trust office of the Trustee for inspection by all Bondowners. The Trustee shall not, however, be subject to any liability to any Bondowner by reason of its failure to mail such notice, and any such failure shall not affect the validity of such Supplemental Indenture when consented to and approved as provided in this Section. If the required percentage of Owners shall have consented to and approved the execution thereof as herein provided, no Owner of any Bond shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the Issuer from executing the same or from taking any action pursuant to the provision thereof. It shall not be necessary for the required percentage of Owners of Bonds under this Section to approve the particular form of any proposed Supplemental Indenture, but it shall be sufficient if such act shall approve the substance thereof. Upon the execution of any such Supplemental Indenture as in this Section permitted and provided, this Indenture shall be and be deemed to be modified and amended in accordance therewith.

### **Section 9.03. Execution of Supplemental Indentures.**

In executing, or accepting the additional trusts created by, any Supplemental Indenture permitted by this Article or the modification thereby of the trusts created by this Indenture, the Trustee shall be entitled to receive, and, subject to Section 8.01, shall be fully protected in relying upon, an Opinion of Bond Counsel addressed and delivered to the Trustee and the Issuer stating that the execution of such Supplemental Indenture is authorized or permitted by this Indenture. The Trustee may, but shall not, except to the extent required in the case of any Supplemental Indenture entered into under Section 9.01(e), be obligated to enter into any such Supplemental Indenture which affects the Trustee's own rights, duties or immunities under this Indenture or otherwise.

**Section 9.04. Effect of Supplemental Indentures.**

Upon the execution of any Supplemental Indenture under this Article, this Indenture shall be modified in accordance therewith, and such Supplemental Indenture shall form a part of this Indenture for all purposes; and every Owner of Bonds theretofore or thereafter authenticated and delivered hereunder shall be bound thereby.

**Section 9.05. Reference in Bonds to Supplemental Indentures.**

Bonds authenticated and delivered after the execution of any Supplemental Indenture pursuant to this Article may, and if required by the Trustee shall, bear a notation in form approved by the Trustee as to any matter provided for in such Supplemental Indenture. If the Issuer shall so determine, new Bonds so modified as to conform, in the opinion of the Trustee and the Issuer, to any such Supplemental Indenture may be prepared and executed by the Issuer and authenticated and delivered by the Trustee in exchange for Outstanding Bonds.

**Section 9.06. Borrower's Consent to Supplemental Indentures.**

So long as the Borrower is not in default under the Loan Agreement, a Supplemental Indenture under this Article which affects any rights, powers, agreements or obligations of the Borrower, including, without limitation, rights, powers, agreements or obligations of the Borrower under the Loan Agreement and the Promissory Note, or requires any revision of the Loan Agreement and the Promissory Note, will not become effective unless and until the Borrower consents in writing to the execution and delivery of such Supplemental Indenture.

**ARTICLE X**

**AMENDMENT OF LOAN AGREEMENT, PROMISSORY NOTE,  
OR LIMITED GUARANTY AGREEMENTS**

**Section 10.01. Amendment, etc., to Loan Agreement, Promissory Note, or Limited Guaranty Agreements Not Requiring Consent of Bondowners.**

The Trustee shall, without the consent of, or notice to, the Bondowners, consent to any amendment, change or modification of the Loan Agreement, the Promissory Note or the Limited Guaranty Agreements as may be required:

- (a) by the provisions of the Loan Agreement, the Promissory Note, the Limited Guaranty Agreements or hereby;
- (b) for the purpose of curing any ambiguity or formal defect or omission in the Loan Agreement, the Promissory Note or the Limited Guaranty Agreements;
- (c) to effect any other amendment to the Loan Agreement, the Promissory Note or the Limited Guaranty Agreement which will not adversely affect the interests of the Bondowners; or
- (d) to effect amendment to the Loan Agreement related to the issuance of any Additional Bonds.

**Section 10.02. Amendment, etc., to Loan Agreement, Promissory Note, or Limited Guaranty Agreements Requiring Consent of Bondowners.**

Except for the amendments, changes or modifications as provided in Section 10.01, the Trustee shall not agree or consent to any other amendment, change or modification of the Loan Agreement, the Promissory Note, or the Limited Guaranty Agreements without the giving of notice and the written approval or consent of the Owners of not less than a majority in aggregate principal amount of the Bonds then Outstanding, given and procured in accordance with the procedure provided in this Section. If at any time the Issuer, any of the Guarantors and/or the Borrower, as applicable shall request the agreement or consent of the Trustee to any such proposed amendment, change or modification of the Loan Agreement, the Promissory Note, or any of the Limited Guaranty Agreements, the Trustee shall, upon being satisfactorily indemnified with respect to expenses, cause notice of such proposed amendment, change or modification of the Loan Agreement, the Promissory Note, or the applicable Limited Guaranty Agreement to be given in the same manner as provided by Section 9.02 with respect to proposed Supplemental Indentures. Such notice shall be prepared by the Issuer, the Guarantors or the Borrower, briefly set forth the nature of such proposed amendment, change or modification and state that copies of the instrument embodying the same are on file at the designated corporate trust office of the Trustee for inspection by the Guarantor and all Owners of the Bonds. The Trustee shall not, however, be subject to any liability to any Owner of a Bond by reason of its failure to give such notice, and any such failure shall not affect the validity of such amendment, change or modification when consented to and approved as provided in this Section. If the Owners of not less than a majority in aggregate principal amount of the Bonds Outstanding at the time of the execution of any such amendment, change or modification shall have consented thereto (as required pursuant to Section 10.01), then no Owner of any Bond shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the Issuer from executing the same or from taking any action pursuant to the provisions thereof.

**Section 10.03. Trustee Authorized to Join in Amendments; Reliance on Counsel.**

The Trustee is authorized to join with the Issuer and the Borrower in the execution and delivery of any amendment permitted by this Article and, in so doing, shall receive and shall be fully protected in relying upon an Opinion of Counsel that such amendment is so permitted and has been duly authorized by the Issuer and the Borrower and that all things necessary to make it a valid and binding agreement have been done.

**ARTICLE XI**

**BOND INSURANCE.**

**Section 11.01. Bond Insurance.** If insufficient funds exist following demand on the Borrower and Participating Counties pursuant to Section 7.13 hereof for the payment of principal and interest on the Series 2024 Bonds (the “Insured Obligations”) due pursuant to the Series 2024

Promissory Note such payment of principal and interest shall be insured under the Series 2024 Bond Insurance Policy pursuant to the Series 2024 Bond Insurance Policy.

(a) In the event that on the second (2<sup>nd</sup>) Business Day prior to any payment date on the Insured Obligations following demand on the Borrower and Participating Counties pursuant to Section 7.13 hereof, the Paying Agent or Trustee has not received sufficient moneys pursuant to Section 7.13 hereof to pay all principal and interest on the Insured Obligations due on such payment date, the Paying Agent or Trustee shall immediately notify the Bond Insurer or its designee on the same Business Day by telephone or electronic mail, of the amount of the deficiency. If any deficiency is made up in whole or in part prior to or on the payment date, the Paying Agent or Trustee shall so notify the Bond Insurer or its designee.

(b) In addition, if the Paying Agent or Trustee has notice that any holder of the Insured Obligations has been required to disgorge payments of principal of or interest on the Insured Obligations pursuant to a final, non-appealable order by a court of competent jurisdiction that such payment constitutes an avoidable preference to such holder within the meaning of any applicable bankruptcy law, then the Paying Agent or Trustee shall notify the Bond Insurer or its designee of such fact by telephone or electronic mail, or by overnight or other delivery service as to which a delivery receipt is signed by a person authorized to accept delivery on behalf of the Bond Insurer.

(c) If there is a deficiency in amounts required to pay interest and/or principal on the Insured Obligations, and the Bond Insurer has paid such deficiency pursuant to the Series 2024 Bond Insurance Policy, the Paying Agent or Trustee shall (i) execute and deliver to the Bond Insurer, in form satisfactory to the Bond Insurer, an instrument appointing the Bond Insurer as agent and attorney-in-fact for the Owner of the Insured Obligations in any legal proceeding related to the payment and assignment to the Bond Insurer of the claims for interest on the Insured Obligations, (ii) receive as designee of the respective Owner (and not as Paying Agent) in accordance with the tenor of the Series 2024 Bond Insurance Policy payment from the Bond Insurer with respect to the claims for interest so assigned, (iii) segregate all such payments in a separate account (the “BAM Policy Payment Account”) to only be used to make scheduled payments of principal of, and interest on, the Insured Obligations, and (iv) disburse the same to such respective Owners.

(d) The Trustee shall designate any portion of payment of principal on Insured Obligations paid by the Bond Insurer, whether by virtue of mandatory sinking fund redemption, maturity or other advancement of maturity, on its books as a reduction in the principal amount of Insured Obligations registered to the then-current Owner, whether DTC or its nominee or otherwise, and shall issue a replacement Insured Obligation to the Bond Insurer, registered in the name directed by the Bond Insurer, in a principal amount equal to the amount of principal so paid (without regard to authorized denominations); provided, that, the Trustee’s failure to so designate any payment or issue any replacement Insured Obligation shall have no effect on the amount of principal or interest payable by the Issuer on any Insured Obligation or the subrogation or assignment rights of the Bond Insurer.

(e) Payments with respect to claims for interest on, and principal of, Insured Obligations disbursed by the Paying Agent or Trustee from proceeds of the Series 2024 Bond Insurance Policy shall not be considered to discharge the obligation of the Issuer, the

Participating Counties under the Limited Guaranty Agreements, or the Borrower with respect to such Insured Obligations, and the Bond Insurer shall become the Owner of such unpaid Insured Obligations and claims for the interest in accordance with the tenor of the assignment made to it under the provisions of the preceding paragraphs or otherwise. The Bond Insurer Documents shall not be discharged or terminated unless all amounts due or to become due to the Bond Insurer have been paid in full or duly provided for.

(f) Irrespective of whether any such assignment is executed and delivered, the Issuer, the Borrower, the Paying Agent and the Trustee agree for the benefit of the Bond Insurer that:

(1) They recognize that to the extent the Bond Insurer makes payments directly or indirectly (e.g., by paying through the Paying Agent or Trustee), on account of principal of, or interest on, the Insured Obligations, the Bond Insurer will be subrogated to the rights of such Bondowners of the Series 2024 Bonds to receive the amount of such principal and interest from the Borrower, with interest thereon, as provided and solely from the sources stated in the Bond Insurer Documents and the Insured Obligations; and

(2) They will accordingly pay to the Bond Insurer the amount of such principal and interest, with interest thereon as provided in the Bond Insurer Documents and the Insured Obligations, but only from the sources and in the manner provided therein for the payment of principal of, and interest on, the Insured Obligations to Bondowners of the Series 2024 Bonds, and will otherwise treat the Bond Insurer as the owner of such rights to the amount of such principal and interest.

(g) In the event that principal and/or interest due on the Series 2024 Bonds shall be paid by the Bond Insurer pursuant to the Series 2024 Bond Insurance Policy, the Series 2024 Bonds shall remain Outstanding for all purposes, not be defeased or otherwise satisfied and not be considered paid by the Issuer or the Borrower, the assignment and pledge of the trust estate and all covenants, agreements and other obligations of the Issuer and the Borrower to the registered Bondowners shall continue to exist and shall run to the benefit of the Bond Insurer, and the Bond Insurer shall be subrogated to the rights of such registered Bondowners.

#### **Section 11.02. Defeasance.**

(a) Any Defeasance Obligations in the defeasance escrow relating to the Series 2024 Bonds shall be limited to non-callable, direct obligations of the United States of America and securities fully and unconditionally guaranteed as to the timely payment of principal and interest by the United States of America, or as otherwise may be authorized under the laws of the State of Wisconsin and approved by the Bond Insurer.

(b) At least three (3) Business Days prior to any defeasance with respect to the Series 2024 Bonds, the Borrower shall deliver to the Bond Insurer draft copies of an escrow agreement, an opinion of Bond Counsel regarding the validity and enforceability of the escrow agreement and the defeasance of the Series 2024 Bonds, a verification report (a "Verification Report") prepared by a nationally recognized independent financial analyst or firm of certified public accountants regarding the sufficiency of the escrow fund. Such opinion and

Verification Report shall be addressed to the Bond Insurer and shall be in form and substance satisfactory to the Bond Insurer. In addition, the escrow agreement shall provide that:

(1) Any substitution of securities following the execution and delivery of the escrow agreement shall require the delivery of a Verification Report, and the prior written consent of the Bond Insurer, which consent will not be unreasonably withheld.

(2) None of the Borrower, the Issuer or any Participating County will exercise any prior optional redemption of Series 2024 Bonds secured by the escrow agreement or any other redemption other than mandatory sinking funds redemptions unless (i) the right to make any such redemption has been expressly reserved in the escrow agreement and such reservation has been disclosed in detail in the official statement or other offering memorandum for the refunding bonds, and (ii) as a condition to any such redemption there shall be provided to the Bond Insurer, a Verification Report as to the sufficiency of escrow receipts without reinvestment to meet the escrow requirements remaining following any such redemption.

(3) None of the Borrower, the Issuer or any Participating County shall amend the escrow agreement or enter into a forward purchase agreement or other agreement with respect to the rights in the escrow without the prior written consent of the Bond Insurer.

**Section 11.03. Amendments, Supplements and Consents.** Except as set forth in Section 11.03(a), the Bond Insurer's prior written consent is required for all amendments and supplements to the Bond Insurer Documents. The Borrower shall send copies of any such amendments or supplements to the Bond Insurer and Rating Agencies which have assigned a rating to the Series 2024 Bonds. The provisions of this Section 11.03 shall control and supersede any conflicting or inconsistent provisions in the Bond Insurer Documents.

(a) *Consent of the Bond Insurer.* Any amendments or supplements to the Bond Insurer Documents shall require the prior written consent of the Bond Insurer with the exception of amendments or supplements:

(1) To cure any ambiguity or formal defect or omissions or to correct any inconsistent provisions in the transaction documents or in any supplement thereto, or

(2) To grant or confer upon the Bondowners of the Series 2024 Bonds any additional rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon the Bondowners of the Series 2024 Bonds, or

(3) To add to the conditions, limitations and restrictions on the issuance of Additional Bonds or other obligations under the provisions of the Bond Insurer Documents, other conditions, limitations and restrictions thereafter to be observed, or

(4) To add to the covenants and agreements of the Borrower, Participating Counties, Hilbert, the Issuer or the Trustee in the Bond Insurer Documents other covenants and agreements thereafter to be observed by the Borrower, Participating Counties, Hilbert, the Issuer or the Trustee or to surrender any right or power therein



reserved to or conferred upon the Borrower, Participating Counties, Hilbert, the Issuer or the Trustee.

(b) *Insolvency.* The Trustee and each Bondowner of the Series 2024 Bonds hereby appoint the Bond Insurer as their agent and attorney-in-fact with respect to the Series 2024 Bonds and agree that the Bond Insurer may, at any time during the continuation of any proceeding by or against the Issuer, the Borrower or Hilbert under the United States Bankruptcy Code or any other applicable bankruptcy, insolvency, receivership, rehabilitation or similar law (an “Insolvency Proceeding”), direct all matters relating to such Insolvency Proceeding to the extent the Bondowners of the Series 2024 Bonds, hold such right, including, without limitation, (i) all matters relating to any claim or enforcement proceeding in connection with an Insolvency Proceeding (a “Claim”), (ii) the direction of any appeal of any order relating to any Claim, (iii) the posting of any surety, supersedeas or performance bond pending any such appeal, and (iv) the right to vote to accept or reject any plan of adjustment. In addition, the Trustee and each Bondowner of the Series 2024 Bonds delegate and assign to the Bond Insurer, to the fullest extent permitted by law, the rights of the Trustee and each Bondowner of the Series 2024 Bonds with respect to the Series 2024 Bonds in the conduct of any Insolvency Proceeding, including, without limitation, all rights of any party to an adversarial proceeding or action with respect to any court order issued in connection with any such Insolvency Proceeding.

(c) *Control by the Bond Insurer Upon Default.* Anything in the Bond Insurer Documents to the contrary notwithstanding, upon the occurrence and continuation of an Event of Default (or “default” or however denominated) under the Bond Insurer Documents, the Bond Insurer shall be entitled to control and direct the enforcement of all rights and remedies granted to the Bondowners of the Series 2024 Bonds or the Trustee for the benefit of the Bondowners of the Series 2024 Bonds under any Bond Insurer Document. No Event of Default (or “default” or however denominated) may be waived without the Bond Insurer’s written consent.

(d) *The Bond Insurer as the Sole Bondowner.* Upon the occurrence and continuance of any Event of Default (or “default” or however denominated), the Bond Insurer shall be deemed to be the sole Bondowner of the Series 2024 Bonds for all purposes under the Bond Insurer Documents, including, without limitation, for purposes of exercising remedies and approving amendments.

(e) *Special Provisions for Insurer Default.* If an Insurer Default shall occur and be continuing, then, notwithstanding anything in subparts (a)-(d) above to the contrary, (i) if at any time prior to or following an Insurer Default, the Bond Insurer has made payment under the Series 2024 Bond Insurance Policy, to the extent of such payment the Bond Insurer shall be treated like any other Bondowner of the Series 2024 Bonds for all purposes, including giving of consents, and (ii) if the Bond Insurer has not made any payment under the Series 2024 Bond Insurance Policy, the Bond Insurer shall have no further consent rights until the particular Insurer Default is no longer continuing or the Bond Insurer makes a payment under the Series 2024 Bond Insurance Policy, in which event, the foregoing clause (i) shall control. For purposes hereof, “Insurer Default” means: (A) the Bond Insurer has failed to make any payment under the Series 2024 Bond Insurance Policy when due and owing in accordance with its terms; or (B) the Bond Insurer shall (i) voluntarily commence any proceeding or file

any petition seeking relief under the United States Bankruptcy Code or any other federal, state or foreign bankruptcy, insolvency or similar law, (ii) consent to the institution of or failure to controvert in a timely and appropriate manner, any such proceeding or the filing of any such petition, (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator or similar official for such party or for a substantial part of its property, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors, or (vi) take action for the purpose of effecting any of the foregoing; or (C) any state or federal agency or instrumentality shall order the suspension of payments on the Series 2024 Bond Insurance Policy or shall obtain an order or grant approval for the rehabilitation, liquidation, conservation or dissolution of the Bond Insurer (including, without limitation, under the New York Insurance Law).

**Section 11.04. Bond Insurer is a Third-Party Beneficiary; Exercise of Rights by Bond Insurer.**

(a) The Bond Insurer is recognized as and shall be deemed to be a third-party beneficiary of the Bond Insurer Documents to the extent the Bondowners of the Series 2024 Bonds or the Trustee on behalf of the Bondowners of the Series 2024 Bonds hold such rights.

(b) In accordance with Section 9.01(d) hereof, only so long as the Series 2024 Bonds remain Outstanding and to the extent provided in Section 11.03(e), no Insurer Default has occurred and is occurring with respect to the Series 2024 Bond Insurance Policy, the rights granted to the Bond Insurer under the Bond Insurer Documents to request, consent to or direct any action are rights granted to the Bond Insurer in consideration of its issuance of the Series 2024 Bond Insurance Policy. Any exercise by the Bond Insurer of such rights is merely an exercise of the Bond Insurer's contractual rights and shall not be construed or deemed to be taken for the benefit, or on behalf, of the Bondowners of the Series 2024 Bonds and such action does not evidence any position of the Bond Insurer, affirmative or negative, as to whether the consent of the Bondowners of the Series 2024 Bonds or any other person is required in addition to the consent of the Bond Insurer.

**Section 11.05. Limit on Credit Instrument in Lieu of Cash in Debt Service Reserve Fund.** The prior written consent of the Bond Insurer shall be a condition precedent to the deposit of any credit instrument provided in lieu of a cash deposit into any Series 2024 Debt Service Reserve Subaccount, if any. Amounts on deposit in the Series 2024 Debt Service Reserve Account shall be applied solely to the payment of debt service due on the Series 2024 Bonds.

**Section 11.06. Restrictions on Contracts.** No contract shall be entered into or any action taken by which the rights of the Bond Insurer or security for or source of payment of the Series 2024 Bonds may be impaired or prejudiced in any material respect except upon obtaining the prior written consent of the Bond Insurer.

**Section 11.07. Restrictions on Additional Bonds.** Without the prior written consent of the Bond Insurer, the Borrower shall not consent to, and the Issuer shall not issue, Additional Bonds pursuant to Section 2.10 hereof.

**ARTICLE XII**

## NOTICES, CONSENTS AND ACTS OF BONDOWNERS

### Section 12.01. Notices.

Except as otherwise provided herein, it shall be sufficient service of any notice, request, demand, authorization, direction, consent, waiver or other paper required or permitted by this Indenture to be made, given or furnished to or filed with the following Persons, if the same shall be delivered in person or sent by first class mail (postage prepaid), facsimile, or Electronic Notice, at the following addresses:

(a) To the Issuer at:

Fond du Lac County, Wisconsin  
City/County Government Center  
160 South Macy Street  
Fond du Lac, WI 54935  
Attn: Director of Administration  
Phone: (920) 929-3155  
Email: erin.gerred@fdlco.wi.gov  
lisa.freiberg@fdlco.wi.gov

(b) To the Trustee at:

U.S. Bank Trust Company, National Association  
1555 North RiverCenter Drive, Suite 203  
Milwaukee, WI 53212  
Attention: Corporate Trust Department  
Phone: (414) 905-5010  
Fax: (414) 905-5049  
Email: Yvonne.siira@usbank.com

(c) To the Borrower at:

Bug Tussel 2, LLC  
c/o Hilbert Communications, LLC  
417 Pine Street  
Green Bay, WI 54301  
Attn: Jason G. Wied, CEO  
Phone: (920) 396-6138  
Email: jason.wied@btussel.com

With a Copy to:

Husch Blackwell LLP  
511 North Broadway, Suite 1100  
Milwaukee, WI 53202  
Attn: Mike Long, Esq.  
Phone: (414) 978-5622

Fax: (414) 223-5000  
E-mail: mike.long@huschblackwell.com

(d) To the Guarantors at:

Fond du Lac County, Wisconsin  
City/County Government Center  
160 South Macy Street  
Fond du Lac, WI 54935  
Attn: Director of Administration  
Phone: (920) 929-3155  
Email: erin.gerred@fdlco.wi.gov  
lisa.freiberg@fdlco.wi.gov

[Forest County, Wisconsin]  
200 E. Madison Avenue  
Crandon, WI 54520  
Attn: County Clerk  
Phone: (715) 478-2422  
Email: nmatuszewski@co.forest.wi.us

[Iowa County, Wisconsin]  
222 N. Iowa Street  
Dodgeville, WI 53533  
Attn: County Clerk  
Phone: (608) 935-0399  
Email: kris.spurley@iowacounty.org

[Jefferson County, Wisconsin]  
311 S. Center Avenue, Room C-2050  
Jefferson, WI 53549  
Attn: County Clerk  
Phone: (920) 674-8630  
Email: audreym@jeffersoncountywi.gov

[Lafayette County, Wisconsin]  
626 Main Street, Room 204  
Darlington, WI 53530  
Attn: County Clerk  
Phone: (608) 776-4820  
Email: carla.jacobson@lafayettecountywi.org

[Marathon County, Wisconsin]  
500 Forest Street  
Wausau, WI 54403  
Attn: County Clerk  
Phone: (715) 261-1500  
Email: kim.trueblood@co.marathon.wi.us

[Price County, Wisconsin]  
126 Cherry Street  
Phillips, WI 54555  
Attn: County Clerk  
Phone: (715) 339-5130  
Email: jean.gottwald@co.price.wi.us

[Sawyer County, Wisconsin]  
10610 Main Street, Suite 10  
Hayward, WI 54843  
Attn: County Clerk  
Phone: (715) 634-4866  
Email: lynn.fitch@sawyercounty.wi.gov

[Taylor County, Wisconsin]  
244 S. 2<sup>nd</sup> Street  
Medford, WI 54451  
Attn: County Clerk  
Phone: (715) 748-1460  
Email: andria.farrand@co.taylor.wi.us

[Waushara County, Wisconsin]  
380 S. Townline Road  
Wautoma, WI 54982  
Attn: County Clerk  
Phone: (920) 787-0442  
Email: megan.kapp@wausharacountywi.gov

(e) To the Bondowners:

At the addresses of the Bondowners as shown on the bond register maintained by the Trustee under this Indenture.

(f) To the Bond Insurer:

Build America Mutual Assurance Company  
200 Liberty Street, 27<sup>th</sup> Floor  
New York, New York  
Attn: Surveillance  
Re: Policy No. [\_\_\_\_\_]   
Telephone: (212) 235-2500  
Telecopier: (212) 234-1542  
Email: notices@buildamerica.com

All notices and other information required to be given by the Borrower under the Continuing Disclosure Agreements and to the Bondowners of the Series 2024 Bonds under any of the Transaction Documents shall also be provided to the Bond Insurer. In each case in which notice

of other communication refers to an event of default or a claim on the Series 2024 Bond Insurance Policy, then a copy of such notice or other communication shall also be sent to the attention of the General Counsel of the Bond Insurer at the same address and at [claims@buildamerica.com](mailto:claims@buildamerica.com) or at telecopier: (212) 235-5214 and shall be marked to indicate “URGENT MATERIAL ENCLOSED”.

If, because of the temporary or permanent suspension of mail, phone, or electronic service, or for any other reason it is impossible or impractical to send a notice in the manner herein provided, then such delivery of notice in lieu thereof as shall be made with the approval of the Trustee shall constitute a sufficient notice.

If notice to Bondowners is given by first class mail or Electronic Notice, neither the failure to send such notice, nor any defect in any notice so sent, to any particular Bondowner shall affect the sufficiency of such notice with respect to other Bondowners. Where this Indenture provides for notice in any manner, such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Bondowners shall be filed with the Trustee, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

All notices, requests, demands, authorizations, directions, consents, waivers or other papers or communications to the Trustee hereunder must be in writing in English and must be in the form of a document that is signed manually or by way of an electronic signature (including electronic images of handwritten signatures and digital signatures provided by DocuSign, Orbit, Adobe Sign or any other electronic signature provider acceptable to the Trustee). Electronic signatures believed by the Trustee to comply with the ESIGN ACT of 2000 or other applicable law shall be deemed original signatures for all purposes. If a party chooses to use electronic signatures to sign documents delivered to the Trustee, such party agrees to assume all risks (which do not include gross negligence or willful misconduct by the Trustee) arising out of its use of electronic signatures, including without limitation the risk of the Trustee acting on an unauthorized document and the risk of interception or misuse by third parties. Notwithstanding the foregoing, the Trustee may in any instance and in its sole discretion require that an original document bearing a manual signature be delivered to the Trustee in lieu of, or in addition to, any document signed via electronic signature.

#### **Section 12.02. Acts of Bondowners.**

Any notice, request, demand, authorization, direction, consent, waiver or other action provided by this Indenture to be given or taken by Bondowners may be embodied in and evidenced by one or more substantially concurrent instruments of similar tenor signed by such Bondowners in person or by an agent duly appointed in writing. Except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Trustee, and, where it is hereby expressly required, to the Issuer, the Guarantors or the Borrower. Proof of execution of any such instrument or of a writing appointing any such agent, or of the ownership of Bonds, shall be sufficient for any purpose of this Indenture and conclusive in favor of the Issuer and the Trustee, if made in the following manner:

- (a) The fact and date of the execution by any Person of any such instrument or writing may be proved by the certificate of any notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the individual signing such instrument or writing acknowledged to him the execution thereof, or by the affidavit of a witness of such

execution. Whenever such execution is by an officer of a corporation or a member of a partnership on behalf of such corporation or partnership, such certificate or affidavit shall also constitute sufficient proof of his authority.

(b) The fact and date of execution of any such instrument or writing and the authority of any Person executing the same may also be proved in any other manner which the Trustee deems sufficient; and the Trustee may in any instance require further proof with respect to any of the matters referred to in this Section.

(c) The ownership of Bonds and the amount or amounts, numbers and other identification of such Bonds, and the date of owning the same, shall be proved by the bond register maintained by the Trustee.

In determining whether the Owners of the requisite principal amount of Bonds Outstanding have given any request, demand, authorization, direction, notice, consent or waiver hereunder, Bonds owned by the Issuer or the Borrower or any Affiliate of the Borrower shall be disregarded and deemed not to be Outstanding (unless the Borrower or any such Related Person or Affiliate owns all the Bonds, in which case such Bonds shall not be disregarded and shall be deemed Outstanding), except that, in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Bonds which the Trustee knows to be so owned shall be so disregarded. The Trustee may conclusively rely on the ownership information provided to the Trustee by DTC in order to determine whether the Bonds are owned by the Issuer or any Affiliate to the Issuer or the Borrower or any Affiliate of the Borrower.

Any notice, request, demand, authorization, direction, consent, waiver or other action by the Owner of any Bond shall bind every future owner of the same Bond and the owner of every Bond issued upon the transfer thereof or in exchange therefor or in lieu thereof, in respect of anything done or suffered to be done by the Trustee or the Issuer in reliance thereon, whether or not notation of such action is made upon such Bond.

### **Section 12.03. Form and Contents of Documents Delivered to Trustee.**

Whenever several matters are required to be certified by, or covered by an opinion of, any specified Person, it is not necessary that all such matters be certified by, or covered by the opinion of, only one such Person, or that they be so certified or covered by only one document, but one such Person may certify or give an opinion with respect to some matters and one or more other such Persons as to the other matters, and any such Person may certify or give an opinion as to such matters in one or several documents.

Any certificate or opinion of an officer of the Issuer may be based, insofar as it relates to legal matters, upon a certificate or opinion of, or representations by, counsel, unless such officer knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to the matters upon which such certificate or opinion is based are erroneous. Any Opinion of Counsel may be based, insofar as it relates to factual matters, upon a certificate or opinion of, or representations by, an officer or officers of the Issuer stating that the information with respect to such factual matters is in the possession of the Issuer, unless such counsel knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to such matters are erroneous.

Whenever any Person is required to make, give or execute two or more applications, requests, consents, certificates, statements, opinions or other instruments under this Indenture, they may, but need not, be consolidated and form one instrument.

Wherever in this Indenture, in connection with any application or certificate or report to the Trustee, it is provided that the Issuer shall deliver any document as a condition of the granting of such application, or as evidence of the Issuer's compliance with any term hereof, it is intended that the truth and accuracy, at the time of the granting of such application or at the effective date of such certificate or report (as the case may be), of the facts and opinions stated in such document shall in such case be conditions precedent to the right of the Issuer to have such application granted or to the sufficiency of such certificate or report.

## ARTICLE XIII

### MISCELLANEOUS PROVISIONS

#### **Section 13.01. Further Assurances.**

The Issuer shall do, execute, acknowledge and deliver such Supplemental Indentures and such further acts, instruments, financing statements and assurances as the Trustee may reasonably require for accomplishing the purposes of this Indenture.

#### **Section 13.02. Immunity of Officers, Employees and Members of Issuer.**

No recourse shall be had for the payment of the principal of, or interest on, any of the Bonds or for any claim based thereon or upon any obligation, covenant or agreement contained in this Indenture against any past, present or future officer, employee or agent of the Issuer, or of any successor entity, or any member of the Issuer's governing body, either directly or through the Issuer or any successor entity, under any rule of law or equity, statute or constitution, or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such officers, employees, agents and members as such is hereby expressly waived and released as a condition of and consideration for the execution of this Indenture and the issuance of Bonds.

#### **Section 13.03. Liability of Issuer Limited.**

It is understood and agreed by the Trustee and the Owners from time to time of the Bonds that no Bonds or any other document executed by the Issuer in connection with the issuance, sale, and delivery of the Bonds, or any obligation herein or therein imposed upon the Issuer or breach thereof, shall give rise to a pecuniary liability of the Issuer or a charge against its general credit or taxing powers or shall obligate the Issuer financially in any way except with respect to the Loan Agreement and the application of revenues therefrom and the proceeds of the Bonds, except the Issuer's obligations under its Limited Guaranty Agreement. No failure of the Issuer to comply with any term, condition, covenant, or agreement herein shall subject the Issuer to liability for any claim for damages, costs or other financial or pecuniary charges except to the extent that the same can be paid or recovered from the Loan Agreement or revenues therefrom or proceeds of the Bonds. No execution on any claim, demand, cause of action, or judgment shall be levied upon or collected from the general credit, general funds, or taxing powers of the Issuer. In making the agreements, provisions and covenants set forth herein, the Issuer has not obligated itself except with respect to the Loan



Agreement and the application of revenues thereunder as hereinabove provided and except with respect to the Limited Guaranty Agreement. The Bonds constitute limited obligations of the Issuer, payable solely from the revenues pledged to the payment thereof pursuant to this Indenture and proceeds derived by the Trustee pursuant to the Limited Guaranty Agreements, and do not now and never shall constitute an indebtedness or a loan of the credit of the Issuer, the Participating Counties, the State or any political subdivision thereof or a charge against the general taxing powers of any of them within the meaning of any constitutional or statutory provision whatsoever.

**Section 13.04. Execution Counterparts.**

This Indenture may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all such counterparts shall together constitute but one and the same instrument.

**Section 13.05. Governing Law.**

This Indenture shall be governed by and construed in accordance with the laws of the State without giving effect to the conflicts of laws principles thereof.

**Section 13.06. Benefit of Indenture.**

This Indenture shall inure to the benefit of and shall be binding upon the Issuer and the Trustee and their respective successors and assigns, subject, however, to the limitations contained herein. With the exception of rights expressly conferred in this Indenture, including the rights under Section 7.15 hereof, nothing in this Indenture or in the Bonds, express or implied, shall give to any Person, other than the parties hereto and their successors and assigns hereunder, the Borrower, any separate trustee or co-trustee appointed under Section 8.10 and the Owners of Outstanding Bonds, any benefit or any legal or equitable right, remedy or claim under this Indenture.

**Section 13.07. Severability.**

If any provision in this Indenture or in the Bonds shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the Issuer and the Trustee have caused this Indenture of Trust to be duly executed by their duly authorized officers, all as of the day and year first above written.

**FOND DU LAC COUNTY, WISCONSIN**

By: \_\_\_\_\_  
Steven A. Abel, County Chairperson

By: \_\_\_\_\_  
Lisa Freiberg, County Clerk

**U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION**

By: \_\_\_\_\_  
Yvonne Sira, Vice President

**EXHIBIT A**  
**to the**  
**INDENTURE OF TRUST**

FORM OF SERIES 2024 BONDS

Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation (“DTC”), to the issuer or its agent for registration of transfer, exchange, or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

THIS BOND IS A “RESTRICTED SECURITY” WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT. THE HOLDER HEREOF, BY PURCHASING OR OTHERWISE ACQUIRING THIS BOND, (1) REPRESENTS THAT IT IS A “QUALIFIED INSTITUTIONAL BUYER” (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT); AND (2) AGREES THAT IT WILL NOT RESELL OR OTHERWISE TRANSFER THIS BOND EXCEPT PURSUANT TO AN EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT TO A PURCHASER REPRESENTING THAT IT IS A QUALIFIED INSTITUTIONAL BUYER.

UNITED STATES OF AMERICA  
STATE OF WISCONSIN

FOND DU LAC COUNTY, WISCONSIN

TAXABLE REVENUE BONDS, SERIES 2024  
(BUG TUSSEL 2, LLC PROJECT) (SOCIAL BONDS)

No. R-\_\_\_\_\_ \$ \_\_\_\_\_

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
_____%	[____ 1, 20____]	[____], 2024	_____

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: \_\_\_\_\_

FOND DU LAC COUNTY, WISCONSIN (hereinafter called the “Issuer”), for value received, promises to pay to the Registered Owner named above, or registered assigns, on the Maturity Date specified above, but solely from the source and in the manner hereinafter provided, and upon presentation and surrender hereof at the designated corporate trust office of the Trustee hereinafter referred to, the Principal Amount specified above, and to pay, but solely from the source and in the manner hereinafter provided, interest on said principal amount from the Date of Original Issue hereof

until the Principal Amount is paid or payment thereof is duly provided for, at the rate per annum of the Interest Rate specified above. Interest is computed on the basis of a 360 day year composed of twelve 30-day months and is payable semiannually on each [\_\_\_\_\_] 1] and [\_\_\_\_\_] 1], commencing [\_\_\_\_\_] 1, 20\_\_\_\_] (hereinafter called an “Interest Payment Date”), to the person in whose name this Series 2024 Bond is registered (herein called the “Owner”) in the registration books maintained by the Trustee (the “Bond Register”) as of the close of business on the fifteenth day (whether or not a Business Day) of the calendar month next preceding such Interest Payment Date (the “Record Date”), by check of the Trustee sent by first class mail to the Owner at the Owner’s address as it appears on the Bond Register or, under the circumstances set forth in the Indenture, by wire transfer in immediately available funds to an account designated by such Owner. The principal of, and interest on, this Series 2024 Bond are payable in lawful money of the United States of America.

The Series 2024 Bonds have been issued pursuant to and in full compliance with the Constitution and laws of the State of Wisconsin (the “State”), particularly Section 66.1103 and by authority of resolutions adopted by the Issuer’s governing body in connection with a project and activity undertaken pursuant to said section of the Wisconsin Statutes. The Series 2024 Bonds are special, limited obligations of the Issuer payable by the Issuer solely from “Pledged Revenues” as defined in the Indenture hereinafter referred to, including all payments by the Borrower on the Series 2024 Promissory Note hereinafter referred to and all proceeds derived pursuant to the Limited Guaranty Agreements hereinafter referred to. THE SERIES 2024 BONDS DO NOT AND SHALL NOT CONSTITUTE THE DEBT OR GENERAL OBLIGATION OF THE ISSUER, THE PARTICIPATING COUNTIES, THE STATE OF WISCONSIN OR ANY POLITICAL SUBDIVISION THEREOF AND DO NOT AND SHALL NOT CONSTITUTE OR GIVE RISE TO CHARGES AGAINST ANY OF THEIR GENERAL CREDIT OR TAXING POWERS, ARE NOT PAYABLE IN ANY MANNER FROM REVENUES RAISED BY TAXATION AND DO NOT AND SHALL NOT CONSTITUTE AN INDEBTEDNESS OF THE ISSUER, THE PARTICIPATING COUNTIES, THE STATE OF WISCONSIN OR ANY POLITICAL SUBDIVISION THEREOF, WITHIN THE MEANING OF ANY STATE OF WISCONSIN CONSTITUTIONAL PROVISION OR STATUTORY LIMITATION OR RESTRICTION, AND DO NOT CONSTITUTE OR GIVE RISE TO A CHARGE AGAINST THE GENERAL CREDIT OR TAXING POWERS OR A PECUNIARY LIABILITY OF THE ISSUER, THE STATE OF WISCONSIN OR ANY POLITICAL SUBDIVISION THEREOF.

This Series 2024 Bond is one of an authorized issue of bonds of the Issuer in the principal amount of \$[Principal Amount] (herein called the “Series 2024 Bonds”) issued under, and all equally and ratably secured and entitled to the protection given by, an Indenture of Trust, dated as of [\_\_\_\_\_] [\_\_\_\_], 2024 (as it may be amended and supplemented, herein called the “Indenture”), duly executed and delivered by the Issuer to U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, as trustee (herein called the “Trustee”, which term includes any successor trustee under the Indenture) for the purpose of providing funds to be lent by the Issuer to Bug Tussel 2, LLC, a Wisconsin limited liability company (herein called the “Borrower”), pursuant to a Loan Agreement, dated as of [\_\_\_\_\_] [\_\_\_\_], 2024 (as it may be amended or supplemented, herein called the “Loan Agreement”), for the purpose of financing a portion of the costs of acquisition, construction and equipping of certain wireless internet and telephone communications facilities (the “Facilities”) used by the Borrower and located in Fond du Lac, [Forest], [Iowa], [Jefferson], [Lafayette], [Marathon], [Price], [Sawyer], [Taylor], [and] [Waushara] Counties in the State of Wisconsin. The Indenture permits the issuance of “Additional Bonds” on a parity basis with the Series 2024 Bonds (the “Series 2024 Bonds collectively with any Additional Bonds, the “Bonds”). Reference is made to the Indenture,

copies of which are on file in the offices of the Issuer and the Trustee, including all indentures supplemental thereto, for a statement of the nature and extent of the security for the Series 2024 Bonds, the rights, duties and obligations of the Issuer and the Trustee, the rights of the Owners of the Series 2024 Bonds, the manner in which the Indenture can be amended, and terms upon which the Series 2024 Bonds are issued and secured. *All terms capitalized but not defined herein shall have the meanings assigned to them in the Indenture.* Pursuant to the Loan Agreement, the Borrower has executed and delivered its promissory note, dated the Date of Original Issue, payable to the order of the Issuer in the principal amount of said loan, maturing and bearing interest so as to provide the Issuer with sufficient revenues to pay when due the principal of and interest on the Series 2024 Bonds (the “Series 2024 Promissory Note”). The Borrower has unconditionally agreed in the Loan Agreement to provide the Issuer with revenues sufficient to pay when due the principal of and interest on the Series 2024 Bonds. Each Participating County has agreed to guarantee the payment of its Pro Rata Share pursuant to separate Limited Guaranty Agreements, each dated as of [\_\_\_\_\_] [\_\_\_], 2024 (as the same may be supplemented, amended or otherwise modified from time to time, the “Limited Guaranty Agreements”) delivered to the Trustee.

