



**SOUTH YUBA TRANSPORTATION
IMPROVEMENT AUTHORITY
915 Eighth Street, Suite 109A
Marysville, California**



**SPECIAL MEETING
DECEMBER 11, 2019 – 5:30 P.M.**

CALL TO ORDER: Welcome. As a courtesy to others, please turn off cell phones or other electronic devices which might disrupt the meeting. Thank you.

I **ROLL CALL** – Directors Bradford, Henderson, Lofton, West

II **PUBLIC COMMUNICATIONS:** Any person may speak about any subject of concern within the jurisdiction of the authority which is not on today's agenda. The total amount of time allotted shall be limited to a total of 15 minutes and each individual or group will be limited to no more than 3 minutes. Prior to this time, speakers are requested to fill out a "Request to Speak" card and submit it to the secretary.

III **ACTION ITEMS**

A. Approve meeting minutes of June 4, 2019.

B. Adopt resolution approving, authorizing, and directing execution of a Form of Fee Collection and Disbursement Agreement relating to the California Statewide Communities Development Authority Statewide Communities Infrastructure Program.

V **BOARD AND STAFF MEMBERS REPORTS**

VI **ADJOURN**



**SOUTH YUBA TRANSPORTATION
IMPROVEMENT AUTHORITY
915 Eighth Street, Board Chambers
Marysville, California**



JUNE 4, 2019 – 4:00 P.M.

Call to order 4:03 p.m. with a quorum being present as follows: Directors Bradford, Henderson, and Lofton. Director West absent. Also present were County Counsel Michael Ciccozzi, Community Development and Services Director Kevin Mallen, and Secretary/Office Specialist Mary Pasillas. Chair Bradford presided.

I ROLL CALL – Directors Bradford, Henderson, Lofton, West – Director West absent

II PUBLIC COMMUNICATIONS: None

III ACTION ITEMS

A. Approve meeting minutes of February 5, 2019.

MOTION: Move to approve

MOVED: Doug Lofton SECOND: Joe Henderson

AYES: Gary Bradford, Doug Lofton, Joe Henderson

NOES: None ABSENT: Rick West ABSTAIN: None

B. Hold public hearing and adopt resolution adopting South Yuba Transit Improvement Authority (SYTIA) Traffic Impact Fee Study, and establishing SYTIA Traffic Impact Fees.

Director Bradford opened the public hearing.

Community Development and Services Director Kevin Mallen recapped Traffic Impact Fee Study as follows and responded to Board inquiries:

- Overall Project Cost- \$250 million
 - New Development: \$100 Million
 - Outside Sources: \$150 Million
- Timeline/Process for Implementation of Fees

The following individual spoke: Ms. Kristen Tollenaar

Director Bradford Closed the Public Hearing.

MOTION: Move to approve

MOVED: Doug Lofton SECOND: Joe Henderson

AYES: Gary Bradford, Doug Lofton, Joe Henderson

NOES: None ABSENT: Rick West ABSTAIN: None

IV BOARD AND STAFF MEMBERS REPORTS: None

V ADJOURN: 4:22 p.m.

SECRETARY ATTEST:
RACHEL FERRIS
CLERK OF THE BOARD OF SUPERVISORS

Chair

Approved: _____

The County of Yuba

Community Development & Services Agency

Kevin Mallen, Director

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Marysville, California 95901
www.co.yuba.ca.us



BUILDING
749-5440 • Fax 749-5616

CODE ENFORCEMENT
749-5455 • Fax 749-5424

ENVIRONMENTAL HEALTH • CUPA
749-5450 • Fax 749-5454

HOUSING & COMMUNITY SERVICES
749-5460 • Fax 749-5464

PLANNING
749-5470 • Fax 749-5434

PUBLIC WORKS • SURVEYOR
749-5420 • Fax 749-5424

December 3, 2019

TO: SYTIA Board of Directors

FROM: Kevin Mallen, Yuba County CDSA Director

SUBJ: Resolution Approving, Authorizing, and Directing Execution of a Form of Fee Collection and Disbursement Agreement Relating to the California Statewide Communities Development Authority's Statewide Communities Infrastructure Program

RECOMMENDATION:

Adopt attached resolution approving, authorizing, and directing execution of a Form of Fee Collection and Disbursement Agreement Relating to the California Statewide Communities Development Authority's Statewide Communities Infrastructure Program (SCIP).

