

the trustee or other holder of the lien securing the same that such trustee or other holder, on receipt of the prior lien bonds so held by the Principal Trustee, will cause the lien securing the same to be satisfied and discharged of record, and *provided further*, that the Principal Trustee shall not be required to cause any bonds so held by it to be cancelled or to be surrendered for cancellation pursuant to the provisions of this Article 7, unless and until the Principal Trustee shall have received an opinion of counsel to the effect that there is no outstanding lien (other than permitted encumbrances) covering any part of the property upon which such lien exists junior to or on a parity with such lien and senior to the lien of this Indenture; and upon similar request, the Principal Trustee shall sell or surrender any prior lien bonds held by it subject to this Article 7 to the trustee or other holder of the prior lien securing the same for cancellation, or to be held uncancelled for the purposes of any sinking fund or other similar device for the retirement of bonds for which provision may have been made in the prior lien securing the prior lien bonds so sold or surrendered, *provided, however*, that no such prior lien bonds shall be sold or surrendered except for cancellation as aforesaid, until the Principal Trustee shall have received

(i) an opinion of counsel to the effect (a) that the provisions of the prior lien securing the prior lien bonds so to be sold or surrendered are such that no transfer of ownership or possession of such prior lien bonds by the trustee or other holder of such prior lien is permissible thereunder except upon default thereunder or except to the Principal Trustee hereunder, to be held subject to the provisions of this Article 7, or to the trustee or other holder of a prior lien upon the same property, for cancellation or to be held uncancelled under the terms of such prior lien under like conditions, or (b) that all of the property subject to the prior lien with respect to which such prior lien bonds have been deposited with the Principal Trustee has been released from the lien of this Indenture, which shall be stated in any event if such be the fact; and

(ii) a certificate of the Company stating that all conditions precedent, specified in this Indenture, to the right of the Com-

pany, in the ordinary course of business, freely and without let or hindrance on the part of the Trustees or either of them, or the bondholders, to use and consume supplies, stores, materials, tools and appliances, and to exercise any and all rights under choses in action and contracts.

§ 8.02. In the event of (a) any taking of any part of the mortgaged property by the exercise of the power of eminent domain, or the sale or conveyance by the Company in lieu of such taking and in reasonable anticipation thereof where proceedings therefor might lawfully be taken to vest such property in the grantee for the same purposes, or (b) the exercise by any municipality or other governmental subdivision or agency of any right which it may have or may hereafter acquire to purchase, any part of the mortgaged property, upon the application of the Company the Trustees shall execute and deliver a deed of release of the mortgaged property so taken, sold, purchased or otherwise disposed of upon receipt of

(1) a certificate of the Company and an opinion of counsel to the effect that such property has been

(A) taken by the valid exercise of the power of eminent domain,

(B) sold in anticipation of such taking, and that such property could have been taken lawfully, by the grantee in the exercise of the power of eminent domain, or

(C) purchased by a municipality or other governmental subdivision or agency in the valid exercise of a right which it had to purchase the same,

and such certificate of the Company shall also state the amount of the award, sales price, or purchase price, as the case may be;

(2) if sold in anticipation of such taking by exercise of the power of eminent domain, a certified resolution stating that in the opinion of the Directors such sale was in lieu of and in the reasonable anticipation of such taking and was for the best interest of the Company, having in view such forcible taking;

pany to have said prior lien bonds so sold or surrendered have been complied with;

and *provided further* that if all of the property subject to the prior lien securing prior lien bonds deposited with the Principal Trustee shall be released from the lien of this Indenture, such prior lien bonds shall be cancelled or surrendered to the trustee or other holder of such prior lien for cancellation or delivered to the Company upon the written request of the Company.

§ 8.04. Unless a default as defined in § 8.01 shall have occurred and shall be continuing, the Trustees or either of them may exercise, but only with the written consent of the Company, and upon the occurrence and continuance of any such default, the Trustees or either of them may exercise in its absolute discretion without the written consent of the Company, any and all rights of a bondholder with respect to the prior lien bonds then held by the Principal Trustee or may take any other action which shall in their judgment be desirable or necessary to avail of the security created for such prior lien bonds by the prior liens securing the same. The Trustees or either of them shall be reimbursed from the mortgaged property for all expenses by them properly incurred by reason of any such action taken, without negligence or bad faith, with interest upon all such expenditures at the rate of four per centum (4%) per annum; and the amount of such expenses and interest shall, until repaid, constitute a lien upon the mortgaged property prior to the lien of the bonds and coupons issued hereunder.

#### ARTICLE 8

##### POSSESSION, USE AND RELEASE OF MORTGAGED PROPERTY

§ 8.01. Unless a default as defined in § 8.01 shall have occurred and shall be continuing, the Company shall be suffered and permitted to possess, use and enjoy the mortgaged property (except any cash or other personal property pledged or deposited with or required to be pledged or deposited with the Trustees hereunder), and to receive and use the rents, issues, income, product and profits thereof, with

(3) a sum equal to the amount of the award, the fair value of the property or sales price, whichever is greater, if sold in anticipation of such taking, or the purchase price paid by the municipality or other governmental subdivision or agency, which may consist of cash or other property, or both;

(4) a certificate of the Company and an opinion of counsel as to compliance with conditions precedent; and

(5) a certificate signed by an engineer or an independent engineer, in case the fair value of the property, in question and of all other property or securities released since the commencement of the then current calendar year, as set forth in the certificate required pursuant to this provision, and any similar certificates pursuant to this provision and any other sections of this Article 8, is ten per centum (10%) or more of the aggregate principal amount of bonds at the time outstanding, unless the fair value of the property in question, as set forth in the certificate, is less than \$25,000 or less than one per centum (1%) of the aggregate principal amount of bonds at the time outstanding) stating the fair value, in his opinion, of the property, as of the date of the application. If a sale in lieu and in reasonable anticipation of any of the aforesaid events is involved, the Principal Trustee shall be furnished an engineer's or independent engineer's certificate as aforesaid, which certificate shall also state that in the opinion of the signer such sale and release will not impair the security hereunder in contravention of the provisions hereof.

In any such proceedings the Trustees may be represented by counsel. Subject to the provisions of § 8.09, the proceeds of all property so sold, taken or disposed of shall be paid over to the Principal Trustee hereunder to be held and applied as a part of the mortgaged property, in the same manner provided in § 8.11.

Anything herein to the contrary notwithstanding, in case the property so to be released is subject to a prior lien, the Trustees shall at any time, upon the request of the Company, such request to be evidenced by a certified resolution containing recitals showing that the case is one to which the provisions of this Section apply, release such property upon receipt of a certificate of the trustee or other holder