*Extraordinary Optional Redemption Due to Damage, Destruction, Eminent Domain, Court Order or Legislative Change.* The Series 2024 Bonds are subject to redemption in whole, or in part, at the option of the Borrower, on any Business Day, at a redemption price equal to 100% of the principal amount thereof, without premium, plus accrued interest thereon to the redemption date upon the following conditions: (in all such cases, excluding any Participating County exercising remedies under the Reimbursement Documents, and excluding any and all actions or omissions, whether direct or indirect, by any Participating County, including, without limitation, foreclosure or other action transferring title or rights with respect to the Facilities or any component of the Project and legislative or administrative action taken by any Participating County): (a) all or a portion of the Facilities within a particular Participating County shall have been damaged or destroyed to such extent that, in the opinion of the Borrower expressed in a certificate of the Borrower Representative filed with the Issuer and the Trustee following such damage or destruction, (i) the completion of the Project will be delayed for at least six months, (ii) it is not practicable or desirable to rebuild, repair or restore the Facilities within a period of six consecutive months following such damage or destruction, or (iii) the Borrower is or will be thereby prevented from carrying on its normal operations in a material manner at any portion of the Facilities for a period of at least six consecutive months; or (b) title to or the temporary use of all or substantially all of the Facilities in a particular Participating County shall have been taken under the exercise of the power of eminent domain by any governmental authority to such extent that, in the opinion of the Borrower expressed in a certificate of a Borrower Representative filed with the Issuer and the Trustee, (i) the completion of the Project will be delayed for at least six months or (ii) the Borrower is or will be thereby prevented from carrying on its normal operations in a material manner at any portion of the Facilities for a period of at least six consecutive months; or (c) any court or administrative body of competent jurisdiction shall enter a judgment, order or decree requiring the Borrower to cease all or any substantial part of its operations at any portion of the Facilities to such extent that, in the opinion of the Borrower expressed in a certificate of a Borrower Representative filed with the Issuer and the Trustee, the Borrower is or will be thereby prevented from carrying on its normal operations in a material manner at the Facilities for a period of at least six consecutive months; or (d) as a result of any changes in the Constitution of Wisconsin or the Constitution of the United States of America or of legislative or administrative action (whether state or federal) or by final decree, judgment or order of any court or administrative body (whether state or federal), the Loan Agreement shall have become void or unenforceable or impossible to perform in accordance with the intent and purposes of the parties as expressed in the Loan Agreement, or unreasonable burdens or

excessive liabilities shall have been imposed on the Issuer or the Borrower, in the opinion of the Issuer or the Borrower, as applicable, expressed in a certificate of an Issuer Representative or a Borrower Representative, as applicable, filed with the Trustee, as a consequence of the Series 2024 Bonds or the Series 2024 Promissory Note being Outstanding, including without limitation federal, state or other ad valorem, property, income or other taxes not being imposed on the Facilities owed by the Borrower as of the date of the Loan Agreement. In the event that the Bonds are subject to redemption under this paragraph, and all Facilities located within a Participating County have been subject to the above-described conditions, upon the redemption of the portion of the Bonds representing the Facilities in such Participating County's obligation to pay its Pro Rata Share shall be reduced by a corresponding amount. For the avoidance of doubt, if a Participating County's Pro Rata Share is reduced to zero pursuant to its Limited Guaranty Agreement, then such Participating County shall be released from its obligations under its applicable Limited Guaranty Agreement in accordance with the terms and conditions set forth therein. Payment of the redemption price pursuant to this paragraph shall be made with Eligible Funds.

*Extraordinary Redemption At the Option of the Guarantors.* The Series 2024 Bonds are subject to redemption in whole, but not in part, at the option of the Guarantors, so long as the Guarantors are not in default under the Limited Guaranty Agreements, on any Business Day, at a redemption price equal to 100% of the principal amount thereof, without premium, plus accrued interest thereon to the redemption date upon the occurrence of each of the following conditions: (A) an Event of Default has occurred and is continuing, (B) the Bonds have been accelerated pursuant to the terms hereof and (C) all of the Guarantors have unanimously agreed to exercise their option to redeem the Series 2024 Bonds. Payment of the redemption price pursuant to this paragraph shall be made with Eligible Funds.

*Optional Redemption.* The Series 2024 Bonds maturing after [\_\_\_\_\_] 1, 20\_\_\_\_] also are subject to redemption in whole or in part, in Authorized Denominations, at the option of the Borrower, on [\_\_\_\_\_] 1, 20\_\_\_\_] and on any date thereafter, at a redemption price equal to 100% of the principal amount thereof, without premium, plus interest accrued on the principal amount so redeemed to the redemption date.

*Mandatory Redemption from Unused Proceeds.* The Series 2024 Bonds are subject to mandatory redemption from any excess moneys remaining in the Project Fund upon the closing thereof pursuant to Section 4.07 of the Loan Agreement and Section 4.05 Indenture, on any Business Day fixed by the Trustee as the redemption date, which redemption date shall be within 45 days of the Trustee's receipt of the certificate of a Borrower Representative establishing the Completion Date. The redemption price shall be 100% of the principal amount of the Bonds or portions thereof so redeemed, plus accrued interest to the redemption date. Payment of the redemption price pursuant to this Section 3.01(c) shall be made with Eligible Funds.

*Mandatory Sinking Fund Redemption of Bonds.* The Series 2024 Bonds maturing [\_\_\_\_\_] 1, 20\_\_\_\_] and [\_\_\_\_\_] 1, 20\_\_\_\_] are subject to mandatory redemption and payment prior to maturity pursuant to the mandatory redemption requirements of the Indenture on [\_\_\_\_\_] 1] in each of the years specified in the Indenture, at a redemption price equal to 100% of the principal amount thereof plus accrued interest thereon to the redemption date, without premium.

Notice of redemption shall be sent (unless waived, as set forth in the Indenture) at least 20 days before the redemption date to each Owner of a Series 2024 Bond to be redeemed at the address

shown on the Bond Register or at such other address as is furnished in writing by such Owner to the Trustee. With respect to notice of any optional or extraordinary optional redemption of the Series 2024 Bonds, as described above, unless moneys or Government Obligations or a combination thereof, provided by the Borrower shall be received by the Trustee prior to the giving of said notice sufficient to pay the redemption price on the Series 2024 Bonds to be redeemed, said notice shall state that said redemption shall be conditional upon the receipt of such moneys or Governmental Obligations by the Trustee on or prior to the date fixed for such redemption. If such moneys or Governmental Obligations shall not have been so received on or prior to the redemption date, said notice shall be of no force and effect, the Municipality shall not redeem such Series 2024 Bonds and the Trustee shall give notice, in the manner in which the notice of redemption was given, that such moneys were not so received. All Series 2024 Bonds so called for redemption will cease to bear interest on the specified redemption date, provided funds for their redemption have been duly deposited, and, except for the purpose of payment, shall no longer be protected by the Indenture and shall not be deemed Outstanding under the provisions of the Indenture.

If provision is made for the payment of the principal of, and interest on, this Series 2024 Bond in accordance with the Indenture, this Series 2024 Bond shall no longer be deemed Outstanding under the Indenture, shall cease to be entitled to the benefits of the Indenture, and shall thereafter be payable solely from the funds provided for the payment thereof.

If an Event of Default occurs, the principal of all Outstanding Bonds may become due and payable in the manner and with the effect provided in the Indenture.

The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Issuer and the Owners of the Bonds at any time with the consent of the Owners of a majority in aggregate principal amount of the Bonds at the time Outstanding. The Indenture also contains provisions permitting Owners of a majority in aggregate principal amount of the Bonds at the time Outstanding, on behalf of the Owners of all the Bonds, to waive compliance with certain provisions of the Indenture and certain past defaults under the Indenture and their consequences. Any such consent or waiver by the Owner of this Bond shall be conclusive and binding upon such Owner and of any Bond issued in lieu hereof whether or not notation of such consent or waiver is made upon this Bond or such Bond.

The Owner of this Series 2024 Bond shall have no right to enforce the provisions of the Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any Event of Default under the Indenture, or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in the Indenture. In certain events, on the conditions, in the manner and with the effect set forth in the Indenture, the principal of all Outstanding Bonds may become due and payable before the stated maturity thereof, together with interest accrued thereon.

The Series 2024 Bonds are issuable only as fully registered bonds without coupons in the denominations of \$100,000 or any multiple of \$5,000 in excess thereof (“Authorized Denominations”). The Series 2024 Bonds are exchangeable for other Series 2024 Bonds of the same series in the form of fully registered bonds of the same aggregate principal amount and in Authorized Denominations, upon surrender thereof by the Owner thereof at the designated corporate trust office of the Trustee, duly endorsed by, or accompanied by a written instrument of transfer in form

satisfactory to the Trustee and executed by the Owner thereof or the Owner's attorney duly authorized in writing, in the manner and upon payment of the charges as provided in the Indenture.

This Series 2024 Bond is transferable by the Owner hereof upon surrender of this Series 2024 Bond for transfer at the designated corporate trust office of the Trustee, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Trustee and executed by, the Owner hereof or the Owner's attorney duly authorized in writing, in the manner and upon payment of the charges as provided in the Indenture. Thereupon the Issuer shall execute, and the Trustee shall authenticate and deliver, in exchange for this Series 2024 Bond, one or more new Bonds of the same series in the name of the transferee, of an Authorized Denomination, in aggregate principal amount equal to the principal amount of this Series 2024 Bond.

The Issuer, the Trustee and the Borrower may treat the person or entity in whose name this Series 2024 Bond is registered as the absolute Owner hereof for all purposes whether or not this Series 2024 Bond is overdue, and shall not be affected by any notice to the contrary.

#### STATEMENT OF INSURANCE

Build America Mutual Assurance Company ("BAM"), New York, New York, has delivered its municipal bond insurance policy (the "Policy") with respect to the scheduled payments due of principal of and interest on the Series 2024 Bond to the Trustee. The Policy is on file and available for inspection at the principal office of the Trustee and a copy thereof may be obtained from BAM or the Trustee. All payments required to be made under the Policy shall be made in accordance with the provisions thereof. By its purchase of these Series 2024 Bonds, the Owner acknowledges and consents (i) to the subrogation and all other rights of BAM as more fully set forth in the Policy, and (ii) that upon the occurrence and continuance of a default or an event of default under the Indenture or this Series 2024 Bond, BAM shall be deemed to be the sole owner of the Series 2024 Bonds for all purposes and shall be entitled to control and direct the enforcement of all rights and remedies granted to the owners of the Bonds or the trustee, paying agent, registrar or similar agent for the benefit of such owners under the Indenture, at law or in equity.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the execution and delivery of the Indenture and the issuance of this Series 2024 Bond do exist, have happened and have been performed in due time, form and manner as required by law, and that the issuance of this Series 2024 Bond and the series of which it forms a part does not exceed or violate any constitutional or statutory limitation of indebtedness.

This Series 2024 Bond shall not be valid or obligatory for any purpose or be entitled to any security or benefit under the Indenture unless the Certificate of Authentication hereon has been signed by the Trustee.



IN WITNESS WHEREOF, Fond du Lac County, Wisconsin, by its governing body, has caused this Bond to be executed in its name by the manual or facsimile signature of its Chairperson and Clerk as of the Date of Issuance on the first page of the Bond.

**FOND DU LAC COUNTY, WISCONSIN**

By: \_\_\_\_\_  
County Chairperson

By: \_\_\_\_\_  
County Clerk

**TRUSTEE'S CERTIFICATE OF AUTHENTICATION**

This Bond is one of the Bonds of the series designated therein and referred to in the within-mentioned Indenture.

**U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, as Trustee**

By: \_\_\_\_\_  
Its: \_\_\_\_\_

**ASSIGNMENT**

For value received, the undersigned hereby sells, assigns and transfers unto

PLEASE INSERT SOCIAL SECURITY OR  
OTHER IDENTIFYING NUMBER OF ASSIGNEE

[Empty rectangular box for Social Security or identifying number]

---

(Please Print or Type Name and Address of Assignee)

the within-mentioned Bond and all rights thereunder and does hereby irrevocably constitute and appoint \_\_\_\_\_ attorney-in-fact, to transfer the same on the books of the registry in the office of the Trustee, with full power of substitution in the premises.

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

Signature Guaranteed

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NOTICE: Signatures must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Trustee, which requirements include membership or participation in the Securities Transfer Association Medallion Program ("STAMP") or such other "signature guarantee program" as may be determined by the Trustee in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

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NOTE: The signature to this assignment must correspond with the name as written on the face of the within Bond in every particular, without alteration or enlargement or change whatsoever. When assignment is made by a guardian, trustee, executor or administrator, an officer of a corporation, or anyone in a representative capacity, proof of such person's authority to act must accompany this Bond.

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**LOAN AGREEMENT**

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Dated as of [\_\_\_\_\_] 1, 2024

Between

**FOND DU LAC COUNTY, WISCONSIN,**  
as Issuer

and

**BUG TUSSEL 2, LLC,**  
as Borrower

Relating to:

\$\_[\_\_\_\_\_] **Fond du Lac County, Wisconsin  
Taxable Revenue Bonds, Series 2024  
(Bug Tussel 2, LLC Project) (Social Bonds)**

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Notice of Assignment:

All rights and interest of Fond du Lac County, Wisconsin under this Loan Agreement have (with certain exceptions) been assigned to U.S. Bank Trust Company, National Association, as trustee under an Indenture of Trust dated even herewith.

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This table of contents is not part of the Loan Agreement, and is for convenience only. The captions herein are of no legal effect and do not vary the meaning or legal effect of any part of the Loan Agreement.

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\$[\_\_\_\_\_]  
**Fond du Lac County, Wisconsin  
Taxable Revenue Bonds, Series 2024  
(Bug Tussel 2, LLC Project) (Social Bonds)**

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**LOAN AGREEMENT**

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This Loan Agreement (as supplemented, amended or otherwise modified from time to time, “Loan Agreement”), dated as of [\_\_\_\_\_] [\_\_\_], 2024, between Fond du Lac County, Wisconsin, a political subdivision of the State of Wisconsin (as hereinafter defined, the “Issuer”), and Bug Tussel 2, LLC, a Wisconsin limited liability company (as hereinafter defined, the “Borrower”).

W I T N E S S E T H:

WHEREAS, Section 66.1103 of the Wisconsin Statutes (the “Act”) authorizes the Issuer to issue revenue bonds to finance projects; and

WHEREAS, pursuant to the Act and Section 66.0301, of the Wisconsin Statutes, a county, or two or more counties acting pursuant to an intergovernmental agreement, may serve as the Issuer for revenue bonds; and

WHEREAS, portions of the Project (defined below) will be constructed and installed in the following counties: Fond du Lac, [Forest], [Iowa], [Jefferson], [Lafayette], [Marathon], [Price], [Sawyer], [Taylor] and [Waushara] (the “Participating Counties” and each a “Participating County”); and

WHEREAS, the Participating Counties have entered into an Intergovernmental Agreement dated as of [\_\_\_\_\_] [\_\_\_], 2024, providing that, among other things, Fond du Lac County shall serve as the Issuer for the bonds; and

WHEREAS, the Act authorizes the Issuer to make loans to a participant, in connection with financing a project; and

WHEREAS, the Issuer has authorized the issuance of revenue bonds pursuant to an Indenture of Trust dated the date hereof (as supplemented, amended or otherwise modified from time to time, the “Indenture”) between the Issuer and U.S. Bank Trust Company, National Association, as trustee (the “Trustee”) and the loan of the proceeds of such revenue bonds for the purpose of paying certain costs of the Project (as hereinafter defined) which Project is or will be located in the Participating Counties; and

WHEREAS, the Issuer’s governing body has found and determined (i) that the Project is a qualified project under the Act; (ii) that the Borrower is a qualified participant under the Act; and (iii) that the financing of the Project will serve a public purpose and will in all respects conform to the provisions and requirements of the Act; and

WHEREAS, the Borrower has now requested that the Issuer issue the Bonds (as hereinafter defined) to provide for the financing of the Project; and

WHEREAS, the execution and delivery of this Loan Agreement have been in all respects duly and validly authorized by resolution of the Issuer's Governing Body.

NOW THEREFORE, in consideration of the premises and of the covenants and undertakings herein expressed, the Issuer and the Borrower agree as follows:

## **ARTICLE I**

### **DEFINITIONS; REFERENCES; CERTIFICATES AND OPINIONS; GENERAL PROVISIONS**

**Section 1.01. Definitions.** Capitalized terms not otherwise defined herein shall have the meanings assigned to them in the Indenture unless the context clearly requires otherwise.

**Section 1.02. References.**

All references in this Agreement to designated "Articles," "Sections" and other subdivisions are to the designated Articles, Sections and other subdivisions of this Agreement as originally executed. The words "herein," "hereof," and "hereunder," and other words of similar import, refer to this Agreement as a whole and not to any particular Article, Section or other subdivision unless the context clearly indicates otherwise. The Article and Section headings herein and in the Table of Contents are for convenience only and shall not affect the construction hereof. Unless the context hereof clearly requires otherwise, the masculine shall include the feminine and vice versa and the singular shall include the plural and vice versa.

**Section 1.03. Certificates and Opinions.**

Any certificate or opinion of an officer of the Borrower may be based, insofar as it relates to legal matters, upon a certificate or opinion of, or representations by, Counsel or Bond Counsel. Any opinion of Counsel or Bond Counsel may be based, insofar as it relates to factual matters, upon a certificate or opinion of, or representations by, an officer or officers of the Borrower stating that the information with respect to such factual matters is in the possession of the Borrower.

Wherever in this Agreement, in connection with any request, certificate or report to the Issuer or the Trustee, it is provided that the Borrower shall deliver any document as a condition of the granting of such request, or as evidence of the Borrower's compliance with any term hereof, it is intended that the truth and accuracy at the time of the granting of such request or at the effective date of such certificate or report, as the case may be, of the facts and opinions stated in such document shall in each case be conditions precedent to the right of the Borrower to have such request granted or to the sufficiency of such certificate or report.

**Section 1.04. Notices, etc. to Trustee, Issuer, Borrower and Guarantors.**

Any request, demand, authorization, direction, notice, consent, waiver or other document provided or permitted by this Agreement shall be sufficient for every purpose hereunder if given in accordance with Section 12.01 of the Indenture.



**Section 1.05. Successors and Assigns.**

All covenants and agreements in this Agreement by the Issuer or the Borrower shall bind their successors and assigns, whether so expressed or not.

**Section 1.06. Separability Clause.**

In case any provision in this Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

**Section 1.07. Execution Counterparts.**

This Agreement may be executed in any number of counterparts. All such counterparts shall be deemed to be originals and shall together constitute one and the same instrument.

**Section 1.08. Construction.**

This Agreement shall be governed by and construed in accordance with the laws of the State of Wisconsin without giving effect to the conflicts-of-law principles thereof.

**Section 1.09. Benefit of Agreement.**

Nothing in this Agreement, express or implied, shall give to any Person, other than the parties hereto, the Participating Counties, and the Trustee, and their permitted successors and assigns hereunder, any benefit or other legal or equitable right, remedy or claim under this Agreement.

**Section 1.10. Limitation of Liability of Issuer.**

This Agreement is entered into by the Issuer pursuant to the Act, and, notwithstanding any provisions hereof, the Issuer's obligations hereunder are subject in all respects to the limitations of the Act. Notwithstanding anything herein contained to the contrary by implication or otherwise (except pursuant to the Limited Guaranty Agreement to which the Issuer is a party in its role as a Participating County and not in its role as Issuer), any obligations of the Issuer created by or arising out of this Agreement do not give rise to a pecuniary liability of the Issuer or a charge against its general credit or taxing powers (if any), including, but not limited to (i) liability for failure to investigate or negligence in the investigation of the financial position or prospects of the Borrower, a user of the Facilities or any other person or for failure to consider, or negligence concerning, the adequacy of terms of, or collateral security for, the Bonds or any related agreement to protect interests of Owners of the Bonds; and (ii) any liability in connection with the issuance or sale of the Bonds. In addition, this Agreement shall not give rise to any personal liability of any member of the Issuer's Governing Body or of any officers, agents, employees or officials of the Issuer on the Bonds or for any act or omission related to the authorization or issuance of the Bonds.

The Borrower hereby acknowledges that the Issuer's sole source of moneys to repay the Bonds will be provided by payments made by the Borrower pursuant to this Agreement, together with investment income on certain funds and accounts held by the Trustee under the Indenture and proceeds derived by the Trustee pursuant to the Limited Guaranty Agreements, and hereby agrees

that if the payments to be made hereunder shall ever prove insufficient to pay all the principal or purchase price of, and interest on, the Bonds as the same shall become due (whether by maturity, redemption, acceleration or otherwise), then upon notice from the Trustee, the Borrower shall pay such amounts as are required from time to time to prevent any deficiency or default in the payment of such principal or purchase price of, or interest on, the Bonds, including, but not limited to, any deficiency caused by acts, omissions, nonfeasance or malfeasance on the part of the Trustee, the Borrower, the Issuer or any third party, subject to any right of reimbursement from the Trustee, the Issuer or any such third party, as the case may be, therefor.

Except pursuant to the Limited Guaranty Agreements in its role as a Participating County, the obligations of the Issuer created by or arising out of this Agreement shall not be debt or obligations of the Issuer, the Participating Counties, the State of Wisconsin or any political subdivision thereof and do not constitute or give rise to charges against any of their general credit or taxing powers, are not payable in any manner from revenues raised by taxation, do not constitute an indebtedness within the meaning of any constitutional debt limitation or restriction of the Issuer, the Participating Counties, the State of Wisconsin or any political subdivision thereof, and shall not constitute or give rise to any personal liability of any member of the Issuer's Governing Body or the officers, agents and employees of the Issuer on the Bonds or for any act or omission related to the authorization or issuance of the Bonds.

## ARTICLE II

### REPRESENTATIONS AND WARRANTIES

#### Section 2.01. Representations of the Issuer.

The Issuer makes the following representations as the basis for the undertakings on the part of the Borrower herein contained:

(a) The Issuer is a body corporate and politic duly organized and validly existing under the laws of the State.

(b) The financing of the Project, the issuance and sale of the Series 2024 Bonds, the execution and delivery of this Agreement and the Indenture, and the performance of all covenants and agreements of the Issuer contained in this Agreement and the Indenture, and of all other acts and things required under the laws of the State to make this Agreement and the Indenture valid and binding special, limited obligations of the Issuer in accordance with their terms, are authorized by the Act and have been duly authorized by resolutions of the Issuer's Governing Body adopted at meetings thereof duly called and held by the affirmative vote of not less than a majority of its members.

(c) The execution and delivery of this Agreement and the other agreements contemplated hereby to which the Issuer is a party, including without limitation the Indenture, and the consummation of the transactions contemplated hereby and thereby, and the fulfillment of the terms hereof and thereof, do not and will not conflict with, or constitute on the part of the Issuer a breach of or a default under, any existing (i) law, or (ii) other legislative act, constitution or other proceeding establishing or relating to the establishment of the Issuer

or its affairs or its resolutions, or (iii) agreement, indenture, mortgage, lease or other instrument to which the Issuer is subject or is a party or by which it is bound.

(d) No officer of the Issuer who is authorized to take part in any manner in making this Agreement or the Indenture or any contract contemplated hereby or thereby has a personal financial interest in or has personally and financially benefited from this Agreement or the Indenture or any such contract.

(e) There is not pending or, to the best knowledge of the Issuer, threatened any suit, action or proceeding against or affecting the Issuer before or by any court, arbitrator, administrative agency or other governmental authority which materially and adversely affects the validity, as to the Issuer, of this Agreement or the Indenture, any of its obligations hereunder or thereunder or any of the transactions contemplated hereby or thereby.

### **Section 2.02. Representations and Warranties of the Borrower.**

The Borrower makes the following representations and warranties as the basis for the undertakings on the part of the Issuer herein contained:

(a) The Borrower is a limited liability company duly organized and in good standing under the laws of, and qualified to do business in, the State and is not in violation of any provision of its certification of formation or operating agreement.

(b) At all times since its formation, (i) the Borrower has been a single purpose entity created solely for the purposes of acquiring, constructing, owning and operating the Project and related facilities and the activities related or incident thereto; (ii) the Borrower has not engaged in any business unrelated to the acquisition, construction, ownership and operation of the Project and related facilities and the activities related or incident thereto; and (iii) the Borrower does not have any assets, liabilities or obligations other than those related to the Project and related facilities.

(c) The Borrower has the power to enter into this Agreement and to perform and observe the agreements and covenants on its part contained herein, and by proper corporate action has duly authorized the execution and delivery hereof.

(d) No consent, approval, authorization or other order of any regulatory body or administrative agency or other governmental body is legally required for the Borrower's participation in the transactions contemplated by this Agreement, except such as (i) have been obtained or (ii) may be required under state securities laws.

(e) The execution and delivery of this Agreement by the Borrower do not, and consummation of the transactions contemplated hereby and fulfillment of the terms hereof, including, without limitation, will not, result in a breach of any of the material terms or provisions of, or constitute a default under, any indenture, mortgage, deed of trust or other material agreement or instrument to which the Borrower is a party or by which it is now bound, or the Articles of Incorporation or Bylaws of the Borrower, or any present order, rule or regulation applicable to the Borrower of any court or of any regulatory body or administrative agency or other governmental body having jurisdiction over the Borrower or over any of its properties, or any statute of any jurisdiction applicable to the Borrower.

(f) Each of the Transaction Documents to which the Borrower is a party has been duly authorized, executed and delivered by the Borrower and constitutes a legal, valid and binding obligation of the Borrower, enforceable against the Borrower in accordance with the terms thereof, except as such enforceability (i) may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights of creditors generally and (ii) is subject to general principles of equity (regardless of whether enforceability is considered in equity or at law).

(g) There is not pending or, to the best knowledge of the Borrower, threatened any suit, action or proceeding against or affecting the Borrower before or by any court, arbitrator, administrative agency or other governmental authority that materially and adversely affects the validity, as to the Borrower, of any of the transactions contemplated by this Agreement or the ability of the Borrower to perform its obligations hereunder or as contemplated hereby.

(h) The Borrower and the Facilities are in compliance with all laws applicable to the Borrower or the Facilities, and with the terms of all other governmental approvals and permits obtained by it.

(i) The Borrower has not engaged in any business other than the acquisition, ownership, construction, installation, operation, management, maintenance of and financing for the Facilities and the activities related or incident thereto or necessary, suitable or convenient for the accomplishment of such purposes, and the Borrower has no material obligations or liabilities other than those directly related to the conduct of such business.

(j) No governmental approval is required to be obtained by the Borrower in connection with (i) the execution and delivery of, and performance by the Borrower of its respective obligations, and the exercise of its rights, under the Transaction Documents to which it is a party, or (ii) the validity and enforceability of the Transaction Documents.

(k) All material governmental approvals required to construct, own, and operate the Facilities have been obtained. Such governmental approvals that have been obtained are final and in full force and effect, and, if applicable laws or regulations specify a period for bringing administrative appeals, all such appeals periods have expired. The Borrower expects that all additional governmental approvals required to construct, own, and operate the Facilities will be obtained when required in due course on commercially reasonable terms.

(l) All insurance required to be maintained by the Borrower under the Transaction Documents has been obtained and is in full force and effect, other than insurance not reasonably required at such stage of the Project. All premiums due with respect thereto have been paid or will be paid when required.

(m) No Event of Default has occurred and is continuing.

(n) As of the Date of Issuance of the Bonds, none of this Agreement nor any other document, certificate or written statement furnished to the Trustee or the Issuer by the Borrower, when considered together as a collective whole, to its knowledge, contains any untrue statement of a material fact or omits to state a material fact necessary in order to make

the statement contained herein and therein not misleading or incomplete in the light of the circumstances and the context of the specific document under which it was made.

(o) As of the Date of Issuance of the Bonds, the Borrower has not entered into any material agreements in connection with the Project with total payments by or to the Borrower in excess of \$1,000,000, or with a term greater than one (1) year, other than the Transaction Documents.

(p) The Borrower does not rely on any warranty of the Issuer, either express or implied, as to the Project or the financing thereof or the adequacy of the loan made hereby for such financing or funding.

(q) Each element or unit of the Facilities, as described in Exhibit A hereto for which moneys are to be disbursed from the Project Fund is located in any one or more of the Participating Counties.

(r) The financial model prepared by the Borrower was prepared in good faith and based upon assumptions believed to be reasonable and represents, in the opinion of the Borrower, reasonable projections on the Date of Issuance of the Bonds of the future performance of the Borrower (it being understood that projections contain significant uncertainty and actual results may differ materially from projections).

(s) The Borrower has valid fee title or leasehold title to the project sites and the Facilities.

(t) In connection with the self-designation of the Series 2024 Bonds as “social bonds” in accordance with the 2023 edition of the Social Bond Principles published by the International Capital Markets Association (“ICMA”) and to align with four of the 17 United Nations Sustainable Development Goals set forth below (“UNSDGs”), the Borrower will use the proceeds of the Series 2024 Bonds for “Social Projects” as outlined by the ICMA by:

- (i) expanding affordable basic infrastructure,
- (ii) expanding access to essential services,
- (iii) generating additional employment opportunities,
- (iv) promoting socioeconomic advancement and empowerment; and
- (v) supporting the UNSDGs of Goal 8: “Decent Work and Economic Growth”, Goal 9: “Industry, Innovation, and Infrastructure”, Goal 10: “Reduced Inequalities”, and Goal 11: “Sustainable Cities and Communities”

all through providing or improving affordable access to essential broadband internet for residents of rural Wisconsin, which are an underserved population as it relates to access to broadband internet and the benefits conferred by broadband internet service, such as access to tele-health services and online education, greater connectivity with emergency responders, attracting or maintaining employees in local areas by providing remote work possibilities, and allowing local businesses to increase revenue through online ordering. The impacts from the

Project are aligned with the principles set forth in the ICMA and the UNSDGs. As set forth in the Indenture and herein, the proceeds of the Bonds will be held in segregated funds by the Trustee.

## **ARTICLE III**

### **THE LOAN**

#### **Section 3.01. Issuance of Bonds to Finance the Project.**

Simultaneously with the delivery of this Agreement, the Issuer shall issue, sell and deliver the Series 2024 Bonds to provide it with funds to be loaned to the Borrower pursuant to this Agreement. The Series 2024 Bonds shall be issued in accordance with the Indenture. The Borrower's approval of the terms of the Series 2024 Bonds and the Indenture shall be conclusively established by its execution and delivery of this Agreement. If for any reason the Series 2024 Bonds are not issued, sold and delivered, the Issuer shall have no obligation to make this Loan, and this Agreement and the Series 2024 Promissory Note shall each cease, terminate and be void. Any provisions governing the rights, immunities and protections of the Trustee under the Indenture are incorporated by reference into this Loan Agreement as being applied to the Trustee as though fully set forth herein.

#### **Section 3.02. Making of the Loan.**

The Issuer hereby makes a loan to the Borrower in the principal amount of the Series 2024 Bonds. The Loan shall be deemed to have been made when the proceeds of the original sale of the Series 2024 Bonds are delivered to the Trustee at the direction of the Issuer. Such proceeds shall be apportioned by the Trustee and deposited in the funds established pursuant to Section 4.03 of the Indenture.

#### **Section 3.03. Acceptance and Evidence of the Loan.**

The Borrower hereby accepts the Loan and as evidence thereof hereby delivers the Series 2024 Promissory Note to the Issuer. The Issuer hereby acknowledges receipt of the Series 2024 Promissory Note.

#### **Section 3.04. Direct, Unsecured and Unconditional Obligation.**

The debt obligation of the Borrower under this Agreement and the Series 2024 Promissory Note is the direct and unconditional obligation of the Borrower.

#### **Section 3.05. Pledge and Assignment to Trustee.**

Simultaneously with the delivery of this Agreement, the Issuer shall pledge and assign to the Trustee under the Indenture all the Issuer's right, title and interest in and to the Series 2024 Promissory Note, this Agreement and all the Issuer's rights to receive payments thereunder and hereunder; provided, however, that the Issuer reserves the right to enforce the Issuer's Unassigned Rights in its own name and for its own account. The Borrower hereby consents to such pledge and assignment and agrees that the Trustee may enforce any and all rights, privileges and remedies of the Issuer (other than the Issuer's Unassigned Rights) under or with respect to the Series 2024 Promissory Note and this Agreement.

### **Section 3.06. Loan Repayment.**

(a) The Borrower shall repay the Loan in accordance with the Series 2024 Promissory Note. The Series 2024 Promissory Note shall (i) mature on such date and in such principal amount that, upon the Stated Maturity date of such Series 2024 Bonds, shall mature, (ii) bear interest at the same rate, payable at the same times, as such Series 2024 Bonds, and (iii) require the redemption of all or an equal principal amount thereof on each date on which such Series 2024 Bonds are required to be redeemed pursuant to Section 3.01 of the Indenture. Payments on the Series 2024 Promissory Note shall be made by the Borrower directly to the Trustee under the Indenture. The Trustee shall deposit all payments on the Series 2024 Promissory Note into the Bond Fund as provided in the Indenture. In any case where a payment to be made by the Borrower pursuant to this Agreement shall be due on a day that is not a Business Day, then such payment may be made on the next succeeding Business Day with the same force and effect as if made on the due date.

(b) The Borrower shall receive a credit against its obligation to make any payment of the principal of, or interest on, the Series 2024 Promissory Note, whether at maturity, upon redemption or otherwise, in an amount equal to, and such obligation shall be fully or partially, as the case may be, satisfied and discharged to the extent of, the amount, if any, credited pursuant to the Indenture against the payment required to be made by or for the account of the Issuer in respect of the corresponding payment of the principal of or interest on the related series of Series 2024 Bonds. The Issuer agrees with the Borrower that at the time all the Series 2024 Bonds cease to be Outstanding (other than by reason of the applicability of clause (c) of the definition of Outstanding), the Trustee shall surrender the Series 2024 Promissory Note to the Borrower.

(c) Notwithstanding any of the foregoing provisions, moneys in the Bond Fund shall not be credited against the aforesaid obligations of the Borrower (i) to the extent such moneys are required for payment of the Series 2024 Bonds previously matured or called for redemption which have not been presented for payment or paid, or for past-due, unpaid interest on such Series 2024 Bonds, (ii) to the extent such moneys are to be used by the Trustee for the payment of a redemption of the Series 2024 Bonds or for the purchase of Series 2024 Bonds on the open market, either on a specified date within one year of the payment date in question or at a date to be specified subsequently by the Borrower, or (iii) to the extent such moneys have been deposited from the Series 2024 Debt Service Reserve Account because of a default in the Bond Fund.

### **Section 3.07. Borrower's Remedies.**

Nothing contained in this Article shall be construed to release the Issuer from the performance of any of its agreements in this Agreement, and, if the Issuer should fail to perform any such agreement, the Borrower may institute such action against the Issuer as the Borrower may deem necessary to compel the performance, so long as such action shall not violate the Borrower's agreements in Section 3.05 hereof. The Borrower may at its own cost and expense, and in its own name, prosecute or defend any action or proceeding against third parties or take any other action which the Borrower deems reasonably necessary in order to secure or protect its interest in the Facilities and right of possession, occupancy and use thereof under this Agreement and the Indenture.

In this event, the Issuer agrees to cooperate fully with the Borrower in any such action or proceeding if the Borrower shall so request and agree to pay all expenses.

**Section 3.08. Deposits in Respect of the Promissory Note.**

The Borrower agrees to make the following payments to the Trustee:

(a) for deposit into the Bond Fund on or before the fifteenth (15<sup>th</sup>) day of the month prior to each Interest Payment Date, commencing [\_\_\_\_ 15, 20\_\_], 100% of the amount of interest next coming due on the Series 2024 Promissory Note, together with any money then on deposit in the Bond Fund and available for that purpose, to pay the next installment of interest due on the Series 2024 Promissory Note, and

(b) for deposit into the Bond Fund on or before the fifteenth (15<sup>th</sup>) day of the month prior to each Interest Payment Date, commencing [\_\_\_\_ 15, 20\_\_], 50% of the amount of principal next coming due on the Series 2024 Promissory Note, together with any money then on deposit in the Bond Fund and available for that purpose, to pay the next installment of principal due on the Series 2024 Promissory Note; and

(c) prior to the sooner of the [\_\_\_\_ 1, 20\_\_] Interest Payment Date or the date that insufficient amounts are on deposit in the 2024 Capitalized Interest Account of the Project Fund to pay the amount due on the next Interest Payment Date, Interest Payments on the Series 2024 Bonds shall be paid from the Capitalized Interest Account.

**Section 3.09. Deposits to Debt Service Reserve Account.**

In the event the amount on deposit in the Series 2024 Debt Service Reserve Account is less than the Series 2024 Debt Service Reserve Requirement,

(a) on any date as a result of a transfer from the Series 2024 Debt Service Reserve Account to the Bond Fund due to a deficiency in the Bond Fund, then the Borrower agrees to deposit an amount sufficient to make up the deficiency within five (5) days after the date of such draw on the Series 2024 Debt Service Reserve Account; or

(b) on any date as a result of a transfer from the Series 2024 Debt Service Reserve Account to the Bond Fund to pay amounts recovered from Bondholders as a preferential payment, the Borrower agrees to deposit immediately and without notice, the amount of such transfer; or

(c) for any other reason, including a determination on a Valuation Date that the market value of the securities then on deposit in the Series 2024 Debt Service Reserve Account is less than the Series 2024 Debt Service Reserve Requirement, the Borrower agrees to deposit in the Series 2024 Debt Service Reserve Account amounts sufficient to make up the deficiency within ninety (90) days following the date on which the Borrower received notice of the deficiency.



## ARTICLE IV

### THE PROJECT

#### **Section 4.01. Completion and Location of the Facilities.**

The Borrower will cause the Project to be acquired, constructed, installed and equipped in accordance with the plans and specifications therefor. The Facilities are or will be owned and operated by the Borrower.

#### **Section 4.02. Agreement to Complete the Project.**

The Borrower agrees to complete, or cause to be completed, the Project with all reasonable dispatch in accordance with the Project Plans and Specifications. If the moneys in the Project Fund shall be insufficient to pay the costs of completing the Project, the Borrower shall nevertheless complete the same and shall be responsible for causing the costs thereof to be paid. The Borrower shall procure any and all building permits, use and occupancy permits, public service commission approvals, and other permits, licenses and authorizations necessary for the construction, completion, occupancy and use of the Project.

#### **Section 4.03. Manner of Procuring Disbursements from the Cost of Issuance Fund.**

Costs of Issuance, to the extent financed by the Bonds, may be disbursed only from the Cost of Issuance Fund and only in an aggregate amount not exceeding the Cost of Issuance Deposit Amount. Upon requisition as hereinafter provided, the moneys in the Cost of Issuance Fund shall be disbursed to or at the order of the Borrower to pay (or reimburse the Borrower for) the Costs of Issuance described in the definition of Eligible Costs of the Project in the Indenture.

Disbursements from the Cost of Issuance Fund shall be made by the Trustee only upon receipt of an appropriately completed Requisition substantially in the form attached hereto as Exhibit C, executed on behalf of the Borrower by a Borrower Representative, accompanied by the supporting information and documentation specified therein. The Borrower agrees that the Trustee, if directed to do so by the Issuer or a Participating County, may condition any disbursement from the Cost of Issuance Fund upon its receipt of such additional information and documentation as the Issuer or such Participating County may reasonably require to evidence the truth and accuracy of the statements and representations contained in the Requisition. The Trustee shall be fully protected in relying upon the Requisitions delivered to it in accordance with this Section 4.03 and shall have no duty or obligation to request any additional information or documentation to verify the truth and accuracy of the statements and representations contained therein or to otherwise make an investigation in connection with such Requisitions.

If the moneys in the Cost of Issuance Fund shall be insufficient to pay all of the Costs of Issuance, the Borrower shall be responsible for paying the difference from funds other than Bond proceeds. If there shall be any balance in the Cost of Issuance Fund remaining on the earliest of (i) the date which is ninety (90) days after the date of issuance of the Bonds, (ii) the date the Trustee receives a certification by the Borrower Representative that all Costs of Issuance have been paid, or (iii) the

date of closing of the Project Fund pursuant to Section 4.07 hereof, such remaining balance shall be transferred to the Project Fund.

**Section 4.04. Manner of Procuring Disbursements from the Project Fund.**

Upon requisition as hereinafter provided, moneys in the Project Fund shall be disbursed to or at the order of the Borrower to pay (or reimburse the Borrower for) the Engineering Costs, and the Project Costs described in the definition of Eligible Costs of the Project in the Indenture.

