

**ARTICLE IV. CONSTRUCTION OF PROJECTS -  
CONSTRUCTION FUNDS**

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**HAWAIIAN PARADISE PARK OWNERS ASSOCIATION**

and

**UNION BANK OF CALIFORNIA, N.A.,  
as Trustee**

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**TRUST INDENTURE**

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**\$12,085,000  
Hawaiian Paradise Park Owners Association  
Homeowners Assessment Revenue Bonds, Series 2007**

Dated as of June 1, 2007

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**ARTICLE IV  
CONSTRUCTION OF PROJECTS; CONSTRUCTION FUND**

**Section 4.01. Construction of Projects.** The Issuer shall cause all Projects to be undertaken and completed in compliance with all present and future laws, acts, rules, regulations, orders and requirements lawfully made and applicable thereto. In connection with any such Projects, the Issuer further agrees that:

(a) It shall enter into such construction contracts and other agreements with third parties (the "Construction Contracts") as it deems necessary or advisable for any acquisition, installation, equipping, constructing, renovations and conversions relating thereto, and shall obtain or cause its general contractor or construction manager to obtain such surety bonds and insurance policies as it deems necessary or appropriate to cover the performance of contracts (including correction of defects), payment for labor and materials, builders' risk coverage, workers' compensation and employers' liability coverage and public liability and property damage coverage. The Issuer shall retain an Independent Project Consultant to inspect or supervise the construction of any Project with an estimated Cost in excess of \$100,000.

(b) The Issuer shall file with the Trustee copies of (i) all Construction Contracts relating to any Project, (ii) an estimate of the Costs of the Project and the estimated schedule for completion of the Project and payment of the Costs thereof, which estimates and schedules shall be approved by an Independent Project Consultant if they relate to a Project with an estimated Cost in excess of \$100,000, and (iii) the plans and specifications (if any) therefor.

(c) Amendments, modifications, changes and deletions relating to any Project or to any Construction Contract relating to a Project or any estimates, schedules or plans and specifications therefor may be made at the discretion of the Issuer with the approval of the Independent Project Consultant for the Project (if applicable). Such changes shall be filed with the Trustee.

(d) The Costs of any Project shall be paid from Bond proceeds, insurance proceeds and condemnation awards (or proceeds of conveyances in lieu of condemnation) deposited into the Construction Fund pursuant to Article III and Section 5.05 hereof. To the extent that such amounts

are insufficient to pay the Costs incurred for a Project, the Issuer shall deposit additional funds in the Construction Fund to provide for payment of such Costs.

(e) The Issuer shall enforce the Construction Contracts for any Project, and shall not do or refrain from doing any act whereby any surety on any bond may be released in whole or in part from any obligation assumed by such surety or from any agreement to be performed by such surety under the bond. In the event of any default on the part of any general contractor, construction manager, engineer, other contractor or subcontractor or supplier (any party so in default being referred to as a "defaulting party") under any contract made by it in connection with any such Project, or in the event of a breach of warranty with respect to any materials, workmanship or performance guaranty, the Issuer will notify the Trustee and the Initial Owner and will proceed, either separately or in conjunction with others, to pursue such remedies against the defaulting party and against each surety for the performance of any defaulted contract as it may deem advisable. The Issuer agrees to advise the Trustee and the Initial Owner of the steps it intends to take in connection with any such default. If the Issuer fails or refuses to take such actions as are reasonably necessary or advisable to enforce the Construction Contracts and pursue available remedies against the defaulting party or surety, the Trustee may proceed to take all such action at the direction of a Majority of Owners and the Issuer shall pay all expenses of such actions.

