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PUBLIC FINANCING AUTHORITY RESOLUTION 2012-04

RESOLUTION OF THE GOVERNING BOARD OF THE EL CERRITO PUBLIC FINANCING AUTHORITY AUTHORIZING THE ISSUANCE AND SALE BY PRIVATE PLACEMENT TO JPMORGAN CHASE BANK, NA, OF NOT TO EXCEED \$2,516,500 PRINCIPAL AMOUNT OF 2012 LEASE REVENUE REFUNDING BONDS; DESIGNATING THE BONDS AS QUALIFIED TAX-EXEMPT OBLIGATIONS PURSUANT TO SECTION 265(b) OF THE INTERNAL REVENUE CODE OF 1986; APPROVING THE FORM AND SUBSTANCE OF A SITE LEASE, A FACILITY LEASE, A TRUST AGREEMENT AND A REFUNDING ESCROW AGREEMENT AND AUTHORIZING THE MAKING OF MODIFICATIONS THERETO AND THE EXECUTION AND DELIVERY THEREOF AS MODIFIED; AND AUTHORIZING RELATED ACTIONS NECESSARY TO IMPLEMENT THE PROPOSED REFUNDING PROGRAM

WHEREAS, the El Cerrito Public Financing Authority is a joint exercise of powers entity duly organized and existing under and by virtue of the laws of the State of California (the "Authority"); and

WHEREAS, the City of El Cerrito is a municipal corporation organized and existing under the Constitution and laws of the State of California (the "City"); and

WHEREAS, the Authority is empowered under the provisions of the Marks-Roos Local Bond Pooling Act of 1985, being Article 4, Chapter 5, Division 7, Title 1 of the California Government Code (the "Law"), to issue its bonds for the purpose of refunding bonds previously issued by the Authority; and

WHEREAS, pursuant to its resolution adopted on June 17, 2002, the Authority authorized the issuance of its 2002 Lease Revenue Bonds (Measure A Capital Improvement Project) (the "Prior Bonds"); and

WHEREAS, the Prior Bonds were delivered to the original purchaser thereof on July 31, 2002, and the proceeds of sale were utilized in accordance with the Law to assist the City in the financing of capital facilities for a swim center of the City commonly referred to as the "Measure A Capital Improvement Project" (the "Project"); and

WHEREAS, the Authority has determined to issue its El Cerrito Public Financing Authority 2012 Lease Revenue Refunding Bonds (the "Bonds") for the purpose of implementing a program to refund the remaining outstanding Prior Bonds (the "Refunding Program"); and

WHEREAS, the Bonds will be secured by a first pledge, lien and claim upon certain revenues (the "Revenues"), together with a first pledge, lien and claim upon the proceeds of the special tax which was approved as Measure A at an election held in the City on March 7, 2000, to consider said measure (the "Special Tax Revenues"); and

WHEREAS, the Authority has determined that, in order to implement the Refunding Program, including payment of the redemption price of the Prior Bonds on the date to be selected

for such redemption (after taking into consideration funds on hand with respect to the Prior Bonds), establishment of a reserve fund for the Bonds and payment of the costs of the Refunding Program, including the costs of issuance of the Bonds, the Authority needs to authorize the issuance and sale of Bonds in the aggregate principal amount of not to exceed Two Million Five Hundred Sixteen Thousand Five Hundred Dollars (\$2,516,500); and

WHEREAS, the Authority has determined that all things necessary to make the Bonds, when executed on behalf of the Authority, authenticated by the Trustee, and delivered to JPMorgan Chase Bank, NA (the "Bank"), the valid, binding and legal obligations of the Authority according to the import thereof and hereof have been done and performed; and

WHEREAS, in furtherance of implementing the above-described Refunding Program, Meyers, Nave, Riback, Silver & Wilson, as bond counsel to the Authority for the Refunding Program ("Bond Counsel"), has prepared and submitted to the Authority Secretary for consideration and approval by this Board forms of the following:

(a) a Site Lease (the "Site Lease"), between the City and the Authority, under the terms of which the City leases to the Authority for a nominal consideration the real property on which the Project has been constructed (the "Site");

(b) a Facility Lease (the "Facility Lease"), between the Authority and the City, under the terms of which the Authority leases back to the City the Site, as improved by the Project (together, the "Leased Property"), and the City agrees to make certain rental payments (the "Base Rental Payments" and the "Additional Payments") for the use and enjoyment of the Leased Property;

(c) a Trust Agreement (the "Trust Agreement"), between the Authority and a bank to be determined, as trustee (the "Trustee"), under the terms of which the Bonds are to be issued and the Revenues (as said term is defined in the Trust Agreement) are to be administered to pay the principal of and interest on the Bonds; and

(d) a Refunding Escrow Agreement (the "Refunding Escrow Agreement"), between the Authority and J.P. Morgan Trust Company, National Association, as Escrow Agent (the "Escrow Agent"), for the purpose of providing for the redemption of the remaining outstanding Prior Bonds on the date to be selected for such redemption; and

WHEREAS, being fully advised in the matter of the proposed Refunding Program, this Board wishes to proceed with implementation of the Refunding Program, provided that certain prescribed conditions set forth herein are satisfied; and

WHEREAS, as required by the Law, the City has by separate resolution determined that the issuance of the Bonds by the Authority will result in significant public benefits, including demonstrable savings in effective interest rate, bond preparation and bond issuance costs; and

WHEREAS, the Authority has received a proposal from the Bank, dated August 10, 2012 (the "Proposal"), to purchase by private placement \$2,516,500 principal amount of 2012 Lease Revenue Refunding Bonds, subject to certain prescribed conditions; and

the event that the Executive Director and the Bank are unable to agree on modifications to the Proposal to establish the Final Proposal, the Authority shall have no obligation to issue and deliver the Bonds.

Section 4. The form and substance of the Site Lease, the Facility Lease, the Trust Agreement and the Refunding Escrow Agreement are hereby approved. The Executive Director or designee thereof (all references hereafter in this resolution to "Executive Director" shall be deemed to include reference to any designee of the Executive Director) is hereby authorized and directed, for and in the name and on behalf of the Authority, to execute and deliver the Site Lease, the Facility Lease, the Trust Agreement and the Refunding Escrow Agreement in substantially said form, with such changes therein as the Executive Director, following consultation with Bond Counsel, may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 5. In satisfaction of one of the conditions of the Proposal, this Board hereby designates the Bonds and all of them as "qualified tax-exempt obligations" within the meaning of Section 265(b)(3)(B) of the Internal Revenue Code of 1986. In furtherance of such designation, this Board finds and determines and hereby declares that it has no expectation or intention of issuing additional tax-exempt obligations during calendar year 2012 in a principal amount, which when combined with the principal amount of the Bonds, would result in issuance of tax-exempt obligations during calendar year 2012 in an aggregate principal amount in excess of \$10,000,000.

Section 6. The officers of the Authority are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents which they may deem necessary or advisable in order to carry out, give effect to and comply with the terms and intent of this resolution. Such actions heretofore taken by such officers are hereby ratified, confirmed and approved.

Section 7. This resolution shall take effect immediately upon its passage.

I CERTIFY that at the regular meeting on August 21, 2012, the Governing Board of the El Cerrito Public Financing Authority passed this resolution by the following vote:

AYES:	Boardmembers Abelson, Benassini, Cheng, Lyman and Chair Jones
NOES:	None
ABSENT:	None
ABSTAIN:	None

WHEREAS, this Board hereby finds and determines that the proposed sale of the Bonds in accordance with and upon terms and conditions which are substantially the same as those specified in the Proposal will result in significant public benefits, including demonstrable savings in effective interest rate, bond preparation and bond issuance costs; and

WHEREAS, all acts, conditions and things required by the Constitution and laws of the State of California to exist, to have happened and to have been performed precedent to and in connection with the issuance, sale and delivery of the Bonds and the consummation of the Refunding Program authorized hereby do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the Authority is now duly authorized and empowered, pursuant to each and every requirement of law, to authorize the execution and delivery of certain documents in order to further implement the Refunding Program in the manner and upon the terms herein provided; and

WHEREAS, this Board wishes by this resolution to authorize the issuance, sale and delivery of the Bonds by private placement to the Bank on terms and conditions substantially the same as those specified in the Proposal, a copy of which is attached to this resolution as Exhibit A and by this reference incorporated herein;

NOW, THEREFORE, BE IT RESOLVED by the Governing Board of the El Cerrito Public Financing Authority as follows:

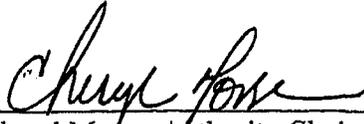
Section 1. The foregoing recitals are true and correct, and this Board so finds and determines.

Section 2. Pursuant to the Law, this Board hereby authorizes the issuance of the Bonds in the aggregate principal amount of not to exceed Two Million Five Hundred Sixteen Thousand Five Hundred Dollars (\$2,516,500.00). The term of the Bonds, which shall be issued as a single, fully-registered term bond with annual mandatory partial sinking fund redemptions of the principal amount thereof, shall not extend beyond September 1, 2020, which is the last maturity of the Prior Bonds.

