

FISCAL AGENT AGREEMENT

by and among the

CITY OF EL CERRITO,

and the

**ADMINISTRATIVE SERVICES DIRECTOR OF THE
CITY OF EL CERRITO,
as Fiscal Agent**

Dated as of June 1, 2012

**relating to the
\$1,026,800
2012 Storm Drain Revenue Refunding Bonds**

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FISCAL AGENT AGREEMENT

This Fiscal Agent Agreement is made and entered into as of June 1, 2012, by and among the CITY OF EL CERRITO (the "City"), a municipal corporation, duly organized and existing under the laws of the State, and the ADMINISTRATIVE SERVICES DIRECTOR OF THE CITY OF EL CERRITO (the "Administrative Services Director"), as Fiscal Agent (the "Fiscal Agent").

WITNESSETH

In the joint and mutual exercise of their powers, in consideration of the mutual covenants herein contained, and for other valuable consideration, the parties hereto recite and agree as follows:

ARTICLE I

RECITALS

1.01. The Prior Bonds. The City has previously issued its 1993 Storm Drain Revenue Bonds (the "Prior Bonds"), pursuant to an Indenture of Trust, dated as of July 15, 1993 (the "Indenture"), between the City and State Street Bank and Trust Company of California, N.A., as trustee (the "Original Trustee"). The Original Trustee has been succeeded by U.S. Bank National Association, as trustee (the "Trustee").

1.02. Refunding of the Prior Bonds. By its Resolution No. 2012-41, entitled "Resolution of the City Council of the City of El Cerrito Authorizing the Issuance and Sale by Private Placement to JPMorgan Chase Bank N.A. (the "Purchaser"), of Not to Exceed \$1,026,800 Principal Amount of 2012 Storm Drain Revenue Refunding Bonds and Authorizing and Directing Related Actions" (the "Resolution"), adopted on June 11, 2012, the City Council of the City (the "City Council") has authorized the issuance and sale to the Purchaser of not to exceed \$1,026,800 principal amount of the City's 2012 Storm Drain Revenue Refunding Bonds (the "Bonds") for the purpose of refunding the remaining outstanding Prior Bonds on August 1, 2012 (the "Redemption Date").

1.03. Terms and Conditions of Purchase and Sale of the Bonds. The Purchaser has provided the City with its proposal, dated May 23, 2012 (the "Proposal"), setting forth the terms and conditions of its purchase of the Bonds, and the City Council has accepted the Proposal and authorized the execution and delivery of a modified version of the Proposal (the "Final Proposal"), subject to the approval of the Final Proposal by the City Manager; provided that the interest rate specified in the Final Proposal shall not exceed the interest rate in the Proposal by more than 35 basis points; and further provided that the Purchaser shall provide the City with an executed copy of a Certificate of Bond Purchaser in form and content substantially as provided by Exhibit C, attached hereto and by this reference incorporated herein.

1.04. Issuance of the Bonds Pursuant to this Fiscal Agent Agreement. The City wishes to provide for the issuance, sale, delivery and administration of the Bonds pursuant to and subject to the terms and conditions of this Fiscal Agent Agreement.

1.05. Conditions Precedent Satisfied. All things, conditions and acts required by law to exist, happen and be performed precedent to and in connection with the execution and entering into of this Fiscal Agent Agreement and in connection with the issuance, sale and delivery of the Bonds pursuant to this Fiscal Agent Agreement do exist, have happened and have been performed in regular and due time, form and manner as required by law and the parties hereto are now duly empowered to execute and enter into this Fiscal Agent Agreement.

ARTICLE II

DEFINITIONS AND RULES OF CONSTRUCTION

2.01. Definitions

The terms defined herein shall have the meanings, for the purpose of this Fiscal Agent Agreement, ascribed to them below unless the context clearly requires some other meaning. The term “**this Agreement**” as used herein means this Fiscal Agent Agreement unless the context clearly requires some other meaning.

“**Administrative Services Director**” means the person who is the duly appointed and acting Administrative Services Director of the City.

“**Authorized Representative**” when used with respect to the City, means the City Manager, the Administrative Services Director or any other officer or employee of the City who is designated by the City Council as an Authorized Representative for purposes of this Agreement.

“**Business Day**” means any day on which federal and state banks in San Francisco, California, are open for business, except Saturday and Sunday.

“**Bond Register**” means the books for registration of the Bonds maintained by the Fiscal Agent pursuant to Section 3.09 of this Fiscal Agent Agreement.

“**Bonds**” means the Bonds prepared and delivered by the City, pursuant to Section 3.01 hereof, to the Purchaser, as the original purchaser thereof, and to any subsequent Owner thereof, pursuant to Sections 3.07 and 3.08 of this Fiscal Agent Agreement.

“**Certificate of Bond Purchaser**” means a certificate executed by the Purchaser, as the original purchaser of the Bonds, and executed by any proposed transferee of the registered ownership of the Bonds in substantially the form and containing substantially the same contents as set forth in Exhibit C hereto.

“**City**” means the City of El Cerrito, a municipal corporation, duly organized and existing under the laws of the State.

“**City Manager**” means the person who is the duly appointed City Manager of the City.

“City Council” means the City Council for the City of El Cerrito.

“Closing Date” means the date on which the Bonds are delivered to the original purchaser thereof in exchange for payment of the purchase price for the Bonds.

“Code” means the Internal Revenue Code of 1986 and the regulations issued thereunder.

“Event of Default” means an event of default under the Installment Sale Agreement as set forth in Section 5.01 of the Installment Sale Agreement.

“Federal Securities” means United States Treasury notes, bonds, bills or Bonds of indebtedness or obligations for which the full faith and credit of the United States are pledged for the payment of principal and interest.

“Fiscal Agent” means the Administrative Services Director, together with any co-Fiscal Agent, if any, appointed and acting pursuant to this Fiscal Agent Agreement, or any successor in interest acting as Fiscal Agent under this Fiscal Agent Agreement.

“Fiscal Agent Agreement” or **“Agreement”** means this Fiscal Agent Agreement, dated as of June 1, 2012, between the City and the Fiscal Agent, as executed or hereafter amended.

“Fiscal Year” means the period beginning on July 1 in any calendar year and ending on June 30 of the following calendar year.

“Indenture” means the Indenture of Trust, dated as of July 15, 1993, between the City and State Street Bank and Trust Company of California, as trustee. The Trustee has since succeeded State Street Bank and Trust Company of California as trustee under the Indenture.

“Interest Payment Date” means any one of the three dates of August 1, 2012, February 1, 2013 and August 1, 2013, each being a date on which interest is payable on the Bonds, as set forth in Exhibit B hereto.

“Operation and Maintenance Costs” means the reasonable and necessary costs and expenses paid by the City for operating and maintaining the City’s storm drain system, including but not limited to the reasonable expenses of management and repair and other costs and expenses necessary to maintain and preserve the City’s storm drain system in good repair and working order, and including but not limited to administrative costs of the City attributable to the City’s storm drain system and the financing thereof, but in all cases excluding depreciation, replacement and obsolescence charges or reserves therefor and excluding amortization of intangibles or other bookkeeping entries of a similar nature.

“Ordinance” means Ordinance No. 93-4, entitled “An Ordinance of the City of El Cerrito Amending Title 4 (Revenue and Finance) of the El Cerrito Municipal Code by Adding a New Chapter 4.44 Providing for the Imposition and Collection of Storm Drain Fees and Charges,” adopted by the City Council on June 7, 1993.

“Outstanding” when used with reference to the Bonds and as of any particular date means all Bonds theretofore delivered except any Bond in lieu of or in substitution for which another Bond shall have been delivered pursuant to this Fiscal Agent Agreement.

“Owner” or **“Bond Owner”** or **“Owners of Bonds”** or any similar term, when used in either the singular or the plural with respect to the Bonds, means any person who shall be the registered owner of any Outstanding Bond as shown on the Bond Register.

“Payment Date” means any date which is a Principal Payment Date or an Interest Payment Date or both.