BACKGROUND:

The Yuba County Board of Supervisors previously approved a resolution allowing the County to participate in SCIP. The SCIP functions similar to a Mello Roos wherein bonds are sold and the proceeds are used to pay for various infrastructure or impact fees. The bonds are then repaid over time by the homeowners on their ad valorem property tax bills. To date, Yuba County has allowed various developers to finance the traffic portion of the Countywide Traffic Impact fees through the SCIP.

DISCUSSION:

The California Statewide Communities Development Authority approached the County requesting that they be able to use SCIP to finance the SYTIA impact fees, similar to the Countywide Traffic Impact fees. Approval of this resolution will allow developers in the County to do just that.

FISCAL IMPACT:

There is no fiscal impact to SYTIA. Action simply allows developers to finance the SYTIA impact fees.

BEFORE THE BOARD OF DIRECTORS OF THE
SOUTH YUBA TRANSPORTATION IMPROVEMENT AUTHORITY

RESOLUTION NO. _____

RESOLUTION OF THE BOARD OF DIRECTORS)
OF THE SOUTH YUBA TRANSPORTATION)
IMPROVEMENT AUTHORITY APPROVING,)
AUTHORIZING AND DIRECTING EXECUTION)
OF A FORM OF FEE COLLECTION AND)
DISBURSEMENT AGREEMENT RELATING)
TO THE CALIFORNIA STATEWIDE COMMUNITIES)
DEVELOPMENT AUTHORITY STATEWIDE)
COMMUNITIES INFRASTRUCTURE PROGRAM)

WHEREAS, in connection with the development of certain real property by the owners thereof (each a "Property Owner") within the jurisdiction of the South Yuba Transportation Improvement Authority (the "Fee Recipient"), the Fee Recipient is entitled to receive from such Property Owners development-related fees for the construction of certain public capital improvements (the "Fees");

WHEREAS, the Fees are eligible for financing through the California Statewide Communities Development Authority ("CSCDA") Statewide Community Infrastructure Program ("SCIP");

WHEREAS, on September 26, 2017, the County of Yuba, California (the "County") authorized CSCDA to conduct the special assessment proceedings and levy assessments within the territory of the County for the financing of development impact fees;

WHEREAS, in order to allow the Fees to be financed through SCIP, the Fee Recipient has requested that CSCDA collect and fund the Fees from (i) the proceeds of bonds (the "Bonds") issued through SCIP to finance assessment liens levied on the property of such Property Owners and/or (ii) prepayments of such assessment liens made by the Property Owners ("Property Owner Prepayments") directly to CSCDA;

WHEREAS, in connection with the issuance of bonds through SCIP, CSCDA will establish for the Fee Recipient an account with CSCDA held by Wilmington Trust, National Association, as trustee (the "SCIP Trustee") and administered by BLX Group, LLC (the "SCIP Program Administrator") in which certain amounts collected by CSCDA on behalf of the Fee Recipient in connection with SCIP (including from bond proceeds) are to be held (the "SCIP Account");

WHEREAS, in accordance with the Fee Recipient's request, and in order to allow the Fees to be financed through SCIP, CSCDA has determined to collect and fund the Fees on the Fee Recipient's behalf and to remit the portion of the Fees financed with proceeds of the Bonds and Property Owner Prepayments to the SCIP Account, and to make or cause to be made disbursements from such subaccount in accordance with properly executed requisitions of the Fee Recipient;

WHEREAS, there is now before the Fee Recipient a form of Fee Collection and Disbursement Agreement among the Fee Recipient, the County, and CSCDA; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Fee Recipient as follows:

Section 1. The foregoing recitals are true and correct, and this Board of Directors so finds and determines.

Section 2. The form of Fee Collection and Disbursement Agreement among the Fee Recipient, the County, and CSCDA is hereby approved. The Chair of the Board of Directors is authorized to execute and the Clerk of the Board is authorized to attest the execution of a completed Fee Collection and Disbursement Agreement in substantially said form, with any changes therein as may be necessary by the Fee Recipient's Board of Directors, such approval to be conclusively evidenced by the execution and delivery of the Fee Collection and Disbursement Agreement.