Disbursements from the Project Fund shall be made by the Trustee only upon receipt of an appropriately completed Requisition substantially in the form attached hereto as Exhibit C, executed on behalf of the Borrower by a Borrower Representative, accompanied with the proper information and documentation specified therein. The Trustee shall have the right to withhold disbursements from the Project Fund if the Trustee determines that the Requisition is incomplete or inaccurate in any material respect. The Borrower may deposit moneys into the Project Fund from time to time as it deems desirable or necessary. The Borrower agrees that it shall only request disbursements from the Project Fund for Eligible Costs of the Project. Absent gross negligence or willful misconduct, the Trustee shall be fully protected in relying upon the Requisitions delivered to it in accordance with this Section 4.04 and shall have no duty or obligation to request any additional information or documentation to verify the truth and accuracy of the statements and representations contained therein or to otherwise make an investigation in connection with such Requisitions.

The Borrower shall deliver to each Participating County, as applicable, a copy of the Requisition simultaneously with the delivery to the Trustee. Prior to any disbursement, the Borrower shall comply with any requirements of the Participating Counties contained in the applicable Reimbursement Agreement. The Trustee shall not be required to determine whether each Participating County has received a copy of the Requisition or whether the Borrower has complied with the requirements of any Reimbursement Agreement; nor shall the Trustee be required to inquire as to whether any Participating County objects the disbursements requested in the Requisition.

**Section 4.05. Amendments to Project Plans and Specifications.**

Subject to the conditions set forth in this Section, the Borrower shall have the right to amend the Project Plans and Specifications and to issue change orders to contractors from time to time as the Borrower shall deem necessary or desirable. The Trustee's approval or consent shall not be required for any amendment to the Project Plans and Specifications; provided that, the Borrower receives all approvals or consents required under the Reimbursement Documents from the Participating Counties.

**Section 4.06. Establishment of Project Completion Date.**

The Borrower shall evidence the completion of the Project by filing with the Issuer and the Trustee:

- (a) a certificate of a Borrower Representative, without prejudice to any rights against third parties (i) that the Project has been completed in accordance with Project Plans and Specifications and the Reimbursement Documents, and (ii) that all labor, services, materials and supplies used to construct, acquire and install the Facilities have been paid in

full, except for such portion thereof (which shall be identified in detail) which the Borrower is disputing in good faith and by appropriate proceeding; and

(b) designating the date of Project completion and, if applicable, the respective dates of completion of each of the component phases of the Project.

Upon such filing, the date specified in accordance with clause (b) above shall be the “Completion Date” for purposes of this Agreement.

**Section 4.07. Closing of Project Fund.**

Upon being furnished the items described in Section 4.06 hereof, the Trustee shall close the Project Fund and transfer the remaining balance therein, if any (including any amount transferred from the Cost of Issuance Fund on such date), to the Bond Fund to be applied to effect the mandatory redemption from unused proceeds as set forth in Section 3.01(c) of the Indenture. Any amounts remaining in the Bond Fund following the mandatory redemption in accordance with Section 3.01(c) of the Indenture, shall be held in the Bond Fund and applied to make the interest payments on the remaining Series 2024 Bonds on the next succeeding Interest Payment Date.

**Section 4.08. Issuer’s and Trustee’s Access to Facilities.**

The Borrower agrees that the Issuer and Trustee shall have the right, upon appropriate prior notice to the Borrower, to have reasonable access to the Facilities during normal business hours for the purpose of making examinations and inspections of the same.

**ARTICLE V**

**REDEMPTION OF SERIES 2024 BONDS**

**Section 5.01. Prepayment of Loan.**

The Borrower may at any time transmit funds directly to the Trustee, for deposit in the Bond Fund, in addition to amounts, if any, otherwise required at that time pursuant to this Agreement, and direct that said money be utilized by the Trustee for redemption of Series 2024 Bonds which are then or will be redeemable in accordance with their terms on a date specified by the Borrower, provided notice is properly given in accordance with Section 3.02 of the Indenture.

**Section 5.02. Option to Prepay Loan and to Direct Redemption of Series 2024 Bonds.**

The Borrower shall have the option to prepay the Series 2024 Promissory Note in whole or in part on the dates set forth for redemption of the Series 2024 Bonds under Section 3.01(a) of the Indenture. In any such case, the Borrower shall, to exercise its option hereunder, notify the Issuer and the Trustee in writing, designating a redemption date, and, prior to said redemption date, deposit with the Trustee a sum sufficient of Eligible Funds, with other funds held by the Trustee and available for such purpose, to redeem such Series 2024 Bonds then Outstanding.

**Section 5.03. Optional Prepayment of Promissory Note Upon Occurrence of Certain Extraordinary Events.**

Subject to the proviso below, the Borrower shall have the option to prepay the Series 2024 Promissory Note in whole or in part, in Authorized Denominations, upon the following conditions: (a) all or a portion of the Facilities shall have been damaged or destroyed to such extent that, in the opinion of the Borrower expressed in a certificate of the Borrower Representative filed with the Issuer and the Trustee following such damage or destruction, (i) the completion of the Project will be delayed for at least six months, (ii) it is not practicable or desirable to rebuild, repair or restore the Facilities within a period of six consecutive months following such damage or destruction, or (iii) the Borrower is or will be thereby prevented from carrying on its normal operations in a material manner at any portion of the Facilities for a period of at least six consecutive months; or (b) title to or the temporary use of all or substantially all of the Facilities in a particular Participating County shall have been taken under the exercise of the power of eminent domain by any governmental authority to such extent that, in the opinion of the Borrower expressed in a certificate of a Borrower Representative filed with the Issuer and the Trustee, (i) the completion of the Project will be delayed for at least six months or (ii) the Borrower is or will be thereby prevented from carrying on its normal operations in a material manner at any portion of the Facilities for a period of at least six consecutive months; or (c) any court or administrative body of competent jurisdiction shall enter a judgment, order or decree requiring the Borrower to cease all or any substantial part of its operations at any portion of the Facilities to such extent that, in the opinion of the Borrower expressed in a certificate of a Borrower Representative filed with the Issuer and the Trustee, the Borrower is or will be thereby prevented from carrying on its normal operations in a material manner at the Facilities for a period of at least six consecutive months; or (d) as a result of any changes in the Constitution of Wisconsin or the Constitution of the United States of America or of legislative or administrative action (whether state or federal) or by final decree, judgment or order of any court or administrative body (whether state or federal), the Loan Agreement shall have become void or unenforceable or impossible to perform in accordance with the intent and purposes of the parties as expressed herein, or unreasonable burdens or excessive liabilities shall have been imposed on the Issuer or the Borrower, in the opinion of the Issuer or the Borrower, as applicable, expressed in a certificate of an Issuer Representative or a Borrower Representative, as applicable, filed with the Trustee, as a consequence of the Series 2024 Bonds or the Series 2024 Promissory Note being Outstanding, including without limitation federal, state or other ad valorem, property, income or other taxes not being imposed on the Facilities owed by the Borrower as of the date hereof. In the event that the Promissory Note is subject to prepayment under this section, and all Facilities located within a Participating County have been subject to the above-described conditions, upon the prepayment of the portion of the Promissory Note representing the Facilities in such Participating County, such Participating County shall be released from its obligations under its Limited Guaranty Agreement in accordance with the terms of its Limited Guaranty Agreement.

In respect to each of the foregoing conditions, no such condition shall be met if such condition is met or caused by (i) any Participating County exercising remedies under the Reimbursement Documents, including, without limitation, any and all actions or omissions thereunder, whether direct or indirect, and all foreclosure or other action transferring title or rights with respect to the Facilities, or any component of the Project, or (ii) legislative or administrative action taken by any Participating County.

To exercise such option the Borrower shall give notice to the Issuer and the Trustee within ninety (90) days following the occurrence of the event which is said to give rise to the right to exercise such option. The notice shall refer to this Section, shall describe and give the date of the subject event, shall have attached to it the requisite certificate of a Borrower's Representative, and shall direct a redemption of all or a portion of the Outstanding Series 2024 Bonds pursuant to Section 3.01(b) of the Indenture on a specified Business Day for which the notice of redemption required by Section 3.04 of the Indenture can be given. Prior to said redemption date, the Borrower shall deposit with the Trustee a sum sufficient of Eligible Funds, with other funds held by the Trustee and available for such purpose, to redeem such Series 2024 Bonds then Outstanding.

**Section 5.04. Obligation to Prepay Loan and to Redeem Series 2024 Bonds From Unused Proceeds.**

The Borrower shall be obligated to repay the Loan from the proceeds of the Series 2024 Bonds, in part, to the extent Series 2024 Bonds are required to be redeemed in accordance with Section 3.01(c) of the Indenture.

The prepayment of the Loan required by the preceding paragraph, which shall be deposited on or prior to the redemption date, shall be a sum sufficient of Eligible Funds, together with other funds deposited with the Trustee and available for such purpose, to redeem all the Series 2024 Bonds to be redeemed at a price equal to 100% of the principal amount thereof plus accrued interest to the date of redemption, and, if no Series 2024 Bonds shall thereafter remain outstanding, to pay all reasonable and necessary fees and expenses of the Trustee, and all other liabilities of the Borrower, accrued and to accrue under this Agreement through the redemption date.

**Section 5.05. Obligation to Prepay Loan on Mandatory Sinking Fund Payment Dates.**

The Borrower shall be obligated to repay the Loan to the extent Series 2024 Bonds that are Term Bonds are required to be redeemed in accordance with Section 3.01(d) of the Indenture.

The prepayment of the Loan required by the preceding paragraph, which shall be deposited on or prior to the redemption date, shall be a sum sufficient, together with other funds deposited with the Trustee and available for such purpose, to redeem the Series 2024 Term Bonds on the applicable Mandatory Sinking Fund Payment dates at a price equal to 100% of the principal amount thereof plus accrued interest to the date of redemption.

## **ARTICLE VI**

### **COVENANTS OF THE BORROWER**

**Section 6.01. Payment of Series 2024 Promissory Note.**

The Borrower agrees to make the principal and interest payments on the Series 2024 Promissory Note in the manner and amounts and the times and places specified herein and in the Series 2024 Promissory Note.

**Section 6.02. Unconditional Obligation to Provide the Issuer with Sufficient Revenues.**

The Borrower unconditionally agrees that it shall make payments to the Trustee (for the account of the Issuer) in lawful money of the United States of America and in such amounts and at such times (if not sooner required under the terms of this Agreement) as shall be necessary to enable the Trustee to make full and prompt payment when due (whether at stated maturity, upon redemption prior to stated maturity or upon acceleration of stated maturity), of the principal of, and interest on, all Bonds issued under the Indenture. The obligation of the Borrower to make the payments required in this Section shall be absolute and unconditional and shall not be subject to diminution by set off, counterclaim, abatement or otherwise; and until such time as the principal of, premium, if any, and interest on the Bonds shall have been paid or provided for in accordance with the Indenture, the Borrower: (a) will not suspend or discontinue, or permit the suspension or discontinuance of, any payments provided for in this Section; (b) will perform and observe all their other agreements contained in this Agreement; and (c) will not terminate this Agreement for any cause including without limiting the generality of the foregoing, any defect in title to the Project, any acts or circumstances that may constitute failure of consideration, destruction of or damage to the Project, frustration of commercial purpose, any change in the tax or other laws or administrative rulings of or administrative actions by the United States of America or the State of Wisconsin or any political subdivision of either, or any failure of the Issuer to perform and observe any agreement, whether expressed or implied, or any duty, liability or obligation arising out of or in connection with this Agreement. Nothing contained in this Section shall be construed to release the Issuer from the performance of any of the agreements on its part herein contained; and if the Issuer shall fail to perform any such agreement on its part, the Borrower may institute such action against the Issuer as the Borrower may deem necessary to compel performance, provided that no such action shall violate the agreements on the part of the Borrower contained in this Section, or diminish the amounts required to be paid by the Borrower pursuant to this Section.

**Section 6.03. Indemnification.**

To the fullest extent permitted by law, the Borrower agrees to indemnify, hold harmless, and defend the Issuer, each Participating County, the Trustee, and each of their respective officers, governing members, directors, officials, employees, attorneys, and agents (each an “Indemnified Party” and collectively, the “Indemnified Parties”), against any and all losses, damages, claims, actions, liabilities, costs, and expenses of any conceivable nature, kind, or character (including, without limitation, reasonable attorneys’ fees, litigation and court costs, amounts paid in settlement and amounts paid to discharge judgments) to which the Indemnified Parties, or any of them, may become subject under any statutory law (including federal or state securities laws) or at common law or otherwise, arising out of or based upon or in any way relating to:

- (a) the use, non-use, condition or occupancy of any of the Projects, any repair, construction, alteration, renovation, relocation, remodeling and equipping thereof or thereto, or the condition of any of the Projects, including adjoining sidewalks, streets or alleys, and any equipment at any time located on the Projects or used in connection therewith, but which are not the result of the negligence or willful misconduct of the Issuer;
- (b) violation of any agreement, warranty, covenant or condition of this Agreement, except by an Indemnified Party;

(c) violation of any contract, agreement or restriction by the Borrower relating to the Projects;

(d) violation of any law, ordinance, regulation or court order affecting any of the Projects or the ownership, occupancy or use thereof;

(e) any untrue statement or misleading statement or alleged untrue statement or alleged misleading statement of material fact contained the Limited Offering Memorandum or continuing disclosure document for the Bonds that is alleged to be or is untrue or incorrect in any material respect (other than information provided by the Indemnified Party for inclusion in the Limited Offering Memorandum or continuing disclosure document), and any omission from the Limited Offering Memorandum of any statement or information which should be contained therein for the purpose for which the same is to be used or which is necessary to make the statements therein not misleading in any material respect;

(f) the administration or enforcement of any of the provisions of this Agreement or the Indenture;

(g) any state or federal audit, examination or investigation of the Bonds; and

(h) any act of negligence of any assignee or lessee of the Borrower or any of its agents, contractors, servants, employees or licensees of any such assignee or lessee.

In the event of settlement of any litigation commenced or threatened, such indemnity shall be limited to the aggregate amount paid under a settlement effected with the written consent of the Borrower, plus costs.

The Indemnified Party shall promptly notify the Borrower in writing of any claim or action brought against the Indemnified Party, or any controlling person, as the case may be, in respect of which indemnity may be sought against the Borrower, setting forth the particulars of such claim or action, and the Borrower will assume the defense thereof, including the employment of counsel reasonably satisfactory to the Indemnified Party, or such controlling person, as the case may be, and the payment of all expenses.

In its discretion, the Indemnified Party or any such controlling person shall have the right to employ separate counsel in any circumstances described in this Section. The fees and expenses of such legal counsel shall be included within the costs indemnified pursuant to this Section, irrespective of whether the Borrower shall have consented to such separate representation or any settlement of any such action.

All amounts payable to or with respect to the Issuer under this Section shall be deemed to be fees and expenses of the Issuer for purposes of the provisions hereof and of the Indenture dealing with assignment of the Issuer's rights hereunder.

The obligations of the Borrower under this Section 6.03 shall survive the termination of this Agreement.

**Section 6.04. Maintenance of Facilities; Remodeling.**

So long as any Bonds are Outstanding, the Borrower shall cause the Facilities to be maintained, preserved and kept in good repair, working order and condition and from time to time cause to be made all necessary and proper repairs, replacements and renewals.

The Borrower shall have the privilege, at its own expense, of causing any of the Facilities to be remodeled or causing substitutions, modifications or improvements to be made to the Facilities from time to time as it, in its discretion, may deem to be desirable for its uses and purposes, which remodeling, substitutions, modifications and improvements shall be included under the terms of this Agreement as part of the Facilities.

**Section 6.05. Insurance.**

So long as any Bonds are Outstanding, the Borrower agrees to maintain or cause to be maintained insurance with respect to the Project showing the Trustee as additional insured or loss payee of such type and in such amounts as are customarily carried, and against such risks as are customarily insured against, by operators of like size and character as the Project, as well as any insurance required by the Transaction Documents, paying as the same become due all premiums with respect thereto, including but not limited to fire, casualty, public liability and other insurance with respect to the Facilities as is customarily carried by utility companies with respect to similar facilities.

A certificate or certificates of the respective insurers attesting the fact that the insurance required by this Section 6.05 is in force and effect shall be delivered to the Trustee at least annually after Completion Date. Prior to the expiration of any such policy, the Borrower shall furnish the Trustee evidence that the policy has been renewed or replaced or is no longer required by this Agreement. All proceeds of such insurance shall be for the account of the Borrower. The Trustee has no duty or obligation to determine the sufficiency of such insurance requirements.

**Section 6.06. Compliance with Laws.**

The use of the Project shall at all times be and continue to be in full compliance with all applicable laws and ordinances, including, without limitation, zoning laws and ordinances and all applicable environmental and health and safety laws, rules, regulations and ordinances.

**Section 6.07. Payment of Taxes; Discharge of Liens.**

The Borrower agrees to pay promptly, as and when the same shall become due and payable, each and every lawful cost, expense and obligation of every kind and nature, foreseen or unforeseen, for the payment of which the Issuer or the Borrower is or shall become liable by reason of their estate or interest in the Project or in any portion thereof, or by reason of or in any manner connected with or arising out of the possession, operation, maintenance, alteration, repair, rebuilding, use or occupancy of the Project or any part thereof. The Borrower also agrees to pay and discharge, promptly as and when the same shall become due and payable, all lawful real estate taxes, personal property taxes, business and occupation taxes, occupational license taxes, assessments for public improvements or benefits and all other lawful governmental taxes, impositions and charges of every kind and nature, ordinary or extraordinary, general or special, foreseen or unforeseen, whether similar or dissimilar to any of the foregoing, and all applicable interest and penalties thereon, if any, which at any time shall be or become due and payable and which shall be lawfully levied, assessed or imposed



upon or with respect to, or which shall be or become liens upon, the Project or any portion thereof or any interest of the Borrower therein. The Borrower also agrees to pay or cause to be paid all lawful charges for gas, water, sewer, electricity, light, heat, power, telephone and other utility and service used, rendered or supplied to, upon or in connection with the Project. The Borrower agrees that the Issuer is not, nor shall it be, required to furnish free of charge to the Borrower or any other occupant of the Facilities any gas, water, sewer, electricity, light, heat, power or other facilities, equipment, labor, materials or services of any kind, except as otherwise may be required by law or except as the same shall generally be furnished without charge to other owners or users of comparable property within the Issuer's jurisdiction.

The Borrower shall have the right in good faith and by appropriate proceedings to dispute or contest the validity or amount of any such tax, assessment, governmental charge or utility charge, and during the pendency of any such dispute or contest, the Borrower shall not be deemed to be in default under this Section by reason of its failure to have paid the disputed or contested amount.

#### **Section 6.08. Covenant Against Liens.**

The Borrower covenants that it will not create or permit to be created or remain or suffer to exist and, at its cost and expense, will promptly discharge or terminate all liens on the Project or any other Property of the Borrower, or any part thereof, which are not Permitted Encumbrances.

#### **Section 6.09. Sale or Transfer of the Project.**

The Borrower may not sell, assign or otherwise transfer all of its interest in the Facilities or the Project (in a single transaction or any series of transactions) unless: (i) the sale, assignment, or transfer is conducted in compliance with and pursuant to Section 6.11 of this Agreement, (ii) the purchaser, assignee, or transferee, as the case may be, shall have assumed in writing all obligations of the Borrower under this Agreement; (iii) an Event of Default would not occur as a result of or immediately following such transfer and (iv) such sale, assignment, or transfer is permitted by the Transaction Documents.

If otherwise permitted by the Transaction Documents, the Borrower may sell, assign or otherwise transfer less than all its interest in the Facilities or the Project, provided that, so long as any Bonds are Outstanding, all portions of the Facilities or the Project financed with proceeds of the Bonds must remain in one or more of the Participating Counties.

If the Borrower does sell, assign or otherwise transfer all of its interest in all of the Facilities or the Project located in a particular Participating County in accordance with this Section and there is no Event of Default hereunder caused by such transfer, and Bonds in an amount corresponding to all or a portion of the Project located within such Participating County are redeemed in accordance with Section 3.01(a) of the Indenture, then the affected Participating County's Pro Rata Share will be reduced by a corresponding amount.

#### **Section 6.10. Maintenance of Existence.**

The Borrower agrees that, except as otherwise permitted in Section 6.11 of this Agreement, it will maintain its limited liability company existence, and will neither dissolve nor institute any proceedings for dissolution without the consent of each of the Guarantors. The Borrower further agrees that at all times while any Bonds are Outstanding, (i) the Borrower will be a single purpose

entity operating for the purposes of acquiring, constructing, owning and operating the Project and related facilities and the activities related or incident thereto; (ii) the Borrower will not engage in any business unrelated to the acquisition, construction, ownership and operation of the Project and related facilities and the activities related or incident thereto; and (iii) the Borrower will not acquire any assets, liabilities or obligations other than those related to the Project and related facilities.

**Section 6.11. Merger; Consolidation; Transfer of Assets.**

The Borrower covenants that it will maintain its corporate existence and qualification to do business in the State and further agrees that it will not (in a single transaction or any series of transactions) dissolve or otherwise dispose of all or substantially all its assets and will not consolidate with or merge into another entity; provided, however, that the Borrower may, without violating the foregoing, consolidate with or merge into another entity, or transfer all or substantially all its assets to another entity (and thereafter be released of all further obligation hereunder and dissolve or not dissolve as it may elect) if:

(a) the resulting, surviving or transferee entity, as the case may be, is a corporation incorporated, or a partnership, limited liability company, or other recognized legal entity organized, under the laws of one of the States of the United States of America;

(b) such resulting, surviving or transferee entity has obtained the consent of each of the Guarantors and Bondowners owning in aggregate not less than a majority in aggregate principal amount of the Bonds (other than Bonds owned by the Borrower or any “related person” as defined in Section 147(a) of the Internal Revenue Code) at the time Outstanding to such transaction;

(c) such resulting, surviving or transferee entity expressly assumes in writing (delivered to the Issuer and the Trustee) all the obligations of the Borrower contained in this Agreement and the Promissory Note (after which it shall be the “Borrower” for purposes hereof and thereof); and

(d) the Borrower shall have delivered to the Trustee and the Issuer an opinion of Bond Counsel to the effect that such transaction is permitted under the Transaction Documents and will not adversely affect the validity of the Bonds.

**Section 6.12. Annual Financial Statements.**

The Borrower will have an annual audit made by independent certified public accountants and will furnish the Trustee and each Guarantor (within one hundred twenty (120) days after the close of the Borrower’s fiscal year) with a copy of the audited financial statements of the Borrower (which shall include, at a minimum, the balance sheet of the Borrower and statements of income and member’s equity as of the end of and for such fiscal year), together with the report of the Borrower’s independent auditors with respect thereto. At the same time as delivery of such financial statements, the Borrower shall furnish the Trustee and each Guarantor with a written statement signed by a Borrower Representative and stating that the Borrower is not in default under the terms of this Agreement, or, if the Borrower is in default, specifying the nature thereof. The Borrower shall also provide such information as any Participating County may reasonably request within thirty (30) days

of such request, or within such longer time period as may be reasonable to provide such requested information.

**Section 6.13. Additional Payments.**

In addition to the Loan repayments, the Borrower shall also pay to the Issuer, to each Participating County or to the Trustee, as the case may be, “Additional Payments,” as follows:

(a) all taxes and assessments of any type or character charged to the Issuer, to the Participating County or to the Trustee from payments to be received hereunder or in any way arising due to the transactions contemplated hereby (including taxes and assessments assessed or levied by any public agency or governmental authority of whatsoever character having power to levy taxes or assessments ) but excluding franchise taxes based upon the capital and/or income of the Trustee and taxes based upon or measured by the net income of the Trustee; provided, however, that the Borrower shall have the right to protest any such taxes or assessments and to require the Issuer, the Participating County or the Trustee, at the Borrower’s expense, to protest and contest any such taxes or assessments levied upon them and that the Borrower shall have the right to withhold payment of any such taxes or assessments pending disposition of any such protest or contest unless such withholding, protest or contest would adversely affect the rights or interests of the Issuer, the Participating County or the Trustee;

(b) all reasonable fees, charges, and expenses of the Trustee for services rendered under the Indenture, as and when the same become due and payable;

(c) the reasonable fees and expenses of such accountants, consultants, attorneys, and other experts as may be engaged by the Issuer, the Participating County or the Trustee to prepare audits, financial statements, reports, opinions or provide such other services required under this Agreement or the Indenture;

(d) the reasonable fees and expenses, including reasonable attorney fees, of the Issuer and each Participating County in connection with this Agreement, the Project, the Bonds or the Indenture, including, without limitation, any and all reasonable expenses incurred in connection with the authorization, issuance, sale, and delivery of the Bonds or in connection with any litigation which may at any time be instituted involving this Agreement, the Bonds or the Indenture or any of the other documents contemplated thereby, the administration of the Bonds, and any examination, investigation or audit of the Bonds, and any assessments, levies, fines, fees or penalties assessed by any governmental agency or authority in connection therewith, or in connection with the reasonable supervision or inspection of the Borrower, its properties, assets or operations or otherwise in connection with the administration of this Agreement; and

(e) the annual fee of the Issuer in the amount of [10] basis points ([0.10]%) of the Outstanding principal amount of each series of Bonds, payable on the applicable original issue date of the Bonds and each anniversary date thereafter until all Bonds of such series have been fully paid.

Such Additional Payments shall be billed to the Borrower by the Issuer, the Participating County or the Trustee from time to time, together with a statement certifying that the amount billed has been incurred or paid by the Issuer, the Participating County or the Trustee for one or more of the above items. After such a demand, amounts so billed shall be paid by the Borrower within thirty (30) days after receipt of the bill by the Borrower.

In the event the Borrower should fail to make any of the payments required by this Section, the item in default shall continue as an obligation of the Borrower until the amount in default shall have been fully paid, and the Borrower will pay the same with interest thereon at the highest interest rate per annum applicable to any Bond set forth in this Agreement .

**Section 6.14. [Reserved].**

**Section 6.15. Payment of Costs of Issuance; Expenses.**

The Borrower covenants and agrees with the Issuer and each Participating County that it will pay all reasonable Costs of Issuance promptly when due following Borrower's receipt of written invoices therefor.

The Borrower shall also pay and indemnify the Issuer, each Participating County and the Trustee against all reasonable fees, costs, and charges, including reasonable fees and expenses of attorneys, accountants, consultants and other experts, incurred in good faith (and with respect to the Trustee, without negligence) and arising out of or in connection with this Agreement, the Bonds or the Indenture.

**Section 6.16. Compliance with Act.**

(a) Nondiscrimination; Compliance with Wisconsin Statutes Section 66.1103(11)(b)1m. The Borrower agrees that all contracts and subcontracts for construction of the Project shall include a clause prohibiting discrimination in employment and subcontracting. The Project shall not be used for any purpose which includes any act of employment discrimination as specified under Section 111.322 of the Wisconsin Statutes.

(b) Position Openings; Compliance with Section 66.1103(6m) of the Wisconsin Statutes. The Borrower shall comply with Section 66.1103(6m) of the Wisconsin Statutes relating to notification of position openings in each Participating County.

(c) Job Shifting Requirements; Compliance with Section 66.1103(4s)(b) of the Wisconsin Statutes. The Borrower shall comply with the requirements of Section 66.1103(4s)(b) of the Wisconsin Statutes with respect to offers of employment at the project site.

(d) Job Protection Estimates; Reporting Compliance with Section 66.1103(4m)(b) of the Wisconsin Statutes. The Borrower shall submit to the Wisconsin Economic Development Corporation, formerly the Wisconsin Department of Commerce, within 12 months after the Project is completed or 2 years after the Bonds are issued, whichever is sooner, a report regarding the net number of jobs eliminated, created or maintained on the project site and elsewhere in the State as a result of the Project, as required by Section 66.1103(4m)(b) of the Wisconsin Statutes.

**Section 6.17. Additional Indebtedness.**

The Borrower covenants that it shall not incur any additional indebtedness other than Additional Bonds in accordance with Section 2.10 of the Indenture and the additional subordinate indebtedness existing as of the Closing Date related to the loan agreement between American National Bank-Fox Cities and the Company and other co-borrowers dated June 11, 2021.

**Section 6.18. Social Bond Designation Disclosures.**

The Borrower has self-designated the Series 2024 Bonds as “social bonds” as outlined by the ICMA and UNSDGs and as more specifically set forth in Section 2.02(t) hereof. In support of such self-designation, the Borrower covenants that it shall provide the following information to the Participating Counties, the Trustee and the Borrower shall file on the EMMA page for the Series 2024 Bonds not later than ninety (90) days after the close of its Fiscal Year, beginning with the Fiscal Year ending December 31, 2025, and continuing for two Fiscal Years after the Fiscal Year in which the proceeds of the Bonds have been expended, the following information:

- (a) a brief description of the projects completed in such Fiscal Year using proceeds of the Series 2024 Bonds, including a completion percentage of the Project;
- (b) the amount of the proceeds of the Series 2024 Bonds that have been spent on the portions of the Project that are a “Social Project” as defined by ICMA, which may be by percentage allocated to certain project categories;
- (c) the expected impact of such proceeds, including (i) the number of new internet connections provided by projects financed with proceeds of the Series 2024 Bonds, (ii) how the Project has supported (1) affordable basic infrastructure, (2) access to essential services (e.g. health care, education and vocational training), and (3) socioeconomic advancement and empowerment and (iii) which targeted populations were impacted by the Project (e.g. those living below the poverty line, people with disabilities, underserved populations, undereducated populations, populations with lack of quality access to essential goods or services, the unemployed or communities impacted by natural disasters); and
- (d) a statement to the effect that no changes have been made to the Project that would reasonably be expected to materially adversely affect the social benefits of the Project.

Such information may be included in the Annual Report (as defined in the Borrower Continuing Disclosure Agreement) submitted by the Borrower pursuant to the Borrower Continuing Disclosure Agreement.

The failure of the Borrower to comply with, the requirements of its obligations described in this paragraph, will not be considered an event of default under this Loan Agreement.

**Section 6.19. Covenants Related to Bond Insurance.**

- (a) So long as the Series 2024 Bond Insurance Policy remains in effect, the Borrower agrees unconditionally that it will pay or reimburse the Bond Insurer on demand any and all reasonable charges, fees, costs, losses, liabilities and expenses that the Bond Insurer may pay or incur, including, but not limited to, fees and expenses of the Bond Insurer’s agents,

attorneys, accountants, consultants, appraisers and auditors and reasonable costs of investigations, in connection with the administration (including waivers and consents, if any), enforcement, defense, exercise or preservation of any rights and remedies in respect of the Security Documents (“Administrative Costs”). For purposes of the foregoing, costs and expenses shall include a reasonable allocation of compensation and overhead attributable to the time of employees of the Bond Insurer spent in connection with the actions described in the preceding sentence. The Borrower agrees that failure to pay any Administrative Costs on a timely basis will result in the accrual of interest on the unpaid amount at the Late Payment Rate, compounded semi-annually, from the date that payment is first due to the Bond Insurer until the date the Bond Insurer is paid in full.

Notwithstanding anything herein to the contrary, the Borrower agrees to pay to the Bond Insurer (i) a sum equal to the total of all amounts paid by the Bond Insurer under the Series 2024 Bond Insurance Policy (the “Bond Insurer Policy Payment”); and (ii) interest on such Bond Insurer Policy Payments from the date paid by the Bond Insurer until payment thereof in full by the Borrower, payable to the Bond Insurer at the Late Payment Rate per annum (collectively, the “Bond Insurer Reimbursement Amounts”). Notwithstanding anything to the contrary, including, without limitation, the post-default applicable of revenue provisions, the Bond Insurer Reimbursement Amounts shall be, and the Borrower hereby covenants and agrees that the Bond Insurer Reimbursement Amounts are, payable from and secured by a lien on and pledge of the same revenues and other collateral pledged to the Series 2024 Bonds on a parity with debt service due on the Series 2024 Bonds.

(b) So long as the Series 2024 Bond Insurance Policy remains in effect, and except as provided in the Transfer Documents, the Borrower shall not sell, lease, transfer, encumber or otherwise dispose of the Project funded by the Series 2024 Bonds or any material portion thereof, except upon obtaining consent from the Bond Insurer.

(c) So long as the Series 2024 Bond Insurance Policy remains in effect, and except as provided in the Transfer Documents, no contract shall be entered into or any action taken by which the rights of the Bond Insurer or security for or source of payment of the Series 2024 Bonds may be impaired or prejudiced in any material respect except upon obtaining the prior written consent of the Bond Insurer.

## ARTICLE VII

### DAMAGE; EMINENT DOMAIN

#### Section 7.01. Damage.

(a) If prior to the full payment of the Bonds (or provision for payment thereof having been made to the satisfaction of the Trustee in accordance with the provisions of the Indenture) all or a portion of the Facilities shall be damaged by fire, flood, windstorm or other casualty to such extent that the Borrower has the option of prepaying all or a portion of the Promissory Note pursuant to Section 5.03 of this Agreement, the Borrower shall either (i) prepay all or a portion of the Promissory Note in accordance with Section 5.03 of this Agreement, or (ii) repair, replace or restore the damaged property to such condition as in the judgment of the Borrower will restore the capacity of the affected Facilities to conduct the Project Enterprise to a level at least equal to the lesser of (A)

the capacity of the affected Facilities to conduct the Project Enterprise as it existed immediately prior to such damage, or (B) the designed capacity of the affected Facilities to conduct the Project Enterprise on the Date of Issuance.

(b) In the event of damage to or destruction of all or a portion of the Facilities resulting from fire or other casualty, or in the event all or a portion of the Facilities is condemned or taken for any public or quasi-public use or title thereto is found to be deficient, and the Borrower elects option (i) under subpart (a) above, the proceeds of any insurance relating to such damage or destruction, the proceeds of such condemnation or taking or the proceeds of any realization on title insurance shall be paid directly to the Trustee for deposit to the accounts in the Bond Fund, in accordance with written instructions from the Borrower, in order to effect a redemption of the Bonds in accordance with Section 3.01(b)(1) of the Indenture. Notwithstanding the forgoing, any amounts owing to any Participating County under any Transaction Documents shall be paid first from any insurance or condemnation proceeds, prior to any such proceeds being used to effect a redemption pursuant to Section 3.01(b)(1).

(c) In the event of damage to or destruction of all or a portion of the Facilities resulting from fire or other casualty, or in the event all or a portion of the Facilities is condemned or taken for any public or quasi-public use or title thereto is found to be deficient, and the Borrower elects option (ii) under subpart (a) above, the proceeds of any insurance relating to such damage or destruction, the proceeds of such condemnation or taking or the proceeds of any realization on title insurance shall be paid directly to the Trustee for deposit to the applicable accounts of each Participating County in the Project Fund, in accordance with written instructions from the Borrower, which shall provide for the deposit of such proceeds to each affected Participating County's Project Account in proportion to the portion of the Facilities impacted by such damage, destruction or condemnation located in such Participating County, as allocated in the discretion of the Borrower, which shall be deemed accurate and correct absent any gross error. Such amounts on deposit in the applicable Project Accounts shall then be disbursed in accordance with Section 4.05 of the Indenture and Section 4.04 hereof. Notwithstanding the forgoing, any amounts owing to any Participating County under any Transaction Documents shall be paid first from any insurance or condemnation proceeds, prior to any such proceeds being disbursed to the Borrower for the repair, replacement or restoration of the damaged property.

#### **Section 7.02. Eminent Domain.**

If prior to full payment of the Bonds (or provision for payment thereof having been made in accordance with the provisions of the Indenture) all or a portion of the Facilities shall be taken by eminent domain, in whole or in part, to such extent that the Borrower has the option of prepaying all or a portion of the Promissory Note pursuant to Section 5.03 of this Agreement, the Borrower shall either (i) prepay all or a portion of the Promissory Note in accordance with Section 5.03 of this Agreement, or (ii) acquire such new property as in the judgment of the Borrower will be necessary to restore the capacity of the affected Facilities to conduct the Project Enterprise to a level at least equal to the lesser of (A) the capacity of the Project to conduct the Project Enterprise as it existed immediately prior to such taking, or (B) the designed capacity of the affected Facilities to conduct the Project Enterprise on the Date of Issuance.

## ARTICLE VIII

### EVENTS OF DEFAULT AND REMEDIES

#### Section 8.01. Events of Default.

Any one or more of the following events is an “Event of Default” under this Agreement:

- (a) Failure of the Borrower to make any payment on the Promissory Note when due; or
- (b) Failure of the Borrower to make any of the deposits required under Section 3.08 which continues for a period of ten (10) days after written notice delivered by the Issuer or the Trustee to the Borrower; or
- (c) Failure of the Borrower to observe and perform any of the covenants, conditions or agreements contained in Sections 6.02, 6.03, 6.09, 6.10 or 6.11; or
- (d) Failure of the Borrower to observe and perform any covenant, condition or agreement on its part required to be observed or performed by the Borrower under this Agreement or under the Promissory Note (other than as provided in clause (a), (b) or (c) above and excluding Section 6.18 hereof), which continues for a period of thirty (30) days after written notice delivered by the Issuer or the Trustee to the Borrower, which notice shall specify such failure and request that it be remedied, unless the Issuer and the Trustee shall agree in writing to an extension of such time; provided, however, that if the failure stated in the notice cannot be corrected within such period, the Issuer and the Trustee will not unreasonably withhold their consent to an extension of such time if corrective action is instituted within such period and diligently pursued in good faith until the default is corrected; or
- (e) The dissolution or liquidation of the Borrower or the filing by the Borrower of a voluntary petition in bankruptcy, or failure by the Borrower promptly to cause to be lifted any execution, garnishment or attachment of such consequence as will impair the Borrower’s ability to carry on its obligations hereunder, or the entry of any order or decree granting relief in any involuntary case commenced against the Borrower under any present or future federal bankruptcy act or any similar federal or state law, or a petition for such an order or decree shall be filed in any court and such petition shall not be discharged or denied within ninety (90) days after the filing thereof, or if the Borrower shall admit in writing its inability to pay its debts generally as they become due, or a receiver, trustee or liquidator of the Borrower shall be appointed in any proceeding brought against the Borrower and shall not be discharged within ninety (90) days after such appointment or if the Borrower shall consent to or acquiesce in such appointment, or assignment by the Borrower for the benefit of its creditors, or the entry by the Borrower into an agreement of composition with its creditors, or a bankruptcy, insolvency or similar proceeding shall be otherwise initiated by or against the Borrower under any applicable bankruptcy, reorganization or analogous law as now or hereafter in effect and if initiated against the Borrower shall remain undismissed (subject to no further appeal) for a period of ninety (90) days; provided, the term “dissolution or liquidation of the Borrower,” as used in this subsection, shall not be construed to include the cessation of the existence of the



Borrower resulting either from a merger or consolidation of the Borrower into or with another entity or a dissolution or liquidation of the Borrower following a transfer of all or substantially all its assets as an entirety or under the conditions permitting such actions contained in Section 6.11 hereof; or

(f) The existence of an “Event of Default” (as defined therein) under the Indenture; or

(g) Any representation, warranty, certification or statement of fact made or deemed made by or on behalf of the Borrower in Section 2.02 (except for subsection (t)) or by or on behalf of the Issuer in 2.01, shall be incorrect or misleading when made or deemed made.

### **Section 8.02. Remedies.**

Subject to Section 8.01 hereof, whenever any Event of Default under this Agreement shall have occurred and shall be continuing,

(a) The Trustee and by written notice to the Issuer, the Guarantors, and the Borrower, shall declare the unpaid balance of the Promissory Note to be due and payable immediately, provided that concurrently with or prior to such notice the unpaid principal amount of the Bonds shall have been declared to be due and payable under the Indenture. Upon any such declaration such amount shall become and shall be immediately due and payable as determined in accordance with Section 7.02 of the Indenture.

(b) The Trustee may have access to and may inspect, examine and make copies of the books and records and any and all accounts, data and federal income tax and other tax returns of the Borrower.

(c) The Issuer or the Trustee may take whatever action at law or in equity as may be necessary or desirable to collect the payments and other amounts then due and thereafter to become due or to enforce performance and observance of any obligation, agreement or covenant of the Borrower under this Agreement, the Series 2024 Promissory Note, or any other Transaction Document, including without limitation, the Indenture.

In case the Trustee, any of the Guarantors, or the Issuer shall have proceeded to enforce its rights under this Agreement, and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee, any of the Guarantors, or the Issuer, then, and in every such case, the Borrower, the Trustee, any of the Guarantors, and the Issuer shall be restored respectively to their several positions and rights hereunder, and all rights, remedies and powers of the Borrower, the Trustee, any of the Guarantors, and the Issuer shall continue as though no such action had been taken.

The Borrower covenants that, in case an Event of Default under this Agreement shall occur with respect to payment on the Promissory Note, then, upon demand of the Trustee, the Borrower will pay to the Trustee the whole amount that then shall have become due and payable under Section 7.02 of the Indenture, with interest on the amount then overdue at the rate then borne by the Bonds on the day prior to the occurrence of such default.

In the case the Borrower shall fail forthwith to pay such amounts upon such demand, the Trustee shall be entitled and empowered to institute any action or proceeding at law or in equity for the collection of the sums so due and unpaid, and may prosecute any such action or proceeding to judgment or final decree, and may enforce any such judgment or final decree against the Borrower and collect in the manner provided by law the moneys adjudged or decreed to be payable.