“Permitted Investments” means:

- (i) Federal Securities and any investment fund, including money market funds or other investment policy arrangement which purchases and holds exclusively Federal Securities;
- (ii) Obligations issued by federal land banks or federal home loan banks; or obligations, participations, or other instruments issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association; or obligations, participations, or other instruments issued by a federal agency or a United States government-sponsored enterprise;
- (iii) Investments in repurchase agreements under the terms of which the underlying collateral is transferred to the possession of the Fiscal Agent of any securities authorized by paragraphs (i) and (ii) above which have a fair market value (valued at cost) at least equal to 103% of the amount invested in the repurchase agreement and are free of third party claims;
- (iv) Nonnegotiable Bonds of deposit issued by a nationally chartered bank, a bank chartered by the State of California or a foreign banking corporation, authorized pursuant to Section 1756 of the California Financial Code to transact business in the State of California by accepting deposits, or a State of California or federal savings and loan association, provided that such Bonds of deposit are fully collateralized in the manner required for collateralization of trust funds; and
- (v) Any investment agreement, guarantee or other investment vehicle or security issued by, secured by or otherwise representing the general obligations of a financial institution whose long-term unsecured, uninsured and unguaranteed obligation or claims-paying ability is rated AA or better by any Rating Agency at the time of its issuance, provided that: (a) the agreement is not subordinated to any other obligations of such financial institution; and (b) if the financial institution fails to maintain a rating of AA or better (without regard to gradations), the City shall have the right to demand collateral in the form of securities authorized by paragraphs (i) and (ii) above pledged to secure the investment agreement. Such collateral shall be pledged through the Fiscal Agent and shall have a

fair market value (valued at cost) of at least 103% of the value of funds remaining in the investment agreement. Further, the City shall have the right to withdraw all funds without penalty should the financial institution fail to provide collateral as required under this paragraph;

- (vi) Investments otherwise defined in Section 53601 of the California Government Code, as amended from time to time; provided that the Fiscal Agent is obligated to invest in any form of investment pursuant to this subparagraph (vi) except upon receipt of a Bond of an Authorized Officer of the City that any directed investment to be made pursuant to this subparagraph (vi) meets this definition as set forth in this subparagraph (vi).

“Principal Payment Date” means August 1 of 2012 (being a date on which a prescribed portion of the principal amount of the Bonds is payable as a mandatory partial redemption) and August 1, 2013 (being the maturity date of the Bonds), as set forth in Exhibit B hereto.

“Principal Office” means, with respect to the period during which the Administrative Services Director is functioning as the Fiscal Agent, the office of the Administrative Services Director located in the city hall of the City, which at the time of execution of this Fiscal Agent Agreement is 10890 San Pablo Avenue, El Cerrito, California 94530; and in the event that a successor Fiscal Agent is appointed, such location as shall be prescribed by such successor Fiscal Agent.

“Prior Bonds” means the remaining outstanding 1993 Storm Drain Revenue Bonds of the City, issued pursuant to the Indenture.

“Purchaser” means JPMorgan Chase Bank N.A.

“Record Date” means the close of business on the fifteenth day of the month preceding any Payment Date, whether or not such fifteenth day is a Business Day.

“Revenues” means (i) all fees and charges received for and in connection with, and all other gross income and receipts derived by the City from, the ownership and operation of the City’s storm drain system or otherwise arising from the City’s storm drain system, including but not limited to the fees, charges and penalties imposed and collected pursuant to the Sanitation and Sewerage System Law and the Ordinance (net of the cost of administering the billing and collection process), (ii) amounts on deposit in the Revenue Fund, (iii) earnings on the investment of the Revenue Fund and any Revenues held by the City and (iv) any other legally available income, rates, fees, charges and other moneys which the City may hereafter designate by ordinance or resolution for deposit in the Revenue Fund. “Revenues” shall not include assessments levied and collected by the City pursuant to the Contra Costa County Flood Control and Water Conservation District Act.

“Revenue Fund” means the Storm Drain Special Revenue Fund established and held by the City as the enterprise fund pertaining to the City’s storm drain system, and includes

any successor fund as may be established from time to time by the City to serve substantially the same function:

“**Sanitation and Sewerage System Law**” means the Sanitation and Sewerage System Law, as set forth in Sections 5470 and following of the California Health and Safety Code.

“**Special Counsel**” means an attorney or a firm of attorneys, acceptable to the City, of nationally recognized standing in matters pertaining to the tax-exempt status of interest on obligations issued by states and their political subdivisions, duly admitted to the practice of law before the highest court of any state of the United States of America.

“**State**” means the State of California.

“**Tax Certificate**” means the certificate by that title, executed on behalf of the City on the Closing Date, and addressing matters pertaining to compliance with the requirements and limitations imposed by the Code with respect to establishing and preserving the tax-exempt status of the interest on the Bonds.

“**Term Bonds**” means Bonds for which prescribed portions of the principal thereof are subject to mandatory partial redemption on Principal Payment Dates preceding the final maturity date of such Bonds.

“**Trustee**” means U.S. Bank National Association, as trustee under the Indenture.

2.02. Rules of Construction. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context otherwise indicates, words importing the singular number shall include the plural number and vice versa, and words importing persons shall include corporations and associations, including public bodies, as well as natural persons.

ARTICLE III

THE BONDS

3.01. Preparation and Delivery of Bonds. The Fiscal Agent is hereby authorized to prepare the Bonds, designated “City of El Cerrito 2012 Storm Drain Revenue Refunding Bonds” in an aggregate principal amount of One Million Twenty-Six Thousand Eight Hundred Dollars (\$1,026,800.00). The Fiscal Agent is hereby directed, upon written request from the City, to execute and deliver the Bonds to the Purchaser, as the original purchaser thereof, in said aggregate principal amount. The City hereby certifies, recites and declares that all things, conditions and acts required by the constitution and statutes of the State and this Fiscal Agent Agreement to exist, to have happened and to have been performed precedent to and in the delivery of the Bonds, exist, have happened and have been performed in due time, form and manner as required by law.

3.02. Form; Denomination; Payment Dates; Medium of Payment. The Bonds shall be delivered in the form of a single, fully-registered Term Bond, registered in the name of

the Purchaser, in the principal amount of \$1,026,800.00 and substantially in the form set forth in Exhibit A hereto attached and by this reference herein incorporated, maturing on August 1, 2013. In accordance with the Final Proposal, the principal amount of the Term Bond shall be payable on August 1, 2012, and August 1, 2013. Interest on the outstanding principal amount, calculated at the rate of one and six hundred eighty-three thousandths percent (1.683%) per annum, shall be payable on August 1, 2012, February 1, 2013 and August 1, 2013, respectively.

The Bonds shall be payable in lawful money of the United States of America, which at the time of payment is legal tender for the payment of public and private debts. The Bonds shall not have a CUSIP number issued for them, nor shall the City or the Fiscal Agent be required to execute and submit any application or letter of representations to The Depository Trust Company to qualify the Bonds for "book entry" or similar procedures of any third party respecting paperless transfer of the ownership of the Bonds or positions in the Bonds.

The Bonds shall not be subject to optional redemption, in whole or in part, on any date prior to final maturity.

3.03. Date of Bonds. The Bonds shall be dated as of the date of delivery to the Purchaser.

3.04. Payment of Principal and Interest with Respect to Bonds.

The amounts of principal of the Bonds and the amounts of interest payable on the Bonds on the respective dates set forth in the Debt Service Payment Schedule, attached hereto as Exhibit B and by this reference herein incorporated.

3.05. Place of Payment. The principal with respect to the Bonds shall be payable at maturity upon presentment of the Bonds at the Principal Office of the Fiscal Agent; provided that the principal or sinking fund amount of the Bonds payable on August 1, 2012, shall be made to the Owner without presentment of the Bonds. Interest with respect to the Bonds shall be payable by check mailed first class to the Owner on the applicable Interest Payment Date.

3.06. Execution and Authentication. The Bonds shall be executed in the name of the City by the manual signature of the Mayor and the City Clerk, and the Bonds shall be authenticated by the manual signature of the Fiscal Agent.

3.07. Transfer and Exchange of Bonds.

(a) The registration of each Bond shall be transferable only upon the Bond Register, which shall be kept for that purpose at the Principal Office of the Fiscal Agent, upon surrender thereof together with a written instrument of transfer satisfactory to the Fiscal Agent duly executed by the Owner or his duly authorized attorney, together with an executed copy of a Certificate of Bond Purchaser, executed by an authorized representative of the proposed transferee. Upon the registration of the transfer, and the surrender, of any such Bond, the Fiscal Agent shall prepare, in the name of the transferee, a new Bond or Bonds, of the same aggregate principal amount, Principal Payment Date and interest rate as the surrendered Bond.

(b) Bonds may be exchanged at the Principal Office of the Fiscal Agent for a like aggregate principal amount of Bonds of other authorized denominations payable as to principal on the same Principal Payment Date and at the same interest rate as the principal of the exchanged Bonds. Upon the written request for exchange, and the surrender, of any Bonds, the Fiscal Agent shall prepare in the name of the Owner requesting exchange a new Bond or Bonds of the same aggregate principal amount, Principal Payment Date, and interest rate as the Bonds being exchanged.

3.08. Regulation with Respect to Exchange and Transfers. In all cases of registration of transfer or exchange of Bonds, the Fiscal Agent shall execute and deliver Bonds in accordance with the provisions of this Article. All Bonds surrendered in any transfer or exchange shall forthwith be cancelled and delivered upon the written order of the City by the Fiscal Agent. Notwithstanding any other provision of this Fiscal Agent Agreement, the cost of preparing each new Bond upon the registration of transfer or exchange following delivery pursuant to Section 3.01 hereof, and any other expenses of the City or the Fiscal Agent incurred in connection therewith (except any applicable tax, fee or other governmental charge other than one imposed by the City) shall be paid by the City.