Section 3. The Bonds shall be sold and delivered to the Bank on terms and conditions substantially the same as those specified by the Proposal, as modified by the Bank with the approval of the Executive Director of the Authority (the "Executive Director") prior to the execution thereof (the "Final Proposal"); provided that any modifications of the Proposal in arriving at the Final Proposal shall not substantially change the terms and conditions of the Proposal, as set forth in Exhibit A hereto; and provided further that the purchase price shall be equal to not less than one hundred percent (100%) of the principal amount of the Bonds and the interest rate specified in the Final Proposal shall not exceed the interest rate in the Proposal by more than 50 basis points.

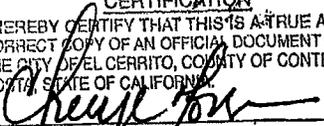
Subject to the approval of the Final Proposal by the Executive Director, the Executive Director is hereby authorized and directed to execute the Final Proposal on behalf of the Authority; provided that the Executive Director shall not be obligated to approve any proposed modifications of the Proposal requested by the Bank which the Executive Director, in the Executive Director's sole discretion, deems not to be in the best interest of the Authority, and in

IN WITNESS of this action, I sign the document and affix the corporate seal of the City of El Cerrito on August 22, 2012


Cheryl Morse, Authority Clerk

APPROVED:


William C. Jones, III, Chair

CERTIFICATION
I HEREBY CERTIFY THAT THIS IS A TRUE AND
CORRECT COPY OF AN OFFICIAL DOCUMENT OF
THE CITY OF EL CERRITO, COUNTY OF CONTRA
COSTA, STATE OF CALIFORNIA.

CITY CLERK OF CITY OF EL CERRITO

Recorded at the Request of
Old Republic Title Company
Oakland

117012247

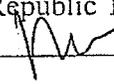
RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

El Cerrito Public Financing Authority
10890 San Pablo Avenue
El Cerrito, CA 94530
Attention: Executive Director

EXEMPT FROM RECORDING FEES PER
GOVERNMENT CODE §§ 6103, 27383

CERTIFIED A TRUE COPY OF THE ORIGINAL
RECORDED IN THE OFFICIAL RECORDS OF
CONTRA COSTA COUNTY ON September 25, 2012
Under Recorder's Serial No. 2012-0234511

Old Republic Title Company

By:  _____

APN : 503-203-021

(SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE)

FACILITY LEASE

between the

CITY OF EL CERRITO

and

EL CERRITO PUBLIC FINANCING AUTHORITY

Dated as of September 1, 2012

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FACILITY LEASE

This Facility Lease (this "Lease"), dated as of September 1, 2012, by and between the EL CERRITO PUBLIC FINANCING AUTHORITY (the "Authority"), a public entity and agency, duly organized and existing pursuant to an Agreement entitled "Joint Exercise of Powers Agreement" by and between the City of El Cerrito and the El Cerrito Redevelopment Agency, as lessor, and the CITY OF EL CERRITO (the "City"), a municipal corporation duly organized and validly existing under the Constitution and laws of the State of California, as lessee;

WITNESSETH:

WHEREAS, the Authority intends to assist the City in refinancing the acquisition and construction of the Project by issuing its 2012 Lease Revenue Refunding Bonds (the "Bonds"), with the proceeds of sale of the Bonds to be utilized to redeem the remaining outstanding 2002 Lease Revenue Bonds (the "Prior Bonds") issued by the Authority on July 31, 2002, to assist the City in the initial financing of the Project;

WHEREAS, the Authority and the City desire to lease the Leased Property pursuant to the terms of the Site Lease, dated as of September 1, 2012, and to leaseback the Leased Property pursuant to the terms of this Lease;

WHEREAS, under this Lease, the City will be obligated to make base rental payments to the Authority for the lease of the Leased Property;

NOW, THEREFORE, in consideration of the mutual covenants herein, the parties hereto agree as follows:

ARTICLE I. DEFINITIONS

SECTION 1.01. Definitions. Unless the context otherwise requires, the terms defined in this Section shall, for all purposes of this Lease, have the meanings herein specified, which meanings shall be equally applicable to both the singular and plural forms of any of the terms herein defined. Capitalized terms not otherwise defined herein shall have the meanings assigned to such terms in the Trust Agreement.

"Additional Payments" means all amounts payable to the Authority or the Trustee or any other person from the City as Additional Payments pursuant to Section 3.02 hereof.

"Authority" means (i) the El Cerrito Public Financing Authority, acting as lessor hereunder; (ii) any surviving, resulting or transferee entity; and (iii) except where the context requires otherwise, any assignee of the Authority.

"Bank" means JPMorgan Chase Bank, N.A. as the original purchaser and registered owner of all of the Bonds.

"Base Rental Payments" means all amounts payable to the Authority from the City as Base Rental Payments pursuant to Section 3.01 hereof.

“Base Rental Payment Schedule” means the schedule of Base Rental Payments payable to the Authority from the City pursuant to Section 3.01 hereof and attached hereto as Exhibit B.

“Bonds” means the 2012 Lease Revenue Bonds being issued by the Authority under and pursuant to the Trust Agreement to assist the City in refinancing the acquisition and construction of the Project by utilizing the proceeds of sale of the Bonds to redeem the remaining outstanding 2002 Lease Revenue Bonds (the **“Prior Bonds”**) issued by the Authority on July 31, 2002, to assist the City in the initial financing of the Project.

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

“Code” means the Internal Revenue Code of 1986.

“Date of Delivery” means the date on which the Bonds are delivered to the original purchaser thereof.

“Event of Default” shall have the meaning specified in Section 6.01 hereof.

“Final Proposal” means the final term sheet submitted by the Bank, dated August 9, 2012, and accepted by the City, acting on behalf of the Authority, specifying the terms and conditions of the purchase by the Bank of the Bonds.

“Lease” means this Lease, as originally executed and recorded or as it may from time to time be supplemented, modified or amended pursuant to the provisions hereof and of the Trust Agreement.

“Leased Property” means that certain real property and improvements thereon situated in the City of El Cerrito, State of California, described in Exhibit A attached hereto and made a part hereof, together with any additional real property added thereto by any supplement or amendment hereto, or any real property substituted for all or any portion of the Leased Property in accordance with this Lease and the Trust Agreement; subject, however, to any conditions, reservations, and easements of record or known to the City.

“Measure A Special Tax” means that certain special tax levied by the City on taxable property within the City pursuant to Ordinance No. 99-8 adopted by the City Council on November 29, 1999 and approved by at least two-thirds of the voters of the City voting at an election held on March 7, 2000.

“Measure A Special Tax Revenues” means all amounts received by the City from the proceeds of the Measure A Special Tax.

“Moody’s Investors Service” means Moody’s Investors Service, Inc., a corporation duly organized and existing under and by virtue of the laws of the State of Delaware, and its successors and assigns, except that if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, then the term “Moody’s Investors Service” shall be deemed to refer to any other nationally recognized securities rating agency selected by the City.

“Outstanding” when applied to Bonds, shall have the meaning ascribed to such term in the Trust Agreement.

“Permitted Encumbrances” means: (1) liens for general ad valorem taxes and assessments, if any, not then delinquent, or which the City may, pursuant to this Lease, permit to remain unpaid; (2) easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions which exist of record as of the date of recordation of this Lease in the office of the County Recorder of Contra Costa County and which the City certifies in writing will not materially impair the use of the Leased Property; (3) the Site Lease, as it may be amended from time to time; (4) this Lease, as it may be amended from time to time; (5) the Trust Agreement, as it may be amended from time to time; (6) any right or claim of any mechanic, laborer, materialman, supplier or vendor not filed or perfected in the manner prescribed by law; (7) easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions to which the Bank, the Authority and the City consent in writing; and (8) liens relating to special assessments levied with respect to the Leased Property.

“Permitted Investments” shall have the meaning ascribed to such term in the Trust Agreement.

“Prior Bonds” means the 2002 Lease Revenue Bonds issued in 2002 by the Authority to assist the City in financing the Project.

“Project” means an improvement project consisting of the rebuilding and renovation of certain City facilities, including the City Swim Center and certain other public capital facilities, as described in the text of Measure A, which has been completed and which was funded with the proceeds of the Prior Bonds and with Measure A Special Tax Revenues.

“Reserve Fund” means the Reserve Fund established pursuant to Section 4.03 of the Trust Agreement.

“Site Lease” means that lease, entitled “Site Lease,” and dated as of September 1, 2012, between the City, as lessor, and the Authority, as lessee, as originally executed and recorded or as it may from time to time be supplemented, modified or amended pursuant to the provisions thereof and of the Trust Agreement.

“Standard & Poor’s Corporation” means Standard & Poor’s Corporation, a corporation duly organized and existing under and by virtue of the laws of the State of New York, and its successors and assigns, except that if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, then the term Standard & Poor’s Corporation shall be deemed to refer to any other nationally recognized securities rating agency selected by the City.

“State” means the State of California.

“Supplemental Trust Agreement” means any supplement or amendment to the Trust Agreement hereafter duly authorized and entered into between the Authority and the Trustee in accordance with the provisions of the Trust Agreement.

“**Tax Certificate**” shall have the meaning ascribed to such term in the Trust Agreement.