In case proceedings shall be pending for the bankruptcy or for the reorganization of the Borrower under the federal bankruptcy laws or any other applicable law, or in case a receiver or trustee shall have been appointed for the property of the Borrower or in the case of any other similar judicial proceedings relative to the Borrower, or the creditors or property of the Borrower, then the Trustee shall be entitled and empowered, by intervention in such proceedings or otherwise, to file and prove a claim or claims for the whole amount owing and unpaid pursuant to this Agreement and, in case of any judicial proceedings, to file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee allowed in such judicial proceedings relative to the Borrower, its creditors or its property, and to collect and receive any moneys or other property payable or deliverable on any such claims, and to distribute such amounts as provided in the Indenture after the deduction of its reasonable charges and expenses to the extent permitted by the Indenture. Any receiver, assignee or trustee in bankruptcy or reorganization is hereby authorized to make such payments to the Trustee, and to pay to the Trustee and the Issuer any amount due each of them for their respective reasonable compensation and expenses, including reasonable expenses and fees of counsel incurred by each of them up to the date of such distribution.

In the event the Trustee incurs expenses or renders services in any proceedings which result from an Event of Default under Section 8.01(c) hereof, or from any default which, with the passage of time, would become such Event of Default, the expenses so incurred and compensation for services so rendered are intended to constitute expenses of administration under the United States Bankruptcy Code or equivalent law.

For the avoidance of doubt, the Trustee shall not, except as provided in Section 7.10 of the Indenture and with the consent of all of the Guarantors (to the extent the Guarantors are not in default under their respective Limited Guaranty Agreements), waive the obligation of the Borrower hereunder to make any payment on the Promissory Note when due.

### **Section 8.03. No Remedy Exclusive.**

No remedy conferred upon or reserved to the Issuer by this Agreement is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement, any Transaction Document, or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Issuer to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be herein expressly required.

**Section 8.04. Reimbursement of Attorneys' Fees.**

If the Borrower shall default under any of the provisions of this Agreement and the Issuer or the Trustee shall employ attorneys or incur other reasonable expenses for the collection of payments due hereunder or for the enforcement of performance or observance of any obligation or agreement on the part of the Borrower contained in this Agreement, the Borrower will on demand therefor reimburse the Issuer or the Trustee, as the case may be, for the reasonable fees of such attorneys and such other reasonable expenses so incurred. The provisions of this Section shall survive the retirement and payment of the Bonds.

**Section 8.05. Waiver of Breach: Exercise of Rights by Trustee.**

In the event any obligation created by this Agreement shall be breached by either of the parties and such breach shall thereafter be waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder. In view of the pledge of and grant of a security interest in the Issuer's rights in and under this Agreement to the Trustee under the Indenture, the Issuer shall have no power to waive any default hereunder by the Borrower without the consent of the Trustee, and the Trustee may exercise any of the rights of the Issuer hereunder, except in each case for the Issuer's Unassigned Rights.

**Section 8.06. Trustee's Exercise of the Issuer's Remedies.**

Whenever any Event of Default shall have happened and be subsisting, the Trustee may, but except as otherwise provided in the Indenture shall not be obliged to, exercise any or all rights of the Issuer under this Article, upon notice as required of the Issuer unless the Issuer has already given the required notice.

**ARTICLE IX**

**MISCELLANEOUS**

**Section 9.01. Termination.**

At any time when (i) the principal of, and interest on, all Bonds have been paid, and (ii) arrangements satisfactory to the Trustee have been made for the discharge of all accrued liabilities under this Agreement, this Agreement, except as otherwise provided in Sections 6.03 and 8.04 hereof, shall terminate.

**Section 9.02. Assignment.**

This Agreement may not be assigned nor may a security interest be granted herein (i) by the Issuer without the prior written consent of the Borrower or (ii) by the Borrower without the prior written consent of the Issuer and each of the Guarantors (which consents will not be unreasonably withheld, delayed or denied), except that (a) the Issuer may pledge and grant a security interest in its interest in this Agreement to the Trustee, (b) the Trustee may assign its rights hereunder to a successor Trustee as provided in the Indenture and (c) the Borrower may assign its interest in this Agreement in accordance with Section 6.09 or 6.11 hereof.

**Section 9.03. Amendments, Changes and Modifications.**

Except as otherwise expressly provided in this Agreement or in the Indenture, subsequent to the original issuance of any Bonds and before the Indenture is satisfied and discharged in accordance with its terms, this Agreement may not be amended, changed or modified except in accordance with the provisions of Article X of the Indenture.

**Section 9.04. Performance by Third Parties.**

The Issuer agrees that, with the written consent of the Borrower, third parties may perform any and all acts or take such action as may be necessary for and on behalf of the Borrower to prevent or correct any Event of Default hereunder, and the Issuer agrees that the Trustee shall take or accept such performance as performance by the Borrower in such event. The acceptance by the Issuer or the Trustee of any such performance by third parties shall not in any way diminish or absolve the Borrower of primary liability hereunder.

**Section 9.05. Performance for Issuer Under Indenture.**

The Issuer agrees that the Borrower shall have full authority, but shall not be obligated, to perform for the account of the Issuer any covenant or obligation, the nonperformance of which is alleged to constitute a default under the Indenture or the other Transaction Documents, in the name and stead of the Issuer, with full power to do any and all things and acts to the same extent that the Issuer could do and perform any such things and acts in order to avoid or remedy such default.

**Section 9.06. Investment of Indenture Funds.**

The Issuer agrees that the Borrower shall have the right to direct the investment of funds held under the Indenture as provided in, and subject to the limitations of, Section 4.13 of the Indenture. The Borrower acknowledges that regulations of the Comptroller of the Currency grant the Issuer and the Borrower the right to receive brokerage confirmations of securities transactions as they occur. The Borrower specifically waives such notification to the extent permitted by law and acknowledges that it will receive monthly and annual cash transaction statements, which will detail all investment transactions.

**Section 9.07. Patriot Act.**

The Trustee shall have the right (as required under Federal law of all financial institutions, to help the government fight the funding of terrorism and money laundering activities) to do such things as it deems necessary to comply with applicable law, including, but not limited to, obtaining, verifying and recording information that identifies each person who opens an account with the Trustee (including the Borrower with respect to the Bond Fund and the Project Fund held with the Trustee). The Trustee may request documentation from the Borrower to verify the Borrower's formation and existence as a legal entity. The Trustee may also request financial statements, licenses, identification and authorization documentation from individuals claiming authority to represent the Borrower or other relevant documentation.

**Section 9.08. Performance by Issuer.**

Notwithstanding anything in this Agreement to the contrary, the Issuer shall be under no obligation to take any action or execute, prepare or deliver any instrument or document until it shall have received assurances satisfactory to it that the Borrower or the Trustee shall pay in advance or reimburse it (at the Issuer's option) for its reasonable expenses incurred or to be incurred in connection with the taking of such action, (including reasonable attorneys' fees) and shall be indemnified against any possible liability arising out of the taking of such action.

**Section 9.09. Third Party Beneficiaries.**

To the extent that this Agreement confers upon or gives or grants to the Guarantors any right, remedy or claim under or by reason of this Agreement, the Guarantors are hereby explicitly recognized as being third-party beneficiaries hereunder and may enforce any such right, remedy or claim conferred, given or granted hereunder.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the Issuer and the Borrower have caused this Agreement to be executed in their respective corporate names and their respective corporate seals to be hereunto affixed and attested by their duly authorized officers, all as of the date first above written.

[SEAL]

**FOND DU LAC COUNTY, WISCONSIN,**  
a political subdivision of the State of Wisconsin

By: \_\_\_\_\_  
Steven A. Abel, County Chairperson

By: \_\_\_\_\_  
Lisa Freiberg, County Clerk

**BUG TUSSEL 2, LLC,**  
a Wisconsin limited liability company

By: \_\_\_\_\_

## **EXHIBIT A**

### **DESCRIPTION OF THE PROJECT/FACILITIES**

The Bonds shall be issued to finance a project consisting of the acquisition, construction, installation, and equipping of certain telecommunications infrastructure that includes, among other things (i) acquisition of tower sites by purchase or lease of land and equipping such sites with towers and electronics to provide broadband, high speed cellular, emergency communications and point to point (P2P) data communications; (ii) constructing fiberoptic data transmission facilities (cable and electronics) between towers, key community facilities, businesses and residential aggregation points; (iii) where appropriate, connecting individual premises into the broadband network including the cost of consumer premise equipment; (iv) payment of capitalized interest; (v) funding of a debt service reserve fund for the Bonds; (vi) payment of certain project costs located in the Participating Counties; and (vii) payment of certain costs of issuance related to the issuance of the Bonds, all of which will be for the purpose of providing fiberoptic transmissions, wireless internet and telephone communications services and infrastructure to businesses, governmental units and residents of rural communities where such service is currently unavailable, unreliable, or is prohibitively expensive (the "Project").

**EXHIBIT B**

**FORM OF PROMISSORY NOTE**

This promissory note has not been registered under the Securities Act of 1933. The transferability hereof is restricted by the indenture of trust identified in the Assignment endorsed hereon.

**PROMISSORY NOTE**

\$\_[\_\_\_\_\_]

[\_\_\_\_\_] [\_\_], 2024

FOR VALUE RECEIVED, the undersigned BUG TUSSEL 2, LLC, a Wisconsin limited liability company (the “Borrower”), promises to pay to the order of FOND DU LAC COUNTY, WISCONSIN, a body corporate and politic under the laws of the State of Wisconsin (the “Issuer”), the principal sum of [\_\_\_\_\_] DOLLARS (\$[\_\_\_\_\_]) in installments of principal on the dates and in the amounts set forth in the Loan Agreement. The unpaid principal balance of this Promissory Note shall bear interest from the date hereof at the interest rates per annum set forth in the Loan Agreement.

The principal of and interest on this Promissory Note are payable in federal or other immediately available funds at the designated corporate trust office of U.S. Bank Trust Company, National Association, or its successor or successors, as trustee under that certain Indenture of Trust, dated as of the date hereof, from the Issuer, as grantor, securing the Bonds.

The Borrower is to receive credit against payments on this Promissory Note as provided in the Loan Agreement between the Borrower and the Issuer dated as of [\_\_\_\_\_] [\_\_], 2024 pertaining to the Bonds.

*[Signature Page Follows]*



This Promissory Note constitutes the Promissory Note issued under a Loan Agreement, dated as of [\_\_\_\_\_] [\_\_\_], 2024, between the Borrower and the Issuer, to which Loan Agreement reference is hereby made for a statement of the terms and conditions on which the loan evidenced hereby was made, for a description of the circumstances under which there shall be credits allowed against the principal and interest on this Promissory Note, and for a description of the terms and conditions upon which the maturity of this Promissory Note may be accelerated.

**BUG TUSSEL 2, LLC,**  
a Wisconsin limited liability company

By: \_\_\_\_\_

FOR VALUE RECEIVED, the undersigned Fond du Lac County, Wisconsin hereby assigns, without recourse, all its right, title and interest in and to the above Promissory Note to U.S. Bank Trust Company, National Association, or to its successor or successors (the "Trustee"), as trustee under that certain Indenture of Trust, dated as of the date hereof by and between the undersigned and said Trustee, securing its \$[\_\_\_\_\_] Taxable Revenue Bonds, Series 2024 (Bug Tussel 2, LLC Project) (Social Bonds) issued under said Indenture.

Dated: [\_\_\_\_\_] [\_\_], 2024

**FOND DU LAC COUNTY, WISCONSIN,**  
a political subdivision of the State of Wisconsin

By: \_\_\_\_\_  
Title: Chairperson

Attest: \_\_\_\_\_  
Title: County Clerk

**EXHIBIT C**

**FORM OF REQUISITION**

Requisition No. \_\_\_\_\_

To: U.S. Bank Trust Company, National Association  
1555 North RiverCenter Drive, Suite 203  
Milwaukee, WI 53212  
Attn: Corporate Trust Department  
Facsimile: (414) 905-5049

With a copy to each Participating County at the addresses in the Notice Section of the Indenture:

Re: \$[\_\_\_\_\_]   
Fond du Lac County, Wisconsin  
Taxable Revenue Bonds, Series 2024  
(Bug Tussel 2, LLC Project) (Social Bonds)

This Requisition is delivered to you pursuant to Sections 4.03 and 4.04 of the Loan Agreement, dated as of [\_\_\_\_\_] [\_\_\_], 2024, (the "Loan Agreement"), by and between BUG TUSSEL 2, LLC, a Wisconsin limited liability company (the "Borrower"), and the FOND DU LAC COUNTY, WISCONSIN, a political subdivision of the State of Wisconsin (the "Issuer"). Reference is made to the Cost of Issuance Fund and the Project Fund created in Section 4.03 and Section 4.05 of the Indenture of Trust (the "Indenture"), dated as of [\_\_\_\_\_] [\_\_\_], 2024 between the Issuer and you, securing the captioned bonds.

I. The Borrower hereby requisitions from the Project Fund the amounts indicated below:

Disbursements from the Project Fund:

- A. To pay (or reimburse the Borrower for) the Engineering Costs or the Project Costs described in the definition of Eligible Costs of the Project in the Indenture..... \$ \_\_\_\_\_
- B. To pay the Capitalized Interest Costs described in the definition of Eligible Costs of the Project in the Indenture ..... \$ \_\_\_\_\_
- Total Requisition Amount..... \$ \_\_\_\_\_

Of the amounts requisitioned from the Project Fund:

- C. The following amount shall be paid from the Fond du Lac County Project Account of the Project Fund. .... \$ \_\_\_\_\_

- D. [The following amount shall be paid from the Iowa County Project Account of the Project Fund .....] \$ \_\_\_\_\_
- E. [The following amount shall be paid from the Forest County Project Account of the Project Fund .....] \$ \_\_\_\_\_
- F. [The following amount shall be paid from the Price County Project Account of the Project Fund .....] \$ \_\_\_\_\_
- G. [The following amount shall be paid from the Jefferson County Project Account of the Project Fund .....] \$ \_\_\_\_\_
- H. [The following amount shall be paid from the Lafayette County Project Account of the Project Fund .....] \$ \_\_\_\_\_
- J. [The following amount shall be paid from the Marathon County Project Account of the Project Fund .....] \$ \_\_\_\_\_
- K. [The following amount shall be paid from the Waushara County Project Account of the Project Fund .....] \$ \_\_\_\_\_
- L. [The following amount shall be paid from the Sawyer County Project Account of the Project Fund .....] \$ \_\_\_\_\_
- M. [The following amount shall be paid from the Taylor County Project Account of the Project Fund .....] \$ \_\_\_\_\_

II. The Borrower hereby requisitions from the Cost of Issuance Fund the amount indicated below:

Disbursements from the Cost of Issuance Fund:

- A. To pay (or reimburse the Borrower for) the Costs of Issuance described in the definition of Eligible Costs of the Project in the Indenture ..... \$ \_\_\_\_\_
- Total Cost of Issuance Fund Requisition Amount..... \$ \_\_\_\_\_

In support of this requisition, the undersigned hereby certifies as follows:

1. They are the Borrower Representative, that is, the person or, in such person's absence, the alternate person, authorized to execute and deliver Requisitions on behalf of the Borrower.

2. The amounts, if any, requisitioned for items I.A. or II.A. above are Eligible Costs of the Project.

3. The amounts, if any, requisitioned above:

- a. have been incurred by the Borrower and paid (or are presently due and owing) for the specific purposes to the specific persons and in the amounts listed in Schedule A attached hereto and
- b. the invoices or paid receipts attached hereto on Schedule B accurately represent amounts incurred or paid by the Borrower and are valid Eligible Costs.

4. The amounts, if any, requisitioned and to be disbursed from the Project Fund:

- a. Relate to Facilities located only in any one or more of the Participating Counties the respective amounts set forth in I.C. through I.[\_\_\_], above; and

5. The estimated completion date of the Project now is \_\_\_\_\_, 20\_\_\_\_. The Borrower is not in default under the Loan Agreement or any other Transaction Document, except as follows (if no default exists, so state):

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Nothing has occurred to the knowledge of the undersigned which will prevent the performance by the Borrower of its obligations under the Loan Agreement or any other Transaction Document, except as follows (if none, so state):

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6. No Requisition has previously been submitted in respect of the costs which form a basis for this Requisition.

7. Attached hereto on Schedule C are lien releases and waivers from the contractors and subcontractors performing work on the Project (which is subject to receipt of payment of the funds requested by the attached Requisition Request), and satisfactory lien releases and waivers from the contractor and subcontractors for the work for which funds were requested by preceding Requisition No. \_\_\_\_;

8. Each condition precedent for such requisition set forth in any applicable Reimbursement Agreement has been met or waived by the applicable Participating Count(ies), and the Participating Count(ies) have approved this requisition.

9. You are hereby requested to pay the Total Requisition Amount in the following manner:

- a. To the Borrower by check; or
- b. To the Borrower by deposit in its general account (No. \_\_\_\_\_ ) maintained at \_\_\_\_\_; or
- c. Other: \_\_\_\_\_

Executed by the undersigned on \_\_\_\_\_, 20\_\_\_\_.

**BUG TUSSEL 2, LLC,**  
a Wisconsin limited liability company

By: \_\_\_\_\_  
Its: Borrower Representative

**SCHEDULE A**

Payee

Amounts

**SCHEDULE B**

**COPIES OF INVOICES OR PAID RECEIPTS**



**SCHEDULE C**  
**LIEN WAIVERS**

## REIMBURSEMENT AGREEMENT

THIS REIMBURSEMENT AGREEMENT (this “**Agreement**”), dated as of [September] 1, 2024, is between Marathon County, Wisconsin (the “**County**”) and Bug Tussel 2, LLC, a Wisconsin limited liability company (the “**Borrower**”).

### WITNESSETH:

WHEREAS, Taxable Revenue Bonds, Series 2024 (Bug Tussel 2, LLC Project) (Social Bonds) in the aggregate principal amount of \$[ ] (the “**Bonds**”) are to be issued by Fond du Lac County, Wisconsin (the “**Issuer**”) on behalf of the Borrower to finance a project consisting of the acquisition, construction, installation, and equipping of certain telecommunications infrastructure that includes, among other things (i) acquisition of tower sites by purchase or lease of land and equipping such sites with towers and electronics to provide broadband, high speed cellular, emergency communications and point to point (P2P) data communications; (ii) constructing fiberoptic data transmission facilities (cable and electronics) between towers, key community facilities, businesses and residential aggregation points; (iii) where appropriate, connecting individual premises into the broadband network including the cost of consumer premise equipment; (iv) payment of capitalized interest; (v) funding of a debt service reserve fund; (vi) payment of such project costs located in the counties of Fond du Lac, Iowa, Forest, Price, Jefferson, Lafayette, Marathon, Waushara, Sawyer and Taylor, each in Wisconsin (each a “**Participating County**”) and together, the “**Participating Counties**”); and (vii) payment of certain costs of issuance related to the issuance of the Bonds, all of which will be for the purpose of providing fiberoptic transmissions, wireless internet and telephone communications services and infrastructure to businesses, governmental units and residents of rural communities where such service is currently unavailable, unreliable, or is prohibitively expensive (collectively, the “**Project**”), pursuant to an Indenture of Trust, dated as of [September] 1, 2024 (as modified, amended, replaced, refinanced, renewed, or extended from time to time, the “**Indenture**”), between the Issuer and U.S. Bank Trust Company, National Association, as Trustee (the “**Trustee**”); and

WHEREAS, the portion of the Project to be built in the County is further described in Schedule I attached hereto; and

WHEREAS, the proceeds derived from the issuance of the Bonds will be applied pursuant to a Loan Agreement, dated as of [September] 1, 2024 (as modified, amended, replaced, refinanced, renewed or extended from time to time, the “**Loan Agreement**”), between the Issuer and the Borrower, to finance the costs of the Project, which Project is located in the Participating Counties; and

WHEREAS, payment of such Project costs in Marathon County shall not exceed \$12,000,000; and

WHEREAS, the Participating Counties have entered into an Intergovernmental Agreement, dated as of [September] 1, 2024 (the “**Intergovernmental Agreement**”); and

WHEREAS, the Borrower will execute and deliver to the Issuer its Promissory Note related to the Bonds (as modified, amended, replaced, refinanced, renewed or extended from time to time, the “**Note**”) to evidence the Borrower’s obligation to repay the loan made under the Loan Agreement related to the Bonds; and

WHEREAS, in consideration of the increased tax revenue that will accrue to the County as a result of the Project and the new jobs and other economic benefits for residents of the County that will result from the Project and the public safety benefits that will result from the Project and the County’s access to the Project, the County has agreed to guarantee the payment of its pro rata share of the principal of and interest on the Bonds in an amount necessary to replenish the Series 2024 Debt Service Reserve Account (as defined

in the Indenture) pursuant to a Guaranty Agreement, dated as of [September] 1, 2024 (as modified or amended from time to time, the “**Guaranty**”) by and between the County and the Trustee; and

WHEREAS, the Borrower will have the primary obligation to make all scheduled principal and interest payments on the Bonds when due, and the County’s liability under its Guaranty will arise only in the event that the Borrower does not make the payments as required and a draw is made from the Series 2024 Debt Service Reserve Account; and

WHEREAS, in return for the County’s Guaranty, the Borrower has agreed to pay the County (i) an annual guaranty fee (which is paid on a semi-annual basis, or as a lump sum, as subsequently agreed to by the County and the Borrower) of 40 basis points of the outstanding par amount of the Bonds multiplied by its Pro Rata Share (as defined in the Guaranty), and (ii) all costs and expenses incurred by the County related to the issuance and administration of the Bonds; and

WHEREAS, as security for the Borrower’s Obligations hereunder, the Borrower has agreed to grant the County a security interest in all assets of the Project located in the County which are financed with proceeds of the Bonds pursuant to one or more Leasehold Mortgage, Assignment of Leases and Rents, Security Agreement, and Fixture Financing Statement, one or more Mortgage and Security Agreements, or one or more Security Agreements (collectively, the “**Mortgage**”), and one or more UCC Financing Statements (collectively, the “**UCC Financing Statement**”); and

WHEREAS, as security for the Borrower’s obligations hereunder, Hilbert Communications, LLC, a Wisconsin limited liability company (“**Hilbert**”), has agreed to pledge its membership interest in the Borrower for the benefit of the Participating Counties pursuant to that certain Pledge Agreement, dated as of [September \_\_], 2024, as further amended in connection with the issuance of the Bonds (as so amended, the “**Pledge Agreement**”) and has agreed to unconditionally and irrevocably guarantee Borrower’s obligations under this Agreement, among other obligations guaranteed thereunder (the “**Hilbert Guaranty**”) and, together with the Mortgage, the UCC Financing Statement, the Pledge Agreement, and the Hilbert Guaranty, collectively the “**Security Agreements**”), each in substantially the form attached hereto as Exhibit A; and

WHEREAS, as security for the County’s Guaranty, when required hereunder, the Borrower has agreed to provide the County access to use any telecommunications towers and fiberoptic data transmission facilities (collectively, the “**Facilities**”) constructed in the County with the proceeds of the Bonds pursuant to one or more Facilities Access Agreements (collectively, as modified, amended, replaced, refinanced, renewed or extended from time to time, the “**Facilities Access Agreement**”) in substantially the same form attached hereto as Exhibit B (the “**Form of Facilities Access Agreement**”).

NOW, THEREFORE, the parties hereto agree as follows:

1. **Definitions.** In addition to the terms defined in the recitals hereof, as used in this Agreement, the following terms shall have the following meanings:

“**Bond Documents**” means the Indenture, the Intergovernmental Agreement, the Note, the Guaranty, the Loan Agreement, the continuing disclosure agreements related to the Bonds, and any additional agreement or instrument relating to or securing the Bonds, each as the same may be amended from time to time.

“**Default**” means any act, event, condition or omission which, with the giving of notice or lapse of time, would constitute an Event of Default hereunder.

“**Event of Default**” means the occurrence of any of the events described in Section 11.

“**Guaranty Payment**” means any payment of any amount made by the County pursuant to the Guaranty.

“**Project Land**” means any parcel of land in the County owned by or leased by Borrower upon which all or any part of the Project is constructed, installed or located.

“**Reimbursement Documents**” means this Agreement, the Mortgage, the Hilbert Guaranty, the other Security Agreements, the Facilities Access Agreement and any other documents or instruments evidencing, securing or guaranteeing Borrower’s obligations to the County pursuant to this Agreement, as any of such documents may be modified or amended from time to time.

“**Obligations**” means all indebtedness, liabilities and other obligations of the Borrower to the County now existing or hereafter arising under this Agreement, the Mortgage, the Security Agreements, or any other Reimbursement Document or any other documents or instruments evidencing, securing or guaranteeing Borrower’s obligations to the County pursuant to this Agreement.

“**Project Property**” means any Project Land and all improvements and assets located thereon or used or useful in connection with the improvements located thereon, including without limitation, real property, public rights-of-way, improvements, frequencies licensed to Borrower, fixtures, equipment, machinery, telecommunications towers, microwave and/or fiber-optic backhaul facilities, fiber-optic cabling and all other facilities and property financed with the proceeds of the Bonds and located within the County.

“**Subordinated to the State**” subordination to the extent required by the State of Wisconsin, the Public Service Commission of Wisconsin, or similar agency, political subdivision, or instrumentality of the State of Wisconsin as a condition of grant funding provided for financed assets relating to the Borrower and/or the Project.

**2. Guaranty Fee.** Upon execution of this Agreement and on each Interest Payment Date (as defined in the Indenture) (each, a “**Fee Payment Date**”), until all Borrower’s obligations under the Bond Documents and the Reimbursement Documents have been satisfied in full, Borrower shall pay an annual guaranty fee to the County (which is paid on a semi-annual basis, or as a lump sum, as subsequently agreed to by the Guarantor and the Borrower) of 40 basis points of the outstanding par amount of the Bonds multiplied by the County’s Pro Rata Share (as may be reduced pursuant to Section 2 of the Guaranty).

**3. Reimbursement; Term of Agreement.**

(a) Upon the payment by the County of any Guaranty Payment, the Borrower hereby unconditionally and irrevocably promises to immediately pay the County, and in any event within five (5) days of demand therefor, at its office in Marathon County, Wisconsin, in immediately available funds, the amount of the Guaranty Payment.

(b) The obligations of the Borrower hereunder shall terminate upon the termination of the Guaranty and payment in full of any obligations hereunder.

**4. Representations and Warranties.** In order to induce the County to execute the Guaranty, the Borrower represents and warrants to the County that the representations and warranties of the Borrower contained in the Loan Agreement are true and correct in all respects as of the date of this Agreement. In addition, the Borrower makes the following representations and warranties:

(a) All written information (including, without limitation, any financial statements, whether audited or unaudited, and any other financial information provided in connection therewith) which Borrower or Hilbert has furnished or caused to be furnished to the County is true and correct in all material respects.

(b) Borrower has timely filed or caused to be filed all tax returns and reports required to have been filed and has paid or caused to be paid all taxes required to have been paid by it, except taxes that are being contested in good faith by appropriate proceedings and for which it has set aside on its books adequate reserves with respect thereto in accordance with generally-accepted accounting principles.

(c) Prior to disbursement of any proceeds of the Bonds for any Project Property, Borrower will have good title to, or a valid leasehold interest in, the Project Land on which any Facilities will be constructed, and a fee interest in all improvements located on such land, free and clear of all liens and encumbrances (except for Permitted Encumbrances, as defined in the Indenture).

(d) Prior to disbursement of any proceeds of the Bonds for any Project Property, Borrower will have all licenses, permits, franchises, patents, copyrights, trademarks and trade names, or rights thereto, reasonably necessary to construct, use and operate the Project Property and to conduct its business thereon.

(e) Borrower: (i) is, and at each Project Property will be, in compliance with all applicable environmental laws, rules, regulations and ordinances; and (ii) is, and at each Project Property will be, in compliance in all material respects with all other laws, rules, regulations and ordinances.

(f) No Default or Event of Default has occurred under this Agreement, the Bond Documents or any other Reimbursement Document.

The representations and warranties contained herein shall be true and accurate in all material respects as of the date hereof and as of the date of each disbursement of proceeds of the Bonds.

**5. Affirmative Covenants.** The Borrower agrees that it will do the following while the Guaranty is outstanding or any of the Obligations remain unpaid, unless the County otherwise agrees in writing:

(a) The Borrower shall comply with all covenants contained in the Loan Agreement, which are incorporated herein as if fully set forth herein.

(b) On [September \_\_], 2024 (the “**Bond Closing Date**”) if Borrower has acquired any Project Property or entered into a lease with respect to any Project Property, or thereafter, concurrent with the Borrower acquiring any Project Property or entering into a lease of any Project Land, Borrower shall execute and deliver to County a Mortgage with respect to such Project Property, in the form of the Mortgage attached hereto. The Mortgage shall grant County a first mortgage (except as may be Subordinated to the State) on Borrower's leasehold interest, in the Project Land and/or first security interest (except as may be Subordinated to the State) in all other elements of the Project Property, including without limitation, the improvements located on the Project Land and all other equipment, machinery, fixtures, assets and personal property used or useful in connection with the Project Property, all free and clear of all liens and encumbrances other than those liens and encumbrances approved by the County or Permitted Encumbrances as defined in the Indenture. Borrower hereby authorizes the County to file UCC financing statements and any other Security Agreement, amendments and continuations thereof with respect to the collateral which is the subject of the Mortgage or Security Agreement without any further consent of Borrower. The Security Agreements and security interests shall not be released until the Bonds shall have

been paid in full, all of the Obligations have been paid and performed in full and the County has been fully released from all of its obligations under the County's Guaranty. The failure of Borrower to deliver the Security Agreements described herein on the date of acquisition or lease of any Project Land shall be an Event of Default hereunder. Borrower understands that disbursement of any portion of the proceeds of the Bonds for any Project Property is conditioned upon the County having received fully-executed Security Agreements for such Project Property, in a form acceptable to the County, the recording of the Mortgage in the office of the Register of Deeds of the County and the filing of any Security Agreement in the appropriate governmental office. Borrower shall have a continuing duty to cooperate with County and any representative of the County, including without limitation the Issuer, in securing a first lien on all Project Property (except for Permitted Encumbrances, as defined in the Indenture, and as may be Subordinated to the State).

(c) The Borrower hereby grants to the County, for the period identified in the Facilities Access Agreement, a non-exclusive, limited license to access and use the Project Property which is constructed by Borrower in the County (an "**Access Right**") pursuant to a Facilities Access Agreement. The County may use an Access Right solely for the purpose of obtaining service to be used by County agencies. Such use shall be subject to a Facilities Access Agreement, reasonably acceptable to the County and the Borrower, in substantially the form set forth in Exhibit B hereto. The Borrower hereby grants to any township, village or city within the County, to any fire and ambulance districts within the County, as long as such entity is not providing commercial communication utilities, for the period identified in the Facilities Access Agreement, a non-exclusive, limited license to access and use the Project Property at a discounted rate pursuant to a Facilities Access Agreement. That discounted rate will be set forth in the lease of the tower. In order to access this rate, the local entity must enter into a Facilities Access Agreement, reasonably acceptable to the local entity and the Borrower, in substantially the form set forth in Exhibit B hereto. The rights granted under this section shall survive the termination of this Agreement.

(d) Except as permitted in the Indenture, the Borrower will not consent to any amendment or supplement to any of the Bond Documents or any other document executed by the Borrower in connection with the issuance of the Bonds.

(e) The Borrower will use the entire proceeds of the Bonds only as provided in the Bond Documents.

(f) The Borrower agrees to build the Project as represented to the County.

(g) Borrower will conform and comply with, and will cause each Project Property to be in conformance and compliance with all federal, state, local and other laws, rules, regulations and ordinances applicable to the construction and installation of each Project Property and Borrower's operations at each Project Property, including without limitation, all zoning and land division laws, rules, regulations and ordinances, all building codes and ordinances of the governing municipalities, and all applicable environmental laws, rules, regulations and ordinances.

(h) Borrower covenants that it will pay or cause to be paid prior to delinquency all foreign, federal, state and local taxes in connection with each Project Property, except where the validity or amount thereof is being contested in good faith by appropriate proceedings and Borrower has set aside on its books adequate reserves with respect thereto in accordance with generally accepted accounting principles.

(i) Borrower shall, except as otherwise provided in the Loan Agreement: (i) maintain its corporate and/or limited liability existence, as the case may be, and will not dissolve or dispose of all or substantially all of its assets and will not consolidate with or merge into any other entity, (ii) maintain each

Project Property in good repair, working order and condition, ordinary wear and tear excepted; and (iii) maintain accurate records and books of account in accordance with generally-accepted accounting procedures consistently applied throughout all accounting periods.

(j) Borrower shall maintain in good standing and in full force and effect each license, permit, patent and franchise granted or issued by any federal, state or local governmental agency or regulatory authority that is necessary to Borrower's business conducted at each Project Property.

(k) Borrower shall: (i) comply in all material respects with all applicable environmental laws, rules, regulations and ordinances and orders of regulatory and administrative authorities with respect thereto applicable to each Project Property, and, without limiting the generality of the foregoing, promptly undertake and diligently pursue to completion any required response, investigation and clean-up action in the event of any release of hazardous substances on, upon or into any Project Property; and (ii) comply in all material respects with all other laws, rules, regulations and ordinances applicable to Borrower and each Project Property.

(l) Borrower shall:

(i) as soon as possible and in any event within five (5) business days after Borrower knows of the occurrence of any Default or Event of Default, notify County in writing of such Default or Event of Default and set forth the details thereof and the action which is being taken or proposed to be taken by Borrower with respect thereto;

(ii) promptly notify County of the commencement of any litigation or administrative proceeding brought against Borrower which would have a material adverse effect on Borrower's operations at any Project Property or materially impair the value of any Project Property;

(iii) notify County, and provide copies, immediately upon receipt but in any event not later than ten (10) days after receipt, of any notice, pleading, citation, indictment, complaint, order or decree from any federal, state or local government agency or regulatory body, asserting or alleging a circumstance or condition that requires or may require a financial contribution by Borrower, or an investigation, clean-up, removal, remedial action or other response by or on the part of Borrower under any environmental law or which seeks damages or civil, criminal or punitive penalties from or against Borrower, for an alleged violation of environmental laws at any Project Property;

(iv) notify County at least thirty (30) days prior to any change of Borrower's name; and

(v) promptly notify County of any damage to, or loss of, any Project Property.

(m) Borrower shall provide County with copies of the financial statements Borrower furnishes to the Trustee pursuant to the terms of the Loan Agreement at the time Borrower provides such statements to the Trustee.

**6. Negative Covenants.** From and after the date of this Agreement and until the entire amount of principal of and interest due on the Bonds and all other Obligations have been paid in full, and County's Guaranty has been released, Borrower shall not at any time, without the prior written consent of County:

(a) Incur, create, assume or permit to be created or allow to exist any mortgage or lien upon or in any asset included in any Project Property or the Project other than Permitted Encumbrances (as defined in the Indenture).

(b) Except as otherwise provided in the Loan Agreement, sell, assign, transfer or otherwise dispose of any portion of any Project Property or the Project.

(c) Enter into any agreement, directly or indirectly, to sell or transfer any portion of any Project Property or the Project and thereafter to lease back the same or similar property.

(d) Modify or amend any lease of any Project Land by Borrower, as either lessor or lessee.

(e) Incur, create, assume, permit or permit to be created or allow to exist any indebtedness of Borrower in connection with any Project Property, other than the indebtedness evidenced by the Bonds.

(f) Record or permit to be recorded any lease or sublease of the Project Property prior to the recording of the Mortgage on such Project Property.

**7. Insurance.** Borrower shall obtain and maintain at its own expense the following insurance, which shall be with insurers satisfactory to County: (a) “all risks” property insurance (including without limitation fire, collapse, windstorm, hail, business interruption and such other risks of loss as County reasonably may require), against loss of or damage to any Project Property and the Project, in amounts not less than the one hundred percent (100%) replacement cost of all buildings, improvements, fixtures, equipment and other real and personal property constituting any Project Property and the Project, with a replacement cost endorsement; (b) commercial general liability insurance covered under a comprehensive general liability policy including contractual liability in an amount not less than \$2,000,000 combined single limit for bodily injury, including personal injury, and property damage; (c) product liability insurance in such amounts as is customarily maintained by companies engaged in the same or similar businesses; and (d) worker’s compensation insurance in amounts meeting all statutory state and local requirements. Borrower shall maintain the insurance policies issued by insurers with a rating of at least “A-” and in the financial size category of at least “X” as established by A.M. Best Company and licensed to do business in the State of Wisconsin. Borrower shall provide evidence to the County that each Project Property is insured as required by this paragraph 7 on or prior to the date of acquisition of such Project Property. Each insurance policy shall require the insurer to provide at least thirty (30) days prior written notice to the County of any material change or cancellation of such policy and each insurance policy shall name the Trustee as an additional insured and, in the case of casualty insurance in respect of each Project Property, loss payee.

**8. Deliverables to the County.** The Borrower covenants to deliver or cause to be delivered, and by execution of this Agreement, the County confirms receipt or waiver of the following deliverables:

(a) On or before the Bond Closing Date, Borrower shall provide the County with evidence satisfactory to the County that Borrower is authorized to enter into this Agreement and the other Reimbursement Documents to which it is a party, and that the persons signing this Agreement and such other documents on behalf of Borrower are authorized to so sign. On or before the Bond Closing Date, Borrower, at its cost, shall provide a certified copy of the articles of organization and operating agreement of Borrower, and certificate of status issued by the Wisconsin Department of Financial Institutions for Borrower.

(b) On or before the Bond Closing Date, Borrower and Hilbert shall each provide a certificate of incumbency and resolutions of Borrower, which resolutions shall provide that Borrower have been duly authorized to enter into this Agreement and all other agreements, documents and contracts required to be executed by it in connection with the transactions which are the subject of this Agreement.



(c) On or before the Bond Closing Date, counsel for Borrower and Hilbert shall provide an opinion of counsel reasonably acceptable to the County and their counsel, stating among other things, that (i) the persons executing this Agreement, the other Reimbursement Documents and the agreements entered into hereunder by the Borrower are authorized to do so, that Borrower has duly authorized entry into this Agreement and the other Reimbursement Documents, and that this Agreement and such other Reimbursement Documents are valid and enforceable in accordance with their terms, and (ii) that the persons executing the Hilbert Guaranty are authorized to do so, that Hilbert has duly authorized entry into the Hilbert Guaranty, and that the Hilbert Guaranty is valid and enforceable in accordance with its terms.

(d) At or prior to the Bond Closing Date, Borrower shall have executed and delivered to the County any documents and agreements as are required by this Agreement, including without limitation, any required Mortgage or Security Agreement.

(e) On or before the Bond Closing Date, the County shall have received UCC searches of the records of the Wisconsin Department of Financial Institutions, showing that there are no prior liens (except for Permitted Encumbrances, as defined in the Indenture) on the assets of the Borrower described in paragraph 5(b).

(f) The Borrower shall make the representations and warranties contained in this Agreement.

(g) The Borrower shall ensure that no Default or Event of Default shall exist under this Agreement or any other Reimbursement Document.

(h) Any other deliverables as set forth in the Guaranty shall have been met or delivered by the Borrower.

All submissions given to County to satisfy the deliverables contained in this paragraph 8 must be satisfactory in form and content to the County.

**9. Condition Precedent to Disbursements.** The following conditions must be met prior to each disbursement of proceeds of the Bonds:

(a) Borrower shall provide to the Participating Counties, all of the information and documentation required by Section 4.04 of the Loan Agreement to be provided to the Trustee (as that term is defined in the Loan Agreement). Each Participating County shall have approved all of such information and documentation. The Borrower agrees that any Participating County may condition any disbursement of proceeds of the Bonds upon its receipt of such additional information and documentation as it may reasonably require to evidence the truth and accuracy of the statements and representations contained in the documentation and information provided pursuant to Section 4.04 of the Loan Agreement. Borrower also agrees that no Participating County is required to approve a disbursement unless all of the conditions of this paragraph 9 have been met to the satisfaction of such Participating County.

(b) Borrower shall provide evidence acceptable to the Participating Counties that the amounts in the 2024 Project Fund (as that term is defined in the Loan Agreement) are sufficient to complete the Project in accordance with the approved plans and specifications for the Project or, if such funds are not sufficient, the Borrower shall deposit a shortfall with the Trustee.

(c) The representations and warranties of Borrower contained in this Agreement or in any other Reimbursement Document shall be true and accurate in all material respects on and as of the date

of any such disbursement, except where such representations and warranties expressly relate to an earlier date, in which case such representations and warranties shall have been true and correct in all material respects as of such earlier date.

(d) (i) No Default or Event of Default shall exist under this Agreement or any Reimbursement Document and (ii) there shall not exist a Default or any Event of Default under any Bond Document.

(e) There shall be no unrepaired damage to or destruction of any part of the Project Property or the Project.