3.09. Bond Register.

(a) The Fiscal Agent shall keep or cause to be kept at its Principal Office a Bond Register, which shall upon reasonable notice and at reasonable times during normal business hours on any Business Day be open to inspection by the City and Owners of Bonds, and, upon presentation for such purpose, the Fiscal Agent shall, under such reasonable regulations as it may prescribe, register the transfer on the Bond Register of Bonds as hereinbefore provided.

(b) The Fiscal Agent shall deem and treat the person in whose name any Outstanding Bond shall be registered upon the Bond Register as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal and interest payments with respect to such Bond and for all other purposes, and all such payments so made to any such Owner or upon his order shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and neither the City nor the Fiscal Agent shall be affected by any notice to the contrary. The City agrees to indemnify the Fiscal Agent or cause the Fiscal Agent to be indemnified against any and all loss, cost, charge, expense, judgment or liability incurred by it, while acting in good faith and without negligence hereunder.

3.10. Temporary Bonds. Pending preparation of the definitive Bonds, any Bonds delivered under this Fiscal Agent Agreement may be initially delivered in temporary form exchangeable for definitive Bonds when ready for delivery. The temporary Bonds may be printed, lithographed or typewritten, shall be of such denominations as may be determined by the City, shall be without coupons and may contain such reference to any of the provisions of this Fiscal Agent Agreement as may be appropriate. Every temporary Bond shall be executed by the Fiscal Agent and be delivered by the Fiscal Agent upon the same conditions and in substantially the same manner as definitive Bonds. If the Fiscal Agent delivers temporary Bonds, it shall execute and furnish definitive Bonds without delay and, thereupon the temporary Bonds shall be

surrendered for cancellation at the Principal Office of the Fiscal Agent, and the Fiscal Agent shall deliver in exchange for such temporary Bonds an equal aggregate principal amount of definitive Bonds of authorized denominations and of the same Principal Payment Date and interest rate or rates. Until so exchanged, the temporary Bonds shall be entitled to the same benefits under this Fiscal Agent Agreement as definitive Bonds delivered pursuant hereto.

3.11. Bonds Mutilated, Lost, Destroyed or Stolen. If any Bond shall become mutilated, the Fiscal Agent, at the expense of the Owner of said Bond, shall execute and deliver a new Bond of like tenor, Principal Payment Date, and interest rate, in exchange and substitution for the Bond so mutilated, but only upon surrender to the Fiscal Agent of the Bond so mutilated. Every mutilated Bond so surrendered to the Fiscal Agent shall be cancelled by it and delivered upon the order of the City to such person as the City shall direct.

If any Bond shall be lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Fiscal Agent, and, if such evidence is satisfactory to the Fiscal Agent and if an indemnity satisfactory to the Fiscal Agent shall be given, the Fiscal Agent, at the expense of the Bond Owner, shall execute and deliver a new Bond of like tenor, Principal Payment Date, and interest rate, and numbered as the Fiscal Agent shall determine in lieu of and in substitution for the Bond so lost, destroyed or stolen.

The Fiscal Agent may require payment of an appropriate fee for each new Bond delivered under this Section and of the expenses which may be incurred by the Fiscal Agent in carrying out the duties under this Section 3.11. Any Bond delivered under the provisions of this Section in lieu of any Bond alleged to be lost, destroyed or stolen shall be equally and proportionately entitled to the benefits of this Fiscal Agent Agreement with all other Bonds delivered under this Fiscal Agent Agreement. The Fiscal Agent shall not be required to treat both the original Bond and any duplicate Bond as being Outstanding for the purpose of determining the principal amount of Bonds which may be delivered hereunder or for the purpose of determining any percentage of Bonds Outstanding hereunder, but both the original and duplicate Bond shall be treated as one and the same.

Notwithstanding any other provision of this Section 3.11, in lieu of delivering a new Bond for which principal has or is about to become due for a Bond which has been mutilated, lost, destroyed or stolen, the Fiscal Agent may make payment of such Bond in accordance with its terms.

3.12. Evidence of Signatures of Bond Owners and Ownership of Bonds. Any request, consent, revocation of consent, or other instrument in writing required or permitted by this Fiscal Agent Agreement to be signed or executed by Bond Owners may be in any number of concurrent instruments of similar tenor, and may be signed or executed by such Bond Owners in person or by their attorneys or agents appointed by an instrument in writing for that purpose. Proof of the execution of any such instrument, or of any instrument appointing any such attorney or agent, and of the ownership of Bonds shall be sufficient for any purpose of this Fiscal Agent Agreement (except as otherwise herein provided), if made in the following manner:

(a) The fact and date of the execution by any Bond Owner or his attorney or agent of any such instrument and of any instrument appointing any such attorney or agent, may

be proved by a certificate, which need not be acknowledged or verified, of an officer of any bank or trust company located within the United States of America, or of any notary public, or other officer authorized to take acknowledgments of deeds to be recorded in such jurisdictions that the persons signing such instruments acknowledged before him the execution thereof. Where any such instrument is executed by an officer of a corporation or association or a member of a partnership on behalf of such corporation, association or partnership, such Bond shall also constitute sufficient proof of his authority.

(b) The fact of the ownership of Bonds by any Bond Owner and the amount, the Principal Payment Date, and interest rate and the numbers of such Bonds and the date of his ownership of the same shall be proved by the Bond Register held by the Fiscal Agent under the provisions of this Fiscal Agent Agreement.

Nothing contained in this Section shall be construed as limiting the Fiscal Agent to such proof, it being intended that the Fiscal Agent may accept any other evidence of the matters herein stated which may seem sufficient. Any request or consent of the Owner of any Bond shall bind every future Owner of the same Bond in respect of anything done or suffered to be done by the City or the Fiscal Agent in pursuance of such request or consent.

ARTICLE IV

PLEDGE OF REVENUES; FLOW OF FUNDS

4.01. Pledge of Revenues. The Bonds shall be secured by a first pledge of all of the Revenues. In addition, the Bonds shall be secured by a pledge of all of the moneys in the Revenue Fund and the Bond Service Fund, including all amounts derived from the investment of such moneys. The payment of the principal of and the interest on the Bonds on the respective Principal Payment Dates and Interest Payment Dates shall be and are secured by an exclusive pledge, charge and lien upon the Revenues and such moneys. So long as the Bonds are Outstanding, the Revenues shall be applied solely as provided by Section 4.02.

4.02 Establishment of Revenue Fund; Deposit and Application of Revenues. The City has established and, so long as any of the Bonds are Outstanding, will maintain the Revenue Fund, which shall be maintained and applied for the purposes and uses set forth herein. The City covenants for the benefit of the Owners of the Bonds that it shall deposit all Revenues in the Revenue Fund promptly upon the receipt thereof. Amounts in the Revenue Fund shall be applied solely for the uses and purposes set forth herein.

The City shall withdraw amounts on deposit in the Revenue Fund and apply such amounts at the times and for the purposes, and in the priority, as follows:

(a) Bond Service Fund. On or before the twenty-fifth (25th) calendar day of the month preceding each Payment Date, so long as any of the Bonds remain Outstanding hereunder, the City shall withdraw from the Revenue Fund and pay to the Fiscal Agent for deposit into the Bond Service Fund (which the Fiscal Agent shall establish and hold in trust hereunder) an amount which, together with other available amounts then on deposit in the Bond Service Fund, is at least equal to the aggregate

amount of principal of and interest coming due and payable on the Bonds on such Payment Date.

Amounts in the Bond Service Fund shall be applied by the Fiscal Agent first to the payment of interest on the Outstanding Bonds, when and as such interest becomes due and payable on an Interest Payment Date, and upon having paid all such interest, shall be applied second to the payment of principal of the Outstanding Bonds when and as such principal comes due and payable on a Principal Payment Date.

If, after all of the Bonds have been paid or deemed to have been paid, there are moneys remaining in the Bond Service Fund, such moneys shall be transferred by the Fiscal Agent to the City for deposit in the Revenue Fund.

(b) Reserve Fund. In accordance with the terms and conditions of the Final Proposal, no provision is made in this Fiscal Agent Agreement for the establishment or maintenance of a reserve fund for the Bonds.

(c) Redemption Fund. For the reason that, except for the portion of the principal amount of the Bonds scheduled for payment on August 1, 2012, the Bonds are not subject to redemption in advance of the stated maturity of August 1, 2013, no provision is made in this Fiscal Agent Agreement for the establishment or maintenance of a redemption fund for the Bonds.