“**Trust Agreement**” means the trust agreement, entitled “Trust Agreement” and dated as of September 1, 2012, by and between the Authority and the Trustee, pursuant to which the Trustee will deliver the Bonds, as originally executed or as it may from time to time be supplemented, modified or amended by a Supplemental Trust Agreement entered into pursuant to the provisions of the Trust Agreement.

“**Trustee**” means Union Bank, N.A., appointed as trustee pursuant to the Trust Agreement, and any successor appointed under the Trust Agreement.

“**Written Request of the Authority**” means an instrument in writing signed on behalf of the Authority by its Chair, its Executive Director, its Treasurer or by such officer’s duly authorized designee, or by any other person (whether or not an officer of the Authority) who is specifically authorized by resolution of the Authority to sign or execute such a document on its behalf.

“**Written Request of the City**” means an instrument in writing signed on behalf of the City by its Mayor, its City Manager, its Administrative Services Director or any such officer’s duly authorized designee, or by any other officer or employee of the City duly authorized by the resolution of the City to sign or execute such a document on its behalf.

ARTICLE II.

LEASE OF LEASED PROPERTY; TERM; SUBSTITUTION

SECTION 2.01. Lease of Leased Property. The Authority hereby leases to the City and the City hereby accepts any real property interest conveyed hereunder and leases from the Authority the Leased Property, subject, however, to all easements, encumbrances, and restrictions that exist at the time of the commencement of the term of this Lease, including but not limited to the Permitted Encumbrances. The City hereby agrees and covenants during the term of this Lease that, except as hereinafter provided, it will use the Leased Property for public and municipal purposes so as to afford the public the benefits contemplated by this Lease.

The leasing by the City to the Authority of the Leased Property shall not effect or result in a merger of the City’s leasehold estate pursuant to this Lease and its fee estate as lessor under the Site Lease, and the Authority shall continue to have and hold a leasehold estate in said Leased Property pursuant to the Site Lease throughout the term thereof and the term of this Lease. As to said Leased Property this Lease shall be deemed and constitute a sublease.

SECTION 2.02. Term; Occupancy. The term of this Lease shall commence on the date of recordation of this Lease in the office of the County Recorder of Contra Costa County, State of California, or on September 1, 2012, whichever is earlier, and shall end on September 1, 2020, unless such term is extended or sooner terminated as hereinafter provided. If on September 1, 2020, the Bonds shall not be fully paid, or if the rent payable hereunder shall have been abated at any time and for any reason, then the term of this Lease shall be extended until ten (10) days after all Bonds shall be fully paid, except that the term of this Lease shall in no event be extended beyond September 1, 2030. If prior to September 1, 2020, all Bonds shall be fully

paid, or provision therefor made, the term of this Lease shall end ten (10) days thereafter or ten (10) days after written notice by the City to the Authority, whichever is earlier.

The City agrees that it will retain continued possession of and occupancy of the Leased Property at the commencement of the term of this Lease and that construction or improvement of the Leased Property will not interfere with the City's use and occupancy of the Leased Property.

SECTION 2.03. Substitution.

(A) The City and the Authority may, with the written consent of the Bank, substitute real property as part of the Leased Property for purposes of the Site Lease and this Lease, but only after the City shall have filed with the Bank, the Authority and the Trustee all of the following:

(1) Executed copies of amendments to the Site Lease and this Lease, containing the amended description of the Leased Property, including the legal description of the Leased Property as modified if necessary.

(2) A Certificate of the City with copies of the Site Lease and the Facility Lease, if needed, or amendments thereto containing the amended description of the Leased Property stating that such documents have been duly recorded in the official records of the County Recorder of Contra Costa County.

(3) A Certificate of the City, accompanied by a written appraisal, from a qualified appraiser, who may but need not be an employee of the City, evidencing that the annual fair rental value of the Leased Property which will constitute the Leased Property after such substitution will be at least equal to one hundred percent (100%) of the maximum amount of Base Rental Payments becoming due in the then current Bond Year and in any subsequent Bond Year.

(4) A CLTA leasehold owner's policy or policies or a commitment for such policy or policies or an amendment or endorsement to an existing policy or policies resulting in title insurance with respect to the Leased Property after such substitution in an amount at least equal to the amount of such insurance provided with respect to the Leased Property prior to such substitution; each such insurance instrument, when issued, shall name the Trustee as the insured, and shall insure the leasehold estate of the Authority in such substituted property subject only to such exceptions as do not substantially interfere with the City's right to use and occupy such substituted property and as will not result in an abatement of Base Rental Payments payable by the City under the Facility Lease.

(5) A Certificate of the City stating that the City has beneficial use and occupancy of the Leased Property.

(6) An Opinion of Counsel (as such term is defined in the Trust Agreement) stating that such amendment or modification: (i) is authorized or permitted by laws of the State and this Lease; (ii) complies with the terms of this Lease; (iii) will, upon the execution and delivery thereof, be valid and binding upon the Authority and the City in

accordance with its terms; and (iv) will not cause the interest on the Bonds to be included in gross income for federal income tax purposes.

(B) The Authority will provide written notification of any substitution to the Bank or any successor of the Bank as the registered owner of all of the Bonds.

ARTICLE III. BASE RENTAL PAYMENTS; USE OF PROCEEDS

SECTION 3.01. Base Rental Payments. The City agrees to pay to the Authority, as Base Rental Payments for the continued use and occupancy of the Leased Property (subject to the provisions of Sections 3.04, 3.06 and 7.01 of this Lease) semi-annual rental payments on February 25 and August 25 during the term of this Lease, commencing with February 25, 2013, all in accordance with the Base Rental Payment Schedule attached hereto as Exhibit B and made a part hereof. Although payable in unequal semi-annual installments as set forth in Exhibit B, Base Rental Payments shall be calculated on an annual basis, for the twelve (12) month period commencing on September 2 and ending on the next succeeding September 1, except that the first Base Rental Payment period shall commence on the Date of Delivery and end on September 1, 2013. Each annual amount of Base Rental shall be for the use of the Leased Property during each such annual period.

If the term of this Lease shall have been extended pursuant to Section 2.02 hereof, Base Rental Payment installments shall continue to be due fifteen (15) days prior to each March 1 and September 1 in each year, and payable as hereinabove described, continuing to and including the date of termination of this Lease, in an amount equal to the amount of Base Rental payable for the twelve (12) month period ending September 1, 2030 and due on September 1, 2030.

SECTION 3.02. Additional Payments. The City shall also pay such amounts (herein called the "Additional Payments") as shall be required by the Authority for the payment of all costs and expenses incurred by the Authority in connection with the execution, performance or enforcement of this Lease or any assignment hereof, the Trust Agreement, the Site Lease, its interest in the Leased Property and the lease of the Leased Property to the City, including but not limited to payment of all fees, costs and expenses and all administrative costs of the Authority related to the Leased Property, including, without limiting the generality of the foregoing, salaries and wages of employees, all expenses, compensation and indemnification of the Trustee payable by the Authority under the Trust Agreement, fees of auditors, accountants, attorneys or architects, insurance costs and charges, costs and charges of the engineer with respect to the levy of the Measure A Special Tax and all other necessary administrative costs of the Authority or charges required to be paid by it in order to maintain its existence or to comply with the terms of the Bonds or of the Trust Agreement or hereof; but not including any Additional Payments amounts required to pay the principal of and interest on the Bonds.

Such Additional Payments shall be billed to the City by the Authority or the Trustee from time to time, together with a statement certifying that the amount billed has been paid by the Authority or by the Trustee on behalf of the Authority, for one or more of the items above described, or that such amount is then payable by the Authority or the Trustee for such items. Amounts so billed shall be paid by the City within thirty (30) days after receipt of the bill by the

City. The City reserves the right to audit billings for Additional Payments although exercise of such right shall in no way affect the duty of the City to make full and timely payment for all Additional Payments.

The Authority may in the future issue bonds and has entered into and may in the future enter into leases to finance facilities other than the Project. The administrative costs of the Authority shall be allocated among said facilities and the Project, as hereinafter in this paragraph provided. The fees of the Trustee under the Trust Agreement, and any other expenses directly attributable to the Project shall be included in the Additional Payments payable hereunder. The fees of any trustee or paying agent under any indenture securing bonds of the Authority or any trust agreement other than the Trust Agreement, and any other expenses directly attributable to any facilities other than the Project, shall not be included in the administrative costs of the Project and shall not be paid from the Additional Payments payable hereunder. Any expenses of the Authority not directly attributable to any particular project of the Authority shall be equitably allocated among all such projects, including the Project, in accordance with sound accounting practice. In the event of any question or dispute as to such allocation, the written opinion of an independent firm of certified public accountants, employed by the Authority to consider the question and render an opinion thereon, shall be a final and conclusive determination as to such allocation. The Trustee may conclusively rely upon the Written Request of the Authority, in making any determination that costs are payable as Additional Payments hereunder, and shall not be required to make any investigation as to whether or not the items so requested to be paid are expenses of operation of the Project.