(f) The County shall have received with respect to each Project Property that is leased or owned in fee by the Borrower:

(i) Evidence of title in the form of a mortgagee's policy of title insurance in the amount of the Mortgage on such Project Property, on a current ALTA form issued by an issuer licensed to write title insurance in the State of Wisconsin, including a gap endorsement and any other endorsements requested by the County, insuring the County's Mortgage as a first lien (except as may be Subordinated to the State) on the Project Property, free and clear of all liens and encumbrances other than those liens and encumbrances acceptable to the County and Permitted Encumbrances as defined in the Indenture.

(ii) An ALTA survey with Table A items requested by the County, in a form sufficient to cause the title company issuing the mortgagee's loan policy of title insurance to delete the survey exception therefrom and otherwise in a form acceptable to the County.

(iii) Evidence of compliance with environmental laws, including a Phase I environmental assessment on the Project Property and further environmental testing if deemed necessary by the County based on the results of the Phase I assessment.

(iv) A disclaimer from any lessor of any Project Land satisfactory in form to the County, under the terms of which each lessor agrees that it has no interest in any improvements or other property comprising the Project Property and that upon the occurrence of an Event of Default, County shall be permitted, at its option, to remove any improvements located on the Project Land from the Project Land, and to enforce any mortgage or security interest the County may have, free and clear of any interest of such lessor in the property which is the subject of the Mortgage and/or security interest.

(g) If any Project Property land is to be leased by Borrower rather than owned by Borrower in fee simple, then the lease of the Project Property land must be approved in advance by County, which approval County can grant or withhold in its sole discretion. Borrower understands that County will not approve any lease of land unless it contains, among other things, (i) a provision allowing the County to terminate the lease or assume the lease, at County's option, upon the occurrence of an Event of Default by Borrower under this Agreement, and (ii) the terms of subparagraph 9(f)(iv) above.

(h) Borrower shall have executed and delivered to the County a Mortgage (with respect to each Project Land) or Security Agreement (with respect to any Project Property) with respect to each Project Property for which disbursement is being requested.

(i) Such other documents, certificates, and agreements as may be reasonably requested by the County.

**10. Indemnification.** To the fullest extent permitted by law, the Borrower agrees to indemnify, defend, and hold harmless the County and its respective officers, governing members, directors, officials, employees, attorneys and agents against any and all claims, losses, damages, actions, liabilities, costs, and expenses of any conceivable nature, kind, or character (including, without limitation, reasonable attorneys' fees, litigation and court costs, amounts paid in settlement and amounts paid to discharge judgments) to which the County may become subject under any statutory law or at common law or otherwise, arising out of or based upon or in any way relating to the County's issuance or approval of the Bonds or Guaranty.

The County shall promptly notify the Borrower in writing of any claim or action brought against the County in respect of which indemnity may be sought against the Borrower, setting forth the particulars of such claim or action, and the Borrower will assume the defense thereof, including the employment of counsel reasonably satisfactory to the County, or such controlling person, as the case may be, and the payment of all expenses.

In its discretion, the County shall have the right to employ separate counsel in any circumstances described in this Section. The fees and expenses of such legal counsel shall be included within the costs indemnified pursuant to this Section, irrespective of whether the Borrower shall have consented to any settlement of any such action.

The obligations of the Borrower under this Section 10 shall survive the termination of this Reimbursement Agreement.

**11. Events of Default; Remedies.**

(a) Events of Default. The occurrence of any of the following shall constitute an Event of Default:

(i) Failure to Pay Obligations. The Borrower fails to pay when due any of the Obligations when the same comes due;

(ii) Breach of Representations and Warranties. Any representation or warranty made under this Agreement or information provided by Borrower or Hilbert in connection with this Agreement is or was false or fraudulent in any material respect;

(iii) Breach of Covenants. The Borrower fails to comply with any term, covenant or agreement contained in paragraphs 5(a) through 5(g) of this Agreement;

(iv) Breach of Other Provisions. The Borrower fails to comply with any other term, covenant or agreement contained herein or in any other Reimbursement Document and such default shall continue for a period of 30 days after written notice to the Borrower from the County;

(v) Default Under Bond Documents. An Event of Default (as defined therein) shall occur under any Bond Document and such default continues beyond any grace period provided therein;

(vi) Bankruptcy Events. Borrower or Hilbert shall: (i) become insolvent or generally not pay, or be unable to pay, or admit in writing its inability to pay, its debts as they mature; or (ii) make a general assignment for the benefit of creditors or to an agent authorized to liquidate any substantial amount of its assets; or (iii) become the subject of an "order for relief" within the meaning of the United States Bankruptcy Code, or file a petition in bankruptcy, for reorganization or to effect a plan or other arrangement with creditors; or (iv) have a petition or application filed against it in bankruptcy or any

similar proceeding, or have such a proceeding commenced against it, and such petition, application or proceeding shall remain undismissed for a period of sixty (60) days or more, or Borrower or Hilbert shall file an answer to such a petition or application, admitting the material allegations thereof; or (v) apply to a court for the appointment of a receiver or custodian for any of its assets or properties, or have a receiver or custodian appointed for any of its assets or properties, with or without consent, and such receiver shall not be discharged within sixty (60) days after his appointment; or (vi) adopt a plan of complete liquidation of its assets; or

(vii) Other Defaults. Borrower or Hilbert defaults under any other indebtedness in excess of \$100,000 to any other person or entity which results in the acceleration of the indebtedness by the holders of such indebtedness prior to its stated final maturity; or

(viii) Dissolution. Borrower or Hilbert shall be dissolved or shall cease to exist.

(b) Remedies. Upon the occurrence of any Event of Default, to the extent known or knowable, at the County's option and in its sole discretion, all Obligations or any part of them shall become due and payable immediately. To the extent an Event of Default hereunder, is also an Event of Default under the Indenture, the County may exercise its right in conjunction with the other Participating Counties to redeem the Bonds to the extent permitted by Section 3.01(b)(2) of the Indenture. The County shall have all of the remedies for default provided for under applicable law, and/or in equity, including without limitation, to foreclose on the Mortgage in accordance with the terms of the Mortgage or the other Security Agreements, and the County may, at its option and in its sole discretion, notify the Trustee that an Event of Default has occurred. Upon the occurrence of any Event of Default, the Borrower shall immediately provide the County with copies of any and all leases, revenue agreements, and revenue sharing agreements relative to all Project Property. The County shall also have the right, at its option and in its sole discretion, to terminate or assume any lease of any Project Property. The County shall also have the right to foreclose its Mortgage or Security Agreement on all of the Project Properties or any one Project Property and/or take possession of all Project Properties or any one Project Property. No remedy herein conferred upon County is intended to be exclusive of any other remedy and each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement and/or available to County under any other Reimbursement Document, and/or now or hereafter existing at law or in equity. No failure or delay on the part of County in exercising any right or remedy shall operate as a waiver thereof nor shall any single or partial exercise of any right preclude other or further exercise thereof or the exercise of any other right or remedy.

**12. Obligations Absolute**. The obligations of the Borrower under this Agreement shall be absolute, unconditional and irrevocable and shall remain in full force and effect until the Guaranty has expired and the Obligations have been paid in full, and such obligations of the Borrower shall not be affected, modified or impaired upon the happening of any event.

**13. Waiver**. The County shall not be deemed to have waived any of its rights hereunder unless the County shall have signed such waiver in writing.

**14. No Necessity to Inquire**. The County is expressly authorized and directed to honor any request for payment which is made under and in compliance with the terms of Guaranty without regard to, and without any duty on the County's part to inquire into, the existence of any disputes or controversies between the Borrower, the Issuer or the Trustee or any other person or the rights, duties or liabilities of any of them.

**15. Binding Effect**. This Agreement inures to the benefit of, and is binding upon, the successors and assigns of the County and the Borrower, provided that none of the rights of the Borrower

hereunder may be assigned without the prior written consent of the County and none of County's rights under Section 11 may be assigned without the prior written consent of the Borrower.

16. **Governing Law.** This Agreement is being delivered in and shall be deemed to be a contract governed by the laws of the State of Wisconsin and shall be interpreted and enforced in accordance with the laws of that state without regard to the principles of conflicts of laws.

17. **Titles.** The titles of sections in this Agreement are for convenience only and do not limit or construe the meaning of any section.

18. **Entire Agreement.** This Agreement, the Bond Documents and the other Reimbursement Documents shall constitute the entire agreement of the parties pertaining to the subject matter hereof and supersede all prior or contemporaneous agreements and understandings of the parties in connection therewith.

19. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed an original, but such counterparts shall together constitute but one and the same agreement.

20. **Costs.** Borrower shall pay all fees, costs and expenses incurred by the County, including attorneys fees, in connection with: (i) the drafting and negotiation of this Agreement and the other Reimbursement Documents, (ii) the enforcement of County's rights under this Agreement or any other Reimbursement Document, including without limitation the enforcement of such rights in any bankruptcy, reorganization or insolvency proceeding involving Borrower or Hilbert, and (iii) the review and approval of each disbursement, review and approval of any lease of land, or any other review or approval that the Borrower is required to obtain from the County. Any and all such fees, costs and expenses incurred by County shall be indebtedness of Borrower and Hilbert to the County hereunder.

21. **County's Right to Cure Default.** In case of failure by Borrower to procure or maintain insurance required to be maintained hereunder, or to pay any fees, assessments, charges or taxes arising with respect to the Project or to comply with the terms and conditions of this Agreement or any other document, contract or agreement affecting the Project Property, including without limitation, the terms and conditions of any Reimbursement Documents, the County shall have the right, but shall not be obligated, to effect such insurance or pay such fees, assessments, charges or taxes or take such action as is necessary to remedy the failure of Borrower to comply with the documents, contracts or agreements, and, in that event, the cost thereof shall be payable by Borrower to the County.

22. **No Personal Liability.** Under no circumstances shall any council person, supervisor, officer, official, director, attorney, employee or agent of the County have any personal liability arising out of this Agreement, or any other Reimbursement Document and no party shall seek or claim any such personal liability.

23. **Waiver.** No waiver, amendment, or variation in the terms of this Agreement shall be valid unless in writing and signed by the County and Borrower, and then only to the extent specifically set forth in writing.

24. **Notice.** All communications or notices required or permitted by this Agreement shall be in writing and shall be deemed to have been given (i) upon delivery to an officer of the person entitled to such notice, if hand delivered, or (ii) two business days following deposit in the United States mail, postage prepaid, or (iii) one business day following deposit with a nationally recognized overnight commercial carrier that will certify as to the date and time of delivery, airbill prepaid, or (iv) upon transmission if by

facsimile, and each such communication or notice shall be addressed as follows, unless and until any of such parties notifies the other in accordance with this paragraph of a change of address:

If to the County:	Marathon County, Wisconsin Marathon County Courthouse 500 Forest Street Wausau, WI 54403-5568 Email: [ ]
If to Borrower:	Bug Tussel 2, LLC c/o Hilbert Communications, LLC 417 Pine Street Green Bay, WI 54301 Attn: Jason Wied, Chief Executive Officer Phone: (920) 662-3063 Email: jason.wied@bugtusselwireless.com

**25. Beneficiaries.** This Agreement is intended solely for the benefit of Borrower and the County, and no third party (other than successors and permitted assigns) shall have any rights or interest in any provision of this Agreement, or as a result of any action or inaction of the County in connection therewith.

**26. Venue.** Venue for any claim or controversy arising, directly or indirectly, from or relating to, this Agreement or the Reimbursement Documents shall be exclusively in the state circuit court located in the County. The parties agree to submit themselves to the jurisdiction of that court for resolution of any such claim or controversy.

**27. Relationship of Parties.** Nothing contained in this Agreement or in any Reimbursement Document or any other documents executed pursuant to this Agreement, shall be deemed or construed as creating a partnership or joint venture between any County and Borrower or between County and any other person, or cause County to be responsible in any way for the debts or obligations of Borrower or any other person. Borrower further represents, warrants and agrees, for itself and its successors and permitted assigns, not to make any assertion inconsistent with their acknowledgment and agreement contained in the preceding sentence in the event of any action, suit or proceeding, at law or in equity, with respect to the transactions which are the subject of this Agreement and this paragraph may be pleaded and construed as a complete bar and estoppel against any assertion by or for Borrower and its successors and permitted assigns, that is inconsistent with its acknowledgment and agreement contained in the preceding sentence.

**28. Compliance with Law.** Nothing contained in this Agreement is intended to or has the effect of releasing Borrower from compliance with all applicable laws, rules, regulations and ordinances in addition to compliance with all terms, conditions and covenants contained in this Agreement

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

**BORROWER:**

BUG TUSSEL 2, LLC

By: \_\_\_\_\_

Name:

Title:

**COUNTY:**

MARATHON COUNTY, WISCONSIN

By: \_\_\_\_\_

Name:

Title: County Board Chairperson

By: \_\_\_\_\_

Name:

Title: County Clerk

**Schedule I**  
**Project Details**

**[Details]**



**EXHIBIT A**

FORM OF SECURITY AGREEMENTS

*[see attached]*

**EXHIBIT B**

FORM OF FACILITIES ACCESS AGREEMENT

*[see attached]*

**FACILITIES ACCESS AGREEMENT**

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By and Between

Bug Tussel 2, LLC  
417 Pine Street  
Green Bay, Wisconsin 54301

and

\_\_\_\_\_ County, Wisconsin

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## FACILITIES ACCESS AGREEMENT

THIS FACILITIES ACCESS AGREEMENT (“**Agreement**”) is entered into this \_\_\_\_ day of \_\_\_\_\_, 2024, by and between BUG TUSSEL 2, LLC, a Wisconsin limited liability company (hereinafter, “**Lessor**”), and \_\_\_\_\_ COUNTY, a municipal government (hereinafter, “**Tenant**”).

### WITNESSETH:

WHEREAS, Taxable Revenue Bonds, Series 2024 (Bug Tussel 2, LLC Project) (Social Bonds) in one or more series (the “**Bonds**”) are to be issued by Fond du Lac County, Wisconsin (the “**Issuer**”) on behalf of the Lessor to finance a project consisting of the acquisition, construction, installation, and equipping of certain telecommunications infrastructure that includes, among other things (i) acquisition of tower sites by purchase or lease of land and equipping such sites with towers and electronics to provide broadband, high speed cellular, emergency communications and point to point (P2P) data communications; (ii) constructing fiberoptic data transmission facilities (cable and electronics) between towers, key community facilities, businesses and residential aggregation points; (iii) where appropriate, connecting individual premises into the broadband network including the cost of consumer premise equipment; (iv) payment of capitalized interest; (v) funding of a debt service reserve fund for the Bonds; (vi) payment of such project costs located in the counties of Fond du Lac, Forest, Iowa, Jefferson, Lafayette, Marathon, Price, Sawyer, Taylor, and Waushara, in an amount not to exceed \$[\_\_\_\_\_]; and (vii) payment of certain costs of issuance related to the issuance of the Bonds, all of which will be for the purpose of providing fiberoptic transmissions, wireless internet and telephone communications services and infrastructure to businesses, governmental units and residents of rural communities where such service is currently unavailable, unreliable, or is prohibitively expensive, pursuant to an Indenture of Trust, dated as of [\_\_\_\_\_], 2024 (the “**Indenture**”), between the Issuer and U.S. Bank Trust Company National Association, as trustee (the “**Trustee**”);

WHEREAS, Tenant, the Issuer, and other Participating Counties (as defined in the Indenture) have entered into or joined, as applicable, that certain Intergovernmental Agreement (the “**Intergovernmental Agreement**”), dated as of [\_\_\_\_\_], 2024;

WHEREAS, the Tenant has agreed to guarantee the payment of its pro rata share of the principal of and interest on the Bonds in an amount necessary to replenish the Series 2024 Debt Service Reserve Account (as defined in the Indenture) pursuant to a Guaranty Agreement, dated as of [\_\_\_\_\_], 2024 (the “**Guaranty**”) by and between the Tenant, the Trustee, and the [\_\_\_\_\_] [Bond Insurer];

WHEREAS, as further consideration for the Guaranty, the Lessor has agreed to provide the Tenant access, at no charge, to use any telecommunications towers (“**Tower**”), related real estate (“**Tower Site**”), and certain strands of a fiber optic cables (“**Fiber**”) constructed in the Tenant with the proceeds of the Bonds (the Tower, the Tower Site and the Fiber being collectively referred to herein as, the “**Assets**”); and

WHEREAS, pursuant to this Agreement and subject to the terms and conditions herein contained, Lessor hereby grants to Tenant the right to access the aforementioned Assets.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained in this Agreement, Lessor and Tenant agree as follows:

**ARTICLE I  
BASIC PROVISIONS**

- 1.1 **Original Term.** Ten (10) years, commencing on the issuance date of the Bonds. After the Original Term, this Agreement can be renewed, at the sole option of Tenant, for two additional ten (10) year periods.
- 1.2 **Use of Assets.** Subject to the terms and conditions hereof, Tenant shall have the right to install equipment upon Towers, in a space on the Tower approved by Lessor, and utilize up to twenty-four (24) strands of dark Fiber for any governmental purpose.
- 1.3 **Tenant's Termination.** Tenant shall have the right to terminate this agreement at any time.

**ARTICLE II  
DEMISE AND ACCESS; MONTHLY RENT**

2.1 **Demise and Access.** Lessor hereby leases to Tenant, and Tenant hereby takes possession of and from Lessor, the Assets described in Section 1.2 above, subject to the provisions of this Agreement. Tenant shall have access to the Assets at all times during the Term subject to Lessor's operational rules. If necessary to access the Assets as herein described, Lessor hereby grants to Tenant a non-exclusive license over, upon, and across property adjoining the Assets owned or under the control of Lessor for the purpose of providing Tenant with twenty-four (24)-hour daily access to the Assets from a public street or thoroughfare (the "**Access License**"); provided that such use shall not unreasonably interfere with the use of such adjoining property by Lessor or others. In addition, Lessor hereby grants to Tenant a non-exclusive license over, upon, and across property adjoining the Assets owned or under the control of Lessor for the purpose of providing utilities to the Assets (the "**Utility License**"); provided that such use does not unreasonably interfere with the use of such adjoining property by Lessor or others. The Access License and the Utility License shall be automatically revoked or terminated upon the expiration or earlier termination of this Agreement.

2.2 **Limitations of Use.**

a. **Purpose of Use.** Tenant may utilize the Assets for any governmental purpose. Tenant shall not, at any time, sell, transfer, or assign its rights under this Agreement to any third party for commercial purpose.

b. **Availability of the Fiber.** In the event Tenant fails to utilize all twenty-four (24) dark Fiber strands within the Original Term, and Lessor has no available strands outside of those leased pursuant to this Agreement, Lessor may utilize up to twelve (12) of the dark Fiber strands not used by and previously reserved to Tenant. Tenant will retain exclusive right to the other twelve (12) dark Fiber strands provided pursuant to this Agreement for any additional term of this Agreement.

2.3 **Monthly Rent.** During the Original Term, and any additional periods pursuant to Section 1.2, Tenant shall not pay any rent or license fee for its use of the Assets.

**ARTICLE III  
INSTALLATION, MAINTENANCE, AND ACCESS**

**3.1 Equipment Specifications.** Tenant agrees that all of its equipment to be installed upon or within the Assets (“**Equipment**”) and all frequencies utilized by Tenant pursuant to this Agreement will be approved by Tenant prior to installation.

**3.2 Installation and Replacement of Equipment.** All installations, maintenance, and replacement of Equipment on the Assets shall be at Tenant’s sole expense and risk. Prior to the initial installation any of its Equipment, or making any subsequent modifications, enhancement, or changes to its Equipment (hereinafter, Tenant’s “**Work**”), Tenant shall:

a. submit to Lessor plans and specifications accurately describing all aspects of the proposed Work to be performed, including, without limitation, weight and wind load requirements and power supply requirements and evidence that Tenant has obtained all approvals, permits, and consents required by, and has otherwise complied with, all legal requirements applicable to the performance of such Work;

b. Tenant shall not, and shall not permit any third party to, commence any of the work until Lessor notifies Tenant of its written approval thereof. Any Work to be performed on the Fiber shall performed by Lessor or a contractor selected by Lessor. Lessor may, upon written notice to Tenant, perform (or cause to be performed) any structural analysis on the Tower that may be required, in Lessor’s reasonable judgment, in order to determine available capacity on the Tower for the installation or modification of Tenant’s Equipment, provided that Tenant will not be prohibited from causing the performance of such analysis for its own account. Prior to performing said structural analysis and upon written notification to Tenant, Tenant shall notify Lessor of its desire not to proceed with the installation and Lessor shall not perform the analysis. Lessor will immediately notify Tenant of the results of said structural analysis and Tenant, in its sole discretion, shall determine whether it desires to proceed with the installation or modification of Tenant’s Equipment on the Tower. Within thirty (30) days following receipt of an invoice from Lessor, Tenant shall promptly reimburse Lessor for the costs and expenses of such analysis up to \$1,000.00 per structural analysis;

c. whether Tenant performs the Work directly or employs one or more third parties to perform the Work, Tenant shall cause all of the Work to be performed in compliance with the plans and specifications approved by Lessor, and with all applicable legal requirements. Tenant shall ensure that the Work does not interfere with communications systems and equipment of other prior Tenants or users of the Assets, including any of Lessor’s equipment thereon;

d. remain exclusively liable for all costs and expenses of all Work, and pay all invoices of labor and materialmen in a timely manner to prevent the imposition of any liens on Lessor’s property or Assets, or Tenant’s Equipment located on Lessor’s property. In engaging any person to perform any portion of the Work, Tenant shall require a written waiver from any contractor, subcontractor, laborer, or materialman of all rights under state material and mechanic lien laws, or other laws, to impose a lien on any of Lessor’s property;

e. at least ten (10) days prior to the date upon which Tenant’s Equipment will become operational, Tenant shall notify Lessor of such intended operations ; and

f. comply with the reasonable directions and requirements which Lessor, in its discretion, may from time to time establish in connection with the Assets and the operations of

Tenant thereon, provided that such directions and requirements do not unreasonably interfere with Tenant's ordinary course of business or operations.

### **3.3 Tenant's Maintenance of Its Equipment.**

a. Maintenance Standards. Tenant shall be solely responsible for the maintenance of and repairs to its Equipment on the Assets and shall bear all maintenance and repair costs and expenses related thereto. Tenant shall maintain its Equipment in accordance with all reasonable engineering standards to assure operations of the Equipment are in compliance with the requirements of the Federal Communications Commission ("FCC") and all other public authorities with jurisdiction over Tenant's operations.

b. Liability for Interruption or Discontinuance of Service. Tenant shall be responsible for any damage to the Assets, to any utility servicing the Assets, or to the equipment of Lessor or any other tenant caused by Tenant during any installation, maintenance, or modification operations conducted by Tenant or by any third party employed by Tenant or otherwise under Tenant's control. In addition, Tenant shall be responsible for any interruption in, or discontinuance of, the business activities of Lessor or any other tenant of the Assets resulting from any such damage caused by Tenant or any third party employed by Tenant or otherwise under Tenant's control during any such installation, modification, or maintenance operations. In the event Tenant or any such third party causes any damage to the Assets, to any utility servicing the Assets, or to the equipment of Lessor or any other tenant, Tenant shall immediately repair all such damages.

### **3.4 Lessor's Maintenance.**

a. Lessor shall maintain the Assets in good order and repair and in full compliance with all applicable legal requirements, including, without limitation, those of the FCC. In the event Tenant receives notice, or otherwise obtains knowledge, that any Asset is not in compliance with any such legal requirement, Tenant shall immediately so notify Lessor by telephone or facsimile and, to the extent necessary, will cooperate in all reasonable respects with Lessor in curing any such non-compliance.

b. Lessor shall be responsible for compliance with all Tower and building marking and lighting requirements which may be required by the rules and regulations of the Federal Aviation Administration ("FAA") or the FCC without regard to any measures which may be taken by any Tenant to monitor the Tower and/or notify the FAA or FCC of light failures. Tenant shall be entitled to install and monitor its own automatic circuit alarm, or otherwise monitor compliance with FAA and FCC regulations, which monitoring shall in no way relieve Lessor of its obligations hereunder.

**3.5 Tenant's Access.** Subject to Lessor's prior written approval, Tenant shall have access to the Assets and the equipment located thereon to effect repairs to Tenant's Equipment. Tenant shall not perform any Work on the Fiber and shall not permit any party to climb the Tower for any purposes without first receiving Lessor's prior written approval for said climb. In the event Lessor changes or replaces the locks or access codes necessary for Tenant to access the Assets, Lessor shall notify Tenant of such change or replacement within 2 business days thereafter.

**3.6 Avoidance of Overexposure.** Tenant acknowledges and agrees that, upon reasonable prior notice (except for emergency situations when no such notice is required), Tenant shall reduce operating power or cease operation of Tenant's Equipment when it is necessary to prevent the overexposure of workers on or at the Tower or Tower Site to RF radiation.

**3.7 Removal of Equipment.** Upon or prior to the expiration or termination of this Agreement, Tenant shall, at Tenant's cost, remove all of its Equipment located on the Assets, and shall restore the Assets to the condition existing on the Commencement Date, reasonable and ordinary wear and tear excepted.

**3.8 "AS IS, WHERE IS".** THE ASSETS WILL BE MADE AVAILABLE IN "AS-IS, WHERE-IS" CONDITION WITH ALL FAULTS AND DEFECTS. LESSOR MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, REGARDING THE ASSETS OR THE ACCESS RIGHTS.

#### **ARTICLE IV INTERFERENCE**

**4.1 Definition.** "Interference" shall mean either a material impairment of access, operation of equipment or the quality of the sound signals or transmission and reception activity of any party using any one of the Tower, or a condition which constitutes interference within the meaning of the provisions of the Recommended Practices of the Electronics Industries Association ("EIA") and the rules and regulations of the FCC then in effect.

**4.2 Tenant's Covenants.** Tenant covenants and agrees that its Equipment and all installation, operation, modification, relocation, and maintenance associated with its Equipment will:

a. not interfere with Lessor's operation of the Assets, or the operations of any other Tenants of the Assets that occupied the Assets on the Lease Commencement Date (a "**Prior Tenant**") as such Prior Tenant's(s') operations existed on the Lease Commencement Date. In the event Lessor determines, based on standard and accepted engineering practices, that Tenant's Equipment is interfering with Lessor's operations or a Prior Tenant's pre-existing operations, Tenant shall, within forty-eight (48) hours of notification, take all steps reasonably necessary to eliminate the Interference, with the exception of ceasing Tenant's operations. If Tenant cannot eliminate or resolve such Interference within the forty-eight (48)-hour period, Lessor shall have the right to require Tenant to turn off its Equipment and only turn on its Equipment during off-peak hours in order to test whether such Interference continues or has been satisfactorily eliminated. In the event that Tenant is unable to resolve or eliminate the Interference within thirty (30) days from the initial notification of such Interference, Tenant shall immediately remove or cease operations of the objectionable Equipment; and Lessor and Tenant shall each have the right to terminate this Agreement upon notice to the other;

b. in no way damage the Assets, or any improvements, accessories, or appurtenances thereon;

c. not interfere with Lessor's Assets maintenance operations; and

d. comply with all applicable rules and regulations of the FCC and state and local laws, regulations, and codes.



**4.3 Quiet Enjoyment.** Lessor shall, and shall further require all tenants of the Assets to comply with the then-current FCC rules and regulations concerning installation, maintenance, and operation of such Tenants' equipment upon or within the Assets. During the Term of this Agreement, Lessor will not grant a lease to any other party if such lease would substantially affect or interfere with Tenant's use of the Assets, or the installation, maintenance, and operation of Tenant's Equipment thereon. In addition, in the event the installation, operation, modification, relocation, and/or maintenance associated with the equipment of Lessor or any other Tenant of the Assets interferes with the operation of Tenant's Equipment, Lessor shall, within forty-eight (48) hours of notification from Tenant, take reasonable steps necessary to eliminate the Interference. If Lessor cannot eliminate such Interference, or otherwise cause the Interference to be eliminated within this forty-eight (48)-hour period, Tenant shall have the right to terminate this Agreement upon notice to Lessor.

## **ARTICLE V TAXES AND UTILITIES**

**5.1 Real Property Taxes.** Lessor shall pay, or cause to be paid, all real property taxes, special assessments, and improvement bonds levied and assessed against the Assets.

**5.2 Personal Property Taxes.** Tenant shall pay, or cause to be paid, all personal property taxes levied or assessed against Tenant's Equipment and any other personal property located upon or within the Assets.

**5.3 Utilities.** Tenant shall pay, or cause to be paid, all charges for electricity and/or any other utility or service used in connection with Tenant's installation, operation, or maintenance of Tenant's Equipment.

## **ARTICLE VI INSURANCE**

**6.1 Lessor's Insurance.** Lessor shall keep and maintain property damage insurance on and for the Assets to cover the same against loss or damage occasioned by fire, vandalism, extended coverage perils, and such other hazards as may be occasioned by Lessor's use and/or ownership of the Assets. Lessor shall also maintain public liability insurance, naming Tenant as an additional insured, against bodily injury or death and for damage to property suffered by others as a result of its ownership and/or operation of the Assets in an amount not less than \$2,000,000.00.

**6.2 Tenant's Insurance.** Tenant shall, during the entire Term hereof, keep in force and effect the following policies of insurance:

a. Commercial general and automobile liability insurance: Commercial general liability insurance with a minimum per-occurrence limit of \$2,000,000.00 for each of the following: bodily injury and property damage, personal injury and advertising injury, and products/completed operations; commercial automobile liability and/or non-owned automobile liability insurance with a combined single limit of no less than \$1,000,000.00, with uninsured or underinsured automobile liability at \$100,000.00 per person and \$300,000.00 per occurrence; and

b. Worker's compensation and employers liability insurance: Worker's compensation insurance covering Tenant and its employees in at least the minimum amounts required from time to time by applicable statutes and regulations; and employer's liability insurance with the following minimum limits: (1) bodily injury by accident, \$500,000.00 per

occurrence; (2) bodily injury by disease, \$500,000.00 per employee; and (3) bodily injury policy limit, \$500,000.00.

c. Personal property insurance: Personal property insurance covering Tenant's Equipment installed, maintained, and/or operated upon or within the Assets, insuring the same at one hundred percent (100%) of its full insurable value against fire, vandalism, malicious mischief, and such other perils as are from time to time included in a standard extended coverage endorsement.

d. if Tenant employs one or more third parties to perform the Work, Tenant shall ensure that each such third party is properly qualified, certified, and/or licensed (if applicable) and maintains the following policies of insurance at all times during the performance of the Work:

(i) Commercial general and automobile liability insurance: Commercial general liability insurance with a minimum per-occurrence limit of \$2,000,000.00 for each of the following: bodily injury and property damage, personal injury and advertising injury, and products/completed operations; commercial automobile liability and/or non-owned automobile liability insurance with a combined single limit of no less than \$1,000,000.00; and

(ii) Worker's compensation and employers liability insurance: Worker's compensation insurance covering the third-party construction firm and its employees in at least the minimum amounts required from time to time by applicable statutes and regulations; and employer's liability insurance with the following minimum limits: (1) bodily injury by accident, \$500,000.00 per occurrence; (2) bodily injury by disease, \$500,000.00 per employee; and (3) bodily injury policy limit, \$500,000.00.

Tenant shall cause each third-party performing Work to supply Lessor with certificates of insurance reflecting all coverages required by this Section 6.2(e); and each such policy of insurance shall name Lessor as an additional insured. Tenant shall be solely responsible and liable to Lessor for Tenant's failure to obtain or deliver to Lessor the required insurance certificates from Tenant's approved contractor or subcontractors;

**6.3 Evidence of Insurance.** Tenant shall, prior to the Lease Commencement Date and thereafter on an annual basis or as Lessor may otherwise request, cause to be issued to Lessor by the insurer or insurers providing the insurance specified in this Article VI certificates of insurance reflecting all such coverages. Each policy of insurance required of Tenant by this Article VI shall name Lessor as an "additional insured."

## **ARTICLE VII INDEMNIFICATION**

**7.1 By Tenant.** Tenant shall indemnify, defend, and hold harmless Lessor, its affiliates and their respective directors, officers, shareholders, successors, and assigns, from any and all costs, demands, damages, suits, expenses, or causes of action (including reasonable attorneys' fees and court costs) arising from:

a. any demand, claim, suit, action, proceeding, or investigation (hereinafter, a "**Claim**") to the extent such Claim is attributable to the joint, concurrent or sole negligence, or

willful misconduct or strict liability of Tenant, or its agents, employees, representatives, contractors, or other persons acting or engaged by, through, or under Tenant; and

- b. any material breach by Tenant of any provision of this Agreement.

**7.2 By Lessor.** Lessor shall indemnify, defend, and hold harmless Tenant, its affiliates and their respective directors, officers, shareholders, successors, and assigns, from any and all costs, demands, damages, suits, expenses, or causes of action (including reasonable attorneys' fees and court costs) which arise from:

- a. any Claim to the extent such Claim is attributable to the joint, concurrent, or sole negligence, or willful misconduct or strict liability of Lessor, or its agents, employees, representatives, contractors, or other persons acting or engaged by, through, or under Lessor; and
- b. any material breach by Lessor of any provision of this Agreement.

**7.3 Limits on Indemnification.** Neither party shall be responsible or liable to any person entitled to indemnification under Section 8.1 or Section 8.2, above, for any cost, demand, damage, suit, expense, or cause of action arising from any Claim to the extent attributable to any acts or omissions of the party seeking indemnification or any third party not within Lessor's or Tenant's control.

**7.4 Waiver of Certain Damages.** The parties hereto, on their own behalf and on behalf of their affiliates and their respective directors, officers, shareholders, successors, and assigns, hereby waive the right to recover consequential (including lost profits), punitive, exemplary, and similar damages.

**7.5 Survival.** The provisions of this Article VII shall survive the termination or earlier expiration of this Agreement with respect to any events occurring on or before such termination or expiration, whether or not Claims relating thereto are asserted before or after such termination or expiration.

## ARTICLE VIII DAMAGE, DESTRUCTION, OR CONDEMNATION

**8.1 Lessor May Repair or Restore Upon Insured Loss.** If any Assets are damaged or destroyed by fire, vandalism, or other casualty, this Agreement shall continue in full force and effect if Lessor repairs or restores the effected Assets within ninety (90) days of such fire or other casualty to the condition which Lessor furnished the same to Tenant on the Lease Commencement Date. In the event Lessor elects to not make such repairs, Lessor shall deliver written notice to Tenant of Lessor's election to not repair the effected Assets; and Tenant shall have the right to terminate this Agreement effective as of the date of the damage.

**8.2 Condemnation.** If the Assets, or a substantial portion thereof so as to render them unusable for their intended purpose(s), shall be taken under the power of eminent domain, or sold under the threat of the exercise of such power, this Agreement shall, at the option of either Lessor or Tenant, be terminated upon thirty (30) days prior written notice.

## ARTICLE IX DEFAULT

**9.1 Events of Tenant Default.** The following shall be considered events of default under this

Agreement (each, a “**Tenant Default**”:

a. Except as provided in Sections 9.1 (b), (c), (d) and (e), Tenant fails to perform any of the covenants or conditions herein contained on the part of Tenant, and such failure continues for thirty (30) days after written notice thereof is given to Tenant (except that such thirty (30)-day period shall be automatically extended for an additional period of time reasonably necessary to cure such failure if such failure cannot be cured within such thirty (30)-day period, and provided Tenant commences the process of curing such failure within said thirty (30)-day period and continuously and diligently pursues such cure to completion);

b. a receiver is appointed to take possession of all, or substantially all, of Tenant’s assets, or Tenant makes an assignment for the benefit of creditors, or takes any action or suffers any action under any insolvency, bankruptcy, or reorganization act, or is otherwise insolvent;

c. Tenant’s failure to maintain and keep in force the insurance required under Section 6.2;

d. Tenant’s failure to cure interference issues within the time periods set forth in Article IV; and

e. Tenant’s non-payment of any monies due under this Agreement if such monetary amounts remain unpaid for more than ten (10) days after receipt of written notice from the Lessor of such failure to pay.

**9.2 Remedies Upon Events of Tenant Default.** Upon the occurrence of any Tenant Default, Lessor shall be entitled to recover from Tenant all damages sustained by Lessor on account of the event of Tenant Default. In addition, Lessor may, upon the occurrence of an event of Tenant Default:

a. elect to terminate this Agreement; or

b. elect to treat this Agreement in full force and effect and remain entitled to collect charges payable by Tenant pursuant to this Agreement as such charges become due hereunder.

## **ARTICLE X MEMORANDUM AND SUBORDINATION AGREEMENT**

**10.1 Memorandum of Lease.** Tenant shall not file or record this Agreement without Lessor’s prior written consent. Notwithstanding the foregoing, Lessor agrees to execute a Memorandum of Lease in a form acceptable to Lessor at Tenant’s request and expense. Tenant agrees to provide Lessor with a certified copy of any such Memorandum within five (5) business days following any recordation of such Memorandum.

**10.2 Subordination Agreement.** This Agreement and Tenant’s rights hereunder are and shall be subject and subordinate to the lien, operation, and effect of any mortgages or other security instruments constituting a lien upon the Assets, and to any and all advances to be made thereunder, and to the interest thereon, and all renewals, replacements, and extensions thereof, whether the same shall be in existence as of the Lease Commencement Date, or created thereafter. Tenant’s acknowledgment and agreement of subordination as provided for herein shall be self operative, and no further instrument of subordination shall be required; provided, however, Tenant agrees on request to execute and deliver such further instruments evidencing or confirming such subordination as may be requested from time to time by



**11.6 Master ROW, Access or Ground Lease(s).** In the event this Agreement is subject or subordinate to one or more master ROW agreements, fiber access agreements, ground leases or similar agreements, Tenant agrees to comply with the terms thereof to the extent applicable (directly or indirectly) to Tenant's use or occupation of the Tower or Tower Site; and Tenant shall not cause, or permit to occur, a default or breach of any such master or ground lease. This Agreement shall immediately terminate upon the termination or expiration of any such master ROW agreement, fiber access agreement, ground lease or similar agreement. Upon such termination of this Agreement, no further rights or obligations shall accrue on the part of Lessor or Tenant as a result of the termination of this Agreement (other than Tenant's obligation for rent and other charges due and owing through the date of termination). Lessor shall, upon Tenant's request, provide to Tenant copies of any such master ROW agreements, fiber access agreements, ground leases or similar agreements with confidential and financial information redacted.

**11.7 Force Majeure.** Neither party hereto shall be liable for any losses or damages caused by acts of God, including, but not limited to, wind, lightning, rain, ice, earthquake, floods or rising water, or by aircraft or vehicle damage. In the event that Lessor or Tenant shall be delayed, hindered in, or prevented from the performance of any act required hereunder by reason of acts of God (including, but not limited to, wind, lightning, rain, ice, earthquake, flood or rising water), aircraft or vehicle damage or other casualty, unforeseen soil conditions, acts of third parties who are not employees or agents of Lessor or Tenant, as the case may be, strikes, lockouts, labor troubles, inability to procure materials, failure of power, governmental actions or inactions (including, but not limited to, those related to zoning approvals, permits, or related appeals), laws or regulations, riots, insurrection, war, or other reasons beyond its control, then the performance of such act shall be excused for the period of delay; and the period for performance of any such act shall be extended for a period equivalent to the period of such delay.

**11.8 Entire Agreement/Amendment.** This Agreement contains all covenants and agreements between Lessor and Tenant relating in any manner to the rent, Tenant's use and occupancy of the Assets, and other matters set forth in this Agreement. No prior agreements or understandings pertaining to the matters governed by this Agreement shall be valid, or of any force or effect; and the covenants and agreements of this Agreement shall not be altered, modified, or amended, except in writing signed by Lessor and Tenant.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, this Agreement has been executed by the parties as of the day and year first written above.

LESSOR:      BUG TUSSEL 2, LLC

By: \_\_\_\_\_  
Print Name: Jason G. Wied  
Its:            Chief Executive Officer

Subscribed and sworn before me  
this \_\_\_\_ day of \_\_\_\_\_, 202\_\_.

\_\_\_\_\_  
Notary Public, \_\_\_\_\_ County, \_\_  
My Commission: \_\_\_\_\_

TENANT:      \_\_\_\_\_

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Its: \_\_\_\_\_

Subscribed and sworn before me  
this \_\_\_\_ day of \_\_\_\_\_, 202\_\_.

\_\_\_\_\_  
Notary Public, \_\_\_\_\_, WI  
My Commission: \_\_\_\_\_

**LEASEHOLD MORTGAGE,  
ASSIGNMENT OF LEASES AND  
RENTS,  
SECURITY AGREEMENT, AND  
FIXTURE FINANCING  
STATEMENT**

This instrument was drafted by and should be  
returned to:

Parcel I.D. No: \_\_\_\_\_

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THIS Leasehold Mortgage, Assignment of Leases and Rents, Security Agreement, and Fixture Financing Statement (this “**Mortgage**”), dated as of \_\_\_\_\_, 2024 is entered into by Bug Tussel 2, LLC, a Wisconsin limited liability company (“**Borrower**”) in favor of \_\_\_\_\_ County, Wisconsin (“**Mortgagee**”).