The City shall manage, conserve and apply moneys in the Revenue Fund in such a manner that all deposits required to be made pursuant to this Section 4.02 will be made at the times and in the amounts so required. Subject to the foregoing, and so long as no Event of Default shall have occurred and be continuing hereunder, upon making the deposits to the Bond Service Fund in accordance subsection (a) of Section 4.01, the City may use and apply moneys in the Revenue Fund for (i) the payment of the Operation and Maintenance Costs of the City's storm drain system, (ii) the acquisition and construction of extensions and betterments to the City's storm drain system and (iii) any other lawful purpose of the City's storm drain system.

Section 4.03 Investments. All moneys in the Revenue Fund may be invested by the City from time to time in any Permitted Investments. All moneys in the Bond Service Fund may be invested by the Fiscal Agent in any Permitted Investments. All investment earnings derived from the investment of amounts in either the Revenue Fund or the Bond Service Fund shall be retained in and made a part of such fund.

ARTICLE V

APPLICATION OF PROCEEDS

5.01. Proceeds of Sale of the Bonds. The proceeds received from the sale of the Bonds (the "Proceeds"), in the amount of \$1,026,800.00, shall be deposited in trust with the Fiscal Agent. Forthwith following receipt of the Proceeds, the Fiscal Agent shall dispense with the Proceeds and the City shall direct the Trustee to disburse the funds in the Reserve Fund for the Prior Bonds, all as provided in Section 5.02.

5.02. Application of Funds. In order to provide for (a) the payment when due on August 1, 2012, of the scheduled principal amount of \$480,000.00 and the accrued interest on the Prior Bonds in the amount of \$27,087.50, (b) the redemption in advance of maturity on the Redemption Date of the remaining outstanding Prior Bonds in the principal amount of \$505,000.00 and (c) payment of costs of issuance of the Bonds, the City and the Fiscal Agent shall provide for the following upon receipt of the Proceeds by the Fiscal Agent:

(a) The City shall direct the Trustee to withdraw the full amount on deposit in the Reserve Fund for the Prior Bonds, namely \$534,175.00, and to deposit said amount in the following funds held by the Trustee under the Indenture:

(i) The amount \$507,087.50 in the Bond Service Fund, representing the \$480,000.00 of principal of the Prior Bonds payable on August, 2012, together with the \$27,087.50 of accrued interest on the Prior Bonds payable on August 1, 2012; and

(ii) The amount of \$27,087.50 in the Redemption Fund.

(b) The Fiscal agent shall transfer to the Trustee Proceeds in the amount of \$477,912.50 for deposit in the Redemption Fund, resulting in total deposits to the Redemption Fund of \$505,000.00, which is equal to the remaining outstanding principal amount of the Prior Bonds after the \$480,000.00 has been paid from the Bond Service Fund, and which is equal to the redemption price for such remaining outstanding Prior Bonds on the Closing Date, accrued interest having been paid from the Bond Service Fund and there being no redemption premium payable.

(c) The Fiscal Agent shall transfer to the City the remainder of the Proceeds to be used to pay the costs of issuance of the Bonds and to finance the cost and expense of capital improvements to the City's storm drain system.

5.03 No Provision Made for Reserve Fund. In accordance with the terms and conditions of the Final Proposal, no provision is being made for a reserve fund for the Bonds.

ARTICLE VI

COVENANTS

6.01. Punctual Payment; Compliance with Documents. The City shall punctually pay or cause to be paid the principal of and the interest on the Bonds as the same become due and payable in strict conformity with the terms of this Agreement and the Bonds, and will faithfully observe and perform all of the conditions, covenants and requirements of this Agreement. Without limiting the generality of the foregoing sentence, the City covenants for the benefit of the Owners of the Bonds to deposit all Revenues into the Revenue Fund forthwith upon receipt.

6.02. Discharge of Claims. The City covenants that, in order to fully preserve and protect the priority and security of the Bonds, the City shall pay from the Revenues and discharge all lawful claims for labor, materials and supplies furnished for or in connection with the City's storm drain system which, if unpaid, may become a lien or charge upon the Revenues

prior or superior to the lien of the Bonds and impair the security for the Bonds. The City shall also pay from the Revenues all taxes, assessments or other governmental charges, if any, lawfully levied or assessed upon or in respect of the City's storm drain system or upon any part thereof or upon any of the Revenues derived therefrom.

6.03. Operation of City's Storm Drain System in Efficient and Economical Manner. The City covenants and agrees to operate the City's storm drain system in an efficient and economical manner and to operate, maintain and preserve the City's storm drain system in good repair and working order.

6.04. Sale of City's Storm Drain System. The City covenants that the City's storm drain system shall not be encumbered, sold, leased, pledged or otherwise disposed of, in whole or substantial part, if such encumbrance, sale, lease, pledge or other disposition would materially impair the ability of the City to pay the principal of or the interest on the bonds or would materially adversely affect its ability to comply with the terms of this Agreement. The City shall not enter into any agreement which impairs the operation of the City's storm drain system or any part of it necessary to secure adequate Revenues to pay the Bonds or which would otherwise impair the rights of the Bond Owners with respect to the Revenues.

6.05 Accounting Records and Statements. The City and the Fiscal Agent shall keep proper books of record and account in accordance with trust accounting standards in which complete and correct entries shall be made of all transactions relating to the receipt, investment, disbursement, allocation and application of the Revenues and the proceeds of the Bonds or the obligations which they represent. Such records shall specify, among other things, the account or fund to which each investment (or portion thereof) is to be allocated and shall set forth, in the case of each investment: (a) its purchase price, (b) identifying information, including paramount, interest rate, and payment dates, (c) the amount received at maturity or its sale price, as the case may be, (d) the amounts and dates of any payments made with respect thereto, and (e) such documentation as is required to be obtained by the City or the Fiscal Agent as evidence to establish that all investments have been purchased in arms'-length transactions with no amounts paid to reduce the yield on the investments.

Such records of the City and the Fiscal Agent shall be open to inspection by any Owner at any reasonable time during regular business hours of the City and the Fiscal Agent on reasonable notice.

The City shall provide the Purchaser with audited annual financial statements, free of significant deficiencies or material weakness, and prepared by an Independent Certified Public Accountant, within 270 days of the close of its Fiscal Year. Additionally, the City will provide the Purchaser with a copy of its annual budget, as adopted or amended, within 30 days of adoption or amendment; provided that copies of amendments thereof need be provided to the Purchaser only if such amendments affect the Revenues or the Revenue Fund. The City shall provide other forms of financial reporting as the Purchaser may request from time to time, including without limitation copies of any long-term capital improvement plans pertaining to the City's storm drain system.

6.06 Covenant Regarding Rates, Fees and Charges. The City covenants that it shall, to the fullest extent of the law, fix, impose, revise and collect fees and charges in accordance with the Ordinance which are at least sufficient in each Fiscal Year during which any of the Bonds remain Outstanding to pay the following amounts in the following order:

(a) 110% of the total amount of principal of and interest on the Bonds coming due and payable in such Fiscal Year;

(b) all Operation and Maintenance Costs estimated by the City to become due and payable during such Fiscal Year;

(c) all payments required to be made during such Fiscal Year for compliance with this Fiscal Agent Agreement; and

(d) all payments required to meet any other obligations of the City which are or could become charges, liens or encumbrances upon or payable from the Revenues during such Fiscal Year.

6.07. Further Assurances. Whenever and so often as requested to do so by the Fiscal Agent, the City will promptly execute and deliver, or cause to be executed and delivered, all such other and further assurances, documents or instruments and promptly do or cause to be done all such other and further things as may be necessary or reasonably required in order to further and more fully vest in the Fiscal Agent and the Owners the benefit, protection and security conferred, or intended to be conferred, upon them hereby.

6.08. Certain Tax Covenants. The City shall not directly or indirectly use or permit the use of any proceeds of the Bonds or other funds of the City or take or omit to take any action that would cause the obligations that the Bonds evidence and represent to be "arbitrage bonds" within the meaning of Section 148 of the Code ("Section 148"). To that end, the City shall comply with all requirements of Section 148 to the extent applicable to such obligations. In the event that at any time the City is of the opinion that for purposes of this Section 6.06 it is necessary to restrict or to limit the yield on the investment of any moneys held by the Fiscal Agent under this Agreement, the City shall so instruct the Fiscal Agent in writing, and the Fiscal Agent shall take such action as may be necessary in accordance with such instructions.

The City specifically covenants that it will pay or cause to be paid the Rebate Requirement (as defined in the Tax Certificate) as provided in the Tax Certificate. For purposes of the foregoing, capitalized terms have the meanings ascribed to them in the Tax Certificate which is incorporated herein by reference.