SECTION 3.03. Fair Rental Value. Such payments of Base Rental Payments for each rental period during the term of this Lease shall constitute the total rent for said rental period and shall be paid by the City in each rent payment period for and in consideration of the right of use and occupancy of, and continued quiet use and enjoyment of, the Leased Property during each such period for which said rental is to be paid. The parties hereto have agreed and determined that such total rental payable for each twelve (12) month period beginning September 2 annually represents no more than the fair rental value of the Leased Property for each such period. In making such determination, consideration has been given to the fair market value of the Leased Property, other obligations of the parties under this Lease, the uses and purposes which may be served by the Leased Property, the expected revenues to be generated by the Leased Property, and the benefits therefrom which will accrue to the City and the general public.

SECTION 3.04. Payment Provisions. Each installment of rent payable hereunder shall be paid in lawful money of the United States of America to or upon the order of the Authority at the corporate trust office of the Trustee in San Francisco, California, or such other place as the Authority or Trustee shall designate. Any such installment of rent accruing hereunder which shall not be paid when due and payable under the terms of this Lease shall bear interest at the rate of twelve percent (12%) per annum, or such lesser rate of interest as may be permitted by law, from the date when the same is due hereunder until the same shall be paid. Notwithstanding any dispute between the Authority and the City, the City shall make all rental payments when due without deduction or offset of any kind and shall not withhold any rental payments pending the final resolution of such dispute. In the event of a determination that the City was not liable for said rental payments or any portion thereof, said payments or excess of

payments, as the case may be, shall be credited against subsequent rent payments due hereunder or refunded at the time of such determination. Amounts required to be deposited by the City with the Trustee pursuant to this Section on any date shall be reduced to the extent of amounts on deposit in the Revenue Fund and available therefor.

Nothing contained in this Lease shall prevent the City from making, from time to time, contributions or advances to the Authority for any purpose now or hereafter authorized by law, including the making of repairs to, or the restoration of, the Leased Property in the event of damage to or the destruction of the Leased Property.

SECTION 3.05. Pledge of and First Lien Security Interest in Measure A Special Tax Revenues; Appropriations Covenant; Revenue Covenant; Base Rental Payments and Additional Payments to Constitute a Current Expense of the City.

(A) The City hereby pledges the Measure A Special Tax Revenues to the payment of all Base Rental and Additional Payments due hereunder and grants a first lien security interest in the Measure A Special Tax Revenues for the benefit of the Bank and any successors of the Bank as the registered holder or holders of the Bonds and any Additional Bonds to the extent that the additional Base Rental Payments with respect to such Additional Bonds are secured by this pledge of Measure A Special Tax Revenues pursuant to Section 10.07(b). The City shall deposit all Measure A Special Tax Revenues when received into a special fund to be designated the "Measure A Special Tax Fund" to be held by the City, which shall constitute a special fund of the City separate and apart from the City's general funds. On or before each date a Base Rental Payment is due, the City shall withdraw from the Measure A Special Tax Fund the amount necessary to pay the Base Rental Payment and transfer such amount to the Trustee. After making provision in each Fiscal Year for the payment of all Base Rental Payments and Additional Payments payable in such Fiscal Year, the City may apply any excess Measure A Special Tax Revenues in the Measure A Special Tax Fund for any other lawful purpose for which the Measure A Special Tax Revenues may be used.

(B) In addition to the requirements of the foregoing subsection (A), the City will, at all times while any of the Bonds remain outstanding, levy an amount of Measure A Special Tax each Fiscal Year so that the sum of: (i) Measure A Special Tax Revenues for each Fiscal Year; plus (ii) any unencumbered balance in the Measure A Special Tax Fund at the beginning of such Fiscal Year is at least equal to one hundred ten percent (110%) of Annual Debt Service for such Fiscal Year.

(C) The City covenants to take such action as may be necessary to include all such Base Rental Payments and Additional Payments due hereunder in its annual budgets, and to make necessary annual appropriations for all such Base Rental Payments and Additional Payments. If the Measure A Special Tax Revenues are insufficient in any Fiscal Year to pay Base Rental Payments and Additional Payments, the City shall pay such payments from its general funds. The City will deliver to the Authority, the Trustee and the Bank copies of the portion of each annual City budget relating to the payment of Base Rental Payments and Additional Payments hereunder no later than September 30 of each year. The covenants on the part of the City herein contained shall be deemed to be and shall be construed to be duties imposed by law and it shall be the duty of each and every public official of the City to take such

action and do such things as are required by law in the performance of the official duty of such officials to enable the City to carry out and perform the covenants and agreements in this Lease agreed to be carried out and performed by the City.

(D) The Authority and the City understand and intend that the obligation of the City to pay Base Rental Payments and Additional Payments hereunder shall constitute a current expense of the City and shall not in any way be construed to be a debt of the City in contravention of any applicable constitutional or statutory limitation or requirement concerning the creation of indebtedness by the City, nor shall anything contained herein constitute a pledge of any tax revenues, funds or moneys of the City other than the Measure A Special Tax Revenues. Base Rental Payments and Additional Payments due hereunder shall be payable only from the Measure A Special Tax Revenues and current funds which are budgeted and appropriated or on deposit in the Reserve Fund or otherwise legally available for the purpose of paying Base Rental Payments and Additional Payments or other payments due hereunder as consideration for use of the Project. This Lease shall not create an immediate indebtedness for any aggregate payments which may become due hereunder in the event that the term of the Lease is continued. The City has not pledged the full faith and credit of the City, the State of California or any agency or department thereof to the payment of the Base Rental Payments, Additional Payments or any other payments due hereunder.

SECTION 3.06. Rental Abatement. Except to the extent that Measure A Special Tax Revenues are available to pay Base Rental Payments hereunder, the Base Rental Payments shall be abated proportionately, during any period in which by reason of any damage or destruction (other than by condemnation which is hereinafter provided for) there is substantial interference with the use and occupancy of the Leased Property by the City, in the proportion in which the initial cost of that portion of the Leased Property rendered unusable bears to the initial cost of the whole of the Leased Property. Such abatement shall continue for the period commencing with such damage or destruction and ending with the substantial completion of the work of repair or reconstruction. In the event of any such damage or destruction, this Lease shall continue in full force and effect and the City waives any right to terminate this Lease by virtue of any such damage or destruction. Notwithstanding any such event of abatement, the City shall remain obligated hereunder to use Measure A Special Tax Revenues to pay Base Rental Payments hereunder.

SECTION 3.07. Use of Proceeds. The parties hereto agree that the proceeds of the Bonds will be used to refinance the Project by providing for the redemption of the remaining outstanding Prior Bonds, establishment of a reserve fund for the Bonds and payment of the costs of issuance of the Bonds and costs associated with the refunding of the Prior Bonds.

ARTICLE IV. CONSTRUCTION OF THE PROJECT; MAINTENANCE; ALTERATIONS AND ADDITIONS

SECTION 4.01. Design, Approval and Construction of the Project. The City represents and warrants that it has complied with all State approval, environmental and construction permit requirements applicable to the design and construction of the Project, which has been completed.

SECTION 4.02. Maintenance and Utilities. During such time as the City is in possession of the Leased Property, all maintenance and repair, both ordinary and extraordinary, of the Leased Property shall be the responsibility of the City, which shall at all times maintain or otherwise arrange for the maintenance of the Leased Property in first class condition, and the City shall pay for or otherwise arrange for the payment of all utility services supplied to the Leased Property, which may include, without limitation, janitor service, security, power, gas, telephone, light, heating, ventilation, air conditioning, water and all other utility services, and shall pay for or otherwise arrange for payment of the cost of the repair and replacement of the Leased Property resulting from ordinary wear and tear or want of care on the part of the City or any assignee or sublessee thereof or any other cause and shall pay for or otherwise arrange for the payment of all insurance policies required to be maintained with respect to the Leased Property. In exchange for the rent herein provided, the Authority agrees to provide only the Leased Property.

SECTION 4.03. Changes to the Leased Property. The City shall, at its own expense, have the right to remodel the Leased Property or to make additions, modifications and improvements to the Leased Property. All such additions, modifications and improvements shall thereafter comprise part of the Leased Property and be subject to the provisions of this Lease. Such additions, modifications and improvements shall not in any way damage the Leased Property or cause it to be used for purposes other than those authorized under the provisions of state and federal law; and the Leased Property, upon completion of any additions, modifications and improvements made pursuant to this Section, shall be of a value which is at least equal to the value of the Leased Property immediately prior to the making of such additions, modifications and improvements.

SECTION 4.04. Installation of City's Equipment. The City and any sublessee may at any time and from time to time, in its sole discretion and at its own expense, install or permit to be installed other removable items of equipment or other personal property in or upon the Leased Property. All such items shall remain the sole property of such party, in which neither the Authority nor the Trustee shall have any interest, and may be modified or removed by such party at any time provided that such party shall repair any and all damage to the Leased Property resulting from the installation, modification or removal of any such items. Nothing in this Lease shall prevent the City from purchasing items to be installed pursuant to this Section under a conditional sale or lease purchase contract, or subject to a vendor's lien or security agreement as security for the unpaid portion of the purchase price thereof, provided that no such lien or security interest shall attach to any part of the Leased Property.