WHEREAS, Fond du Lac County, Wisconsin Taxable Revenue Bonds, Series 2024 (Bug Tussel 2, LLC Project) (Social Bonds) in the aggregate principal amount of \$[\_\_\_\_\_] (the “**Bonds**”) have been issued by Fond du Lac County, Wisconsin (the “**Issuer**”) on behalf of Borrower for the acquisition, construction and installation of certain telecommunications infrastructure that includes, among other things (i) acquisition of tower sites by purchase or lease of land and equipping such sites with towers and electronics to provide broadband, high speed cellular, emergency communications and point to point (P2P) data communications; (ii) constructing fiberoptic data transmission facilities (cable and electronics) between towers, key community facilities, businesses and residential aggregation points; (iii) where appropriate, connecting individual premises into the broadband network including the cost of Consumer Premise Equipment (CPE); (iv) payment of capitalized interest; (v) funding of a debt service reserve fund; (vi) payment of such project costs located in the counties of Fond du Lac, Forest, Iowa, Jefferson, Lafayette, Marathon, Price, Sawyer, Taylor, and Waushara (each a “**Participating County**” and together, the “**Participating Counties**”), in an amount not to exceed \$[\_\_\_\_\_] and (vii) payment of certain costs of issuance related to the issuance of the Bonds, all of which will be for the purpose of providing fiberoptic transmissions, wireless internet and telephone communications services and infrastructure to businesses, governmental units and residents of rural communities where such service is currently unavailable, unreliable, or is prohibitively expensive (collectively, the “**Project**”), pursuant to an Indenture of Trust, dated as of [\_\_\_\_\_] 2024 (the “**Indenture**”), between the Issuer and U.S. Bank Trust Company, National Association, as trustee (the “**Trustee**”);

WHEREAS, the proceeds derived from the issuance of the Bonds will be applied pursuant to a Loan Agreement, dated as of [\_\_\_\_\_] 2024, between the Issuer and Borrower, (collectively, the “**Loan Agreement**”), to finance the costs of the Project which Project is located in each of the Participating Counties;



WHEREAS, the Participating Counties have entered into that certain Intergovernmental Agreement, dated as of [\_\_\_\_\_], 2024 (the “**Intergovernmental Agreement**”);

WHEREAS, Borrower has executed and delivered to the Issuer its Promissory Note, Series 2024 (the “**Note**”) to evidence Borrower’s obligation to repay the loan made under the Loan Agreement;

WHEREAS, in consideration of the anticipated increased tax revenue that would accrue to Mortgagee as a result of the Project and the new jobs and other economic benefits for residents of Mortgagee that would result from the Project, Mortgagee agreed to guarantee the payment of its pro rata share of the principal of and interest on the Bonds in an amount necessary to replenish the Series 2024 Debt Service Reserve Account (as defined in the Indenture), pursuant to that certain Guaranty Agreement, dated as of [\_\_\_\_\_], 2024 (the “**Guaranty**”) by and among the Mortgagee, the Trustee, and [\_\_\_\_\_] [Bond Insurer];

WHEREAS, in return for the Mortgagee’s guaranty, Borrower and Mortgagee entered into that certain Reimbursement Agreement, [\_\_\_\_\_], 2024 (as it may be amended from time to time, the “**Reimbursement Agreement**”), pursuant to which Borrower agreed to, among other things, reimburse Mortgagee for any costs and expenses the Mortgagee incurs related to the issuance of the Bonds; and

WHEREAS, as security for the Borrower’s obligations under the Reimbursement Agreement, the Borrower has agreed to enter into, inter alia, this Mortgage to secure Borrower’s obligations under the Reimbursement Agreement.

NOW, THEREFORE, the parties hereto agree as follows:

1. **Mortgage.** To secure the Obligations (as hereinafter defined), Borrower grants, bargains, conveys, mortgages and sells to Mortgagee a security interest in and to all of Borrower’s rights, title and interest in the Ground Lease (as defined below) and Borrower’s leasehold estate in and to the Land (as defined below), including, but not limited to, Borrower’s right to occupy and use the Improvements (as defined below) on the Land, as security for the Obligations (as defined below) (collectively, the “**Property**”):

(a) all right, title and interest created by Borrower’s leasehold estate, including the right to use or occupy, the tract of land located in \_\_\_\_\_, described in **Exhibit A** hereto (the “**Land**”), including without limitation, any right, title or interest which Borrower may now have or hereafter acquire in the Land;

(b) \_\_\_\_\_, as landlord (the “**Landlord**”), has leased the Real Property to Borrower pursuant to a certain [lease] (“**Ground Lease**”) dated \_\_\_\_\_ that will terminate on \_\_\_\_\_,

(c) all right, title and interest of the Borrower in and to all buildings, structures, and other improvements now or hereafter located, constructed, erected, installed, affixed, placed and/or maintained in or upon the Land (collectively, the “**Improvements**”);

(d) all right, title and interest of the Borrower in and to all rights of way or use, easements, tenements, hereditaments and appurtenances now or hereafter belonging or pertaining to the Land or the Improvements;

(e) all right, title and interest of the Borrower in and to all equipment, machinery, fixtures, apparatus, installations and other items of property, including all components thereof, now or hereafter located in, on or used in connection with, the Improvements or necessary to the operation or maintenance thereof, which are now or hereafter owned by the Borrower, including, without limitation, any cellular towers, telecommunication towers, microwave and/or fiber-optic backhaul facilities, and all equipment associated with any of the foregoing (collectively, the “**Fixtures**”);

(f) all right, title and interest of the Borrower in and to all accounts, accounts receivable, contract rights, chattel paper, instruments, files, records, and accounts payable ledgers, warranties and guaranties related to the renting, letting or operations of the Property;

(g) all right, title and interest of the Borrower in and to all present and future agreements and any and all rents, income, issues, profits, revenues, royalties and benefits (collectively, the “**Rent**”) which are now due or owing or may hereafter become due or owing by reason of the Ground Lease or any agreement relating to the Property or otherwise;

(h) all right, title, estate and interest, including the right of use or occupancy, which the Borrower may now have or hereafter acquire, in, to and under (i) the Land, (ii) the land or real estate of others adjoining or adjacent to the Land, and (iii) the streets or public places, and the land occupied thereby, adjoining or adjacent to the Land;

(i) except as set forth in the Indenture or the Loan Agreement to be applied by the Trustee, or applied by the Borrower for the redemption of the Bonds, all right, title and interest of the Borrower in and to (i) all insurance proceeds related to the Property, and (ii) all awards or damages heretofore or hereafter made to or for the account of the Borrower and related to the Property, including without limitation, awards and damages for the permanent or temporary taking by eminent domain or similar proceedings of, or injury to, all or any part of the Property or any interest therein, including, without limitation, any right of access thereto, as the result of or in lieu of or in anticipation of the exercise of the right of condemnation or a change in grade affecting the Property or any part thereof;

(j) all general intangibles, of every kind and description, including payment intangibles, software, computer information, source codes, object codes, records and data, all existing and future customer lists, choses in action, claims (including claims for indemnification or breach of warranty), books, records, patents and patent applications, copyrights, trademarks, tradenames, tradestyles, trademark applications, goodwill, blueprints, drawings, designs and plans, trade secrets, contracts, licenses, license agreements, franchise agreements, formulae; and

(k) all additions and accessions to, all spare and repair parts, special tools, equipment and replacement for, and all proceeds and products of the foregoing.

Notwithstanding any other provisions herein to the contrary, “Property” hereunder shall exclude any and all of the foregoing required by the Indenture or Loan Agreement to be applied pursuant

thereto or otherwise delivered to the Trustee for payment thereunder, including without limitation, for redemption of the Bonds.

2. **Title**. Borrower warrants that it either (i) owns the Property, and has title to the Property or (ii) has a leasehold interest in the Land and owns the other Property and warrants title to the other Property, in each case, excepting only Permitted Encumbrances (as defined in the Indenture) and the permitted encumbrances described on **Exhibit B** hereto.

3. **Mortgage As Security**. This Mortgage secures prompt payment to Mortgagee of (a) all amounts owing and other obligations of Borrower, under the Reimbursement Agreement and all documents evidencing, securing, guaranteeing or relating to the foregoing, and all modifications and amendments of any of the foregoing (collectively with this Mortgage, the "**Reimbursement Documents**") and all other additional obligations which are or may be in the future be owing to Mortgagee by Borrower, (b) all interest and other charges, (c) reasonable costs and expenses of collection or enforcement, and (d) the performance of all covenants, conditions and agreements contained in the Reimbursement Agreement and the other Reimbursement Documents (all of the obligations in the foregoing sections (a) through (d) are herein called the "**Obligations**").

4. **Mortgage of Leasehold Rights**.

(a) Borrower warrants that, under the Ground Lease, Borrower has a leasehold interest in the Land and is the owner of the Improvements and Fixtures, and other Property, and said leasehold interest and such ownership and Borrower's interest in the Land is not and will not be subject to any mortgage, charge, encumbrance, lien or claim for lien of any kind or nature whatsoever except in favor of Mortgagee and except for the Permitted Exceptions.

(b) Nothing herein shall be construed to obligate the Mortgagee to perform any of the Borrower's obligations under any Ground Lease or any other agreement for the use or occupancy of any part of the Land.

(c) Borrower shall have any Ground Lease for the Land approved in advance by Mortgagee and Borrower shall make no modifications or amendments to such Ground Lease without first obtaining the prior written consent of Mortgagee. Each Ground Lease shall contain a provision permitting Mortgagee to terminate the Ground Lease or assume the Ground Lease upon the occurrence of an Event of Default under the Reimbursement Agreement. Each Ground Lease shall contain a disclaimer from any ground lessor under the terms of which each ground lessor agrees that it has no interest in any Improvements or other property comprising the Property and that upon the occurrence of an Event of Default, Mortgagee shall be permitted, at its option, to remove any Improvements located on the Land from the Land, and to enforce any mortgage or security interest the Mortgagee may have, free and clear of any interest of such ground lessor in the property which is the subject of this Mortgage.

5. **Satisfaction**. Mortgagee will satisfy this Mortgage upon request by Borrower if (a) the Obligations have been paid in full, (b) any commitment to make future advances secured by this Mortgage has been terminated, (c) all other payments required under this Mortgage and the

Obligations and all other terms, conditions, covenants, and agreements contained in this Mortgage and the documents evidencing the Obligations have been paid and performed.

6. **Security Agreement; Fixture Filing.** This Mortgage is intended to be a security agreement pursuant to the Uniform Commercial Code ("UCC") for any of the items specified above as part of the Property which, under applicable law, may be subject to a security interest pursuant to the Uniform Commercial Code, and Borrower hereby grants Mortgagee a security interest in said items. This Mortgage shall also be deemed to be a fixture financing statement. For such purposes the following information is set forth:

(a) Name and address of Debtor:

\_\_\_\_\_

(b) Name and address of Secured Party:

\_\_\_\_\_

(c) Description of the type (or items) of property covered by this Financing Statement:

Any fixtures described or referred to herein and included as the Property.

(d) Description of leasehold estate to which collateral is attached or upon which it is located:

See **Exhibit A.**

(e) The above-described items of collateral are fixtures or shall become fixtures in or on the improvements on the real estate described in Exhibit A, the record owner of which is the Borrower, and this Financing Statement is to be filed for record in the real estate records.

Borrower agrees that Mortgagee may file this Mortgage, or a reproduction thereof, in the real estate records or other appropriate index, as a financing statement for any of the items specified above as part of the Property. Any reproduction of this Mortgage or of any other security agreement or financing statement shall be sufficient as a financing statement.

During the continuance of an Event of Default, if the Mortgagee proceeds to dispose of any portion of the Property in accordance with the provisions of the UCC, ten (10) days' notice by the Mortgagee to the Borrower shall be deemed to be reasonable notice under any provision of the UCC requiring such notice; provided, however, that the Mortgagee may, at its option, dispose of the Property in accordance with the Mortgagee's rights and remedies in respect to the real estate pursuant to the provisions of this Mortgage in lieu of proceeding under the UCC. The Borrower will, from time to time and as often as requested by the Mortgagee, execute and deliver to the Mortgagee such financing statements, renewal affidavits, continuation statements, inventories or other similar documents as the Mortgagee may reasonably request to perfect the security interest created hereby, and Borrower authorizes Mortgagee to make such filings. No failure or omission of the Mortgagee to request any financing statement, renewal affidavit, continuation statement,

inventory, or the like, and no failure or omission of the Borrower to execute or deliver any thereof, will impair the effectiveness of or priority of the security interest created by this Mortgage. The Borrower will pay all costs of filing and/or recording of this Mortgage and any financing statements, continuation or termination statements with respect thereto, and any affidavits or other instruments executed, or to be executed, to perfect, renew, continue or maintain the lien and security interest created hereby. The Borrower hereby appoints the Mortgagee, or any officer of the Mortgagee, as the agent and attorney-in-fact of the Borrower to do, at the Mortgagee's option and the Borrower's expense, all acts and things reasonably necessary to perfect, and continue perfected, the lien and security interest created hereby. In the event of foreclosure sale of personal property in which the Mortgagee holds a security interest granted herein, whether such sale be held by the Mortgagee or otherwise, such sale may be of the whole of such property or any portion thereof and may be held together with or separately from any foreclosure sale of the real property securing said indebtedness. Such personal property need not be present at the place of sale.

7. **Taxes.** Borrower shall insure that all taxes, assessments and other charges which may be levied or assessed against the Property are paid before they become delinquent and deliver to Mortgagee receipts showing timely payment upon request.

8. **Insurance.** While any Obligations are outstanding, Borrower shall obtain and maintain insurance as described in the Reimbursement Agreement and as otherwise reasonably requested by Mortgagee. Borrower shall pay all insurance premiums when due. Borrower shall promptly give notice of any loss in excess of \$100,000 to insurance companies and Mortgagee. The insurance proceeds shall be applied pursuant to the Loan Agreement.

9. **Borrower's Covenants.** Borrower covenants:

(a) **Condition and Repair.** To keep the Property in good and tenantable condition and repair, normal wear and tear excepted, and to restore or replace damaged or destroyed improvements and fixtures.

(b) **Liens.** To keep the Property free from liens and encumbrances not described in Section 2 hereof.

(c) **Other Mortgages.** To perform all of Borrower's obligations and duties under any mortgage or security agreement on the Property and any obligation to pay secured by such a mortgage or security agreement; provided, however, Borrower shall not grant any other mortgage on or security in all or any portion of the Property without first obtaining the prior written consent of Mortgagee, which consent Mortgagee may grant or withhold in its sole discretion.

(d) **Waste.** Not to commit waste or permit waste to be committed upon the Property.

(e) **Conveyance.** Not to sell, assign, lease, sublease, mortgage, convey or otherwise transfer any legal or equitable interest in all or part of the Property, or permit the same to occur without the prior written consent of Mortgagee, which consent Mortgagee may grant or withhold in its sole discretion. Without notice to Borrower, Mortgagee may deal with any transferee as to such transferee's interest in the same manner as with Borrower, without in any way discharging the liability of Borrower under this Mortgage or the Obligations.

(f) **Alteration or Removal.** Not to remove, demolish or materially alter any Improvement or Fixture unless the Improvement or Fixture is promptly replaced with another Improvement or Fixture of at least equal utility and substantially equivalent value.

(g) **Condemnation.** Any condemnation award or other compensation or proceeds received for the taking of the Property, or any part (including payments in compromise of condemnation proceedings), and all compensation received as damages for injury to the Property, or any part, shall be applied pursuant to the Loan Agreement.

(h) **Ordinances; Inspection.** To comply with all laws, ordinances and regulations affecting the Property.

(i) **Access.** To permit Mortgagee and its authorized representatives to enter the Property at reasonable times upon reasonable notice to inspect it and, at Mortgagee's option, repair or restore it.

(j) **Zoning.** To not acquiesce in any proposed changes to the current zoning of the Property.

(k) **Ground Lease.** (i) to give prompt notice to Mortgagee of any notice received from the landlord with respect to the Ground Lease, together with an accurate complete copy of any such notice and, (ii) that Borrower shall not amend or modify the Ground Lease, nor waive any rights thereunder, without the prior written consent of Mortgagee.

10. **Authority of Mortgagee to Perform for Borrower.** If Borrower fails to perform any of Borrower's duties set forth in this Mortgage and such failure continues for 15 days after written notice thereof from Mortgagee to Borrower, or such shorter period as may be elected by Mortgagee in case of an emergency, Mortgagee may but shall not be obligated to perform the duties or cause them to be performed, including without limitation signing Borrower's name or paying any amount so required, and the cost shall be due on demand and secured by this Mortgage, bearing interest at the highest rate stated in any document evidencing an obligation, but not in excess of the maximum rate permitted by law, from the date of expenditure by Mortgagee to the date of payment by Borrower.

11. **Default; Acceleration; Remedies.** If (a) there is a default that is continuing beyond any applicable cure period under any Obligation secured by this Mortgage, including but not limited to the Reimbursement Agreement, or (b) an Event of Default has occurred under the Reimbursement Agreement or any other Reimbursement Document or the Ground Lease, if applicable (in any such event, an "**Event of Default**"), then, at the option of Mortgagee each Obligation or any part thereof, to the extent known or knowable, will become immediately due and payable. Mortgagee shall have the right, at its option and in its sole discretion, to accelerate all amounts which may become due at any time in the future under the Obligations to the extent known or knowable. All amounts due and payable to Mortgagee pursuant to this paragraph 11 shall be collectible in a suit at law or in equity or by foreclosure of this Mortgage by action, or both, or by the exercise of any other remedy available at law or equity or under the Reimbursement Agreement or any other Reimbursement Document.

12. **Waiver.** Mortgagee may waive any default without waiving any other subsequent or prior default by Borrower.

13. **Power of Sale.** In the event of foreclosure to the extent permitted by applicable law, Mortgagee may sell the Property at public sale and execute and deliver to the purchaser deeds of conveyance pursuant to statute.

14. **Assignment of Leases and Rents.**

(a) Borrower assigns and transfers to Mortgagee, as additional security for the Obligations, all Rents and leases and rights of occupancy of the Property. Upon the occurrence and continuance of an Event of Default under this Mortgage or any Obligation, Mortgagee shall be entitled to the Rents and may notify any or all persons owing Rents to Borrower (collectively, “**Lessees**”) (with a copy to Borrower) to pay all such Rents directly to Mortgagee. All such payments shall be applied in such manner as Mortgagee determines to payments required under this Mortgage and the Obligations and otherwise, such amounts shall be deposited into an escrow account in the name of and under the control of Mortgagee for the purpose of reimbursement to Mortgagee of any future Obligations. This assignment shall be enforceable and Mortgagee shall be entitled to take any such action to enforce the assignment (including notice to tenants to pay directly to Mortgagee or the commencement of a foreclosure action) without seeking or obtaining the appointment of a receiver or possession of the Property.

(b) Borrower consents to and irrevocably authorizes and directs Lessees, and any successors to the interests of said Lessees, upon notice from Mortgagee to pay to Mortgagee the Rents due or to become due. The Lessees shall have the right to rely upon such notice from Mortgagee and shall pay the Rents to Mortgagee without any obligation or right to determine the actual existence of the right of Mortgagee to receive the Rents, notwithstanding any notice from or claim of Borrower to the contrary. Borrower shall have no right or claim against said Lessees for any Rents so paid by said Lessees to Mortgagee.

(c) Borrower also hereby authorizes Mortgagee, at Mortgagee’s sole option after default and during the continuance thereof hereunder, and notice to Borrower, to take over and assume the management, operation and maintenance of the Property and to perform all acts necessary and proper and to expend such sums out of the income of the Property as may be needful in connection therewith, in the same manner and to the same extent as the Borrower theretofore might have done, including the right to take the following actions with respect to agreements relating to the Property, including the Ground Lease, if applicable (collectively, the “**Property Agreements**”): (1) effect new Property Agreements; (2) cancel, terminate or surrender existing Property Agreements; (3) alter or amend the terms of existing Property Agreements; (4) renew existing Property Agreements; or (5) make concessions to Lessors and/or Lessees, including without limitation, the lessor under any Ground Lease. Borrower hereby releases all claims against Mortgagee arising out of such management, operation and maintenance, excepting the liability of Mortgagee to account as hereinafter set forth.

(d) After (i) payment of all proper charges and expenses to be determined by Mortgagee in its sole discretion, including reasonable compensation to such managing agent as Mortgagee shall select and employ, and including, at Mortgagee’s sole option, payment of any

prior mortgage or other lien on the Property, and (ii) the accumulation of a reserve to meet taxes, assessments, sewer and water and fire and liability insurance, Mortgagee shall credit the net amount of income received by it from the Property by virtue of this assignment to any amounts due and owing to it by the Borrower on any of the Obligations, but the manner of the application of such net income and what items shall be credited shall be determined in the sole discretion of Mortgagee; provided, however, if the Mortgagee is not then owed any amount on the Obligations, then Mortgagee shall have the right to deposit such funds into an escrow account under the control of and for the benefit of Mortgagee, to be used by Mortgagee for payment of any Obligations which become due and payable thereafter. Mortgagee shall not be accountable for more moneys than it actually receives from the Property; nor shall it be liable for failure to collect Rents.

(e) Borrower covenants and warrants to Mortgagee that neither it nor any previous owner of an interest in the Property has executed any prior assignment or pledge of the Rents or any of the leases which has not been released. Borrower also hereby covenants and agrees not to collect the Rents more than 30 days in advance and further agrees not to do any other act which would destroy or impair the benefits to Mortgagee of this assignment.

(f) Borrower agrees that an entry upon the Property by Mortgagee or its agents under the terms of this instrument shall not constitute Mortgagee as “mortgagee in possession.”

(g) Mortgagee shall not be obligated to discharge or perform the duties of Borrower under any Property Agreement and there shall not be imposed on Mortgagee, any liability as a result of the exercise of the option to collect Rents under this assignment, and it is agreed that the collection or participation therein shall be as agent only for the Borrower. Mortgagee assumes no obligations of the Borrower under the Property Agreements.

(h) Borrower hereby agrees to indemnify Mortgagee against and hold it harmless from any and all liability, loss or damage which it may or might incur under a Property Agreement or under or by reason of this assignment and of and from any and all claims and demands whatsoever which may be asserted against it by reason of any alleged obligation or undertaking on its part to perform or discharge any of the terms of the Property Agreements. Should Mortgagee incur any such liability, loss or damage under the Property Agreements or under or by reason of this Mortgage, or in defense against any such claims or demands, the amount thereof, including reasonable costs, expenses and reasonable attorneys’ fees shall be secured by this Mortgage, and Borrower shall reimburse Mortgagee therefor immediately upon demand.

15. **Receiver.** Upon the commencement or during the pendency of an action to foreclose this Mortgage, or to enforce any other remedies of Mortgagee under it, without regard to the adequacy or inadequacy of the Property as security for the Obligations, Borrower agrees that the court may appoint a receiver of the Property (including homestead interest) without bond, and may empower the receiver to take possession of the Property and collect the rents, issues and profits of the Property and exercise such other powers as the court may grant until the confirmation of sale, and may order the rents, issues and profits, when so collected, to be held and applied as the court may direct.

16. **Foreclosure Without Deficiency Judgment.** Borrower agrees to the provisions of §§ 846.101 and 846.103, Wis. Stats., and as the same may be amended or renumbered from



time to time, permitting Mortgagee, upon waiving the right to judgment for deficiency, to hold the foreclosure sale of residential real estate six months after a foreclosure judgment is entered, and to hold the foreclosure sale of commercial real estate three months after a foreclosure judgment is entered.

17. **Expenses.** To the extent not prohibited by law, Borrower shall pay all reasonable costs and expenses before and after judgment, including without limitation, attorneys' fees and expenses of obtaining title evidence, incurred by Mortgagee in protecting or enforcing its rights under this Mortgage.

18. **Severability.** Invalidity or unenforceability of any provision of this Mortgage shall not affect the validity or enforceability of any other provision.

19. **Successors and Assigns.** The obligations of all Borrowers are joint and several. This Mortgage benefits Mortgagee, its successors and assigns, and binds Borrower and its successors and assigns.

20. **Notice.** Wherever notices are required hereunder, the same shall be in writing and shall be delivered in accordance with paragraph 24 of the Reimbursement Agreement.

21. **Frequencies.** The Borrower agrees to use reasonable efforts to obtain the consent of the Federal Communications Commission to transfer any frequencies associated with the Facilities to the Mortgagee, in the event that the Mortgagee realizes on the collateral secured by this Mortgage.

22. **Entire Agreement.** This Mortgage is intended by the Borrower and Mortgagee as a final expression of this Mortgage and as a complete and exclusive statement of its terms, there being no conditions to the full effectiveness of this Mortgage.

[SIGNATURE PAGE FOLLOWS]



**Exhibit A**

**Legal Description**

**Exhibit B**

**Permitted Exceptions**

## CONTINUING DISCLOSURE AGREEMENT

This Continuing Disclosure Agreement, dated as of [September] 1, 2024 (the “Undertaking”), between Marathon County, Wisconsin (the “County”) and U.S. Bank Trust Company, National Association as dissemination agent (the “Dissemination Agent”), is being delivered in connection with the issuance and sale by Fond du Lac County, Wisconsin (the “Issuer”) of its \$[PAR AMOUNT] Fond du Lac County, Wisconsin Taxable Revenue Bonds, Series 2024 (Bug Tussel 2, LLC Project) (Social Bonds) (the “Bonds”) pursuant to the terms of that certain Indenture of Trust dated as of [September] 1, 2024 (the “Indenture”), between the Issuer and U.S. Bank Trust Company, National Association, as trustee (the “Trustee”).

SECTION 1. Purpose of the Undertaking. This Undertaking is being executed and delivered by the County and the Dissemination Agent for the benefit of the Beneficial Owners (defined below) and in order to assist the Participating Underwriter (defined below) in complying with the Rule (defined below). The County acknowledges that the Issuer and the Dissemination Agent have undertaken no responsibility with respect to any reports, notices or disclosures provided or required under this Undertaking, and the Issuer and the Dissemination Agent have no liability to any person, including any Beneficial Owner, with respect to any such reports, notices or disclosures.

### SECTION 2. Definitions.

(a) In addition to the definitions set forth in the Indenture and the Loan Agreement (defined below), which apply to any capitalized term used in this Undertaking unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

“**Annual Report**” shall mean the filings described in Section 3(b) hereof.

“**Beneficial Owner**” shall mean, while the Bonds are held in a book-entry only system, the actual purchaser of each Bond, the ownership interest of which is to be recorded on the records of the direct and indirect participants of The Depository Trust Company, and otherwise shall mean the Bondowner.

“**Commission**” shall mean the United States Securities and Exchange Commission or any successor body thereto.

“**County Guaranty**” shall mean the County’s guaranty to replenish the Series 2024 Debt Service Reserve Account related to the Bonds in an amount equal to the County’s pro rata share of allocated principal of and interest on the Bonds.

“**EMMA**” shall mean the Electronic Municipal Market Access facility for municipal securities disclosure of the MSRB.

“**Exchange Act**” shall mean the Securities Exchange Act of 1934, as amended.

“**Limited Offering Memorandum**” shall mean the Limited Offering Memorandum dated [\_\_\_\_], 2024 used in connection with the sale of the Bonds.

“**Listed Events**” shall mean any of the events listed in Section 4(a) of this Undertaking.

“**Loan Agreement**” shall mean the Loan Agreement dated as of [September] 1, 2024, between the Issuer and Bug Tussel 2, LLC.

“**MSRB**” means the Municipal Securities Rulemaking Board established pursuant to the provisions of Section 15B(b)(1) of the Exchange Act, as amended, or any successor thereto or to the functions of the MSRB contemplated by this Undertaking.

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

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

(b) In addition, the terms “financial obligation,” “material” and “event of default” shall have the meanings assigned to such terms in the Rule and Securities and Exchange Commission Release No. 34-83885.

### SECTION 3. Provision of Annual Reports

(a) The County shall, or shall cause the Dissemination Agent to, provide to EMMA not later than [three hundred sixty five (365)][two hundred seventy (270)] days after the close of its Fiscal Year, beginning with the Fiscal Year ending December 31, [2023][2024], an Annual Report.

(b) The Annual Report shall consist of the County’s annual audited financial statements.

(c) Not later than five (5) Business Days prior to the dates specified in subsection (a) above for providing the Annual Report, the County shall provide the Annual Report, as applicable, in PDF format, word-searchable, to the Dissemination Agent, together with a certificate of compliance substantially in the form of Exhibit B hereto and with instructions to file such report as specified in subsection (a) above or provide a written certification to the Dissemination Agent that the County has provided the Annual Report to EMMA.

(d) If the Dissemination Agent has not received the Annual Report and instructions or the written certification of the County as provided in subsection (c) above by the date specified in subsection (a) above, the Dissemination Agent shall send to EMMA timely notice of such in substantially the form of Exhibit A hereto.

(e) The Dissemination Agent shall have no obligation to disclose information except as expressly provided herein.

(f) If on the seventh day prior to each filing date of any Annual Report the Dissemination Agent has not received a copy of such report, the Dissemination Agent shall contact the County by telephone and in writing (which may be by e-mail) to remind the County of its undertaking to provide such report pursuant to Section 3(b) (above). Upon such reminder, the County shall either (i) provide the Dissemination Agent with an electronic copy of the report in accordance with Section 3(b) (above), or (ii) instruct the Dissemination Agent in writing that the County will not be able to file such report within the time required under this Undertaking, state the date by which the report will be provided and instruct the Dissemination Agent to immediately send a notice to EMMA in substantially the form attached as Exhibit A hereto.

SECTION 4. Reporting of Listed Events and Certain Other Events.

(a) The County shall provide, in a timely manner not in excess of ten (10) Business Days, to the Dissemination Agent, who will then provide the same to the MSRB, notice of the occurrence of any of the following events with respect to the Bonds:

- (i) principal and interest payment delinquencies;
- (ii) non-payment related defaults, if material;
- (iii) unscheduled draws on debt service reserves reflecting financial difficulties;
- (iv) unscheduled draws on credit enhancements reflecting financial difficulties;
- (v) substitution of credit or liquidity providers, or their failure to perform;
- (vi) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
- (vii) modifications to rights of security holders, if material;
- (viii) bond calls, if material, and tender offers;
- (ix) defeasances;
- (x) release, substitution, or sale of property securing repayment of the Bonds, if material;
- (xi) rating changes;
- (xii) bankruptcy, insolvency, receivership or similar event of a County;<sup>1</sup>
- (xiii) the consummation of a merger, consolidation, or acquisition involving the County or the sale of all or substantially all of the assets of the County, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
- (xiv) appointment of a successor or additional trustee or the change of name of the trustee, if material;

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<sup>1</sup> For the purpose of the event specified in (xii), the event is considered to occur when any of the following occur: The appointment of a receiver, fiscal agent or similar officer for the County in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the County, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the County.

(xv) the incurrence of a “financial obligation” of the County, if material, or agreement to covenants, events of default, remedies, priority rights or other similar terms of a financial obligation, any of which affect security holders, if material; and

(xvi) a default, event of acceleration, termination event, modification of terms or other similar events under a financial obligation of the County, if any such event reflects financial difficulties.

(b) The Dissemination Agent shall provide the County with any notice it receives from the Borrower pursuant to Section 4(a) or Section 4(b) of the Borrower’s continuing disclosure agreement; provided, however, that the Dissemination Agent shall not be required to provide such notice to the County if the Borrower has certified to the Dissemination Agent that such notice has been provided by the Borrower.

SECTION 5. Format of Filing. Unless otherwise required by the MSRB, or otherwise provided herein, all notices, documents and information provided to the MSRB pursuant to this Undertaking shall be provided to the MSRB’s EMMA system, the current Internet Web address of which is www.emma.msrb.org. All notices, documents and information provided to the MSRB shall be provided in an electronic format as prescribed by the MSRB (currently, portable document format (pdf) which must be word-searchable except for non-textual elements) and shall be accompanied by identifying information as prescribed by the MSRB.

SECTION 6. Termination of Reporting Obligation. The County’s obligations under this Undertaking shall terminate upon the termination of the County Guaranty. If the County’s obligations under this Undertaking are assumed in full by some other entity, such person shall be responsible for compliance with this Undertaking in the same manner as if it were the County and the County shall have no further responsibility hereunder. The County shall provide timely notice to the Dissemination Agent, who will then provide the same to the MSRB, of the termination of the County’s obligations under this Undertaking pursuant to an assumption of its obligations hereunder.

SECTION 7. Amendment; Waiver. Notwithstanding any other provision of this Undertaking, the County and the Dissemination Agent may amend this Undertaking (and the Dissemination Agent shall agree to any amendment so reasonably requested by the County) in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature or status of the obligor with respect to the Bonds or the type of business conducted by said obligor, provided that (x) this Undertaking, as amended or following such waiver, would have complied with the requirements of the Rule on the date of issuance of the Bonds, after taking into account any amendments to the Rule as well as any change in circumstances, and (y) the amendment or waiver does not materially impair the interests of the Beneficial Owners, in the opinion of counsel expert in federal securities laws acceptable to the County, or is approved by not less than the Beneficial Owners of a majority in aggregate principal amount of the outstanding Bonds.

SECTION 8. Additional Information. Nothing in this Undertaking shall be deemed to prevent the County from disseminating any other information, using the means of dissemination set forth in this Undertaking or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Undertaking. If the County chooses to include any information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is specifically required by this Undertaking, the County shall have no obligation under this Undertaking to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.



SECTION 9. Default. In the event of a failure of the County to comply with any provision of this Undertaking, the Trustee may (and, at the request of the Beneficial Owners of at least 51% aggregate principal amount of outstanding Bonds and upon receiving satisfactory indemnity, shall) subject to the same conditions, limitations and procedures that would apply under the Indenture if the breach were an Event of Default under the Indenture, or any Beneficial Owner may, take such actions as may be necessary and appropriate, including seeking mandamus or specific performance by court order, to cause the County to comply with its obligations under this Undertaking; provided that, to the extent permitted by the securities laws, any Beneficial Owner's right to challenge the adequacy of the information provided in accordance with the undertaking of the County described in Sections 3 and 4 hereof shall be subject to the same limitations as those set forth in Article VII of the Indenture with respect to Events of Default thereunder. A default under this Undertaking, in and of itself, shall not be deemed an Event of Default under the Indenture, and the sole remedy under this Undertaking in the event of any failure of the County to comply with this Undertaking shall be an action to compel performance. The Dissemination Agent shall be entitled to rely conclusively upon any written evidence provided by the County regarding the provision of information to it pursuant to the terms hereof.

SECTION 10. Duties, Immunities and Liabilities of Dissemination Agent; Assignment by Dissemination Agent. Solely for the purpose of (a) defining the standards of care and performance applicable to the Dissemination Agent in the performance of its obligations under this Undertaking, (b) the manner of execution by the Dissemination Agent of those obligations, and (c) matters of removal, resignation and succession of the Dissemination Agent under this Undertaking, Article VIII of the Indenture is hereby made applicable to this Undertaking as if this Undertaking were (solely for this purpose) contained in the Indenture; provided the Dissemination Agent shall have only such duties under this Undertaking as are specifically set forth in this Undertaking. Anything herein to the contrary notwithstanding, the Dissemination Agent shall have no duty to investigate or monitor compliance by the County with the terms of this Undertaking, including without limitation, reviewing the accuracy or completeness of any information or notices filed by the County. Anything herein to the contrary notwithstanding, the Dissemination Agent shall not be construed as having any duty to the Participating Underwriter, except to the extent that such Participating Underwriter is a Beneficial Owner. The Dissemination Agent shall assign this Undertaking to any successor Dissemination Agent appointed pursuant to the terms of the Indenture. The Dissemination Agent shall not be deemed to be acting in any fiduciary capacity for the County, the Bondowners or any other party.

The fact that the Dissemination Agent or any affiliate thereof may have any fiduciary or banking relationship with the County, apart from the relationship created by the Rule shall not be construed to mean that the Dissemination Agent has actual knowledge of any event or condition except as may be provided by written notice from the County. The Dissemination Agent shall have no obligation to disclose information about the Bonds or the County except as expressly provided herein. The Dissemination Agent shall not be responsible in any manner for the content of any notice or report prepared by the County pursuant to this Undertaking. The Dissemination Agent shall have no responsibility for the County's failure to deliver notice of a Listed Event to the Dissemination Agent and shall have no duty to determine the materiality of any such event. The Dissemination Agent may conclusively rely upon certifications of the County at all times.

Nothing in this Undertaking shall be construed to require the Dissemination Agent to interpret or provide an opinion concerning any information made public. If the Dissemination Agent receives a request for an interpretation or opinion, the Dissemination Agent may refer such request to the County for response.

In addition to any and all rights of the Dissemination Agent for reimbursement, indemnification and other rights pursuant to the Rule or under law or equity, the County, to the extent permitted by law, shall indemnify and hold harmless the Dissemination Agent and its respective officers, directors, employees

and agents from and against any and all claims, damages, losses, liabilities, reasonable costs and expenses whatsoever (including attorney fees) which such indemnified party may incur by reason of or in connection with the Dissemination Agent's performance under this Undertaking; provided that the County shall not be required to indemnify the Dissemination Agent for any claims, damages, losses, liabilities, costs or expenses to the extent, but only to the extent, caused by the willful misconduct or gross negligence of the Dissemination Agent in such disclosure of information hereunder. The obligations of the County under this Section shall survive resignation or removal of the Dissemination Agent and payment of the Bonds.

SECTION 11. Beneficiaries. This Undertaking shall inure solely to the benefit of the Issuer, the County, the Dissemination Agent, the Participating Underwriter and Beneficial Owners, and shall create no rights in any other person or entity.

SECTION 12. Notices. Any notices or communications between the parties to this Undertaking may be given by registered or certified mail, return receipt requested, or by confirmed facsimile, or delivered in person or by overnight courier, and will be deemed given on the second day following the date on which the notice or communication is so mailed, as follows:

To the County: Marathon County, Wisconsin  
Marathon County Courthouse  
500 Forest Street  
Wausau, WI 54403  
Attn: County Administrator

To the Dissemination Agent: U.S. Bank Trust Company, National Association  
1555 North RiverCenter Drive, Suite 203  
Milwaukee, WI 53212  
Attn: Corporate Trust Services

Any person may, by written notice to the other persons listed above, designate a different address, telephone number(s) or facsimile number(s) to which subsequent notices or communications should be sent.

All notices, approvals, consents, requests and any communications to the Dissemination Agent hereunder must be in writing in English and must be in the form of a document that is signed manually or by way of an electronic signature (including electronic images of handwritten signatures and digital signatures provided by DocuSign, Orbit, Adobe Sign or any other electronic signature provider acceptable to the Dissemination Agent). Electronic signatures believed by the Dissemination Agent to comply with the ESIGN ACT of 2000 or other applicable law shall be deemed original signatures for all purposes. If the County chooses to use electronic signatures to sign documents delivered to the Dissemination Agent, the County agrees to assume all risks arising out of its use of electronic signatures, including without limitation the risk of the Dissemination Agent acting on an unauthorized document and the risk of interception or misuse by third parties. Notwithstanding the foregoing, the Dissemination Agent may in any instance and in its sole discretion require that an original document bearing a manual signature be delivered to the Dissemination Agent in lieu of, or in addition to, any document signed via electronic signature.

SECTION 13. Counterparts. This Undertaking 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 14. Governing Law. This Undertaking shall be governed and construed in accordance with the laws of the State of Wisconsin.

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound, have caused this Undertaking to be executed as of the date first above written.

MARATHON COUNTY, WISCONSIN

By: \_\_\_\_\_

Name:

Title: County Board Chairperson

By: \_\_\_\_\_

Name:

Title: County Clerk

U.S. BANK TRUST COMPANY, NATIONAL  
ASSOCIATION, as dissemination agent

By: \_\_\_\_\_

Name: Yvonne Siira

Title: Vice President

[Signature Page to Continuing Disclosure Agreement (Bug Tussel/Marathon County)]

**EXHIBIT A**

**NOTICE OF FAILURE TO FILE  
ANNUAL REPORT**

Name of Issuer: Fond du Lac County, Wisconsin  
Name of Obligor: Bug Tussel 2, LLC (the “Borrower”)  
Name of County: Marathon County, Wisconsin  
Name of Bonds: Fond du Lac County, Wisconsin  
Taxable Revenue Bonds, Series 2024  
(Bug Tussel 2, LLC Project) (Social Bonds)  
Date of Issuance: [September \_\_], 2024

NOTICE IS HEREBY GIVEN that the County has not filed an Annual Report with respect to the above-named Bonds as required by the Continuing Disclosure Agreement dated as of [September] 1, 2024 between the County and U.S. Bank Trust Company, National Association, as Dissemination Agent. The County has notified the Dissemination Agent that it anticipates that the Annual Report will be filed by the following date: \_\_\_\_\_.