In further satisfaction of the Rebate Requirement, but only to the extent specified by the Tax Certificate, the Fiscal Agent shall establish and maintain a fund separate from any other fund established and maintained hereunder designated the Rebate Fund. The City shall cause to be deposited in the Rebate Fund the Rebate Requirement as provided in the Tax Certificate. Subject to the provisions of this Section 6.08, moneys held in the Rebate Fund are hereby pledged to secure payments to the United States government, and neither the City nor the Owners shall have any rights in or claim to such moneys. The Fiscal Agent shall invest all amounts held in the Rebate Fund pursuant to the written directions of the City.

The Fiscal Agent shall conclusively be deemed to have complied with the provisions of this Section 6.08 if it follows the directions of the City and shall not be required to take any actions thereunder in the absence of instructions from the City. The Fiscal Agent shall have no responsibility to make the rebate calculations or to independently verify or review such calculations.

Notwithstanding any provision of this Section 6.08, if the City shall provide to the Fiscal Agent any Opinion of Counsel that any specified action required under this Section 6.08 is no longer required or that some further or different action is required to maintain the exclusion of the interest evidenced and represented by the Bonds from gross income for federal income tax purposes, the Fiscal Agent and the City may conclusively rely on such opinion in complying with the requirements of this Section 6.08, and the covenants hereunder shall be deemed to be modified to that extent.

6.09 No Additional Bonds. The City covenants that, for so long as any of the Bonds remain outstanding, the City will issue no additional bonds or other payment obligations secured by a pledge of the Revenues and/or the Revenue Fund, whether such pledge be senior to, on a parity with or subordinate to, the pledge of the Revenues and the Revenue Fund which secures the Bonds without the express written consent of the Purchaser, such consent not to be unreasonably withheld.

ARTICLE VII

DEFAULT; LIMITATIONS OF LIABILITY

7.01 Events of Default. Any one or more of the following events shall constitute an "event of default:"

(a) Default in the payment of the interest on or the principal of any Bond when and as the same shall become due and payable; and

(b) Default by the City in the observance of any of the other agreements, conditions or covenants on its part contained in this Agreement or in the Bonds, and the continuation of such default for a period of thirty (30) days after the City shall have been given notice in writing of such default by the Owners of not less than twenty-five percent (25%) of the Outstanding Bonds, provided that if within thirty (30) days the City has commenced curing of the default and diligently pursues elimination thereof, such period shall be extended to permit such default to be eliminated.

7.02 Remedies of Owners. Following the occurrence of an event of default, any Owner shall have the right for the equal benefit and protection of all Owners similarly situated:

(a) By mandamus or other suit or proceeding at law or in equity to enforce his or her rights against the City and any of the members, officers and employees of the City, and to compel the City or any such members, officers or employees to perform and carry out their duties under the Refunding Bond Law, and any other law and their agreements with the Owners as provided in this Agreement;

(b) By suit in equity to enjoin any actions or things which are unlawful or violate the rights of the Owners; or

(c) Upon the happening of an event of default (as defined in Section 7.01), by a suit in equity to require the City and its members, officers and employees to account as the trustee of an express trust.

Nothing in this article or in any other provision of this Agreement, or in the Bonds, shall affect or impair the obligation of the City, which is absolute and unconditional, to pay the interest on and principal of the Bonds to the respective Owners of the Bonds at the respective Payment Dates, as herein provided, out of the Revenues pledged for such payment, or affect or impair the right of action, which is also absolute and unconditional, of such Owners to institute suit to enforce such payment by virtue of the contract embodied in the Bonds and in this Agreement.

A waiver of any default or breach of duty or contract by any Owner shall not affect any subsequent default or breach of duty or contract, or impair any rights or remedies on any such subsequent default or breach. No delay or omission by any Owner 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 of any such default or an acquiescence therein, and every power and remedy conferred upon the Owners by this Article may be enforced and exercised from time to time and as often as shall be deemed expedient by the Owners.

If any suit, action or proceeding to enforce any right or exercise any remedy is abandoned or determined adversely to the Owners, the City and the Owners shall be restored to their former positions, rights and remedies as if such suit, action or proceeding had not been brought or taken. No remedy herein conferred upon or reserved to the Owners is intended to be exclusive of any other remedy. Every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing, at law or in equity or by statute or otherwise, and may be exercised without exhausting and without regard to any other remedy conferred by law.

ARTICLE VIII

THE FISCAL AGENT

8.01. The Fiscal Agent. The Fiscal Agent is hereby appointed and shall serve as the Fiscal Agent for the Bonds for the purpose of receiving all money which the City is required to deposit with the Fiscal Agent hereunder and for the purpose of allocating, applying and using such money as provided herein for the purpose of paying the interest on and principal of the Bonds as provided herein, with the rights and obligations provided herein. The City agrees that it will at all times maintain a Fiscal Agent having a principal office in El Cerrito or San Francisco, California.

The City may at any time, unless there exists any Event of Default, remove the Fiscal Agent initially appointed and any successor thereto and may appoint a successor or successors thereto by an instrument in writing; provided that any such successor shall be a bank

or trust company doing business and having a principal office in Los Angeles or San Francisco, California, having a combined capital (exclusive of borrowed capital) and surplus of at least fifty million dollars (\$50,000,000) and subject to supervision or examination by a federal or state agency. If such bank or trust company publishes a report of condition at least annually, pursuant to law or to the requirements of any supervising or examining agency above referred to, then for the purpose of this section the combined capital and surplus of such bank or trust company shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. The Fiscal Agent may at any time resign by giving written notice of such resignation to the City and by mailing first class to the Owners notice of such resignation. Upon receiving such notice of resignation, the City shall promptly appoint a successor Fiscal Agent by an instrument in writing. Any removal or resignation of a Fiscal Agent and appointment of a successor Fiscal Agent shall become effective only upon the acceptance of appointment by the successor Fiscal Agent. If within thirty (30) days after notice of the removal or resignation of the Fiscal Agent no successor Fiscal Agent shall have been appointed and shall have accepted such appointment, the removed or resigning Fiscal Agent may petition any court of competent jurisdiction for the appointment of a successor Fiscal Agent, which court may thereupon, after such notice, if any, as it may deem proper and prescribe and as may be required by law, appoint a successor Fiscal Agent having the qualifications required hereby.

The Fiscal Agent is hereby authorized to pay principal of the Bonds payable on August 1, 2013, upon presentation of the Bonds on that maturity date. The Fiscal Agent shall cancel all Bonds upon payment thereof on such maturity date or upon the surrender thereof by the City and shall destroy such Bonds, and a certificate of destruction shall be delivered to the City. The Fiscal Agent shall keep accurate records of all Bonds paid, discharged and canceled by it.

The City shall from time to time, subject to any agreement between the City and the Fiscal Agent then in force, pay to the Fiscal Agent compensation for its services, reimburse the Fiscal Agent for all its advances and expenditures including but not limited to advances to and fees and expenses of independent accountants and in-house and other counsel or other experts employed by it and reasonably required in the exercise and performance of its rights and obligations hereunder, and, to the extent permitted by law, indemnify and hold the Fiscal Agent and its officers, directors, employees and agents harmless against any claim, loss, liability, damages, expenses (including legal fees and expenses) or advances not arising from the Fiscal Agent's own active or passive negligence, willful misconduct or breach of fiduciary duty, which the Fiscal Agent may incur in the exercise and performance of its rights and obligations hereunder. The obligations of the City under this paragraph to compensate, indemnify, reimburse and hold the Fiscal Agent harmless shall constitute additional indebtedness hereunder, and such indebtedness shall have priority over the Bonds in respect of all property and funds held or collected by the Fiscal Agent as such, except funds held in trust by the Fiscal Agent for the benefit of the Owners of particular Bonds, including, without limitation, funds held by the Fiscal Agent in trust to redeem all or a portion of Outstanding Bonds prior to their respective maturities for which a notice of prepayment has been sent as provided herein.

8.02. Liability of Fiscal Agent. The recitals of facts, agreements and covenants herein and in the Bonds shall be taken as recitals of facts, agreements and covenants of the Bonds, and the Fiscal Agent assumes no responsibility for the use of any proceeds of the Bonds,

the correctness of the same, or the collection of the Revenues. The Fiscal Agent does not make any representation as to the sufficiency or validity of this Agreement, of the Bonds or any security therefor, and shall not incur any responsibility in respect thereof other than in connection with the rights or obligations assigned to or imposed upon it herein, in the Bonds or in law or equity. The Fiscal Agent shall not be liable in connection with the performance of its duties hereunder except for its own negligence, willful misconduct or breach of fiduciary duty.

Whenever the Fiscal Agent shall deem it necessary or desirable that a factual or legal matter be established or proved prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of bad faith on the part of the Fiscal Agent, be deemed to be conclusively proved and established by a certificate conforming to the requirements herein or an opinion of counsel, which certificate or opinion shall be full warrant to the Fiscal Agent for any action taken or suffered under the provisions hereof upon the faith thereof, but in its discretion the Fiscal Agent may in lieu thereof accept other evidence of such matter or may require such additional evidence as it may deem reasonable.