ARTICLE V. INSURANCE

SECTION 5.01. Fire and Extended Coverage and Earthquake Insurance. The City shall procure or cause to be procured and maintain or cause to be maintained, throughout the term of this Lease insurance against loss or damage to any structures constituting any part of the Leased Property by fire and lightning, with extended coverage insurance, vandalism and malicious mischief insurance and sprinkler system leakage insurance, and earthquake insurance, if available on the open market from a reputable insurance company at a reasonable cost, as determined by the City. Said extended coverage insurance shall, as nearly as practicable, cover

loss or damage by explosion, windstorm, riot, aircraft, vehicle damage, smoke and such other hazards as are normally covered by such insurance. Such insurance shall be in an amount equal to the greater of (i) replacement cost (without deduction for depreciation) of all structures constituting any part of the Leased Property, excluding the cost of excavations, of grading and filling, and of the land (except that such earthquake insurance may be subject to a deductible clause of not to exceed ten percent (10%) of said replacement cost for any one loss and except that such other insurance may be subject to deductible clauses for any one loss of not to exceed five hundred thousand dollars (\$500,000) or a comparable deductible adjusted for inflation), or (ii) an amount and in a form sufficient, in the event of total or partial loss, to enable a portion of all Bonds then Outstanding equal to the amount of such Bonds to be paid from Base Rental Payments to be redeemed.

In the event of any damage to or destruction of any part of the Leased Property caused by the perils covered by such insurance, the City, except as hereinafter provided, shall cause the proceeds of such insurance to be used for the repair, reconstruction or replacement of the damaged or destroyed portion of the Leased Property, and the Trustee shall hold said proceeds separate and apart from all other funds, in a special fund to be designated the "Insurance and Condemnation Fund," to the end that such proceeds shall be applied to the repair, reconstruction or replacement of the Leased Property to at least the same good order, repair and condition as it was in, prior to the damage or destruction, insofar as the same may be accomplished by the use of said proceeds. The Trustee shall withdraw said proceeds from time to time upon receiving the Written Request of the City, stating that the City has expended moneys or incurred liabilities in an amount equal to the amount therein requested to be paid over to it for the purpose of repair, reconstruction or replacement, and specifying the items for which such moneys were expended, or such liabilities were incurred, and containing the additional information required to be included in a Written Request of the City prepared pursuant to the Trust Agreement. Any balance of said proceeds not required for such repair, reconstruction or replacement shall be transferred to the Trustee and treated by the Trustee as Base Rental Payments and applied in the manner provided in the Trust Agreement. Alternatively, if the proceeds of such insurance and any amounts transferable from the Reserve Fund as allocable to the Bonds to be redeemed, together with any other moneys then available for the purpose are at least sufficient to redeem an aggregate principal amount of Outstanding Bonds equal to the amount of Outstanding Bonds attributable to the portion of the Leased Property so destroyed or damaged, the City may elect not to repair, reconstruct or replace the damaged or destroyed portion of the Leased Property and thereupon said proceeds shall be used for the redemption of Outstanding Bonds pursuant to the provisions of the Trust Agreement.

The Authority and the City shall promptly apply for federal disaster aid or State disaster aid in the event that the Leased Property is damaged or destroyed as a result of an earthquake or other disaster occurring at any time. Any proceeds received as a result of such disaster aid shall be used to repair, reconstruct, restore or replace the damaged or destroyed portions of the Leased Property, or, at the City's option, to redeem Outstanding Bonds if such use of such disaster aid is permitted.

SECTION 5.02. Liability Insurance. Except as hereinafter provided, the City shall procure or cause to be procured and maintain or cause to be maintained, throughout the term of this Lease a standard comprehensive general liability insurance policy or policies in protection of

the Authority and its members, directors, officers, agents and employees, indemnifying said parties against all direct or contingent loss or liability for damages for personal injury, death or property damage occasioned by reason of the operation of the Leased Property, with minimum liability limits of five million dollars (\$5,000,000) for personal injury or death of each person and ten million dollars (\$10,000,000) for personal injury or deaths of two or more persons in each accident or event, and in a minimum amount of seven hundred fifty thousand dollars (\$750,000) for damage to property resulting from each accident or event. Such public liability and property damage insurance may, however, be in the form of a single limit policy in the amount of ten million dollars (\$10,000,000) covering all such risks. Such liability insurance may be maintained as part of or in conjunction with any other liability insurance carried by the City.

As an alternative to providing the insurance required by the first paragraph of this Section, or any portion thereof, the City may provide a self-insurance method or plan of protection if and to the extent such self-insurance method or plan of protection shall afford reasonable protection to the Authority, its members, directors, officers, agents and employees and the Trustee, in light of all circumstances, giving consideration to cost, availability and similar plans or methods of protection adopted by public entities in the State other than the City. Before such other method or plan may be provided by the City, and annually thereafter so long as such method or plan is being provided to satisfy the requirements of this Facility Lease, there shall be filed with the Trustee a certificate of an Insurance Consultant or other qualified person, stating that, in the opinion of the signer, the substitute method or plan of protection is in accordance with the requirements of this Section and, when effective, would afford reasonable protection to the Authority, its members, directors, officers, agents and employees and the Trustee against loss and damage from the hazards and risks covered thereby. There shall also be filed a certificate of the City setting forth the details of such substitute method or plan.

SECTION 5.03. Rental Interruption or Use and Occupancy Insurance. The City shall procure or cause to be procured and maintain or cause to be maintained throughout the term of this Lease, rental interruption or use and occupancy insurance to cover loss, total or partial, of the rental income from or the use of the Leased Property as the result of any of the hazards covered by the insurance required by Section 5.01 hereof, in an amount sufficient to pay the maximum annual Base Rental Payments hereunder for any two (2) year period. Any proceeds of such insurance and any amounts transferred from the Reserve Fund shall be used by the Trustee to reimburse to the City any rental theretofore paid by the City under this Lease attributable to such structure for a period of time during which the payment of rental under this Lease is abated, and any proceeds of such insurance not so used shall be applied as provided in Section 3.01 hereof (to the extent required for the payment of Base Rental Payments) and in Section 3.02 hereof (to the extent required for the payment of Additional Payments).

SECTION 5.04. Worker's Compensation. The City shall also maintain worker's compensation insurance issued by a responsible carrier authorized under the laws of the State to insure its employees against liability for compensation under the Worker's Compensation Insurance and Safety Act now in force in California, or any act hereafter enacted as an amendment or supplement thereto. As an alternative, such insurance may be maintained as part of or in conjunction with any other insurance carried by the City. Such insurance may be maintained by the City in the form of self-insurance.

SECTION 5.05. Title Insurance. The City shall obtain upon the execution and delivery of this Lease title insurance on the Leased Property, in an amount not less than the initial par amount outstanding of the Bonds issued by a company of recognized standing duly authorized to issue the same, subject only to Permitted Encumbrances and, to the extent not included within the scope of the Permitted Encumbrances, the exceptions listed as Items 1 through 8 and 10 through 12, pages 4, 5 and 6 of the Preliminary Report, dated August 28, 2012, issued by Old Republic Title Company under Order No. 1117012247-JM. Proceeds of such insurance shall be delivered to the Trustee as a prepayment of rent pursuant to Section 7.02 hereof and shall be applied by the Trustee to the redemption of Bonds pursuant to Section 2.03 of the Trust Agreement.

SECTION 5.06. Insurance Proceeds; Form of Policies. All policies of insurance required by Sections 5.01, 5.03 and 5.05 hereof shall be provided by an insurance company with a claims paying ability rated at least "A" by A. M. Best (provided, that any insurance provided by the Public Agency Risk Sharing Authority of California, shall not be required to meet this rating requirement) and shall provide that all proceeds thereunder shall be payable to the Trustee pursuant to a lender's loss payable endorsement substantially in accordance with the form approved by the Insurance Services Office and the California Bankers Association. The Trustee shall collect and receive all moneys which may become due and payable under any such policies, and with the written consent of the Bank and the City (which shall not be unreasonably withheld) may compromise any and all claims thereunder and shall apply the proceeds of such insurance as provided in Sections 5.01, 5.03 and 5.05 hereof. All policies of insurance required by this Lease shall provide that the Trustee shall be given thirty (30) days' notice of each expiration thereof or any intended cancellation thereof or reduction of the coverage provided thereby. The Trustee shall not be responsible for the sufficiency of any insurance herein required or if forms of endorsement or policies comply with the provisions of this Lease and shall be fully protected in accepting payment on account of such insurance or any adjustment, compromise or settlement of any loss agreed to by the Trustee. The City shall pay when due the premiums for all insurance policies required by this Lease, and shall promptly furnish evidence of such payments to the Authority.

The City will deliver to the Authority and the Trustee in the month of September in each year (commencing September 1, 2013) a written certificate of an officer of the City stating that such policies satisfy the requirements of this Lease, setting forth the insurance policies then in force pursuant to this Section, the names of the insurers which have issued the policies, the amounts thereof and the property and risks covered thereby, and, if any self-insurance program is being provided, the annual report of an Insurance Consultant or other qualified person containing the information required for such self-insurance program and described in Sections 5.02 and 5.04 hereof. Delivery to the Trustee of the certificate under the provisions of this Section shall not confer responsibility upon the Trustee as to the sufficiency of coverage or amounts of such policies. If so requested in writing by the Trustee, the City shall also deliver to the Trustee, certificates or duplicate originals or certified copies of each insurance policy described in such schedule.