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

**EXHIBIT B**

**FORM OF COMPLIANCE CERTIFICATE**

Name of Issuer: Fond du Lac County, Wisconsin  
Name of Obligor: Bug Tussel 2, LLC (the “Borrower”)  
Name of County: Marathon County, Wisconsin  
Name of Bonds: Fond du Lac County, Wisconsin  
Taxable Revenue Bonds, Series 2024  
(Bug Tussel 2, LLC Project) (Social Bonds)

[Date]

U.S. Bank Trust Company, National Association, as Dissemination Agent  
1555 North RiverCenter Drive, Suite 203  
Milwaukee, WI 53212  
Attn: Corporate Trust Services

Re: Compliance Certificate for Annual Report

Pursuant to the Continuing Disclosure Agreement dated as of [September] 1, 2024 (the “Continuing Disclosure Agreement”) between the County and U.S. Bank Trust Company, National Association as Dissemination Agent, the undersigned, as representative of the County, does hereby certify that the enclosed Annual Report for the Fiscal Year ended \_\_\_\_\_, 20\_\_ of the County, complies with the requirements of the Continuing Disclosure Agreement.

MARATHON COUNTY, WISCONSIN

By: \_\_\_\_\_  
Name:  
Title:

**GUARANTY AGREEMENT**

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dated as of [\_\_\_\_\_], 2024

given by

HILBERT COMMUNICATIONS, LLC

as the Guarantor

in favor of

MARATHON COUNTY, WISCONSIN

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## GUARANTY AGREEMENT

This GUARANTY AGREEMENT (the “*Guaranty Agreement*”) made and entered into as of [\_\_\_\_\_], 2024, by and between Hilbert Communications, LLC (the “*Guarantor*”) and Marathon County, Wisconsin (“*County*”).

### W I T N E S S E T H:

WHEREAS, Taxable Revenue Bonds, Series 2024 (Bug Tussel 2, LLC Project) (Social Bonds) in the aggregate principal amount of \$[\_\_\_\_\_] (the “*Series 2024 Bonds*”) are to be issued by Fond du Lac County, Wisconsin (the “*Issuer*”) pursuant to an Intergovernmental Agreement, dated as of [\_\_\_\_\_], 2024 (the “*Intergovernmental Agreement*”), by and among (i) the Issuer, (ii) Forest County, (iii) Iowa County, (iv) Jefferson County, (v) Lafayette County, (vi) Marathon County, (vii) Price County, (viii) Sawyer County, (ix) Taylor County, and (x) Waushara County (each, a “*Participating County*” and collectively, the “*Participating Counties*”), on behalf of Bug Tussel 2, LLC (the “*Borrower*”) to finance the acquisition, construction and installation of certain telecommunications infrastructure including, among other things (i) acquisition of tower sites by purchase or lease of land and equipping such sites with towers and electronics to provide broadband, wireless communications, emergency communications and point to point (P2P) data communications; (ii) constructing fiberoptic data transmission facilities (cable and electronics) between towers, key community facilities, businesses and residential aggregation points; (iii) where appropriate, connecting individual premises into the broadband network including the cost of Consumer Premise Equipment (CPE); (iv) payment of capitalized interest; (v) funding of a debt service reserve fund; (vi) payment of such project costs located in the counties of Fond du Lac, Forest, Iowa, Jefferson, Lafayette, Marathon, Price, Sawyer, Taylor, and Waushara, in an amount not to exceed \$[\_\_\_\_\_]; and (vii) payment of professional fees (collectively, the “*Project*”), pursuant to a Indenture of Trust, dated as of [\_\_\_\_\_], 2024, between the Issuer and U.S. Bank Trust Company, National Association, as trustee (the “*Trustee*”);

WHEREAS, the proceeds derived from the issuance of the Series 2024 Bonds will be applied pursuant to the Loan Agreement between the Issuer and the Borrower, dated as of [\_\_\_\_\_], 2024 (the “*Loan Agreement*”), to finance the costs of the Project;

WHEREAS, the Borrower will execute and deliver to the Issuer its Promissory Note, Series 2024 to evidence the Borrower’s obligation to repay the loan made under the Loan Agreement;

WHEREAS, pursuant to that certain Guaranty Agreement dated as of [\_\_\_\_\_], 2024, by the County in favor of the Trustee (the “*County Guaranty Agreement*”), the County has guaranteed certain obligations of the Borrower with respect to the Series 2024 Bonds;

WHEREAS, pursuant to that certain Reimbursement Agreement dated as of [\_\_\_\_\_], 2024, by and between the Borrower and the County (the “*Reimbursement Agreement*”), the Borrower has agreed to reimburse the County for any amounts paid by the County to the Trustee in connection with its obligations under the County Guaranty Agreement;

WHEREAS, the Borrower has, and/or may from time to time, enter into one or more Mortgages, Leasehold Mortgages and UCC Filing Statements in favor of the County (collectively the “*Borrower Security Documents*”); and

WHEREAS, the Borrower is a subsidiary of the Guarantor.

NOW THEREFORE, in consideration of the premises the Guarantor does hereby covenant and agree as follows:

**Section 1. Guarantee.**

(a) The Guarantor hereby unconditionally guarantees to the County, the full and prompt payment to the County of all amounts when due from the Borrower pursuant to, and the performance of all other obligations, covenants and agreements of the Borrower under, the Reimbursement Agreement, the Access Agreement (as defined in the Indenture) and the Borrower Security Documents (collectively, the “*Guaranteed Obligations*”).

(b) This is a guarantee of payment and performance and not of collection. The obligations of the Guarantor under this Guaranty Agreement shall be absolute and unconditional; the Guarantor unconditionally and irrevocably waives each and every defense which, under principles of guarantee and suretyship law, would otherwise operate to impair or diminish such obligations. The obligations of the Guarantor under this Guaranty Agreement shall remain in full force and effect until all of the principal of, and interest on, the Series 2024 Bonds shall have been paid, all of the Guaranteed Obligations have been paid and performed in full and the County has been fully released from all of its obligations under the County Guaranty Agreement.

(c) No set off, counterclaim, reduction or diminution of an obligation, or any defense of any kind or nature which the Guarantor has or may have against the County shall be available hereunder to the Guarantor against the County.

(d) Upon the occurrence of a default, an “*event of default*” or an “*Event of Default*” by the Borrower under the Reimbursement Agreement, the Access Agreement, or any of the Borrower Security Documents (each such default, “*event of default*” or “*Event of Default*” being hereinafter referred to as an “*Event of Default*”), the County may proceed hereunder. The County shall have the right to proceed first and directly against the Guarantor under this Guaranty Agreement without proceeding against or exhausting any other remedies which it may have and without resorting to any other security held by County, including, without limitation, any security held by the County pursuant to any of the Borrower Security Documents.

(e) The obligations of the Guarantor hereunder shall arise absolutely and unconditionally upon execution hereof.

**Section 2. Waivers and Consents.**

(a) The Guarantor acknowledges that the obligations undertaken herein involve the guaranty of obligations of the Borrower and, in full recognition of that fact, the Guarantor consents and agrees that the County may, at any time and from time to time, without notice or demand, and without affecting the enforceability or continuing effectiveness hereof: (i) supplement, modify, amend, extend, renew, accelerate or otherwise change the time for payment or the other terms of the Reimbursement Agreement, the Access Agreement, and/or any of the Guaranteed Obligations or any part thereof, including without limitation any increase or decrease of the principal amount thereof or the rate(s) of interest thereon; (ii) supplement, modify, amend or waive, or enter into or give any agreement, approval or consent with respect to, the Guaranteed Obligations or any part



thereof, or the Reimbursement Agreement or the Access Agreement or any of the Borrower Security Documents or any additional security or guaranties, or any condition, covenant, default, remedy, right, representation or term thereof or thereunder; (iii) accept new or additional instruments, documents or agreements in exchange for or relative to the Reimbursement Agreement, the Access Agreement, and/or any Borrower Security Documents or the Guaranteed Obligations or any part thereof; (iv) accept partial payments on the Guaranteed Obligations; (v) receive and hold additional security or guaranties for the Guaranteed Obligations or any part thereof; (vi) release, reconvey, terminate, waive, abandon, fail to perfect, subordinate, exchange, substitute, transfer and/or enforce any security or guaranties, and apply any security and direct the order or manner of sale thereof as the County in its sole and absolute discretion may determine; (vii) release the Borrower or any other Person any personal liability with respect to the Guaranteed Obligations or any part thereof; (viii) settle, release on terms satisfactory to the County or by operation of applicable Law or otherwise, liquidate or enforce any Guaranteed Obligations and any security or guaranty in any manner, consent to the transfer of any security and bid and purchase at any sale; and/or (ix) consent to the merger, change or any other restructuring or termination of the limited liability company existence of the Borrower or any other Person, and correspondingly restructure the Guaranteed Obligations, and any such merger, change, restructuring or termination shall not affect the liability of Guarantor or the continuing effectiveness hereof, or the enforceability hereof with respect to all or any part of the Guaranteed Obligations.

(b) Upon the occurrence and during the continuance of any Event of Default, the County may enforce this Guaranty independently of any other remedy, guaranty or security the County at any time may have or hold in connection with the Guaranteed Obligations, and it shall not be necessary for the County to marshal assets in favor of the Borrower, any other guarantor of the Guaranteed Obligations or any other Person or to proceed upon or against and/or exhaust any security or remedy before proceeding to enforce this Guaranty. The Guarantor expressly waives any right to require the County to marshal assets in favor of the Borrower or any other Person or to proceed against the Borrower or any other guarantor of the Guaranteed Obligations or any collateral provided by any Person, and agrees that the County may proceed against any obligor and/or the collateral in such order as the County shall determine in its sole and absolute discretion. The County may file a separate action or actions against Guarantor, whether action is brought or prosecuted with respect to any security or against any other Person, or whether any other Person is joined in any such action or actions. The Guarantor agrees that the County and the Borrower may deal with each other in connection with the Guaranteed Obligations or otherwise, or alter any contracts or agreements now or hereafter existing between them, in any manner whatsoever, all without in any way altering or affecting the security of this Guaranty.

(c) The County's rights hereunder shall be reinstated and revived, and the enforceability of this Guaranty shall continue, with respect to any amount at any time paid on account of the Guaranteed Obligations which thereafter shall be required to be restored or returned by the County upon the bankruptcy, insolvency or reorganization of any Person, all as though such amount had not been paid. The rights of the County created or granted herein and the enforceability of this Guaranty shall remain effective at all times to guarantee the full amount of all the Guaranteed Obligations even though the Guaranteed Obligations, including any part thereof or any other security or guaranty therefor, may be or hereafter may become invalid or otherwise unenforceable as against the Borrower or any other guarantor of the Guaranteed Obligations and whether or not any Borrower or any other guarantor of the Guaranteed Obligations shall have any personal liability with respect thereto.

(d) Guarantor expressly waives any and all defenses now or hereafter arising or asserted by reason of: (i) any disability or other defense of the Borrower or any other guarantor for the Guaranteed Obligations with respect to the Guaranteed Obligations (other than by reason by the full payment and performance of all Guaranteed Obligations); (ii) the unenforceability or invalidity of any security for or guaranty of the Guaranteed Obligations or the lack of perfection or continuing perfection or failure of priority of any security for the Guaranteed Obligations; (iii) the cessation for any cause whatsoever of the liability of the Borrower or any other guarantor of the Guaranteed Obligations (other than by reason of the full payment and performance of all Guaranteed Obligations); (iv) any failure of the County to marshal assets in favor of the Borrower or any other Person; (v) any failure of the County to give notice of sale or other disposition of collateral to the Borrower, or any other Person or any defect in any notice that may be given in connection with any sale or disposition of collateral; (vi) any failure of the County to comply with applicable Laws in connection with the sale or other disposition of any collateral or other security for any Guaranteed Obligation, including, without limitation, any failure of the County to conduct a commercially reasonable sale or other disposition of any collateral or other security for any Guaranteed Obligation; (vii) any act or omission of the County or others that directly or indirectly results in or aids the discharge or release of the Borrower or any other guarantor of the Guaranteed Obligations, or of any security or guaranty therefor by operation of Law or otherwise; (viii) any Law which provides that the obligation of a surety or guarantor must neither be larger in amount nor in other respects more burdensome than that of the principal or which reduces a surety's or guarantor's obligation in proportion to the principal obligation; (ix) any failure of the County to file or enforce a claim in any bankruptcy or other proceeding with respect to any Person; (x) the election by the County, in any bankruptcy proceeding of any Person, of the application or non-application of Section 1111(b)(2) of the United States Bankruptcy Code; (xi) any extension of credit or the grant of any lien under Section 364 of the United States Bankruptcy Code; (xii) any use of collateral under Section 363 of the United States Bankruptcy Code; (xiii) any agreement or stipulation with respect to the provision of adequate protection in any bankruptcy proceeding of any Person; (xiv) the avoidance of any lien or security interest in favor of the County for any reason; (xv) any bankruptcy, insolvency, reorganization, arrangement, readjustment of debt, liquidation or dissolution proceeding commenced by or against any Person, including without limitation any discharge of, or bar or stay against collecting, all or any of the Guaranteed Obligations (or any interest thereon) in or as a result of any such proceeding; or (xvi) any action taken by the County that is authorized by this Section or any other provision of the Reimbursement Agreement, the Access Agreement or any of the Borrower Security Documents. The Guarantor expressly waives all setoffs and counterclaims and all presentments, demands for payment or performance, notices of nonpayment or nonperformance, protests, notices of protest, notices of dishonor and all other notices or demands of any kind or nature whatsoever with respect to the Guaranteed Obligations, and all notices of acceptance of this Guaranty Agreement or of the existence, creation or incurrence of new or additional Guaranteed Obligations.

(e) The Guarantor expressly waives any claim for reimbursement, contribution, indemnity or subrogation which the Guarantor may have against the Borrower as a guarantor of the Guaranteed Obligations and any other legal or equitable claim against the Borrower arising out of the payment of the Guaranteed Obligations by the Guarantor or from the proceeds of any collateral for this Guaranty, if any, during the term of this Guaranty Agreement. In furtherance, and not in limitation, of the foregoing waiver, the Guarantor hereby agrees that no payment by the Guarantor pursuant to this Guaranty Agreement shall constitute the Guarantor a creditor of the Borrower. During the term of the Guaranty Agreement, the Guarantor shall not seek any reimbursement from

the Borrower in respect of payments made by Guarantor in connection with this Guaranty, or in respect of amounts realized by the County in connection with any collateral for the Guaranteed Obligations, if any, and the Guarantor expressly waives any right to enforce any remedy that the County now has or hereafter may have against any other Person and waives the benefit of, or any right to participate in, any collateral now or hereafter held by the County. No claim which the Guarantor may have against any other guarantor of any of the Guaranteed Obligations or against the Borrower, to the extent not waived pursuant to this Section, shall be enforced nor any payment accepted during the term of this Guaranty Agreement and all such payments are not subject to any right of recovery.

As used in this Section 2:

“*Law*” shall mean any federal, state, local or other law, rule, regulation or governmental requirement of any kind, and the rules, regulations, interpretations and orders promulgated thereunder; and

“*Person*” shall mean and include an individual, partnership, corporation, trust, unincorporated association, limited liability entity and any unit, department or agency of government.

### **Section 3. Representations and Warranties.**

To induce County to enter into the County Guaranty Agreement, the Reimbursement Agreement and the Access Agreement, the Guarantor hereby represents and warrants as follows:

(a) It is a limited liability company duly organized and validly existing under the laws of the State of Wisconsin and that it has taken all necessary limited liability company action and obtained all authorizations necessary on its part for the due and valid execution and delivery of this Guaranty Agreement and the assumption of the obligations represented hereby.

(b) The execution, delivery and performance of this Guaranty Agreement does not violate any provision of any material statute or other rule or regulation of any governmental authority applicable to the Guarantor; the articles of organization or operating agreement of the Guarantor; or any agreement or instrument to which the Guarantor is a party or by which it or any of its assets is bound.

(c) No authorization, approval, consent or license of any governmental regulatory body or authority, not already obtained, is required for the valid and lawful execution and delivery of this Guaranty Agreement by the Guarantor or the assumption of the obligations of the Guarantor represented hereby.

(d) This Guaranty is the legal, valid and binding obligation of the Guarantor, enforceable against the Guarantor in accordance with its terms except as such enforceability may be limited by: (a) applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors’ rights generally and (b) general principals of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

(e) It is not a party to any litigation or administrative proceeding, nor so far as is known by the Guarantor is any litigation or administrative proceeding threatened against it, which in either

case would, if adversely determined, cause any material adverse change in its power or ability to perform its obligations under this Guaranty Agreement.

(f) It is not in default in the payment of the principal of or interest on any of its indebtedness for borrowed money or any guaranties or in default under any instrument or instruments or agreements under and subject to which any indebtedness for borrowed money has been issued or under any guaranties and no event has occurred and is continuing under the provisions of any such instrument or agreement which with the lapse of time, or with the giving of notice, or both would constitute an event of default thereunder.

(g) It has established adequate means of obtaining from the Borrower, on a continuing basis, financial and other information pertaining to the businesses, operations and condition (financial and otherwise) of the Borrower and its assets and properties. The Guarantor hereby expressly waives and relinquishes any duty on the part of the County (should any such duty exist) to disclose to Guarantor any matter, fact or thing related to the business, operations or condition (financial or otherwise) of the Borrower or its assets or properties, whether now known or hereafter known by the County during the life of this Guaranty Agreement. With respect to any of the Guaranteed Obligations, the County need not inquire into the powers of the Borrower or agents acting or purporting to act on its behalf, and all Guaranteed Obligations made or created in good faith reliance upon the professed exercise of such powers shall be guaranteed hereby.

#### **Section 4. Remedies.**

If an Event of Default shall occur, the County may pursue any available remedy at law or in equity to realize payment of the amounts guaranteed hereby. No remedy herein conferred upon or reserved or otherwise available to the County is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Guaranty Agreement or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default, omission or failure of performance hereunder shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. To entitle the County to exercise any remedy reserved to it in this Guaranty Agreement, it shall not be necessary to give any notice, other than such notice as may be herein or by law expressly required. If any provision contained in this Guaranty Agreement should be breached by the Guarantor and thereafter duly waived by the County, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder. No waiver, amendment, release or modification of this Guaranty Agreement shall be established by conduct, custom or course of dealing, but solely by an instrument in writing duly executed by the County.

#### **Section 5. Miscellaneous.**

(a) Consideration for Guaranty. The Guarantor acknowledges and agrees with the County that but for the execution and delivery of this Guaranty Agreement by the Guarantor, the County would not have entered into the County Guaranty Agreement, the Reimbursement Agreement or the Access Agreement. The Guarantor acknowledges and agrees that the guarantee provided by the County pursuant to the County Guaranty Agreement will result in significant benefit to the Guarantor who is the sole member of the Borrower.

(b) Expenses and Attorneys' Fees. The Guarantor shall pay all reasonable fees and expenses incurred by the County, including the reasonable fees of counsel, in connection with the protection or enforcement of the County's rights under this Guaranty Agreement, including without limitation the protection and enforcement of such rights in any bankruptcy, reorganization or insolvency proceeding involving the Borrower or the Guarantor, both before and after judgment.

(c) Amendments. This Guaranty Agreement shall not be effectively amended, modified or altered until such modification, alteration or amendment is reduced to writing and executed by both parties hereto.

(d) Successors. Except as limited or conditioned by the express provisions hereof, the provisions of this Guaranty Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto.

(e) Governing Law. This Guaranty Agreement has been executed, delivered and issued by the Guarantor and the County in the State of Wisconsin and shall be a contract made under and governed by the internal laws of the State of Wisconsin. If any one or more of the provisions contained in this Guaranty Agreement shall be invalid, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.

(f) Captions. The captions or headings in this Guaranty Agreement are for convenience only and in no way define, limit or describe the scope or intent of any of the provisions of this Guaranty Agreement.

(g) Facsimile and Counterparts. This Guaranty Agreement may be signed in any number of separate copies, each of which shall be effective as an original, but all of which taken together shall constitute a single document. An electronic transmission or other facsimile of this document or any related document shall be deemed an original and shall be admissible as evidence of the document and the signer's execution.

(h) Notices. Any notice hereunder shall be in writing and shall be deemed to be given if hand delivered or sent by first class mail, electronic mail, facsimile, registered or certified mail, or overnight delivery and addressed as follows:

If to the Guarantor: Hilbert Communications, LLC  
417 Pine Street  
Green Bay, WI 54301  
Attn: Jason G. Wied, CEO  
Phone: (920) 396-6138  
Email: jason.wied@btussel.com

If to County: Marathon County, Wisconsin  
500 Forest Street  
Wausau, WI 54403  
Attn: County Clerk  
e-mail: Kim.Trueblood@co.marathon.wi.us  
Lance.Leonhard@co.marathon.wi.us

The Guarantor or County may, by written notice, received by the other, designate a further or different address for purposes of notice hereunder.

(i) Severability. This Guaranty Agreement constitutes the entire agreement between the County and Guarantor with respect to the subject matter hereof, superseding all previous communications and negotiations, and no representation, understanding, promise or condition concerning the subject matter hereof shall be binding upon the County unless expressed herein. If any provisions of this Guaranty Agreement shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstance shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever. The invalidity of any one or more phrases, sentences, clauses or sections in this Guaranty Agreement contained, shall not affect the remaining portions of this Guaranty Agreement, or any part thereof.

**IN WITNESS WHEREOF**, the Guarantor has caused this Guaranty Agreement to be executed in its name and behalf and its corporate seal to be affixed hereto and attested by its duly authorized officers as of the date first above written.

**GUARANTOR:**

**HILBERT COMMUNICATIONS, LLC**

By: \_\_\_\_\_

Name: Jason G. Wied

Title: Chief Executive Officer

Accepted as of the date first above written, by Marathon County, Wisconsin.

**COUNTY:**

**MARATHON COUNTY, WISCONSIN**

By: \_\_\_\_\_

Name: Kurt A. Gibbs

Title: County Chairperson

By: \_\_\_\_\_

Name: Kim Trueblood

Title: County Clerk

[ \$ \_\_\_\_\_ ]  
Fond du Lac County, Wisconsin  
Taxable Revenue Bonds, Series 2024  
(Bug Tussel 2, LLC Project) (Social Bonds)

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**CLOSING CERTIFICATE OF BORROWER**

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The undersigned hereby certifies, represents and warrants that he is the Chief Executive Officer of Bug Tussel 2, LLC, a Wisconsin limited liability company (the “Borrower”), and as such, is familiar with the Borrower’s affairs, properties and records and in particular with the financing to which this certificate (the “Certificate”) relates in connection with the issue of bonds designated above (the “Series 2024 Bonds”).

Reference is made to the (i) Loan Agreement dated as of [September 1, 2024] (the “Loan Agreement”) between Fond du Lac County, Wisconsin (the “Issuer”) and the Borrower and (ii) Indenture of Trust dated as of [September 1, 2024] (the “Indenture”) between the Issuer and U.S. Bank Trust Company, National Association, as trustee (the “Trustee”).

As an inducement for the issuance, sale and purchase on the date hereof of the Series 2024 Bonds and for the execution, delivery and acceptance of delivery of the Borrower Documents (as defined below), the Loan Agreement, and the Indenture; and, further, as an inducement for the Issuer to carry out the terms and provisions of the “Final Resolution Regarding Unconditional County Guaranty of its Pro Rata Share, Intergovernmental Agreement and Taxable Revenue Bond Financing for Bug Tussel 2, LLC Project” dated August 20, 2024, the undersigned, on behalf of the Borrower, does hereby certify, represent and warrant, as follows:

1. Each of the following documents relating to the Series 2024 Bonds (collectively referred to in this Certificate as the “Borrower Documents”) has been executed or authorized (as appropriate) and delivered (or authorized, as appropriate) by the Borrower pursuant to the authority granted in resolutions of the Borrower attached hereto as Exhibit A, which resolutions have been duly adopted prior to the date hereof, are in full force and effect and have not been revoked or amended:

(a) Loan Agreement;

(b) Series 2024 Promissory Note dated [September \_\_\_\_\_, 2024] from the Borrower to the Issuer, and assigned by the Issuer to the Trustee;

(c) Bond Purchase Agreement dated [\_\_\_\_\_, 2024] among the Issuer and Samuel A. Ramirez & Company, Inc., as representative, acting on behalf of itself, Robert W. Baird & Co. Incorporated, and Oppenheimer & Co. Inc., as underwriters, with the Letter of Representations from the Borrower and accepted and agreed to by the Issuer and the representative of the underwriters (the “Bond Purchase Agreement”);



(d) Continuing Disclosure Agreement dated as of [September 1, 2024] between the Borrower and the Trustee;

(e) Preliminary Limited Offering Memorandum dated [\_\_\_\_\_, 2024] (the “Preliminary Limited Offering Memorandum”) and the final Limited Offering Memorandum dated [\_\_\_\_\_, 2024], each relating to the Series 2024 Bonds (the “Limited Offering Memorandum”), as executed by the Borrower and delivered; and

(f) the respective Reimbursement Agreements dated as of [September 1, 2024] between the Borrower and each of the following participating counties: [(i) Fond du Lac County, (ii) Forest County, (iii) Iowa County, (iv) Jefferson County, (v) Lafayette County, (vi) Marathon County, (vii) Price County, (viii) Sawyer County, (ix) Taylor County, and (x) Waushara County].

2. The Borrower is a limited liability company duly organized and validly existing under the laws of the State of Wisconsin and is qualified to do business in each jurisdiction in which its ownership of property or conduct of business requires such qualification.

3. Attached hereto as Exhibit B are true and correct copies of the Articles of Organization and Operating Agreement of the Borrower as in effect on the date hereof.

4. The Borrower has full right, power and authority to enter into, execute and deliver the Borrower Documents and to perform its obligations thereunder.

5. The execution, delivery, and performance by the Borrower of the Borrower Documents have been authorized by all necessary limited liability company action on the part of the Borrower.

6. To Borrower’s knowledge, no authorization, approval, consent or license of any regulatory body or authority, not already obtained, is required on the part of the Borrower for the valid and lawful authorization, execution and delivery of the Borrower Documents and the assumption by the Borrower of the obligations represented thereby.

7. The Borrower is familiar with and has reviewed the Borrower Documents and the Indenture. The form, terms and provisions of the Loan Agreement and the Indenture and the maturities, interest rates, redemption provisions and other terms of the Series 2024 Bonds as set forth in the Loan Agreement and Indenture are hereby in all respects approved.

8. The execution and delivery of the Borrower Documents, and compliance by the Borrower with the provisions of each Borrower Document will not result in a breach of any of the terms, conditions or provisions of the Borrower’s Articles of Organization or Operating Agreement, or result in the creation or imposition of any lien, charge or encumbrance upon any property or assets of the Borrower contrary to any indenture, reimbursement agreement, mortgage or other instrument to which the Borrower is a party or by which the Borrower or any of its properties are or may be bound.

9. There is not pending any action, suit, proceeding, inquiry or investigation, at law or in equity or before or by any court, public board or regulatory agency, against or affecting the Borrower (nor, to the best knowledge or belief of the undersigned, is any such threatened or is there any basis therefor) wherein an unfavorable decision, ruling or finding would (a) adversely affect the

Borrower's powers, organization or existence, or the validity or enforceability of the Series 2024 Bonds, the Indenture or the Borrower Documents or which might result in any material adverse change in the business, condition (financial or otherwise) or operations of the Borrower, (b) contest or affect the validity, execution or performance of the Indenture, the Series 2024 Bonds, and the Borrower Documents by the Borrower, (c) limit, enjoin or prevent the Borrower from making payments under the Loan Agreement, (d) restrain or enjoin the issuance or delivery of the Series 2024 Bonds, the execution, delivery or performance of the Indenture, the Loan Agreement, the Bond Purchase Agreement, the collection of revenues pledged under the Indenture or the application of the proceeds of sale of the Series 2024 Bonds as provided in the Indenture, (e) contest or affect the issuance or the validity of the Series 2024 Bonds or the Indenture, or (f) adversely affect the amounts to be received by the Issuer pursuant to the Loan Agreement or the Indenture.

10. No event affecting the Borrower, Hilbert Communications, LLC, or the Project has occurred since the respective dates of the Preliminary Limited Offering Memorandum and the Limited Offering Memorandum which should be disclosed in the Preliminary Limited Offering Memorandum or the Limited Offering Memorandum for the purposes for which such offering memorandum are to be used or which is necessary to disclose in order to make the statements and information made in Preliminary Limited Offering Memorandum or the Limited Offering Memorandum not misleading in any material respect as of their respective dates and the date of this Certificate.

11. The information contained in the Preliminary Limited Offering Memorandum and the Limited Offering Memorandum (other than information in the Preliminary Limited Offering Memorandum and the Limited Offering Memorandum under the headings "THE ISSUER," "TAX MATTERS", and "UNDERWRITING," information relating to The Depository Trust Company and its book-entry system under the heading "THE SERIES 2024 BONDS – Bonds in Book-Entry Form," and information set forth in Appendices [B, D and F] to the Preliminary Limited Offering Memorandum and the Limited Offering Memorandum) is correct in all material respects, as of the dates of the Preliminary Limited Offering Memorandum and the Limited Offering Memorandum and as of the date of closing. Such information as of the dates of the Preliminary Limited Offering Memorandum and the Limited Offering Memorandum did not and as of the date of closing does not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements made therein, in the light of the circumstances under which they were made, not misleading.

12. To the knowledge of the Borrower, the Preliminary Limited Offering Memorandum and the Limited Offering Memorandum, as of their respective dates and as of the date hereof, is accurate in all material respects and does not include any untrue statement of a material fact or omit to state any material fact necessary to make the statements made therein, in light of the circumstances under which they were made, not misleading. The Preliminary Limited Offering Memorandum is "deemed final" as of its date, except for omissions or subsequent modifications permitted under Rule 15c2-12 of the Securities and Exchange Commission.

13. The Borrower Documents have been duly executed and delivered on behalf of the Borrower by an authorized representative of the Borrower, and the Borrower Documents constitute legal, valid and binding obligations of the Borrower in accordance with their terms.

14. The representations and warranties of the Borrower contained or referred to in the Borrower Documents were true and accurate on the date when made, have been true and accurate at all times since, and continue to be true and accurate as of the date hereof. The Borrower has complied with all covenants and satisfied all conditions and terms of the Borrower Documents on its part to be performed or satisfied at or prior to the closing date and as of the date hereof; there has been no material adverse change in the Borrower's condition or projects (financial or otherwise of the Borrower).

15. As of the date of this Certificate, the Borrower has obtained and there are in effect all necessary approvals, whether legal or administrative, from all applicable federal, state or local entities or agencies required, as of the date hereof, for the purchase, construction, equipping and operation of the Project.

16. The Borrower is not in default in the payment of the principal of or interest on any of its indebtedness for borrowed money and no default or event of default has occurred and is continuing which, with the lapse of time or the giving of notice, or both, would constitute a default or an event of default by the Borrower under the Loan Agreement and the Bond Purchase Agreement, any Borrower Document, any other material agreement or instrument to which the Borrower is a party or by which the Borrower is or may be bound or to which any of its property or other assets is or may be subject, including all such agreements or instruments to which the Issuer is a party, or any applicable law or administrative regulation of the State or the United States or any applicable judgment or decree.

17. The Series 2024 Bonds are being issued by the Issuer to finance the Project.

18. The persons named on the certificate attached hereto as Exhibit C are each designated as an Authorized Borrower Representative as set forth in the Indenture.

[SIGNATURE PAGE TO FOLLOW]

Dated: [September \_\_\_\_, 2024]

**BUG TUSSEL 2, LLC**

By: \_\_\_\_\_  
Jason G. Wied, Chief Executive Officer

## **EXHIBITS**

Exhibit A – Resolutions of the Borrower appears at tab no. \_\_\_ of this transcript

Exhibit B – Articles of Organization and Operating Agreement of the Borrower appears at tab nos. \_\_\_ and \_\_\_ of this transcript

Exhibit C – Incumbency Certificate (see attached)

**EXHIBIT C**

**INCUMBENCY CERTIFICATE  
OF BUG TUSSEL 2, LLC**

The undersigned hereby certifies that he/she is the \_\_\_\_\_ of Bug Tussel 2, LLC (the "Company") and hereby further certifies that the persons named below are the Chief Executive Officer and the Chief Financial Officer of the Company and the signature set forth opposite the name of such person is his genuine signature.

<u>Name</u>	<u>Position</u>	<u>Signature</u>
Jason G. Wied	Chief Executive Officer	_____
Nish Patel	Chief Financial Officer	_____

Dated: [\_\_\_\_\_, 2024]

**BUG TUSSEL 2, LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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**INTERGOVERNMENTAL AGREEMENT**

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(By and among [(i) Fond du Lac County, (ii) Forest County, (iii) Iowa County,  
(iv) Jefferson County, (v) Lafayette County, (vi) Marathon County, (vii) Price County,  
(viii) Sawyer County, (ix) Taylor County, and (x) Waushara County],  
together with any additional Participating Counties joining by Joinder)

THIS INTERGOVERNMENTAL AGREEMENT (the “Agreement”) is made this \_\_\_\_ day of \_\_\_\_\_, 2024, by and among the Participating Counties (defined below) located in the State of Wisconsin (the “State”) which, through their duly authorized representatives, have signed this Agreement.

WHEREAS, Section 66.1103 of the Wisconsin Statutes (the “Act”) authorizes Wisconsin counties to authorize the issuance and sale of bonds by the county to construct, equip, re-equip, acquire by gift, lease or purchase, install, reconstruct, rebuild, rehabilitate, improve, supplement, replace, maintain, repair, enlarge, extend or remodel industrial projects; and

WHEREAS, Bug Tussel 2, LLC, a Wisconsin limited liability company (the “Borrower”), Hilbert Communications, LLC, a Wisconsin limited liability company (the “Company” and the “Guarantor”) and/or one or more of its affiliates (including, without limitation, Bug Tussel Wireless, LLC and Cloud 1, LLC), whether existing on the date hereof or to be formed and whether owned directly or indirectly by the Company, to finance a project consisting of the acquisition, construction and installation of certain telecommunications infrastructure that includes, among other things (i) acquisition of tower sites by purchase or lease of land and equipping such sites with towers and electronics to provide broadband, high speed cellular, emergency communications and point to point (P2P) data communications; (ii) constructing fiberoptic data transmission facilities (cable and electronics) between towers, key community facilities, businesses and residential aggregation points; (iii) where appropriate, connecting individual premises into the broadband network including the cost of Consumer Premise Equipment (CPE); (iv) payment of capitalized interest; (v) funding of a debt service reserve fund; (vi) payment of such project costs located in the Participating Counties in an aggregate amount not to exceed \$250,000,000; and (vii) payment of professional fees (collectively, the “Project”), all of which will be for the purpose of providing wireless internet and telephone communications services to businesses, governmental units and residents of rural communities where such service is currently unavailable or is prohibitively expensive; and

WHEREAS, the Project will be constructed and installed in the rural areas of the following Wisconsin counties, to wit: [(i) Fond du Lac County, (ii) Forest County, (iii) Iowa County, (iv) Jefferson County, (v) Lafayette County, (vi) Marathon County, (vii) Price County, (viii) Sawyer County, (ix) Taylor County, and (x) Waushara County] (each, together with any additional counties joining by Joinder (defined below), a “Participating County” and collectively, the “Participating Counties”); and

WHEREAS, each of the Participating Counties is a political subdivision of the State within whose boundaries a portion of the Project is located; and

WHEREAS, pursuant to the Act and Section 66.0301 of the Wisconsin Statutes, a county or two or more counties acting pursuant to an intergovernmental agreement may serve as the conduit issuer for such financing; and

WHEREAS, the aggregate cost of the Project is presently estimated to be not greater than \$250,000,000, and the amount proposed to be financed with revenue bonds does not exceed \$250,000,000 (the “Bonds”); and

WHEREAS, Section 66.1103(3)(f) of the Act provides that a county also may finance an industrial project which is located entirely outside the geographic limits of the county, but only if the revenue agreement for the project also relates to another project of the same eligible participant, part of which is located within the geographic limits of the county; and

WHEREAS, the proposed Project is a multi-jurisdictional project which is located in the counties of [(i) Fond du Lac County, (ii) Forest County, (iii) Iowa County, (iv) Jefferson County, (v) Lafayette County, (vi) Marathon County, (vii) Price County, (viii) Sawyer County, (ix) Taylor County, and (x) Waushara County], and each of the Participating Counties have approved an initial resolution providing for the financing of the Project in an aggregate amount not to exceed \$250,000,000; and

WHEREAS, it is expected that (i) the Project will be constructed and installed in multiple phases in other Wisconsin counties to be determined which will be financed with additional issues or series of bonds to be issued at one or more times in an aggregate amount not to exceed \$250,000,000 and issued by the Issuing County as defined herein (“Additional Bonds”) and (ii) in connection with the issuance of any Additional Bonds for other Project locations in other Wisconsin counties, such additional Wisconsin counties shall become a Participating County under this Agreement by executing the Counterpart and Joinder (the “Joinder”) in the form attached as Exhibit A; and

WHEREAS, the Participating Counties wish to enter into this Agreement providing that Fond du Lac County, Wisconsin (the “Issuing County”) shall be the issuer of the Bonds and any Additional Bonds; and

WHEREAS, the Issuing County is a county organized and existing under and pursuant to the laws of the State, and is authorized to enter into revenue agreements with eligible participants with respect to the Project whereby eligible participants agree to cause said Project to be constructed and to pay the Issuing County an amount of funds sufficient to provide for the prompt payment when due of the principal and interest on said Bonds; and

WHEREAS, in consideration of the increased tax revenue that will accrue to each Participating County as a result of the Project and the new jobs and other economic benefits for residents of each Participating County that will result from the Project, and the enhanced infrastructure for essential services, including emergency response and public safety communications by and for the Participating Counties and local units of government in the Participating Counties and is in, each Participating County has agreed to guarantee the payment of its pro rata share of the principal of and interest on the Bonds in an amount necessary to replenish the debt service reserve fund for the Bonds (each a “County Guaranty”).

NOW, THEREFORE, it is hereby agreed by and among the Participating Counties as follows:

1. Purpose. The Participating Counties, acting pursuant to the Act and Section 66.0301 of the Wisconsin Statutes, hereby agree to cooperate and exercise their municipal powers jointly for the purpose of appointing Fond du Lac County to act as the Issuing County and conduit issuer for the Bonds and any Additional Bonds. Each Participating County shall take such action as deemed necessary to facilitate the issuance of the Bonds by the Issuing County.

2. Authorization. Each Participating County represents that it has duly authorized the execution, delivery and performance of this Agreement and any other agreements reasonably requested to be executed and delivered by the Issuing County hereunder or under the Bond documents by all necessary corporate action



of the Participating County. Each Participating County shall have the right to make reasonable objections to the same. If disagreement occurs, the decision shall be made by a majority vote of the Participating Counties by their respective governing bodies, with each Participating County's vote weighted based upon the amount of outstanding Bonds and Additional Bonds allocated to (and the corresponding guaranty amount being provided by) such Participating County. Such a weighted majority vote shall also be used to direct the Issuing County when acting as agent of the other Participating Counties under the Pledge of Membership Interest Agreement relating to the Bonds and Additional Bonds.

3. Records. The Issuing County will maintain and be the custodian of all records associated with the administering and performance of this Agreement and the Bonds, and will make those records available to all Participating Counties upon request.

4. Reporting. The Borrower shall submit a written report to, and may meet with, the Issuing County and the Participating Counties, on an annual basis (and such other intervals or dates as may be requested by the Issuing County and the Participating Counties from time to time) commencing in January, [20 \_\_\_\_] and continuing until January, [20 \_\_\_\_] (the "Project Period") for the purpose of presenting a report on the status of the Project(s) and the financial strength of the Borrower and the Guarantor. The date, time and place of such meeting shall be determined cooperatively among the parties. After the Project Period for so long as the Bonds remain outstanding, upon request from the Issuing County and any Participating County, the Borrower shall report to or meet with the Issuing County and the Participating Counties and shall continue to provide to the Issuing County annual written reports regarding the continued strength of the Borrower and the Guarantor. Such report shall be due not less than 90 days following any such request.

5. Effective Date. This Agreement shall become effective upon its adoption and execution by all Participating Counties. Any county entering into this Agreement shall adopt an authorizing resolution, and provide a certified copy of the resolution to all other Participating Counties. This Agreement shall remain in full force and effect until terminated as provided herein.

6. New Members. After the effective date of this Agreement and in connection with the issuance of Additional Bonds, additional counties may join in this Agreement as a Participating County by executing the Joinder and agreeing to the terms of this Agreement, subject to the approval of the Issuing County, which may not be unreasonably withheld.

7. Termination and Disposition of Funds.

(a) This Agreement shall be deemed terminated when (i) all of the outstanding Bonds and any Additional Bonds have been paid in full or redeemed and (ii) all Participating Counties have received a release of their obligations pursuant to the terms of their respective County Guaranty.

(b) A Participating County (other than the Issuing County) shall be released from its obligations under this Agreement if such Participating County has received a release of its obligations under its respective County Guaranty. The Issuing County's responsibility shall continue until all of the requirements set forth in Section 7(a) are met.

8. Severability. The terms of this Agreement are severable and any determination by any court or agency having jurisdiction over the subject matter of this Agreement that results in the invalidity of any part shall not affect the remainder of the Agreement.