In accepting the trust hereby created, the Fiscal Agent acts solely as Fiscal Agent for the Owners and not in its individual capacity, and all persons, including without limitation the Owners and the City, having any claim against the Fiscal Agent arising from this Agreement not attributable to the Fiscal Agent's negligence or willful misconduct shall look only to the funds and accounts held by the Fiscal Agent hereunder for payment except as otherwise provided herein. The duties and obligations of the Fiscal Agent shall be determined solely by the express provisions of this Agreement, the Fiscal Agent shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Agreement, and no implied covenants or obligations (fiduciary or otherwise) shall be read into this Agreement against the Fiscal Agent. The Fiscal Agent shall not be liable with respect to any action taken or not taken hereunder in good faith in accordance with the direction of the Owners of not less than sixty percent (60%) in aggregate principal amount of the Bonds at the time Outstanding. The Fiscal Agent shall, during the existence of any event of default (which has not been cured), exercise such of the rights and powers vested in it by this Agreement, and use the same degree of care and skill in their exercise, as a prudent person would exercise of use under the circumstances in the conduct of its own affairs. The permissive right of the Fiscal Agent to do things enumerated in this Agreement shall not be construed as a duty and it shall not be answerable for other than its negligence or willful misconduct. The immunities and exceptions from liability of the Fiscal Agent shall extend to its officers, directors, employees and agents and such immunities and exceptions and its right to payment of its fees and expenses shall survive its resignation or removal and the final payment and discharge of the Bonds and this Agreement. Under no circumstances shall the Fiscal Agent be liable in its individual capacity for the obligations evidenced by the Bonds. The Fiscal Agent, in its individual or any other capacity, may become the Owner of any Bonds or other obligations of any party hereto with the same rights which it would have if not the Fiscal Agent. The Fiscal Agent shall not be required to give any bond or surety in respect of the execution of said trusts and powers or otherwise in respect of the premises. Before taking or refraining from any action hereunder at the request or direction of the Owners, the Fiscal Agent may require that an indemnity bond satisfactory to the Fiscal Agent be furnished to it and be in full force and effect.

None of the provisions contained herein shall require the Fiscal Agent to expend for risk its own funds or continue to do so or otherwise incur individual financial liability in the performance of any of its duties or in the exercise of any of its rights or powers if it shall reasonably believe that repayment of such funds or adequate indemnity against such risk or liability is not assured to it. The Fiscal Agent may rely and shall be protected in acting or failing to act upon any paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties. Notwithstanding any other provision hereof, the Fiscal Agent shall have the right, but shall not be required, to demand any showings, certificates, opinions, appraisals or other information, or official action or evidence thereof, in addition so that by the terms hereof required as a condition of such action, by the Fiscal Agent deemed desirable for the purpose of establishing the rights of the Fiscal Agent with respect to the authentication of any Bonds, the withdrawal of any cash, the release of any property or the taking of any other action by the Fiscal Agent.

8.03. Appointment of Agent; Appointment of Co-Fiscal Agent. The Fiscal Agent may appoint an agent to exercise any of the powers, rights or remedies granted to the Fiscal Agent under this Agreement, and to hold title to property or to take any other action which may be desirable or necessary. Without limiting the generality of the foregoing, upon the occurrence of an event of default as defined in Section 7.01 hereof, it is the intention of the Fiscal Agent to appoint an agent or co-Fiscal Agent pursuant to this Section 8.03, for the purpose of selecting and implementing one or more of the available remedies on default.

At any time for the purpose of meeting any legal requirements of any jurisdiction in which any part of the trust estate may at any time be located, the Fiscal Agent shall have the power to appoint an additional institution or individual as a separate or co-Fiscal Agent, without the consent of the City, which shall join with the Fiscal Agent in the execution, delivery, and performance of all instruments and agreements necessary or proper to appoint such institution or individual to act as co-Fiscal Agent jointly with the Fiscal Agent or as a separate Fiscal Agent of all or any part of the trust estate, and to vest in such person or institution, in such capacity, such title to the trust estate, or any part thereof, and such rights, powers, trusts, duties or obligations as the Fiscal Agent may consider necessary or desirable, subject to the provisions of this Section 8.03.

The Fiscal Agent and the City shall execute and deliver all such instruments as may be reasonably required by such co-Fiscal Agent or separate Fiscal Agent for more fully confirming such title, rights, powers, trusts, duties and obligations to such co-Fiscal Agent or separate Fiscal Agent.

Every co-Fiscal Agent or separate Fiscal Agent shall be appointed subject to the following terms:

(a) All rights, powers, trusts, duties and obligations conferred upon the Fiscal Agent may be conferred or imposed upon or exercised or performed by the Fiscal Agent, by the Fiscal Agent and such co-Fiscal Agent, or by the separate Fiscal Agent, either jointly or severally, individually or together, as shall be provided in the instrument appointing such separate or co-Fiscal Agent, except to the extent the Fiscal Agent shall be incompetent,

unqualified or otherwise unable to perform such act or acts, in which event such separate or co-Fiscal Agent shall perform such act or acts.

(b) No Fiscal Agent shall be liable for the acts or omissions of any other Fiscal Agent hereunder.

(c) The Fiscal Agent may, at any time, by an instrument in writing, accept the resignation of and/or remove any co-Fiscal Agent or separate Fiscal Agent, and a successor to any co-Fiscal Agent or separate Fiscal Agent may be appointed in the manner provided in this Section 8.03.

(d) Any co-Fiscal Agent or separate Fiscal Agent shall be entitled to the provisions of this Article affording compensation, protections, indemnification and limitations from liability to the Fiscal Agent.

ARTICLE IX

AMENDMENTS

9.01. Amendment. This Agreement may be amended in writing by agreement among all of the parties, but no such amendment shall become effective as to the Owners of Bonds then Outstanding unless and until approved by a majority in aggregate principal amount with respect to Bonds Outstanding; provided that no such amendment shall adversely affect the interests of the Owners. Notwithstanding the foregoing, this Agreement and the rights and obligations provided thereby may also be modified or amended at any time without the consent of any Owners of the Bonds, but only (1) for the purpose of curing any ambiguity, or of curing, correcting or supplementing any defective provision contained in this Agreement, (2) in regard to questions arising under this Agreement which the City may deem necessary or desirable and not inconsistent with this Agreement, or (3) to add to the rights and privileges of the Fiscal Agent; provided that the City and the Fiscal Agent may rely in entering into any such amendment hereof upon the opinion of Special Counsel stating that the requirements of this sentence shall have been met with respect to such amendment, and further stating that such amendment shall not cause the interest on the Bonds when paid by the City to become subject to Federal income taxes or State of California personal income taxes.

ARTICLE X

ADMINISTRATIVE PROVISIONS

10.01. Funds. Any fund required to be established and maintained herein by the City may be established and maintained in the accounting records of the City either as an account or a fund, and may, for the purpose of such accounting records, any audits thereof and any reports or statements with respect thereto, be treated either as an account or a fund; but all such records with respect to any such fund shall at all times be maintained in accordance with sound accounting practice and with due regard for the protection of the security of the Bonds and the rights of the Owners of such Bonds.

10.02. Notices. All written notices, certificates, reports or statements to be given under this Agreement shall be given by mail or personal delivery to the party entitled thereto, with a copy to each of the other parties to this Agreement, at its address set forth below, or at such address as the party may provide to the other party in writing from time to time. Notice shall be effective upon deposit in the United States mail, postage prepaid, or, in the case of personal delivery, upon delivery, to the address set forth below.

If to the City:

City of El Cerrito
10890 San Pablo Avenue
El Cerrito, CA 94530
Attention: City Manager

If to the Fiscal Agent:

Administrative Services Director
City of El Cerrito
10890 San Pablo Avenue
El Cerrito, CA 94530

10.03. Business Days. Any act or thing required to be done or to exist on any date set forth herein which does not constitute a Business Day in any year shall be deemed to be done or to exist on such date if such act or thing is done or exists on the next date which constitutes a Business Day.

10.04. Headings. Headings preceding the text of the several Articles and Sections hereof, and the table of contents, are solely for convenience of reference and shall not constitute a part of this Agreement or affect its meaning, construction or effect.

10.05. California Law. Except to the extent provided otherwise in Section 10.09 below, this Agreement shall be construed and governed in accordance with the laws of the State of California.

10.06. Severability. Any provision of this Agreement found to be prohibited by law shall be ineffective only to the extent of such prohibition, and shall not invalidate the remainder of this Agreement.

