APPENDIX 18

CALCULATION AND PAYMENT OF REFINANCING GAINS

APPENDIX 18

CALCULATION AND PAYMENT OF REFINANCING GAINS

The portion of any gains payable by the Developer to the County upon a Refinancing following the Financial Close Date and prior to the Expiration Date is set forth in this Appendix.

1. DEFINITIONS AND SECTION REFERENCES

1.1. Definitions. In this Appendix, in addition to the definitions set out in this Project Agreement:

"Net Present Value" means the aggregate of the discounted values, calculated as of the estimated date of the Refinancing, of each of the relevant projected Distributions, in each case discounted using the Pre-Refinancing Equity IRR or the Post-Refinancing Equity IRR as applicable.

2. DATA AND PROJECTIONS REQUIRED FOR THE CALCULATION OF THE REFINANCING GAIN

2.1. Developer shall notify the County as soon as practicable of its interest in proceeding with a Refinancing and the proposed schedule for documenting and closing the proposed Refinancing other than an Exempt Refinancing.

2.2. Developer shall provide the following information at least 35 days in advance of the Scheduled Refinancing Date:

a) The Financial Model with the original projections duly adjusted for any changes in the Project structure (e.g., Capital Modifications);

b) Details of the actual timing and amounts of Unit Holder investment from the Financial Close Date to the Scheduled Refinancing Date;

c) Details of the actual timing and amounts of Distributions to Unit Holders or any of their Affiliates from the Effective Date to the Scheduled Refinancing Date;

d) Information on the actual cash flow of Developer from the Effective Date to the scheduled Refinancing date, set out under the same headings as the Financial Model;

e) Term sheet and other relevant information on the terms of the Refinancing;

f) A Pre-Refinancing Financial Model, which does not take into account the effects of the Refinancing on the Base Case Financial Model, as updated by Developer (i) for any changes in the Project and based on the actual performance of the Project to the date of calculation and other macroeconomic assumptions and (ii) with projections for the cash flow of the Developer from the estimated Refinancing date to the end of the Term, including projected Distributions **("Pre-Refinancing Financial Model"**);

g) A Post-Refinancing Financial Model which fully takes into account the effects of the Refinancing on the Base Case Financial Model as projected on the basis of the term sheet and new Senior Financing Agreements, as updated by Developer (i) for any changes in the Project and based on the actual performance of the Project to the date of calculation and other macroeconomic assumptions and (ii) with projections for the cash flow of Developer from the Scheduled Refinancing Date to the end of the Term, including projected Distributions and all costs incurred in connection with the Refinancing **(“Post-Refinancing Financial Model”**);

h) A calculation of the Refinancing Gain based on the above and the provisions described below; and

i) Information on the assumptions for the projections in the Pre-Refinancing Model and Post-Refinancing Financial Model.

2.3. For the purposes of this Appendix, **“Pre-Refinancing Equity IRR”** means the Equity IRR calculated in the Pre-Refinancing Financial Model and **“Post-Refinancing Equity IRR”** means the Equity IRR calculated in the Post-Refinancing Financial Model.

2.4. The Pre-Refinancing Equity IRR and Post-Refinancing Equity IRR shall be calculated for the entire Term taking into account:

a) Timing and amounts of the investment by Unit Holders;

b) Distributions received by Unit Holders up to the estimated Refinancing date; and

c) Projected Distributions as shown in the Financial Model immediately prior to the Refinancing or immediately after the Refinancing, as applicable.

3. CALCULATION OF THE REFINANCING GAIN

3.1. The **“Refinancing Gain”** for any Refinancing other than an Exempt Refinancing will be equal to the greater of zero and the difference between A and B where:

a) A = the Net Present Value of the Distributions to be made from the estimated Refinancing date to the end of the Term as projected in the Post-Refinancing Financial Model, discounted using the Pre-Refinancing Equity IRR; and

b) B = the Net Present Value of the Distributions to be made from the estimated Refinancing date to the end of the Term as projected in the Pre-Refinancing Financial Model, discounted using the Pre-Refinancing Equity IRR.

c) Refinancing Gain excludes gain from the first Refinancing that is anticipated by the Financial Model. However, any gain from the first Refinancing (calculated as provided above) that exceeds the amount of gain for the first Refinancing shown in the Financial Model shall constitute a Refinancing Gain.

4. PAYMENT OF THE COUNTY’S PORTION OF REFINANCING GAIN

4.1. The County will receive payment of its portion of the Refinancing Gain as a reduction in the Service Fee over all or a portion of the Term, subject to the following provisions:

a) The County will not receive its portion of the Refinancing Gain faster than the Unit Holders of Developer; and

b) If the Refinancing involves raising new debt or otherwise increasing the amount of outstanding Project Debt anticipated in any Contract Year of the Financial

Model, the County may elect to receive its portion as a lump sum payment concurrently with the close of the Refinancing.

5. PAYMENT OF THE COUNTY'S PORTION OF REFINANCING GAIN

5.1. Developer shall perform a final calculation of the Refinancing Gain and deliver the results to the County within 15 days after the close of the Refinancing.