ARTICLE VI.
DEFAULTS AND REMEDIES

SECTION 6.01. Defaults and Remedies.

(A) If the City shall fail to pay any rent payable hereunder when the same becomes due and payable, time being expressly declared to be of the essence of this Lease, or the City shall fail to keep, observe or perform any other term, covenant or condition contained herein to be kept or performed by the City for a period of thirty (30) days after notice of the same has been given to the City by the Authority or the Trustee or for such additional time as is reasonably required, in the sole discretion of the Trustee, to correct the same, but not to exceed sixty (60) days without the consent of the Bank, or upon the happening of any of the events specified in subsection (B) of this Section (any such case above being an "Event of Default"), the City shall be deemed to be in default hereunder, and it shall be lawful for the Authority to exercise any and all remedies available pursuant to law or granted pursuant to this Lease. Upon any such default, the Authority, in addition to all other rights and remedies it may have at law and all remedies it may have at law and subject to the provisions of subsection (E) below, shall have the option to do any of the following:

(1) To terminate this Lease in the manner hereinafter provided on account of default by the City, notwithstanding any re-entry or re-letting of the Leased Property as hereinafter provided for in subparagraph (2) hereof, and to re-enter the Leased Property and remove all persons in possession thereof and all personal property whatsoever situated upon the Leased Property and place such personal property in storage in any warehouse or other suitable place located within the City of El Cerrito, California. In the event of such termination, the City agrees to surrender immediately possession of the Leased Property, without let or hindrance, and to pay the Trustee all damages recoverable at law that the Authority may incur by reason of default by the City, including, without limitation, any costs, loss or damage whatsoever arising out of, in connection with, or incident to any such re-entry upon the Leased Property and removal and storage of such property by the Trustee or its duly authorized agents in accordance with the provisions herein contained. Neither notice to pay rent or to deliver up possession of the Leased Property given pursuant to law nor any entry or re-entry by the Trustee nor any proceeding in unlawful detainer, or otherwise, brought by the Trustee for the purpose of effecting such re-entry or obtaining possession of the Leased Property nor the appointment of a receiver upon initiative of the Trustee to protect the Authority's interest under this Lease shall of itself operate to terminate this Lease, and no termination of this Lease on account of default by the City shall be or become effective by operation of law or acts of the parties hereto, or otherwise, unless and until the Trustee shall have given written notice to the City of the election on the part of the Trustee to terminate this Lease.

(2) Without terminating this Lease: (i) to collect each installment of rent as it becomes due and enforce any other terms or provision hereof to be kept or performed by the City, regardless of whether or not the City has abandoned the Leased Property; or (ii) to exercise any and all rights of re-entry upon the Leased Property. In the event the Trustee does not elect to terminate this Lease in the manner provided for in subparagraph (1) hereof, the City shall remain liable and agrees to keep or perform all covenants and conditions herein contained to be kept or performed by the City and, if the Leased Property is not re-let, to pay the full

amount of the rent to the end of the term of this Lease or, in the event that the Leased Property is re-let, to pay any deficiency in rent that results therefrom; and further agrees to pay said rent and/or rent deficiency punctually at the same time and in the same manner as hereinabove provided for the payment of rent hereunder (without acceleration), notwithstanding the fact that the Authority may have received in previous years or may receive thereafter in subsequent years rental in excess of the rental herein specified, and notwithstanding any entry or re-entry by the Trustee or suit in unlawful detainer, or otherwise, brought by the Trustee for the purpose of effecting such entry or re-entry or obtaining possession of the Leased Property. Should the Trustee elect to enter or re-enter as herein provided, the City hereby irrevocably appoints the Trustee as the agent and attorney-in-fact of the City to re-let the Leased Property, or any part thereof, from time to time, either in the Trustee's name or otherwise, upon such terms and conditions and for such use and period as the Trustee may deem advisable, and to remove all persons in possession thereof and all personal property whatsoever situated upon the Leased Property and to place such personal property in storage in any warehouse or other suitable place located in the City of El Cerrito, California, for the account of and at the expense of the City, and the City hereby exempts and agrees to save harmless the Authority from any costs, loss or damage whatsoever arising out of, in connection with, or incident to any such re-entry upon and re-letting of the Leased Property and removal and storage of such property by the Authority or its duly authorized agents in accordance with the provisions herein contained. The City agrees that the terms of this Lease constitute full and sufficient notice of the right of the Authority to re-let the Leased Property and to do all other acts to maintain or preserve the Leased Property as the Authority deems necessary or desirable in the event of such re-entry without effecting a surrender of this Lease, and further agrees that no acts of the Authority in effecting such re-letting shall constitute a surrender or termination of this Lease irrespective of the use or the term for which such re-letting is made or the terms and conditions of such re-letting, or otherwise, but that, on the contrary, in the event of such default by the City the right to terminate this Lease shall vest in the Authority to be effected in the sole and exclusive manner provided for in subparagraph (1) hereof. The City further waives the right to any rental obtained by the Authority in excess of the rental herein specified and hereby conveys and releases such excess to the Authority as compensation to the Authority for its services in re-letting the Leased Property or any part thereof.

The City hereby waives any and all claims for damages caused or which may be caused by the Authority in re-entering and taking possession of the Leased Property as herein provided and all claims for damages that may result from the destruction of the Leased Property and all claims for damages to or loss of any property belonging to the City, or any other person, that may be in or upon the Leased Property.

(B) If: (1) the City's interest in this Lease or any part thereof be assigned or transferred, either voluntarily or by operation of law or otherwise, without the written consent of the Bank and the Authority, as hereinafter provided for; or (2) the City or any assignee shall file any petition or institute any proceeding under any act or acts, state or federal, dealing with or relating to the subject or subjects of bankruptcy or insolvency, or under any amendment of such act or acts, either as a bankrupt or as an insolvent, or as a debtor, or in any similar capacity, wherein or whereby the City asks or seeks or prays to be adjudicated as bankrupt, or is to be discharged from any or all of the City's debts or obligations, or offers to the City's creditors to effect a composition or extension of time to pay the City's debts or asks, seeks or prays for

reorganization or to effect a plan of reorganization, or for a readjustment of the City's debts, or for any other similar relief, or if any such petition or any such proceedings of the same or similar kind or character be filed or be instituted or taken against the City, or if a receiver of the business or of the property or assets of the City shall be appointed by any court, except a receiver appointed at the instance or request of the Authority, or if the City shall make a general or any assignment for the benefit of the City's creditors; or if (3) the City shall abandon or vacate the Leased Property, then the City shall be deemed to be in default hereunder.

(C) The Authority shall in no event be in default in the performance of any of its obligations hereunder or imposed by any statute or rule of law unless and until the Authority shall have failed to perform such obligations within thirty (30) days or such additional time as is reasonably required to correct any such default after notice by the City to the Authority properly specifying wherein the Authority has failed to perform any such obligation. In the event of default by the Authority, the City shall be entitled to pursue any remedy provided by law.

(D) In addition to the other remedies set forth in this Section, upon the occurrence of an event of default as described in this Section, the Trustee, as the assignee of the Authority of its right, title and interest under this Lease, shall be entitled to proceed to protect and enforce the rights vested in the Authority by this Lease or by law. The provisions of this Lease and the duties of the City and of its trustees, officers or employees shall be enforceable by the Authority by mandamus or other appropriate suit, action or proceeding in any court of competent jurisdiction. Without limiting the generality of the foregoing, the Authority shall have the right to bring the following actions:

(1) Accounting. By action or suit in equity to require the City and its trustees, officers and employees and its assigns to account as the trustee of an express trust.

(2) Injunction. By action or suit in equity to enjoin any acts or things which may be unlawful or in violation of the rights of the Authority.

(3) Mandamus. By mandamus or other suit, action or proceeding at law or in equity to enforce the Authority's rights against the City (and its board, officers and employees) and to compel the City to perform and carry out its duties and obligations under the law and its covenants and agreements with the City as provided herein.

Each and all of the remedies given to the Authority hereunder or by any law now or hereafter enacted are cumulative and the single or partial exercise of any right, power or privilege hereunder shall not impair the right of the Authority to other or further exercise thereof or the exercise of any or all other rights, powers or privileges. The term "re-let" or "re-letting" as used in this Section shall include, but not be limited to, re-letting by means of the operation by the Authority of the Leased Property. If any statute or rule of law validly shall limit the remedies given to the Authority hereunder, the Authority nevertheless shall be entitled to whatever remedies are allowable under any statute or rule of law.

In the event the Authority shall prevail in any action brought to enforce any of the terms and provisions of this Lease, the City agrees to pay a reasonable amount as and for attorney's fees incurred by the Authority in attempting to enforce any of the remedies

available to the Authority hereunder, whether or not a lawsuit has been filed and whether or not any lawsuit culminates in a judgment.

(E) Notwithstanding the provisions of the foregoing subsections (A) through (D) of this Section 6.01, upon the occurrence of and the continuation of an event of default as set forth in Section 8.01 of the Trust Agreement, the provisions of said Section 8.01 shall govern, and the Authority shall (1) defer to the Trustee on the matter of selecting a remedy to pursue in response to the occurrence of an Event of Default, as said term is defined in subsection (A) of this Section 6.01, and (2) obtain the written consent of the Trustee and the Bank before pursuing any remedy authorized by the foregoing provisions of subsections (A) through (D) of this Section 6.01. In the event of a conflict between the provisions of this Section 6.01 and the provisions of said Section 8.01 of the Trust Agreement, the provisions of Section 8.01 shall prevail.