Section 3. The appropriate officials and staff of the Fee Recipient are hereby authorized and directed to execute and deliver such closing certificates, requisitions, agreements and related documents, including but not limited to such documents as may be required by Bond Counsel, to implement the transaction contemplated by the Fee Collection and Disbursement Agreement and to evidence compliance with the requirements of federal and state law in connection with the issuance by CSCDA of any taxable or tax-exempt bonds for SCIP.

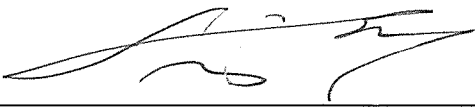
Section 4. This resolution shall take effect immediately upon its passage.

PASSED AND ADOPTED this _____ day of _____, 2019, by the Board of Directors of the South Yuba Transportation Improvement Authority, by the following votes.

- AYES:**
- NOES:**
- ABSENT:**
- ABSTAIN:**

By: _____
Chair, South Yuba Transportation Improvement Authority

By: _____
ATTEST: RACHEL FERRIS,
Clerk of the Board of Directors

By: 
Approved As To Form:
Michael Ciccozzi, County Counsel

FORM OF FEE COLLECTION AND DISBURSEMENT AGREEMENT

This FEE COLLECTION AND DISBURSEMENT AGREEMENT (this “Agreement”), dated as of _____ 1, 20__, by and among the SOUTH YUBA TRANSPORTATION IMPROVEMENT AUTHORITY (“Fee Recipient”), a California special district, the COUNTY OF YUBA, of the State of California (the “SCIP Participant”) and the CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY (“CSCDA”);

WITNESSETH:

WHEREAS, the Fee Recipient is entitled to receive from time to time certain amounts paid by developers of real property (each a “Developer”) within the jurisdiction of the SCIP Participant as impact fees, connection fees or other capital charges;

WHEREAS, the SCIP Participant is a participant in CSCDA’s Statewide Community Infrastructure Program (“SCIP”);

WHEREAS, certain fees or capital charges collected by Fee Recipient (the “Fees”) are eligible for financing through SCIP, subject to approval of Bond Counsel (as defined herein);

WHEREAS, the Fees may be paid to Fee Recipient by Developers, for subsequent reimbursement from the proceeds of bonds (the “Bonds”) issued through SCIP, or the Fees may be paid directly to Fee Recipient from proceeds of the Bonds;

WHEREAS, in accordance with Fee Recipient’s request, and in order to allow the Fees to be financed through SCIP, the SCIP Participant has determined to collect the Fees on Fee Recipient’s behalf and to remit the Fees to CSCDA to be held in a separate subaccount within the SCIP Account, and to make or cause to be made disbursements from such subaccount in accordance with properly executed requisitions of the Fee Recipient in the form attached as Exhibit B hereto;

NOW, THEREFORE, THE PARTIES HERETO MUTUALLY AGREE AS FOLLOWS:

Section 1. Definitions. As used herein, the following capitalized terms shall have the meanings ascribed to them below:

“Authorized Officer” means (a) when used with respect to CSCDA, any member of the governing board of CSCDA and such additional person or persons, if any, duly designated by CSCDA by a resolution to sign documents on its behalf, and (b) when used with respect to Fee Recipient, any person or persons duly designated by Fee Recipient in writing to act on its behalf.

“Bond Counsel” means Orrick, Herrington & Sutcliffe LLP, or any other nationally recognized firm appointed by CSCDA to serve as bond counsel in connection with the issuance of Bonds.

“Bonds” means bonds issued by CSCDA to finance development impact fees, including the Fees, in connection with SCIP.

“SCIP Account” means any of the accounts with CSCDA held by the SCIP Trustee and administered by the SCIP Program Administrator, established under any trust agreement in connection with the issuance of Bonds to finance the Fees, in which certain amounts collected on behalf of the Fee Recipient in connection with SCIP are held.

“SCIP Participant” means the County of Yuba, California.

“CSCDA” means the California Statewide Communities Development Authority, its successors and assigns.

“Fee Recipient” means the South Yuba Transportation Improvement Authority, a California special district.

“Fees” means those certain development-related fees to be financed through SCIP, approved by Bond Counsel and payable from time to time to Fee Recipient.

“SCIP” means the Statewide Community Infrastructure Program, a program of CSCDA.

“SCIP Funds” means payments of Fees received by Fee Recipient, as more fully described in Section 3, together with all of the investment earnings on such Fees.