9. Amendments. The terms of this Agreement shall not be amended without the written authorization of the governing bodies of all Participating Counties.

10. Governing Law. This Agreement shall be governed by the laws of the State of Wisconsin.

11. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

12. Entire Agreement. This Agreement constitutes the entire agreement among the parties hereto with respect to the subject matter hereof. All prior and contemporaneous agreements, representations and understandings of the parties with respect to the subject matter of this Agreement, oral or written, are superseded by this Agreement; provided however, that this Agreement shall not cover the exercise by any Participating County of its rights and remedies under any reimbursement agreement between the Borrower and such Participating County or under any guaranty agreement with the Guarantor.

13. Assignment. The rights and obligations of the parties to this Agreement may not be assigned without the express written consent of all parties.

[SIGNATURE PAGE TO FOLLOW]

**FOND DU LAC COUNTY, WISCONSIN,** as  
Issuing County, and a Participating County

By: \_\_\_\_\_  
Steven A. Abel, County Chairperson

By: \_\_\_\_\_  
Lisa Freiberg, County Clerk

**FOREST COUNTY, WISCONSIN,**  
a Participating County

By: \_\_\_\_\_  
Ronald P. Skallerud, County Chairperson

By: \_\_\_\_\_  
Nora Matuszewski, County Clerk

**IOWA COUNTY, WISCONSIN,**  
a Participating County

By: \_\_\_\_\_  
John M. Meyers, County Chairperson

By: \_\_\_\_\_  
Kristy K. Spurley, County Clerk

**JEFFERSON COUNTY, WISCONSIN,**  
a Participating County

By: \_\_\_\_\_  
Steve Nass, County Chairperson

By: \_\_\_\_\_  
Audrey McGraw, County Clerk

**LAFAYETTE COUNTY, WISCONSIN,**  
a Participating County

By: \_\_\_\_\_  
Jack Sauer, County Chairperson

By: \_\_\_\_\_  
Carla Jacobson, County Clerk

**MARATHON COUNTY, WISCONSIN,**  
a Participating County

By: \_\_\_\_\_  
Kurt A. Gibbs, County Chairperson

By: \_\_\_\_\_  
Kim Trueblood, County Clerk

**PRICE COUNTY, WISCONSIN,**  
a Participating County

By: \_\_\_\_\_  
Brian Ernst, County Chairperson

By: \_\_\_\_\_  
Jean Gottwald, County Clerk

**SAWYER COUNTY, WISCONSIN,**  
a Participating County

By: \_\_\_\_\_  
Ron Kinsley, County Chairperson

By: \_\_\_\_\_  
Lynn Fitch, County Clerk

**TAYOR COUNTY, WISCONSIN,**  
a Participating County

By: \_\_\_\_\_  
Jim Metz, County Chairperson

By: \_\_\_\_\_  
Andria M. Farrand, County Clerk

**WAUSHARA COUNTY, WISCONSIN,**  
a Participating County

By: \_\_\_\_\_  
John Jarvis, County Chairperson

By: \_\_\_\_\_  
Megan Kapp, County Clerk

Acknowledged:

**BUG TUSSEL 2, LLC**

By: \_\_\_\_\_  
Jason G. Wied, Chief Executive Officer

**HILBERT COMMUNICATIONS, LLC**

By: \_\_\_\_\_  
Jason G. Wied, Chief Executive Officer

**EXHIBIT A**

**COUNTERPART AND JOINDER  
TO  
INTERGOVERNMENTAL AGREEMENT**

THIS COUNTERPART AND JOINDER (this “Joinder”), dated as of \_\_\_\_\_, 20\_\_\_\_, is entered into by \_\_\_\_\_ County (the “Joining Participating County”) pursuant to the terms of an Intergovernmental Agreement dated \_\_\_\_\_, 2024, as may be amended, supplemented or otherwise modified from time to time (the “Intergovernmental Agreement”), among the following Wisconsin counties: [(i) Fond du Lac County, (ii) Forest County, (iii) Iowa County, (iv) Jefferson County, (v) Lafayette County, (vi) Marathon County, (vii) Price County, (viii) Sawyer County, (ix) Taylor County, and (x) Waushara County] (collectively, the “Original Participating Counties”); and the following additional counties joining by Joinder: [TO BE LISTED] (collectively, the “20\_\_\_\_ Participating Counties” and together with the Original Participating Counties, the “Participating Counties” and each a “Participating County”).

**RECITALS**

A. Capitalized terms not otherwise defined in this Joinder shall have the meanings given to them in the Intergovernmental Agreement.

B. The Joining Participating County desires to join the Intergovernmental Agreement and become a Participating County under the Intergovernmental Agreement.

**AGREEMENTS**

As required by the Intergovernmental Agreement, the Joining Participating County agrees as follows:

1. The Joining Participating County hereby acknowledges and agrees that it has received and reviewed a copy of the Intergovernmental Agreement and hereby:

(a) joins the Intergovernmental Agreement as a Participating County; and

(b) assumes, accepts and agrees to be bound by, and hereby confirms, all covenants, agreements, and acknowledgments attributable to a Participating County in the Intergovernmental Agreement.

2. The Joining Participating County agrees that it shall execute and deliver all documents and do all other acts which may be necessary or desirable under the Intergovernmental Agreement.

IN WITNESS WHEREOF, the Joining Participating County has executed this Joinder as of the date first written above.

[SIGNATURE PAGE TO FOLLOW]

**Joining Participating County:**

[ \_\_\_\_\_ ] COUNTY, WISCONSIN

By: \_\_\_\_\_  
County Chairperson

By: \_\_\_\_\_  
County Clerk

Acknowledged and Approved:

**FOND DU LAC COUNTY, WISCONSIN,**  
as Issuing County, and a Participating County

By: \_\_\_\_\_  
County Chairperson

By: \_\_\_\_\_  
County Clerk

**GUARANTY AGREEMENT**

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dated as of [September] 1, 2024

given by

MARATHON COUNTY, WISCONSIN

as the Guarantor

in favor of

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION

as Bond Trustee, and

BUILD AMERICA MUTUAL ASSURANCE COMPANY

as Insurer

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## GUARANTY AGREEMENT

This GUARANTY AGREEMENT (this “*Guaranty Agreement*”) made and entered into as of [September] 1, 2024, by and between MARATHON COUNTY, WISCONSIN, (the “*County*” or “*Guarantor*”), U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, as Trustee (the “*Bond Trustee*”), and BUILD AMERICA MUTUAL ASSURANCE COMPANY, as Insurer (the “*Insurer*”).

### W I T N E S S E T H:

WHEREAS, Taxable Revenue Bonds, Series 2024 (Bug Tussel 2, LLC Project) (Social Bonds) in the aggregate principal amount of \$[PAR AMOUNT] (the “*Bonds*”) are to be issued by Fond du Lac County, Wisconsin (the “*Issuer*”) pursuant to an Indenture of Trust, dated as of [September] 1, 2024 (the “*Bond Indenture*”), between the Issuer and the Bond Trustee, on behalf of Bug Tussel 2, LLC (the “*Borrower*”) to finance a project consisting of the acquisition, construction, installation, and equipping of certain telecommunications infrastructure that includes, among other things (i) acquisition of tower sites by purchase or lease of land and equipping such sites with towers and electronics to provide broadband, high speed cellular, emergency communications and point to point (P2P) data communications; (ii) constructing fiberoptic data transmission facilities (cable and electronics) between towers, key community facilities, businesses and residential aggregation points; (iii) where appropriate, connecting individual premises into the broadband network including the cost of consumer premise equipment; (iv) payment of capitalized interest; (v) funding of a debt service reserve fund; (vi) payment of such project costs located in Marathon County in an amount not to exceed \$12,000,000; and (vii) payment of certain costs of issuance related to the issuance of the Bonds, all of which will be for the purpose of providing fiberoptic transmissions, wireless internet and telephone communications services and infrastructure to businesses, governmental units and residents of rural communities where such service is currently unavailable, unreliable, or is prohibitively expensive (collectively, the “*Project*”); and

WHEREAS, the Issuer has been appointed as Issuer for the Bonds pursuant to an Intergovernmental Agreement, dated as of [September] 1, 2024 (the “*Intergovernmental Agreement*”), by and among the Issuer, Iowa County, Forest County, Price County, Jefferson County, Lafayette County, Marathon County, Waushara County, Sawyer County and Taylor County, each in Wisconsin (each a “*Participating County*” and together, the “*Participating Counties*”); and

WHEREAS, the proceeds derived from the issuance of the Bonds will be applied pursuant to a Loan Agreement, dated as of [September] 1, 2024 (the “*Loan Agreement*”), between the Issuer and the Borrower, to finance the costs of the Project; and

WHEREAS, the Borrower will execute and deliver to the Issuer its Promissory Note relating to the Bonds (the “*Note*”) to evidence the Borrower’s obligation to repay the loan made under the Loan Agreement; and

WHEREAS, in consideration of the increased tax revenue that will accrue to the County as a result of the Project and the new jobs and other economic benefits for residents of the County that will result from the Project, the County has agreed to guarantee the payment of its Pro Rata Share (as defined herein) of the amount(s) necessary to replenish the Series 2024 Debt Service Reserve Account, to be at least equal to the Series 2024 Debt Service Reserve Requirement (each as defined in the Bond Indenture) in an aggregate amount not to exceed the Guaranteed Amount (as defined below), as



authorized by resolutions adopted by the County Board of Supervisors on June 18, 2024 and [ ], 2024; and

WHEREAS, the Borrower will have the primary obligation to make all scheduled principal and interest payments on the Bonds when due, and the obligation to make any payment by the County as required under this Guaranty Agreement will arise only in the event that the Borrower does not pay as required, beyond any applicable cure period; and

WHEREAS, the Bonds have been insured by the Insurer under its Municipal Bond Insurance Policy (the “*Policy*”); and

WHEREAS, in return for the County’s guaranty, the County shall receive an annual guaranty fee (which is paid on a semi-annual basis, or as a lump sum, as subsequently agreed to by the County and the Borrower) of 40 basis points of the outstanding par amount of the Bonds multiplied by its Pro Rata Share and the Borrower will pay all costs to the County and all expenses by the County related to the issuance and administration of the Bonds; and

WHEREAS, as security for the Borrower’s obligations under the Reimbursement Agreement, dated as of [September] 1, 2024 (the “*Reimbursement Agreement*”), between the County and the Borrower, pursuant to which the Borrower agrees, among other things, to reimburse the County for its payments under the Guaranty, the Borrower has agreed to grant the County a security interest in all assets of the Project located in the County which are financed with proceeds of the Bonds pursuant to the Security Agreements, as defined in the Reimbursement Agreement.

NOW THEREFORE, in consideration of the premises the Guarantor does hereby covenant and agree as follows:

**Section 1. Definitions.** The following terms, when used herein, shall have the following meanings:

“*Bondowners*” means the owners, including beneficial owners, of the Bonds.

“*Business Day*” means any day other than (i) a Saturday or Sunday or (ii) a day on which banking institutions located in the State of Wisconsin are required or authorized by law to close.

“*Default*” means any event which if it continues uncured will, with lapse of time or notice or lapse and notice, constitute an Event of Default.

“*Event of Default*” means any of the events described in Section 5.

“*Guaranteed Amount*” means, (i) as of the date of issuance of the Bonds, an amount calculated as the sum of (a) \$[ ] (representing the principal amount of the Bonds initially allocated to the Guarantor, which consists of Eligible Costs of the Project for the Facilities located in the Guarantor), and (b) interest to accrue on such principal amount of the Bonds at an annual rate not to exceed 8.0%; and (ii) on any subsequent date the Pro Rata Share is calculated pursuant to Section 2 hereof, (a) the then Outstanding principal amount of the Bonds initially allocated to the Guarantor pursuant to (i), as reduced pro rata by payments of principal and optional, special, or mandatory redemption (including mandatory sinking fund redemption) as provided

under the Indenture, and (b) interest to accrue on such principal amount of the Bonds at an annual rate not to exceed 8.0%.

“*Late Payment Rate*” means the annual rate of interest equaling the least of (i) the highest rate of interest applicable to any series of the Bonds plus [100 basis points] (1.00%); (ii) [8.0%]; and (iii) the maximum rate permissible under applicable laws limiting interest rates. Interest at the Late Payment Rate on any amount owing to the Insurer shall be computed on the basis of the actual number of days elapsed in a 360 day year composed of twelve 30-day months.

“*Policy Costs*” under the Policy means (i) a sum equal to the total of all amounts paid by the Insurer under the Policy resulting from the Guarantor's failure to pay amounts due pursuant to Section 2 below; and (ii) interest on such Policy payments from the date paid by the Insurer until payment thereof in full by the County payable to the Insurer at the Late Payment Rate.

“*Subordinated to the State*” means subordination to the extent required by the State of Wisconsin, the Public Service Commission of Wisconsin, or similar agency, political subdivision, or instrumentality of the State of Wisconsin as a condition of grant funding provided for financed assets relating to the Borrower and/or the Project.

## **Section 2. Guarantee.**

(a) In accordance with Section 7.13 of the Bond Indenture, the Guarantor hereby unconditionally guarantees to the Bond Trustee, on behalf of the Bondowners, the full and prompt payment of its Pro Rata Share (as defined below) of the amount(s) necessary to replenish the Series 2024 Debt Service Reserve Account to be at least equal to the Series 2024 Debt Service Reserve Requirement (each as defined in the Bond Indenture) in an aggregate amount not to exceed the Guaranteed Amount (but not amounts due upon acceleration, redemption (other than mandatory sinking fund redemption), prepayment or other early payment of Bonds (except as provided pursuant to Section 3.01(b)(2) of the Bond Indenture with the consent of the Guarantor)) in the event the Series 2024 Debt Service Reserve Account is drawn upon due to insufficient revenues to support the debt service on the Bonds or as otherwise provided in Section 7.13 of the Bond Indenture. If a demand is made upon the Guarantor by the Bond Trustee in compliance with Section 7.13 of the Bond Indenture after the Bond Trustee has drawn upon the Marathon County Series 2024 Debt Service Reserve Subaccount (as defined in the Bond Indenture) of the Series 2024 Debt Service Reserve Account to pay debt service on the Bonds or as otherwise provided in Section 7.13 of the Bond Indenture, the Guarantor shall take the necessary steps to replenish its Pro Rata Share of the Series 2024 Debt Service Reserve Account (i.e., to have amounts in the Marathon County Series 2024 Debt Service Reserve Subaccount to be at least equal to the Marathon County Series 2024 Debt Service Reserve Subaccount Requirement, as defined in the Bond Indenture) all as provided in Section 7.13 of the Bond Indenture, and provided that the Bond Trustee has made a demand to the Guarantor as required under Section 7.13 of the Bond Indenture, in no event later than the earlier of (i) one hundred fifty (150) days after receipt of such demand, or (ii) five (5) Business Days before the next succeeding Interest Payment Date (as defined in the Bond Indenture). The Guarantor's Pro Rata Share of the amount(s) necessary to replenish the Series 2024 Debt Service Reserve Account to be at least equal to the Series 2024 Debt Service Reserve Requirement shall be calculated as follows (expressed as a percentage, the Guarantor's “*Pro Rata Share*”): the Guaranteed Amount, divided by the total principal amount of the series of Bonds to which this Guaranty Agreement relates, then Outstanding (as defined in the Bond

Indenture). The Pro Rata Share of the Series 2024 Debt Service Reserve Account for the Guarantor and each Participating County shall be calculated by the Bond Trustee on the date of issuance of the Bonds, on each principal and interest payment date for the Bonds, and on any date the Pro Rata Share of the Guarantor or another Participating County whose Guaranty Agreement relates to the same series of Bonds is reduced pursuant to the terms thereof, and in each case, memorialized on such date by the Bond Trustee. On the date of the issuance of the Bonds, the Guarantor's Pro Rata Share of the Series 2024 Debt Service Reserve Account is [\_\_\_\_]%. Any other provision of this Guaranty Agreement notwithstanding, and for the avoidance of doubt, the Guarantor's obligation in this Section 2 is limited to its Pro Rata Share (both as to the replenishment of the Series 2024 Debt Service Reserve Account and any amounts paid under the Policy), and the Guarantor shall not be responsible for the Pro Rata Share (of either the replenishment of the Series 2024 Debt Service Reserve Account or amounts paid under the Policy) guaranteed by any other Participating County, and in any event shall never exceed the Guaranteed Amount.

(b) This is a guarantee of payment and not of collection. The obligations of the Guarantor under Section 2 of this Guaranty Agreement shall be absolute and unconditional and a general obligation of the Guarantor to the payment of which the full faith and credit taxing power of the Guarantor is pledged; the Guarantor unconditionally and irrevocably waives each and every defense which, under principles of guarantee and suretyship law, would otherwise operate to impair or diminish such obligations. The obligations of the Guarantor under this Guaranty Agreement shall remain in full force and effect until all of the principal of, and interest on, the Bonds and any Policy Costs due to the Insurer shall have been paid or the obligations of the Guarantor are released as described in paragraph (c) below, and such obligations shall not be affected, modified or impaired upon the happening from time to time of any event, including without limitation any of the following, whether or not with notice to, or the consent of, the Guarantor:

- (i) any lack of validity of the Bonds;
- (ii) the waiver, compromise, settlement, discharge, release or termination of any or all of the obligations, covenants or agreements of (A) the Issuer under the Bonds or the Bond Indenture or (B) the Borrower under the Loan Agreement;
- (iii) the failure to give notice to the Guarantor of the occurrence of an event of default under the terms and provisions of this Guaranty Agreement;
- (iv) the waiver by the Bond Trustee of the payment, performance or observance by the Borrower or the Issuer of any of the obligations, covenants or agreements contained in the Loan Agreement, the Note or the Bond Indenture that the Bond Trustee is permitted to waive without the consent of the Participating Counties and Guarantors;
- (v) the extension of the time for payment of any principal of, premium, if any, or interest on any Bonds or of the time for performance of any other obligations, covenants or agreements under or arising out of the Bond Indenture, the Loan Agreement or this or any other guarantee of the Bonds or any other obligations or the extension or the renewal of any thereof pursuant to the terms of the Bond Indenture;

(vi) the modification or amendment (whether material or otherwise) of any obligation, covenant or agreement set forth in the Bonds, the Bond Indenture or the Loan Agreement except the principal amount of the Bonds (for the avoidance of doubt, excluding any Additional Bonds not subject to this Guaranty Agreement), the interest rate payable thereon and the payment and maturity dates unless they are changed with the County's written approval which can be granted or withheld in the County's sole discretion;

(vii) the taking or the omission of any of the actions referred to in the Bond Indenture or the Loan Agreement;

(viii) any failure, omission, delay or lack of diligence on the part of the Issuer or the Bond Trustee to enforce, assert or exercise any right, power or remedy conferred on the Bond Trustee in this Guaranty Agreement, or any other act or acts on the part of the Issuer or the Bond Trustee;

(ix) any default, breach, or Event of Default, by any person under the Security Agreements or any Reimbursement Document (each as defined in the Reimbursement Agreement), including, without limitation, any default, breach, or Event of Default under the Hilbert Guaranty (as defined below);

(x) any failure by the Borrower to pay the County its annual guaranty fee (which is paid on a semi-annual basis, or as a lump sum, as subsequently agreed to by the County and the Borrower) of 40 basis points of the pro-rata par amount of Bonds subject to the County's guaranty; and

(xi) the default or failure of the Guarantor fully to perform any of its obligations set forth in this Guaranty Agreement.

(c) If at any time during the term of the Bonds, (i) the portion of the Project (or any portion thereof) located within the County is sold or otherwise disposed of by the Borrower pursuant to the terms and conditions of the Loan Agreement, without causing an Event of Default (as defined therein) thereunder, and (ii) Bonds in an amount corresponding to the portion of the Project (or any portion thereof) located within the County are redeemed (if and as permitted pursuant with the terms and conditions of the Bond Indenture and the Loan Agreement), the County shall be released from its obligations under this Guaranty Agreement in a corresponding amount and the County and, provided all amounts due have been paid, the Bond Trustee shall (A) execute and deliver such instruments as may be desirable to evidence such release on or after the date set for redemption of the Bonds, and (B) provide notice to the Insurer of such release. Additionally, if pursuant to Section 3.01(c) of the Bond Indenture, unspent proceeds in the County's Project Account are applied to redeem Bonds, provided all amounts due have been paid, the County's Pro Rata Share will be reduced by a corresponding amount. Finally, if pursuant to Section 3.01(b)(1) of the Bond Indenture, all Facilities located within the County have been subject to the conditions set forth in Section 3.01(b)(1) of the Bond Indenture, upon the redemption of the portion of the Bonds representing the Facilities in the County, provided all amounts due have been paid, the County's Pro Rata Share will be reduced by a corresponding amount.

(d) No set-off, counterclaim, reduction, or diminution of an obligation, or any defense of any kind or nature which the Guarantor has or may have against the Issuer, the Borrower, any affiliate of the Borrower, the Bond Trustee, the Insurer, or any other person, shall be available hereunder to the Guarantor against the Issuer or the Bond Trustee.

(e) No set-off, counterclaim, reduction or diminution of an obligation, or any defense of any kind or nature which the Guarantor has or may have against the Issuer, the Bond Trustee, the Borrower, any affiliate of the Borrower, the Insurer, or any other person, under the Bond Indenture or any other Transaction Document (as defined in the Bond Indenture) shall be available hereunder to the Guarantor against the Issuer or the Bond Trustee.

(f) The Guarantor further agrees that all payments made with respect to the Bonds will, when made, be final and agrees that if such payment is recovered from or repaid by or on behalf of the Issuer or the holders of the Bonds in whole or in part in any bankruptcy, insolvency, or similar proceeding instituted by or against the Issuer or the Borrower, the Guaranty Agreement shall continue to be fully applicable to such liabilities to the same extent as though the payment so recovered or repaid had never been originally made on such liabilities.

(g) In the event of a default in the payment of the regularly scheduled principal of any Bonds when and as the same shall become due (but not any accelerated amounts or amounts due upon prepayment or redemption (except for mandatory sinking fund redemption and as provided pursuant to Section 3.01(b)(2) of the Bond Indenture with the consent of the Guarantor), or in the event of a default in the payment of any interest on any Bonds when and as the same shall become due, the Bond Trustee may proceed hereunder to the extent of Guarantor's Pro Rata Share. The Bond Trustee, or as applicable, the Insurer, shall have the right to proceed first and directly against the Guarantor under this Guaranty Agreement without proceeding against or exhausting any other remedies which it may have and without resorting to any other security held by the Bond Trustee.

(h) The obligations of the Guarantor hereunder shall arise absolutely and unconditionally upon execution hereof. The Guarantor hereby expressly and unconditionally waives each of the following (which waivers the Guarantor represents are knowingly, willingly and voluntarily given):

(i) notice from the Bond Trustee and the Insurer of its acceptance and reliance on this Guaranty Agreement;

(ii) any claim for contribution against any co-guarantor until the entire principal of, premium, if any, and interest on the Bonds shall have been paid and are not subject to any right of recovery; and

(iii) any right the Guarantor may now or hereafter have to claim or recover from the Issuer or the Bond Trustee any consequential, exemplary or punitive damages.

**Section 3. Representations and Warranties.** To induce Bondowners to purchase and hold the Bonds, the Guarantor hereby represents and warrants as follows:

(a) it is a body corporate duly organized and validly existing under the laws of the State of Wisconsin and that it has obtained all authorizations necessary on its part for the due and valid execution and delivery of this Guaranty and the assumption of the obligations represented hereby.

(b) the execution and delivery of this Guaranty and the performance by the Guarantor hereunder will not conflict with or constitute a breach of or default under any indenture, loan agreement or instrument or agreement to which the Guarantor is a party or by which the Guarantor or its properties are bound.

(c) no authorization, approval, consent or license of any governmental regulatory body or authority, not already obtained, is required for the valid and lawful execution and delivery of this Guaranty Agreement by the Guarantor or the assumption of the obligations of the Guarantor represented hereby.

(d) it is not a party to any litigation or administrative proceeding, nor so far as is known by the Guarantor is any litigation or administrative proceeding threatened against it, which in either case would, if adversely determined, cause any material adverse change in its power or ability to perform its obligations under this Guaranty Agreement.

**Section 4. Affirmative Covenants.** While any portion of the Bonds remains outstanding, the Guarantor covenants and agrees with Bond Trustee as follows:

(a) Financial Statements and other Information. Guarantor shall provide to the Bond Trustee and the Insurer, not later than [270/365] days after and as of the end of each fiscal year, audited financial statements of the Guarantor, prepared by a certified public accountant in a manner and form required by the laws of the State of Wisconsin. Such financial statements shall be signed and dated by Guarantor, and by any other party preparing such financial statements.

(b) Continuing Disclosure Obligations. Guarantor shall execute and deliver a Continuing Disclosure Agreement dated as of [September] 1, 2024, between Guarantor and U.S. Bank Trust Company, National Association, as dissemination agent, in order to ensure compliance with the requirements of Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended.

**Section 5. Events of Default.** If any of the following events occur, it is hereby defined as and declared to be and to constitute an “Event of Default”:

(a) The Guarantor shall fail to pay when due any amount due hereunder.

**Section 6. Remedies.** If an Event of Default shall occur, the Bond Trustee or the Insurer, as applicable, may pursue any available remedy at law or in equity to realize payment of the amounts guaranteed hereby. No remedy herein conferred upon or reserved or otherwise available to the Bond Trustee or the Insurer, as applicable, is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Guaranty Agreement or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default, omission or failure of performance hereunder shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. To entitle the Bond Trustee or the Insurer, as applicable, to exercise any remedy reserved to it in this Guaranty Agreement, it shall not be necessary to give any notice, other than such notice as may be herein or by law expressly required. If any provision contained in this Guaranty Agreement should be breached by the Guarantor and thereafter duly waived by the Bond Trustee or

the Insurer, as applicable, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder. No waiver, amendment, release or modification of this Guaranty Agreement shall be established by conduct, custom or course of dealing, but solely by an instrument in writing duly executed by the Bond Trustee or the Insurer, as applicable.

**Section 7. Closing Deliverables.** By execution of this Guaranty Agreement, the Guarantor confirms receipt of or waiver of the following documents, all in form, detail and content satisfactory to the Guarantor, and the satisfaction of the following items:

(a) The Bonds have a principal amount not in excess of \$109,000,000, an interest rate not in excess of 8.0% and a final maturity date no later than thirty (30) years from their date of issuance, and the other terms of the Bonds and the Bond Indenture are acceptable to the County.

(b) All references to the County and this Guaranty Agreement in the limited offering memorandum with respect to the Bonds are acceptable to the County.

(c) An executed copy of the Intergovernmental Agreement.

(d) An opinion of nationally-recognized bond counsel as to the validity of the Bonds and such other legal opinions as to enforceability of the documents relating to the Bonds as the County may request.

(e) An opinion of counsel to the Guarantor, addressed to the Guarantor, the Insurer, the Bond Trustee and other required parties, as to the validity and enforceability of this Guaranty Agreement.

(f) Payment at closing by the Borrower to the County of half the first year annual guaranty fee of 40 basis points of the pro-rata par amount of Bonds subject to the County's guaranty.

(g) The Reimbursement Agreement between the Borrower and the County providing pursuant to the terms therein for County access to the Project, Project buildout and related matters, and payment to the County of any amounts paid by it under this Guaranty Agreement and providing for the payment of the annual guaranty fee (which is paid on a semi-annual basis, or as a lump sum, as subsequently agreed to by the County and the Borrower) of [\_\_\_]% of the pro-rata amount of Bonds subject to the County's guaranty and also providing that the proceeds of the Bonds shall be disbursed for any site or fiberoptic data transmission facility, as applicable, upon delivery of:

(1) a first mortgage (except as may be Subordinated to the State) in favor of the Guarantor on all assets of the Project located in the County, with no liens on the mortgaged property except liens to the County and Permitted Encumbrances (as defined in the Bond Indenture), together with:

(A) Evidence of title in the form of a mortgagee's policy of title insurance in the amount of the mortgage on a current ALTA form issued by an issuer licensed to write title insurance in the State of Wisconsin, including a gap endorsement and any other endorsements requested by the County;

(B) An ALTA survey with Table A items requested by the County;

(C) A Phase I environmental assessment on the mortgaged property and further environmental testing if deemed necessary by the County based on the results of the Phase I assessment;

(D) Such additional legal opinions, certificates, proceedings, instruments, and other documents as necessary to verify or evidence the due authorization, enforceability and validity of the reimbursement agreement between the Borrower and the County, the first mortgage in favor of the Guarantor on all assets of the Project located in the County (except as may be Subordinated to the State);

(E) Insurance certificates with respect to the mortgaged property naming the County as mortgagee and lender's loss payee on property insurance and additional insured on liability insurance;

(F) UCC Financing Statements in favor of the County providing for the perfection of a first priority lien on the assets of the Borrower (except as may be Subordinated to the State); and

(G) A pledge of the membership interest of the Borrower to the County.

(h) A guaranty (the "*Hilbert Guaranty*") from Hilbert Communications, LLC guaranteeing payment to the Guarantor of all payments made by the Guarantor pursuant to this Guaranty and Section 7.13 of the Indenture, and such other amounts as provided therein.

(i) Deposit by the Borrower with the Bond Trustee of bond proceeds in an amount equal to the Marathon County Series 2024 Debt Service Reserve Subaccount Requirement (as defined in the Bond Indenture), to be held by the Bond Trustee in the Marathon County Series 2024 Debt Service Reserve Subaccount (as defined in the Bond Indenture) as security for the Bonds.

(j) The County is reimbursed by the Borrower for all fees and expenses incurred by it, including attorneys' fees of counsel retained by the County, in connection with this Guaranty Agreement and the Bonds.

## **Section 8      Insurer Provisions.**

(a) The County hereby agrees that it shall have no right to any benefits of, or payments under, the Policy. In accordance with the foregoing, the County hereby waives all rights it may have under the Policy, including without limitation, any rights that the County may have obtained or been granted as the result of it being subrogated to or assigned the rights of any Bondholder pursuant to the terms of this Guaranty Agreement, any other Security Document or at law or in equity.

(b) Any payment by the Borrower or Hilbert Communications, LLC under the Reimbursement Documents (as defined in the Reimbursement Agreement) to the County for payments made under this Guaranty Agreement shall be subordinate to (i) the payment of debt service on the Bonds and the reimbursement of all amounts due and payable to the Insurer, and (ii) the



replenishment of the Marathon County Series 2024 Debt Service Reserve Subaccount (including payment of Policy Costs, if any).

(c) To the extent Policy Costs are paid by the Insurer and remain unpaid by the County, the Insurer shall have the sole right to pursue any remedy available under Section 6 hereof in place of the Bond Trustee. The Insurer's rights under this Guaranty Agreement shall not expire or terminate solely by reason of the payoff or defeasance of the Bonds; but shall only terminate with the indefeasible payment of all amounts due to the Insurer hereunder.

(d) Any amendment, supplement or modification to this Guaranty Agreement shall be subject to the prior written consent of the Insurer and Section 9(a) below. Any waiver relating to the Guarantor's payment obligations under Section 2 hereof or otherwise with respect to this Section 8 shall be subject to the prior written consent of the Insurer. Any assignment of this Guaranty Agreement shall be subject to the provisions of Section 9(b).

(e) The County will permit the Insurer to discuss the affairs, finances and accounts of the County or any information the Insurer may reasonably request regarding the security for the Bonds with appropriate officers of the County and will use commercially reasonable efforts to enable the Insurer to have access to the facilities, books and records of the County on any business day upon reasonable prior notice.

(f) The County shall pay or reimburse the Insurer (1) any and all Policy Costs, and (2) any and all charges, fees, costs and expenses that Insurer may reasonably pay or incur in connection with (A) the administration, enforcement, defense or preservation of any rights or security of this Guaranty Agreement, (B) the pursuit of any remedies under this Guaranty Agreement or otherwise afforded by law or equity against the Guarantor, (C) any amendment, waiver or other action with respect to, or related to this Guaranty Agreement, or (D) any litigation or other dispute in connection with this Guaranty Agreement. The Insurer reserves the right to charge a reasonable fee as a condition to executing any amendment, waiver or consent proposed in respect of this Guaranty Agreement.

(g) The Insurer shall be afforded notice by the County of any proceeding by or against the County commenced under the United States Bankruptcy Code or any other applicable or similar law regarding bankruptcy, insolvency, receivership, rehabilitation or fiscal distress.

## **Section 9. Miscellaneous.**

(a) Amendments. This Guaranty Agreement shall not be effectively amended, modified or altered until such modification, alteration or amendment is reduced to writing and executed by each party hereto and the provisions of Section 8(d) are complied with; *provided* that such modification, alteration, or amendment will not cause the lowering, withdrawal, or suspension of any rating then existing on the Bonds by the Rating Agency (as defined in the Bond Indenture). References to agreements herein shall mean such agreements as amended, modified or altered pursuant to their terms.

(b) Successors. Except as limited or conditioned by the express provisions hereof, the provisions of this Guaranty Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto (including, without limitation, any successors or assigns of the Trustee under the Bond Indenture); *provided that*, such successors and assigns will not cause the lowering,

withdrawal, or suspension of any rating then existing on the Bonds by the Rating Agency (as defined in the Bond Indenture); and *provided further that*, the Guarantor shall not assign or transfer its obligations under this Agreement without the prior written consent of the Insurer.

(c) Governing Law. This Guaranty Agreement has been executed, delivered and issued by the Guarantor and the Bond Trustee in the State of Wisconsin and shall be a contract made under and governed by the internal laws of the State of Wisconsin. If any one or more of the provisions contained in this Guaranty Agreement shall be invalid, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.

(d) Captions. The captions or headings in this Guaranty Agreement are for convenience only and in no way define, limit or describe the scope or intent of any of the provisions of this Guaranty Agreement.

(e) Facsimile and Counterparts. This Guaranty Agreement may be signed in any number of separate copies, each of which shall be effective as an original, but all of which taken together shall constitute a single document. An electronic transmission or other facsimile of this document or any related document shall be deemed an original and shall be admissible as evidence of the document and the signer's execution.

(f) Notices. Any notice hereunder shall be in writing and shall be deemed to be given if hand delivered or sent by first class mail, electronic mail, facsimile, registered or certified mail, or overnight delivery and addressed as follows:

If to the Guarantor:

Marathon County  
Marathon County Courthouse  
500 Forest Street  
Wausau, WI 54403  
Attn: [\_\_\_\_\_]

If to Bond Trustee:

U.S. Bank Trust Company National Association  
1555 North RiverCenter Drive, Suite 203  
Milwaukee, WI 53212  
Attn: Corporate Trust Services

If to the Insurer:

Build America Mutual Assurance Company  
200 Liberty Street, 27<sup>th</sup> Floor  
New York, New York, 10281  
Attention: Surveillance  
Re: Policy No. \_\_\_\_\_,  
Telephone: (212) 235-2500  
Telecopier: (212) 235-1542  
Email: notices@buildamerica.com

The Guarantor, Insurer, or Bond Trustee may, by written notice, received by the other, designate a further or different address for purposes of notice hereunder.

(g) Severability. This Guaranty Agreement constitutes the entire agreement between the Bond Trustee, Guarantor, and Insurer with respect to the subject matter hereof, superseding all previous communications and negotiations, and no representation, understanding, promise or condition concerning the subject matter hereof shall be binding upon the Bond Trustee or the Insurer unless expressed herein. If any provisions of this Guaranty Agreement shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstance shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever. The invalidity of any one or more phrases, sentences, clauses or sections in this Guaranty Agreement contained, shall not affect the remaining portions of this Guaranty Agreement, or any part thereof. Notwithstanding any other provision herein to the contrary, if the Bonds are accelerated pursuant to the Bond Indenture or the Loan Agreement, such amounts are guaranteed hereunder, but payable only at the intervals such amounts would have been otherwise due hereunder absent such acceleration unless otherwise agreed to by the County pursuant to Section 3.01(b)(2) of the Bond Indenture.

(h) Bond Trustee's Rights. All rights, privileges, indemnities, immunities, benefits and protections given to the Bond Trustee in the Bond Indenture shall apply to all actions taken or omitted to be taken by the Bond Trustee pursuant to this Guaranty Agreement.

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**IN WITNESS WHEREOF**, the Guarantor has caused this Guaranty Agreement to be executed in its name and behalf and its corporate seal to be affixed hereto and attested by its duly authorized officers as of the date first above written.

MARATHON COUNTY, WISCONSIN

By: \_\_\_\_\_  
Name:  
Title: County Board Chairperson

[SEAL]

By: \_\_\_\_\_  
Name:  
Title: County Clerk

Accepted as of the date first above written, by U.S. Bank Trust Company, National Association, as Bond Trustee.

U.S. BANK TRUST COMPANY, NATIONAL  
ASSOCIATION  
as Bond Trustee

By: \_\_\_\_\_  
Name:  
Title:

Accepted as of the date first above written, by Build America Mutual Assurance Company, as Insurer.

BUILD AMERICA MUTUAL ASSURANCE  
COMPANY  
as Insurer

By: \_\_\_\_\_  
Name:  
Title:

**FIN - Budget vs Actual for Organization**

**Company** County of Marathon  
**Organization** Cost Center Hierarchy:  
County Administrator  
**Period** FY2024 - Jun  
**Fund** 101 General Fund

<b>Ledger Account</b>	<b>Original Budget</b>	<b>Actuals (YTD)</b>	<b>Budget Used (%)</b>
Revenues	239,000	115,223	48.21%
41110:General Property Taxes	0	0	0.00%
43500:State Grants - Other	0	0	0.00%
46100:General Government	0	0	0.00%
46500:Health	0	15,661	0.00%
47200:State	239,000	99,563	41.66%
48900:Other Miscellaneous Revenues	0	0	0.00%
<b>Total Revenues</b>	<b>239,000</b>	<b>115,223</b>	<b>48.21%</b>
Expenditures	2,959,482	1,449,746	48.99%
Personnel	782,729	380,213	48.58%
Salaries and Wages	567,986	270,323	47.59%
Employee Benefits	568	3,385	595.88%
Employer Contributions	214,175	106,505	49.73%
Contractual Services	1,790,692	743,611	41.53%
Professional Services	1,406,796	574,154	40.81%
Utility Services	7,400	1,792	24.22%
Repair and Maintenance Services - Other	0	0	0.00%
Special Services	5,950	46,972	789.45%
Other Contractual Services	370,546	120,692	32.57%
Materials and Supplies	73,928	78,798	106.74%
Office Supplies	1,700	471	34.14%
Publications, Subscriptions and Dues	14,470	17,512	121.03%
Travel	17,075	13,438	78.70%
Operating Supplies	40,683	43,789	107.64%
Other Supplies and Expense	0	3,587	0.00%
Fixed Charges	31,000	33,787	108.99%
Other Permits and Regulatory Fees	500	500	100.00%
Rents and Leases	30,500	7,740	25.38%
Other Fixed Charges	0	25,547	0.00%
Capital Outlay	40,000	0	0.00%
Capital Outlay	40,000	0	0.00%
Grants, Contributions, Indemnities and Other	241,133	213,337	88.47%
Grants and Donations to Other Organizations	238,133	213,133	89.50%
Awards and Indemnities	3,000	204	6.80%
<b>Total Expenditures</b>	<b>2,959,482</b>	<b>1,449,746</b>	<b>48.99%</b>
<b>Net Change</b>	<b>(2,720,482)</b>	<b>(1,334,523)</b>	<b>49.06%</b>

**FIN - Budget vs Actual for Organization**

**Company** County of Marathon  
**Organization** Cost Center Hierarchy:  
County Board  
**Period** FY2024 - Jun  
**Fund** 101 General Fund

<b>Ledger Account</b>	<b>Original Budget</b>	<b>Actuals (YTD)</b>	<b>Budget Used (%)</b>
Revenues	0	19	0.00%
46500:Health	0	19	0.00%
48900:Other Miscellaneous Revenues	0	0	0.00%
<b>Total Revenues</b>	<b>0</b>	<b>19</b>	<b>0.00%</b>
Expenditures	458,194	173,664	37.90%
Personnel	320,694	142,135	44.32%
Salaries and Wages	295,059	131,485	44.56%
Employee Benefits	295	0	0.00%
Employer Contributions	25,340	10,649	42.03%
Contractual Services	35,500	16,716	47.09%
Professional Services	6,500	453	6.97%
Utility Services	20,000	5,540	27.70%
Repair and Maintenance Services - Other	6,000	0	0.00%
Special Services	3,000	10,723	357.45%
Materials and Supplies	102,000	14,813	14.52%
Office Supplies	11,000	1,902	17.29%
Publications, Subscriptions and Dues	30,000	2,830	9.43%
Travel	60,000	9,389	15.65%
Operating Supplies	1,000	642	64.23%
Repair and Maintenance Supplies	0	49	0.00%
<b>Total Expenditures</b>	<b>458,194</b>	<b>173,664</b>	<b>37.90%</b>
<b>Net Change</b>	<b>(458,194)</b>	<b>(173,646)</b>	<b>37.90%</b>