**Section 4.02. Establishment of Construction Fund.** The Issuer shall establish with Trustee a Construction Fund for the payment of Costs of the 2007 Project and any other Projects hereafter undertaken. The Construction Fund shall consist of the Bond proceeds, insurance proceeds or condemnation awards (or proceeds of conveyances in lieu of condemnation) required or permitted to be deposited therein pursuant to Article III or Section 5.05 hereof, and any additional deposits made by the Issuer pursuant to Section 4.01 hereof. Separate Construction Funds or accounts within a given Construction Fund shall be maintained by the Trustee if the Issuer determines that separate Construction Funds or accounts are desirable with respect to particular Projects or designated portions of Projects.

**Section 4.03. Payments from Construction Fund.** Payments from any Construction Fund established hereunder shall be made only in respect of the Costs of the Project for which it is established and only upon compliance with the following:

(a) All payments from any Construction Fund shall be made only upon receipt by the Trustee of a Requisition signed by an Authorized Officer of the Issuer with the prior written approval of the Independent Project Consultant retained for the Project (if applicable), in substantially the form set forth in Exhibit C-1 hereto and otherwise satisfactory to the Trustee, which shall state: (i) the name and address of the Person to whom the payment is to be made; (ii) the amount to be paid; (iii) the obligation on account of which the payment is to be made, showing the total obligation, any amount previously paid, and the unpaid balance; (iv) that the obligation was properly incurred and is a proper charge against the Fund from which the payment is to be made; (v) that the amount requisitioned is due and unpaid; (vi) that with respect to items covered in the requisition, there are no vendors', mechanics' or other liens, bailment leases or conditional sale contracts which should be satisfied or discharged before the payments as requisitioned therein are made, or which will not be discharged before the payments as requisitioned therein are made, or which will not be discharged by such payment; and (vii) that the work, material or other purchased item to which the payment relates has been accomplished, delivered or installed in a manner satisfactory to the Issuer. In addition, the first Requisition from the Construction Fund for

the 2007 Project shall be accompanied by a certificate of insurance evidencing the general commercial liability coverage required by Section 8.05 hereof. The Trustee shall conclusively rely on a Requisition as complete authorization for such payments and shall not be responsible for the accuracy or underlying basis for the information contained in any Requisitions, and shall not be accountable for the application by the Issuer or any other Person of the payment of any Requisition presented hereunder.

(b) If an Independent Project Consultant has been retained to inspect or supervise construction of the Project, any Requisition relating in whole or in part to payments under Construction Contracts shall be accompanied by a certificate of the Independent Project Consultant to the effect: (i) that such Independent Project Consultant has approved the Requisition; (ii) that the amount requisitioned was properly incurred and is due and unpaid; (iii) insofar as the payment is to be made for work, material, supplies or equipment, that the work has been performed and the materials, supplies or equipment have been installed in the Project or have been delivered either at the Project site or at a proper place for fabrication and are covered by the builders' risk insurance; and (iv) that all work, material, supplies and equipment for which payment is to be made are, in the signer's opinion, in accordance with the plans and specifications or duly approved change orders, all of which shall have been previously filed with the Trustee.

(c) Any Requisition may authorize the reimbursement to the Issuer for advances made in respect of the Project or the satisfaction of any indebtedness incurred by the Issuer to pay Project Costs, but only to the extent that such amounts are properly chargeable against the Construction Fund. Any such Requisition (and accompanying engineer's certificate, if appropriate) shall relate to the underlying Project Costs in respect of which the requested reimbursement or repayment of indebtedness is to be made.

**Section 4.04. Procedure upon Completion of Projects.** Upon the completion of any Project, the Issuer shall deliver to the Trustee a certificate of an Authorized Officer of the Issuer, approved by the Independent Project Consultant retained to inspect or supervise construction of the Project (if applicable), stating (a) the completion date of the Project, (b) that all required insurance has been obtained, (c) that all construction has been completed in accordance with the approved plans and specifications and approved changes, if any, and (d) the amounts, if any, to be reserved for the payment of any unpaid Costs. The Trustee shall thereupon transfer the balance remaining in the Construction Fund and not reserved for the payment of unpaid Costs to the Bond Fund and to such Account or Accounts within such Fund, as shall be directed by the Issuer.