“SCIP Program Administrator” means BLX Group LLC, its successors and assigns or any other administrator appointed by CSCDA as the administrator of SCIP.

“SCIP Trustee” means Wilmington Trust, National Association, its successors and assigns.

Section 2. Collection of Fees; SCIP Financing.

(a) Fee Recipient acknowledges that it has the authority to collect and use the Fees for its own benefit. Fee Recipient acknowledges that, subject to approval as set forth in Section 3, the Fees may be financed through SCIP, and agrees to allow the SCIP Participant to collect the Fees from time to time with respect to Developers applying for SCIP financing on the Fee Recipient’s behalf (i) from such Developers prior to the issuance of a particular series of Bonds, or (ii) from proceeds of a particular series of Bonds following the issuance of such Bonds.

(b) For any Developer applying for SCIP financing of Fees pertaining to a project within the jurisdiction of the SCIP Participant, the SCIP Participant agrees to collect the Fees from time to time for the Fee Recipient’s benefit. Upon collection, the SCIP Participant shall remit the Fees to CSCDA, to be deposited as set forth in Section 4. Developers shall receive a credit for the amount of Fees funded through the issuance of Bonds.

(c) The Fee Recipient agrees to deliver representations pertaining to the use and expenditure of Fees to be included in any SCIP financing in substantially the form set forth in

Exhibit C in connection with any tax exempt bond issuance, with such changes as Bond Counsel may deem necessary. Fees shall not be eligible for tax-exempt SCIP Financing if the Fee Recipient is unable to provide such representations.

Section 3. Approval of Fees. The Authorized Officers of Fee Recipient, or their designees, are authorized under this Agreement to approve the financing of Fees through SCIP. No Fee may be financed through SCIP except with the written approval of an Authorized Officer of Fee Recipient or his designee, which approval shall be evidenced by the signature of such Authorized Officer next to each such Fee shown on Exhibit A attached hereto or in such other written form as may be acceptable to the parties hereto. The written approval of an Authorized Officer shall be required on a project-by-project basis, and such approval shall constitute approval for the financing of such authorized fees for any and all applications which may be received by CSCDA requesting financing of such authorized fees for a given project.

Section 4. Agreement to Hold Fees in SCIP Account. CSCDA agrees to receive or cause to be received by the SCIP Trustee the Fees collected by the SCIP Participant on behalf of the Fee Recipient. CSCDA shall establish or cause to be established within the SCIP Account a separate subaccount (the "South Yuba Transportation Improvement Authority Subaccount"). The Fees financed using Bond proceeds shall be deposited in the South Yuba Transportation Improvement Authority Subaccount and held there by the SCIP Trustee and segregated from all other funds within the SCIP Account, and except for investment purposes, shall not be commingled with any other funds held by the SCIP Trustee. Investment earnings on the South Yuba Transportation Improvement Authority Subaccount shall be retained in the such subaccount for the benefit of the Fee Recipient except to the extent a portion of such earnings are requested to pay rebate or yield reduction payments to the U.S. Treasury pursuant to the Internal Revenue Code. Amounts on deposit in the South Yuba Transportation Improvement Authority Subaccount shall be disbursed only in accordance with Section 5 of this Agreement. All Fees funded through Bond proceeds shall be deemed paid by the Developer in the amount of the Bond proceeds on the date that such Bond proceeds are deposited in the SCIP Account.

Section 5. Disbursements from SCIP Account. CSCDA shall disburse or cause to be disbursed moneys on deposit in the South Yuba Transportation Improvement Authority Subaccount only as provided herein. Moneys on deposit in the South Yuba Transportation Improvement Authority Subaccount shall be disbursed pursuant to written requisitions of the Fee Recipient, in substantially the form attached hereto as Exhibit B and executed by an Authorized Officer of the Fee Recipient. CSCDA, the SCIP Program Administrator and the SCIP Trustee may conclusively rely on such requisitions for purposes of making such disbursements.

All disbursements from the South Yuba Transportation Improvement Authority Subaccount to the Fee Recipient shall be made by wire transfer of immediately available funds or by check payable to the Fee Recipient's bank account number at a bank located within the United States on file with the SCIP Trustee, unless another method of payment is requested in writing by the Fee Recipient.