SECTION 6.02. Waiver. Failure of the Authority to take advantage of any default on the part of the City shall not be, or be construed as, a waiver thereof, nor shall any custom or practice which may grow up between the parties in the course of administering this instrument be construed to waive or to lessen the right of the Authority to insist upon performance by the City of any term, covenant or condition hereof, or to exercise any rights given the Authority on account of such default. A waiver of a particular default shall not be deemed to be a waiver of the same or any subsequent default. The acceptance of rent hereunder shall not be, or be construed to be, a waiver of any term, covenant or condition of this Lease.

ARTICLE VII. EMINENT DOMAIN; PREPAYMENT

SECTION 7.01. Eminent Domain. If the whole of the Leased Property and the Project or so much thereof as to render the remainder unusable for the purposes for which it was used by the City shall be taken under the power or threat of eminent domain, the term of this Lease shall cease as of the day that possession shall be so taken. If less than the whole of the Leased Property shall be taken under the power or threat of eminent domain and the remainder is usable for the purposes for which it was used by the City at the time of such taking, then this Lease shall continue in full force and effect as to such remainder, and the parties waive the benefits of any law to the contrary, and in such event there shall be a partial abatement of the rental due hereunder in an amount equivalent to the amount by which the annual payments of principal of and interest on the Bonds then Outstanding will be reduced by the application of the award in eminent domain to the redemption of Outstanding Bonds. So long as any of the Bonds shall be Outstanding, any award made in eminent domain proceedings for taking the Leased Property or any portion thereof shall be paid to the Trustee and applied to the prepayment of the Base Rental Payments as provided in Section 7.02 hereof. Any such award made after all of the Base Rental Payments and Additional Payments have been fully paid, or provision therefor made, shall be paid to the City.

SECTION 7.02. Prepayment. The City shall prepay on any date from insurance and eminent domain proceeds, to the extent provided in Sections 5.01 and 7.01 hereof, and from proceeds of title insurance obtained in connection with the Leased Property (provided, however, that in the event of partial damage to or destruction of the Leased Property caused by perils

covered by insurance, if in the judgment of the Authority the insurance proceeds are sufficient to repair, reconstruct or replace the damaged or destroyed portion of the Leased Property, such proceeds shall be held by the Trustee and used to repair, reconstruct or replace the damaged or destroyed portion of the Leased Property, pursuant to the procedure set forth in Section 5.01 for proceeds of insurance), all or any part (in an integral multiple of \$5,000) of Base Rental Payments then unpaid so that the aggregate annual debt service on the Bonds which shall be payable after such prepayment date shall be as nearly proportional as practicable to the aggregate annual debt service on the Bonds unpaid prior to the prepayment date, at a prepayment amount equal to the principal of and interest (including Accrued Interest) on the Bonds to the date of redemption.

(B) The City may prepay, from any source of available funds, all or any portion of Base Rental Payments by depositing with the Trustee moneys or securities as provided in Article IX of the Trust Agreement sufficient to make such Base Rental Payments when due; provided that the City furnishes the Trustee with an opinion of counsel that such deposit will not cause interest on the Bonds to be includable in gross income for federal income tax purposes. The City agrees that if following such prepayment the Leased Property is damaged or destroyed or taken by eminent domain, it is not entitled to, and by such prepayment waives the right of, abatement of such prepaid Base Rental Payments and shall not be entitled to any reimbursement of such Base Rental Payments.

(C) Before making any prepayment pursuant to this Article, the City shall, within five (5) days following the event creating such right or obligation to prepay, give written notice to the Authority and the Trustee describing such event and specifying the date on which the prepayment will be made, which date shall be not less than sixty (60) days from the date such notice is given.

(D) When: (1) there shall have been deposited with the Trustee at or prior to the due dates of the Base Rental Payments or date when the City may exercise its option to purchase the Project or any portion or item thereof, as provided in Section 7.03 of this Lease, in trust for the benefit of the Owners of the Bonds and irrevocably appropriated and set aside to the payment of the Base Rental Payments or option price, sufficient moneys and Permitted Investments satisfying the requirements of Section 9.01(B) of the Trust Agreement, not redeemable prior to maturity, the principal of and interest on which when due will provide money sufficient to pay all principal of and interest (including Accrued Interest) on the Bonds to the due date of the Bonds or date when the City may exercise its option to purchase the Leased Property, as the case may be; and (2) an agreement shall have been entered into with the Trustee for the payment of its fees and expenses, together with any other sums then due under the Trust Agreement, so long as any of the Bonds shall remain unpaid; then and in that event the right, title and interest of the Authority herein and the obligations of the City hereunder shall thereupon cease, terminate, become void and be completely discharged and satisfied (except for the right of the Authority and the obligation of the City to have such moneys and such Permitted Investments applied to the payment of the Base Rental Payments or option price) and the Authority's interest in and title to the Leased Property or applicable portion or item thereof shall be transferred and conveyed to the City. In such event, the Authority shall cause an accounting for such period or periods as may be requested by the City to be prepared and filed with the Authority and evidence such discharge and satisfaction, and the Authority shall pay over to the City as an overpayment

of Base Rental Payments all such moneys or Permitted Investments held by it pursuant hereto other than such moneys and such Permitted Investments as are required for the payment or prepayment of the Base Rental Payments or the option price and the fees and expenses of the Trustee, together with any other sums due under the Trust Agreement (together, the "Amounts Due Under the Trust Agreement"), which moneys and Permitted Investments shall continue to be held by the Trustee in trust for the payment of Base Rental Payments or the option price and the Amounts Due Under the Trust Agreement, and shall be applied by the Authority to the payment of the Base Rental Payments or the option price and the Amounts Due Under the Trust Agreement.

SECTION 7.03. Option to Purchase; Sale of Personal Property. On and after September 1, 2017, the City shall have the option to purchase the Authority's interest in any part of the Leased Property upon payment of an option price consisting of moneys or securities satisfying the requirements of Section 9.01(B) of the Trust Agreement (not callable by the issuer thereof prior to maturity) in an amount sufficient (together with the earnings and interest on such securities) to provide funds to pay the aggregate amount for the entire remaining term of this Lease of the part of the total rent hereunder attributable to such part of the Leased Property (determined by reference to the proportion which the acquisition, design and construction cost of such part of the Leased Property bears to the acquisition, design and construction cost of all of the Leased Property). Any such payment shall be made to the Trustee and shall be treated as rental payments and shall be applied by the Trustee to pay the principal of and interest on the Bonds and to redeem Bonds if such Bonds are subject to redemption pursuant to the terms of the Trust Agreement. Upon the making of such payment to the Trustee: (a) the Base Rental Payments thereafter payable under this Lease shall be reduced by the amount thereof attributable to such part of the Leased Property and theretofore paid pursuant to this Section; (b) Section 3.06 and this Section of this Lease shall not thereafter be applicable to such part of the Leased Property; (c) the insurance required by Sections 5.01, 5.02 and 5.03 of this Lease need not be maintained as to such part of the Leased Property; and (d) title to such part of the Leased Property and of the portion of the Leased Property upon which such part of the Leased Property is located shall vest in the City and the term of this Lease shall end as to the portion of the Leased Property upon which such part of the Leased Property is located.

The City, in its discretion, may request the Authority to sell or exchange any personal property which may at any time constitute a part of the Leased Property, and to release said personal property from this Lease if: (a) in the opinion of the City the property so sold or exchanged is no longer required or useful in connection with the operation of the Leased Property; (b) the consideration to be received from the property is of a value substantially equal to the value of the property to be released; and (c) if the value of any such property shall, in the opinion of the Authority, exceed the amount of Fifty Thousand dollars (\$50,000), the Authority shall have been furnished a certificate of an independent engineer or other qualified independent professional consultant (satisfactory to the Authority) certifying the value thereof and further certifying that such property is no longer required or useful in connection with the operation of the Leased Property. In the event of any such sale, the full amount of the money or consideration received for the personal property so sold and released shall be paid to the Authority. Any money so paid to the Authority may, so long as the City is not in default under any of the provisions of this Lease, be used upon the Written Request of the City to purchase personal property, which property shall become a part of the Leased Property leased hereunder. The Authority may

require such opinions, certificates and other documents as it may deem necessary before permitting any sale or exchange of personal property subject to this Lease or before releasing for the purchase of new personal property money received by it for personal property so sold.

ARTICLE VIII. COVENANTS

SECTION 8.01. Right of Entry. The Authority and its assignees shall have the right (but not the duty) to enter upon and to examine and inspect the Leased Property during reasonable business hours (and in emergencies at all times): (a) to inspect the same; (b) for any purpose connected with the Authority's or the City's rights or obligations under this Lease; and (c) for all other lawful purposes.