10.07. Binding on Successors. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.

10.08. Execution in Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same instrument.

10.09. Dispute Resolution. The Bonds are being purchased on the Closing Date by JPMorgan Chase Bank N.A. (the "Purchaser"). As a material inducement for the Purchaser

paying the purchaser price of and accepting delivery of the Bonds on the Closing Date, the City and the Fiscal Agent hereby accept and agree to be bound by the following provisions pertaining to the resolution of any disputes arising under or in any way resulting from this Agreement.

Except to the extent expressly provided in Section 7.02 respecting the right of the Purchaser, while the Owner of the Bonds, to exercise the remedies provided therein upon the occurrence of an Event of Default, any dispute, controversy or claim (any "Dispute") between or among the City, the Fiscal Agent and the Purchaser shall, upon the mutual agreement of the parties, acting in their sole and absolute discretion, be resolved by binding arbitration in accordance with the Federal Arbitration Act (Title 9, U.S. Code; herein the "Federal Arbitration Act"). The Federal Arbitration Act will apply even though the provisions of Section 10.05 above provides that this Agreement shall be construed and governed in accordance with the laws of the State of California. To the extent that any Disputes are not arbitrated, the Disputes shall be resolved in court by a judge without a jury, except any Disputes which are brought in California state court shall be determined by judicial reference. Any Dispute which is not arbitrated and which is brought in California state court will be resolved by a general reference to a referee (or a panel of referees) as provided in California Code of Civil Procedure Section 638. The referee (or presiding referee of the panel) shall be a retired judge or justice. The referee (or panel of referees) shall be selected by mutual written agreement of the parties to the Dispute.

10.10 Waiver of Immunity. To the fullest extent permitted by California law, the City expressly waives and agrees not to claim sovereign immunity in any suits or judicial proceedings in connection with the provision by the Purchaser of products or services to the City during the time that any of the Bonds remain outstanding.

ARTICLE XI

REPRESENTATIONS AND WARRANTIES OF THE CITY

11.01 Representations and Warranties of the City. The City hereby represents, warrants and covenants that:

(a) (i) the City is, and will be on the Closing Date, a general law city, duly organized and validly existing under and pursuant to the laws of the State, (ii) the City has full legal right, power and authority to adopt Resolution No. 2012-41, which was adopted by the City Council on June 11, 2012 (the "Resolution") authorizing the execution and delivery of the Bonds to the Owner pursuant to this Agreement, and the execution, delivery and performance of its obligations, as the case may be, under the Resolution, this Agreement and the Ordinance, (collectively, the "City Agreements"), and to carry out and consummate all transactions contemplated by each of the City Agreements, (iii) compliance with the provisions of the City Agreements will not materially conflict with or constitute a breach of or default under any applicable constitutional provision, law, administrative regulation, court order or consent decree or any applicable judgment or decree or any loan agreement, note, resolution, indenture, agreement or other instrument to which the City is a party or may be otherwise subject; and (iv) the Resolution was adopted by a majority of the members of the City Council at a meeting duly called, noticed and conducted, at which a quorum was present and acting throughout, on June 11,

2012, and constitutes all action necessary to be taken by the City for the execution, delivery and due performance of the City Agreements;

(b) the City will duly execute and deliver the City Agreements, other than the Ordinance, on or prior to the Closing Date, has duly authorized and approved the execution and delivery of the Bonds and the City Agreements, and when executed and delivered, the City Agreements, assuming due authorization, execution and delivery by the other respective parties thereto, will constitute the legally valid and binding obligations of the City enforceable in accordance with their respective terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws or equitable principles relating to or affecting creditors' rights generally;

(c) to the best of knowledge of the undersigned City Manager, the City is not in violation or breach of or default under any applicable constitutional provision, law or administrative rule or regulation of the State or the United States of America, or any agency or instrumentality of either of them, or any applicable judgment or decree, or any loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the City is a party or is otherwise subject, and no event has occurred and is continuing which, with the passage of time or the giving of notice, or both would constitute a violation or a breach of or a default under any such instrument;

(d) at the date hereof and on the Closing Date, the City will be in compliance in all respects with the material covenants and agreements contained in the City Agreements and no event has occurred and is continuing which, with the passage of time or giving of notice, or both, would constitute an event of default thereunder shall have occurred and be continuing;

(e) to the best knowledge of the undersigned City Manager, after due investigation, there is no action, suit, proceeding, inquiry or investigation, at law or in equity, or by or before any court, governmental agency, public board or body, pending or threatened against the City, (i) wherein an unfavorable decision, ruling or finding would adversely affect the existence of the City or the title of any official of the City to such person's office, or (ii) seeking to restrain or enjoin the execution, sale or delivery of the Bonds, or the pledge of Revenues pursuant to this Agreement, or (iii) in any way contesting or affecting the validity or enforceability of the City Agreements, or (iv) contesting the power of the City or its authority with respect to the Bonds or the City Agreements, or (vi) contesting the exclusion of interest with respect to the Bonds from gross income for Federal income tax purposes; nor is there any basis for any such action, suit, proceeding, inquiry or investigation, wherein an unfavorable decision, ruling or finding would materially adversely affect the validity of the City Agreements or the authorization, execution, delivery or performance by the City or the City Agreements;

(f) to the best of knowledge of the undersigned City Manager, all approvals, consents and orders of any governmental authority or agency having jurisdiction in the matter which would constitute a condition precedent to the due performance by the City of its obligations under the City Agreements have been duly obtained or made, and are, and will be on the Closing Date, in full force and effect;

(g) any certificate signed by any officer of the City and delivered to the Purchaser pursuant to the City Agreements or any document contemplated thereby shall be deemed a representation and warranty by the City to the Purchaser as to the statements made therein and that such officer shall have been duly authorized to execute the same;

(h) to the best knowledge of the undersigned City Manager, there is no public vote or referendum pending or proposed, the results of which could materially adversely affect the transactions contemplated by the City Agreements, or the validity or enforceability of the City Agreements;

(i) the financial statements of the City which have been presented to the Purchaser fairly present the financial positions and results of operations thereof as of the dates and for the periods therein set forth, and the undersigned City Manager has no reason to believe that such financial statements have not been prepared in accordance with generally accepted accounting principles consistently applied;

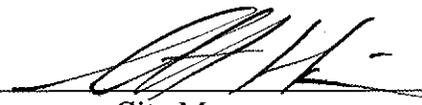
(j) pursuant to Section 265(b)(3)(iii) of the Code, the City specifically designates the Bonds as "qualified tax-exempt obligations" for purposes of Section 265(b)(3) of the Code; and

(k) in compliance with Section 265(b)(3)(iii) of the Code, the City represents and covenants that it will not designate more than Ten Million Dollars (\$10,000,000) of obligations issued by the City in calendar year 2012 as "qualified tax-exempt obligations."

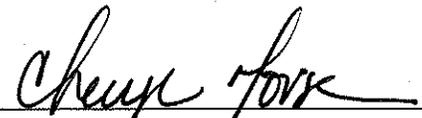
SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, the parties hereto have executed this Fiscal Agent Agreement by their duly authorized officers as of the date first above written.

CITY OF EL CERRITO,
a municipal corporation

By  _____
City Manager

ATTEST:
City Clerk

By  _____
City Clerk

ADMINISTRATIVE SERVICES DIRECTOR
OF THE CITY OF EL CERRITO, as Fiscal
Agent

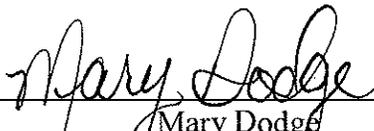
By  _____
Mary Dodge
Administrative Services Director

EXHIBIT A

FORM OF 2012 STORM DRAIN REVENUE REFUNDING BONDS

No. R-1

\$1,026,800

**CITY OF EL CERRITO
2012 STORM DRAIN REVENUE REFUNDING BONDS**

INTEREST RATE
1.683%

MATURITY DATE
August 1, 2013

DATED DATE
June 22, 2012

REGISTERED OWNER: JPMORGAN CHASE BANK, NA

PRINCIPAL AMOUNT: One Million Twenty-Six Thousand Eight Hundred Dollars

THE CITY OF EL CERRITO, a general law city organized and existing under the laws of the State of California (the "City") for value received, hereby promises to pay (but only out of the Revenues and other assets pledged therefor as hereinafter mentioned) to the Registered Owner stated above, or registered assigns, on the Maturity Date stated above, the principal amount stated above, in lawful money of the United States of America; and to pay interest thereon in like lawful money from the Interest Payment Date next preceding the date of authentication of this Bond (unless this Bond is authenticated as of a day during the period commencing after the fifteenth day of the month preceding an Interest Payment Date and ending on or before such Interest Payment Date, in which event it shall bear interest from such Interest Payment Date, or unless this Bond is authenticated on or before August 1, 2012, in which event it shall bear interest from the Dated Date stated above) until payment of such principal amounts shall be made as provided in the Fiscal Agent Agreement hereinafter mentioned, at the Interest Rate per annum stated above, payable semiannually on each February 1 and August 1, commencing August 1, 2012 (each, an "Interest Payment Date"). The principal hereof is payable at the Office of the Administrative Services Director of the City (together with any successor fiscal agent under the Fiscal Agent Agreement, the "Fiscal Agent"), in El Cerrito, California. Interest hereon is payable by check of the City mailed by the Fiscal Agent on each Interest Payment Date to the Registered Owner as of the fifteenth (15th) day of the month preceding each Interest Payment Date at the address shown on the registration books maintained by the Fiscal Agent.