Section 6. Term of this Agreement. This Agreement shall be in full force and effect from this date to and including its termination by mutual written agreement of the parties hereto. CSCDA agrees to terminate this agreement upon request of Fee Recipient upon delivery

to CSCDA of an opinion Bond Counsel to the effect that the termination of this Agreement will not adversely affect the exclusion from gross income of interest on the Bonds for federal income tax purposes.

Section 7. Amendment of this Agreement. This Agreement may be amended only by a written instrument executed by the parties hereto; provided that any such amendment shall be conditioned upon delivery to CSCDA of an opinion of Bond Counsel to the effect that such amendment will not adversely affect the exclusion from gross income of interest on the Bonds for federal income tax purposes.

Section 8. Successors in Interest. This Agreement and all of the provisions hereof shall be binding on the parties hereto and their successors and assigns.

Section 9. Third Party Beneficiaries. The SCIP Program Administrator is expressly declared to be a third party beneficiary of this Agreement. No other third party beneficiary of this Agreement is intended or implied. Except as to the express third party beneficiary identified herein, nothing contained in the Agreement shall give or allow any claim or right of action whatsoever by any other third party.

Section 10. Severability. If any section, paragraph, sentence, clause or provision of this Agreement shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, sentence, clause or provision shall not affect any of the remaining provisions of this Agreement.

Section 11. Choice of Law; Venue. This Agreement shall be governed by and interpreted in accordance with the laws of the State of California. Any legal action arising out of this Agreement shall be filed in and adjudicated by a court of competent jurisdiction in the [Local Agency Name], State of California.

Section 12. Execution. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all together shall constitute but one and the same agreement.

Section 13. Notices. Any notice, request, complaint, demand, communication or other paper required or permitted to be delivered to this Agreement shall be addressed to the appropriate party at the addresses set forth below.

Fee Recipient: South Yuba Transportation Improvement Authority
[]
[]
ATTN: []

SCIP Participant:
[]
[]
ATTN: []

CSCDA:

California Statewide Communities Development Authority
1100 K Street, Suite 101
Sacramento, CA 95814
Attention: Treasurer

IN WITNESS WHEREOF, each Party has executed this Agreement as of the date set forth beside their signatures below.

Dated: _____, 2019

South Yuba Transportation Improvement Authority

Name:
Title:

Dated: _____, 2019

County of Yuba

Name:
Title:

Dated: _____, 2019

California Statewide Communities Development
Authority

Authorized Signatory

APPROVED AS TO FORM

COUNTY COUNSEL

BY: _____

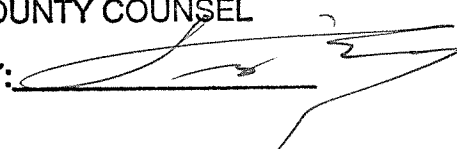


EXHIBIT A TO FORM OF AGREEMENT

Approved Fees

Fee	Project	Expected Amount	Approved by Authorized Officer	Date
		\$		

EXHIBIT B TO FORM OF AGREEMENT

SCIP Disbursement Form

To: BLX Group LLC
SCIP Program Administrator
777 S. Figueroa St., Suite 3200
Los Angeles, California 90017
Attention: Vo Nguyen
Phone: 213-612-2152
Fax: 213-612-2499

Re: Statewide Community Infrastructure Program

The undersigned, a duly authorized officer of the South Yuba Transportation Improvement Authority hereby requests a disbursement from the South Yuba Transportation Improvement Authority Fee Subaccount associated with the above captioned financing and certifies that the amounts of development impact fees financed thereby and listed below have been or will be spent by the South Yuba Transportation Improvement Authority for public capital improvements as of the date indicated below or within 5 days thereafter:

Subaccount(s)	Amount

Total:

Wiring Instructions:

The undersigned hereby additionally certifies as follows:

1. The use to which these funds have been or will be put is a permitted use pursuant to the fees indicated for public capital improvements, and this disbursement is not being made for the purpose of reinvestment.
2. None of the expenditures for which payment is requested have been reimbursed previously from other sources of funds.
3. If the Total amount above is greater than the funds held by SCIP on behalf of the South Yuba Transportation Improvement Authority, the Program Administrator is authorized to amend the amount requested to be equal to the amount of such funds.
4. To the extent the disbursement is being made prior to the date the bonds have been issued, this disbursement form serves as the declaration of official intent of the South Yuba Transportation Improvement Authority, pursuant to Treasury Regulations 1.150-2, to reimburse itself with respect to expenditures made from the Fees Sub-accounts referenced above in the amount requested.

5. The amounts being disbursed pursuant to this request are being used to finance or refinance certain public infrastructure and facilities (the "Improvements"). South Yuba Transportation Improvement Authority will own, and for the entire useful life of such Improvements reasonably expects to own, all of such Improvements. To the extent any of such Improvements are sold to an entity that is not a state or local government agency, South Yuba Transportation Improvement Authority will seek the advice and approval of bond counsel to the Authority prior to any such sale. South Yuba Transportation Improvement Authority will not allow any of such Improvements to be used (for example, by lease or other contract) in the trade or business of any nongovernmental persons (other than in their roles as members of the general public). All of such Improvements will be used in the performance of essential governmental functions of South Yuba Transportation Improvement Authority or another state or local government agency. The average expected useful life of such Improvements is at least 20 years. The representations and covenants contained in this paragraph are intended to support the conclusion that the interest paid on the bonds issued to finance the Improvements is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986 (the "Code").

Dated: _____

Signature: _____

Print Name: _____

EXHIBIT C TO FORM OF AGREEMENT

SCIP Tax Representations

The Fee Recipient hereby makes the following representations of facts and expectations and covenants to comply with the requirements of this Tax Certification in connection with its participation in the Statewide Community Infrastructure Program (the "Program") Revenue Bonds, Series ____, in an aggregate amount (including allocable costs, capitalized interest, reserve fund and original issue premium) of \$_____ (the "Participation"). The representations and covenants contained in this Tax Certification are in furtherance of the requirements of the Program and are designed to support the conclusion that the interest paid on the bonds issued to fund the Program and the Participation (the "Bonds") is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986 (the "Code").

1.1 Use of Facilities. The proceeds of the Participation (the "Proceeds") will be used to finance the construction or acquisition of certain public improvements (the "Facilities"). The Fee Recipient or another state or local government agency will own, and for the entire useful life of the Facilities reasonably expects to own, all of the Facilities. To the extent any of the Facilities are sold to an entity that is not a state or local government agency, the procedures outlined in the SCIP Reference Manual will be followed. The Fee Recipient will not allow any of the Proceeds or any of the Facilities to be used (for example, by lease or other contract) in the trade or business of any nongovernmental persons (other than in their roles as members of the general public) and will not loan any of the Proceeds. All of the Facilities will be used in the performance of essential governmental functions of the Fee Recipient or another state or local government agency.

The average expected useful life of the Facilities is at least 20 years.

1.2 Timing of Expenditures. The Fee Recipient reasonably expects that all of the Proceeds will be spent for the governmental purpose of the Participation within three years. In addition, the Fee Recipient reasonably expects that at least 5% of the Proceeds will be spent, or that the Fee Recipient will incur a binding obligation to a third party involving an expenditure of such amount, within six months. The Fee Recipient reasonably expects that construction or acquisition of the Facilities will proceed with due diligence to completion and that the allocation of proceeds to expenditures for the Facilities will proceed with due diligence. None of the Proceeds will be used to pay principal of or interest on any obligations.

1.3 Expenditure of Proceeds. Proceeds and other deposits under the Program are not treated as spent on the Facilities until the Fee Recipient makes a transfer to a person unrelated to the Fee Recipient and such transfer represents a payment for the Facilities. A payment for the Facilities will occur if Proceeds or other deposits under the Program are transferred from the Fee Recipient Accounts (as defined in the Trust Agreement relating to the Participation) either (a) to the Fee Recipient and actually used to make a payment to a person unrelated to the Fee Recipient no later than three days after the transfer or (b) directly to a third party at the direction of the Fee Recipient to pay the cost of the Facilities, or (c) to the Fee Recipient to reimburse the Fee Recipient of costs of the Facilities paid before the date of the transfer. To the extent Proceeds or other deposits under the Program are transferred to the Fee Recipient to reimburse the Fee

Recipient for costs of Facilities paid before the date of the transfer, Proceeds will only be treated as spent if (i) such costs were originally paid no earlier than 60 days before the date of the respective reimbursement declaration related to such transfer, and (ii) the disbursement of Proceeds to reimburse for such costs occurs within 18 months of the date the costs were paid or 18 months of the date the respective Facilities was placed in service (whichever is later), but in no case more than 3 years after the date the costs were paid by the Fee Recipient.