This Bond represents the entire issue of bonds of the City designated as its "City of El Cerrito 2012 Storm Drain Revenue Refunding Bonds" (the "Bonds"), in the aggregate principal amount of One Million Twenty-Six Thousand Eight Hundred Dollars (\$1,026,800), authorized pursuant to Articles 10 and 11 of Chapter 3 of Part 1 of Division 2 of Title 5 of the California Government Code, commencing with Section 53570 of said Code (the "Refunding Bond Law"), and issued pursuant to a Fiscal Agent Agreement, dated as of June 1, 2012 (the "Fiscal Agent

Agreement”), by and between the City and the Fiscal Agent. The Bonds have been issued to refund the remaining outstanding bonds of the City’s 1993 Storm Drain Revenue Bonds.

Reference is hereby made to the Fiscal Agent Agreement (a copy of which is on file at said office of the Fiscal Agent) and all agreements supplemental thereto and to the Refunding Bond Law for a description of the rights thereunder of the owners of the Bonds, of the nature and extent of the security, of the rights, duties and immunities of the Fiscal Agent and of the rights and obligations of the City thereunder. The Registered Owner of this Bond, by acceptance hereof, assents and agrees to all the provisions of the Fiscal Agent Agreement.

The Bonds and the interest thereon are payable from Revenues (as that term is defined in the Fiscal Agent Agreement) of the City’s storm drain system and are secured by a pledge and assignment of said Revenues and of amounts held in the Revenue Fund and the Bond Service Fund established pursuant to the Fiscal Agent Agreement, subject only to the provisions of the Fiscal Agent Agreement permitting the application thereof for the purposes and on the terms and conditions set forth in the Fiscal Agent Agreement. The City has the right under the Fiscal Agent Agreement to issue additional obligations on a parity therewith, subject to the specific conditions set forth in the Fiscal Agent Agreement. The Bonds are special obligations of the City and are not a lien or charge upon the funds or property of the City, except to the extent of the aforesaid pledge and assignment. The Bonds are not a debt of the State of California (the “State”) or the County of Contra Costa (the “County”), and neither the State nor the County is liable for the payment thereof.

The Bonds are subject to mandatory partial redemption on August 1, 2012, as set forth in the following table, in the principal amount set forth at a redemption price equal to 100% of the principal amount thereof:

<u>Redemption Date</u>	<u>Amount</u>
August 1, 2012	\$ _____
August 1, 2013 (maturity)	\$ _____

Notice to the Owner of the Bonds of the mandatory partial redemption on August 1, 2012, shall not be required, and interest shall cease to accrue from and after August 1, 2012, on the principal amount of the Bonds payable by mandatory partial redemption on August 1, 2012.

If an Event of Default (as that term is defined in the Fiscal Agent Agreement) shall occur, any Owner of any of the Bonds shall have the right, for the equal benefit and protection of all Owners similarly situated, to exercise the remedies prescribed by the Fiscal Agent Agreement.

This Bond is transferable by the Registered Owner hereof, in person or by his attorney duly authorized in writing, at said office of the Fiscal Agent, but only in the manner, subject to the limitations provided in the Fiscal Agent Agreement, and upon surrender and cancellation of this Bond. Upon such transfer, a new Bond or Bonds, of authorized denomination or denominations, of the same maturity and for the same aggregate principal amount, will be issued to the transferee in exchange herefor. The City and the Fiscal Agent may treat the Registered

Owner hereof as the absolute owner hereof for all purposes, and the City and the Fiscal Agent shall not be affected by any notice to the contrary.

The Fiscal Agent Agreement and the rights and obligations of the City and of the owners of the Bonds and of the Fiscal Agent may be modified or amended from time to time and at any time in the manner, to the extent, and upon the terms provided in the Fiscal Agent Agreement; provided that no such modification or amendment shall (a) extend the maturity of or reduce the interest rate on any Bond or otherwise alter or impair the obligation of the City to pay the principal of or the interest on the Bonds at the time and place and at the rate and in the currency provided therein without the express written consent of the Owner of such Bond, (b) reduce the percentage of Bonds required for the written consent to any such amendment or modification, or (c) without its written consent thereto, modify any of the rights or obligations of the Fiscal Agent, all as more fully set forth in the Fiscal Agent Agreement.

It is hereby certified and recited that any and all things, conditions and acts required to exist, to have happened and to have been performed precedent to and in the issuance of this Bond do exist, have happened and have been performed in due time, form and manner as required by the Refunding Bond Law, and by the constitution and laws of the State of California, and that the amount of this Bond, together with all other indebtedness of the City, does not exceed any limit prescribed by the Refunding Bond Law or by the Constitution and laws of the State of California, and is not in excess of the amount of Bonds permitted to be issued under the Fiscal Agent Agreement.

This Bond shall not be entitled to any benefit under the Fiscal Agent Agreement, or become valid or obligatory for any purpose, until the certificate of authentication hereon endorsed shall have been signed by the Fiscal Agent.

IN WITNESS WHEREOF, City of El Cerrito has caused this Bond to be executed in its name and on its behalf by the manual signature of the Mayor and its seal to be reproduced hereon by facsimile and attested by the manual signature of the City Clerk, all as of the Dated Date stated above.

CITY OF EL CERRITO

By: _____
Mayor

[SEAL]
Attest:

By: _____
City Clerk

FISCAL AGENT'S CERTIFICATE OF AUTHENTICATION

This is one of the Bonds described in the within-mentioned Fiscal Agent Agreement.

Dated:

ADMINISTRATIVE SERVICES DIRECTOR
OF THE CITY OF EL CERRITO,
as FISCAL AGENT

By: _____

ASSIGNMENT

For value received the undersigned hereby sells, assigns and transfers unto _____ whose address and social security or other tax identifying number is, _____, the within mentioned Bond and hereby attorney, to transfer the same on the registration books of the Fiscal Agent with full power of substitution in the premises.

Dated: _____

Signature Guaranteed:

Note: Signature(s) must be guaranteed by a member firm of any national stock exchange or a commercial bank or trust company

Note: The signature(s) on this Assignment must correspond with the name(s) as written on the face of the within Bond in every particular without alteration or enlargement or any change whatsoever.

EXHIBIT B

DEBT SERVICE SCHEDULE

<u>Date</u>	<u>Principal</u>	<u>Interest</u>	<u>Total Debt Service Payable</u>
August 1, 2012	\$512,300.00	\$1,872.11	\$514,172.11
February 1, 2013		\$4,329.52	\$4,329.52
August 1, 2013	\$514,500.00	\$4,329.52	\$518,829.52

EXHIBIT C

FORM OF CERTIFICATE OF BOND PURCHASER

City of El Cerrito
2012 Storm Drain Revenue Refunding Bonds

Certificate of Bond Purchaser

This certificate is delivered by an authorized representative of JPMorgan Chase Bank N.A., as purchaser (the "Purchaser") of the \$1,026,800 aggregate principal amount of City of El Cerrito 2012 Storm Drain Revenue Refunding Bonds (the "Bonds"), dated the date of this certificate.

The Purchaser certifies the following:

(1) The Bonds are being purchased in a direct, private placement transaction, and the terms of the purchase and sale have been established through negotiations between the Purchaser and the City in an arm's-length transaction.

(2) The Purchaser is holding the Bonds for its own account as an investor and/or for deposit into a trust for the purpose of selling interests in the trust.

(3) The Purchaser will not receive any commission or fee in connection with such purchase.

(4) The relationship between the Purchaser and the City with respect to the Bonds is intended to be that of creditor-debtor only. No term in the documents relating to the Bonds, and no course of dealing between the Purchaser and the City is intended to be deemed to create any relationship of agency, partnership or joint venture between the Purchaser and any other party, or create any fiduciary duty by the Purchaser to any other party.

(5) The Purchaser is purchasing the Bonds as par.

(6) The Purchaser is the first buyer of the Bonds and is buying the Bonds as an investment for its own account with no intention to resell the bonds.

(7) The purchase price of the Bonds is not less than the fair market value of the Bonds as of the date the Purchaser agreed to buy the Bonds.

The undersigned is authorized to execute this certificate on behalf of JPMorgan Chase Bank N.A.

Date: June 22, 2012

JPMORGAN CHASE BANK N.A.

By: _____
Authorized Representative