SECTION 8.02. Liens. In the event the City shall at any time during the term of this Lease cause any changes, alterations, additions, improvements or other work to be done or performed or materials to be supplied, in or upon the Leased Property, the City shall pay, when due, all sums of money that may become due for, or purporting to be for, any labor, services, materials, supplies or equipment furnished or alleged to have been furnished to or for the City in, upon or about the Leased Property and shall keep the Leased Property free of any and all mechanics' or materialmen's liens or other liens against the Leased Property or the Authority's interest therein. In the event any such lien attaches to or is filed against the Leased Property or the Authority's interest therein, the City shall cause each such lien to be fully discharged and released at the time the performance of any obligation secured by any such lien matures or becomes due, except that if the City desires to contest any such lien it may do so in good faith. If any such lien shall be reduced to final judgment and such judgment or such process as may be issued for the enforcement thereof is not promptly stayed, or if so stayed and said stay thereafter expires, the City shall forthwith pay and discharge said judgment. The City agrees to and shall, to the maximum extent permitted by law, indemnify and hold the Authority and the Trustee and their respective members, directors, agents, successors and assigns, harmless from and against, and defend each of them against, any claim, demand, loss, damage, liability or expense (including attorney's fees) as a result of any such lien or claim of lien against the Leased Property or the Authority's interest therein.

SECTION 8.03. Quiet Enjoyment. The parties hereto mutually covenant that the City, by keeping and performing the covenants and agreements herein contained and if not in default hereunder, shall at all times during the term of this Lease peaceably and quietly have, hold and enjoy the Leased Property without suit, trouble or hindrance from the Authority.

SECTION 8.04. Authority Not Liable. The Authority and its members, directors, officers, agents, employees and assignees shall not be liable to the City or to any other party whomsoever for any death, injury or damage that may result to any person or property by or from any cause whatsoever in, on or about the Leased Property. The City, to the extent permitted by law, shall indemnify and hold the Authority, the Trustee and its members, directors, officers, agents, employees and assignees, harmless from, and defend each of them against, any and all claims, liens and judgments, expenses (including attorney's fees) arising from: (i) the construction or operation of the Leased Property, including, without limitation, death of or injury to any person or damage to property whatsoever occurring in, on or about the Leased Property

regardless of responsibility for negligence; and (ii) the Trustee's acceptance or administration of the trust under the Trust Agreement, or the exercise or performance of any of its powers or duties hereunder but excepting the active negligence of the person or entity seeking indemnity. The Trustee's rights to compensation and indemnification shall survive the termination of this Lease and the resignations or removal of the Trustee. In addition to the rights and remedies assigned by the Authority to the Trustee, to the extent that the Trust Agreement and this Lease confer upon or gives or grants to the Trustee any right, remedy or claim under or by reason of the Trust Agreement or this Lease, the Trustee is hereby explicitly recognized as being a third party beneficiary hereunder and may enforce any such right, remedy or claim, conferred, given or granted.

SECTION 8.05. Assignment and Subleasing. Neither this Lease nor any interest of the City hereunder shall be mortgaged, pledged, assigned, sublet or transferred by the City by voluntary act or by operation of law or otherwise, except with the prior written consent of the Authority and the Bank; provided such subletting shall not affect the tax-exempt status of the Bonds. No such mortgage, pledge, assignment, sublease or transfer shall in any event affect or reduce the obligation of the City to make the Base Rental Payments and Additional Payments required hereunder. The Authority has assigned to the Trustee all of its right, title and interest in this Lease in furtherance of the Trustee's performance of its duties under the Trust Agreement.

SECTION 8.06. Title to Leased Property. During the term of this Lease, the Authority shall hold leasehold title to the Leased Property and any and all additions which comprise fixtures, repairs, replacements or modifications thereof, except for those fixtures, repairs, replacements or modifications which are added thereto by the City and which may be removed without damaging the Leased Property, and except for any items added to the Leased Property by the City pursuant to Section 4.04 hereof. This provision shall not operate to the benefit of any insurance company if there is a rental interruption covered by insurance pursuant to Section 5.03 hereof. During the term of this Lease, the Authority shall have a leasehold interest in the Leased Property pursuant to the Site Lease.

Upon the termination or expiration of this Lease (other than as provided in Sections 6.01 and 7.01 of this Lease), title to the Leased Property shall vest in the City pursuant to the Site Lease. Upon any such termination or expiration, the Authority shall execute such conveyances, deeds and other documents as may be necessary to effect such vesting of record.

SECTION 8.07. Tax Covenants. The City and the Authority will not make any use of the proceeds of the Bonds or any other funds of the City or the Authority which will cause such obligations to be "arbitrage bonds" subject to federal income taxation by reason of Section 148 of the Code. The City and the Authority will not make any use of the proceeds of the Bonds or any other funds of the City or the Authority which will cause such obligations to be "federally guaranteed" and subject to inclusion in gross income for federal income tax purposes by reason of Section 149(b) of the Code. To that end, so long as any rental payments are unpaid, the City and the Authority, with respect to such proceeds and such other funds, will comply with all requirements of such Sections 148 and 149(b) and all regulations of the United States Department of the Treasury issued thereunder to the extent that such requirements are, at the time, applicable and in effect.

The City further covenants that it will not use or permit the use of the Leased Property or the Project by any person not an "exempt person" within the meaning of Section 141(a) of the Code or by an "exempt person" (including the City) in an "unrelated trade or business", in such manner or to such extent as would result in the inclusion of interest on the Bonds in gross income for federal income tax purposes under Section 103 of the Code.

If at any time the City is of the opinion that for purposes of this Section it is necessary to restrict or limit the yield on or change in any way the investment of any moneys held by the Trustee or the City or the Authority under this Lease or the Trust Agreement, the City shall so instruct the Trustee or the appropriate officials of the City in writing, and the Trustee or the appropriate officials of the City, as the case may be, shall take such actions as may be necessary in accordance with such instructions.

The Authority has designated the Bonds as "qualified tax-exempt obligations" pursuant to Section 265(b) of the Code. In furtherance of such designation, the City and the Authority hereby represent and warrant, for themselves and any other entity which constitutes a subordinate entity of either of them, that neither of them has the expectation or intention to issue additional tax-exempt obligations during calendar year 2012 in a principal amount, which when aggregated with the principal amount of the Bonds and any tax-exempt obligations issued by the other or any subordinate entity of either during calendar year 2012, will be in excess of \$10,000,000.

In furtherance of the covenants of the City set forth above, the City will comply with the Tax Certificate and will cause the Trustee to comply with the Tax Certificate. The Trustee and the Authority may conclusively rely on any such written instructions, and the City hereby agrees to hold harmless the Trustee and the Authority for any loss, claim, damage, liability or expense incurred by the Authority or the Trustee for any actions taken by the Authority or the Trustee in accordance with such instructions.

The City and the Authority shall at all times do and pertain all acts and things permitted by law which are necessary or desirable in order to assure that the interest on the Bonds will be excluded from gross income for federal income tax purposes and shall take no action that would result in such interest not being excluded from gross income for federal income tax purposes.

SECTION 8.08. Purpose of Lease. The City covenants that during the term of this Lease, except as hereinafter provided: (a) it will use, or cause the use of the Leased Property for public purposes and for the purposes for which the Leased Property is customarily used; (b) it will not vacate or abandon the Leased Property or any part thereof; and (c) it will not make any use of the Leased Property which would jeopardize in any way the insurance coverage required to be maintained pursuant to Article V hereof.

SECTION 8.09. Financial Reporting. The City hereby covenants and agrees that it will comply with and carry out all of the conditions for financial reporting by the City as set forth in the Final Proposal under the paragraph heading "Financial Reporting," as follows:

(A) Within 270 days of the close of its fiscal year, the City will provide the Bank with its annual audited financial statements, free of significant deficiencies or material weakness, and prepared by an Independent Certified Public Accountant.

(B) Within 30 days of adoption or amendment, the City will provide the Bank with a copy of its annual budget, as adopted or amended as the case may be.

(C) Annually, the City will provide the Bank with a copy of that portion of the City's comprehensive annual financial report ("CAFR") which contains information respecting total tax receipts and delinquencies.

(D) Upon request, the City will provide the Bank with such other financial and operating information and documents as may be reasonably requested, including without limitation a copy of any long-term capital improvement program or plan.

(E) The failure of the City to comply with the foregoing reporting obligations shall be considered an event of default for purposes of Section 6.01 of this Facility Lease; provided, however, that, upon the failure of the City to comply with any of the foregoing reporting obligations, the Trustee may (and, at the request of the Bank or the Holders of at least twenty-five percent (25%) aggregate principal amount or Accredited Value, as the case may be, in Outstanding Bonds, upon payment of its fees and expenses, including counsel fees and receipt of indemnification satisfactory to it, shall) or the Bank or any Holder or Beneficial Owner may take such actions as may be necessary and appropriate, including seeking specific performance by court order, to cause the City to comply with its obligations under this Section 8.09. For purposes of this Section, "**Beneficial Owner**" means any person which has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries).

SECTION 8.10. Covenant to Maintain Existence. The City and the Authority hereby covenant to substitute a new member for the Successor Agency to the Redevelopment Agency of the City of El Cerrito (the "**Successor Agency**") prior to any action during the term of this Lease under California Health and Safety Code Section 34187(b) or any other action during the term of this Lease to dissolve the Successor Agency.

ARTICLE IX. DISCLAIMER OF WARRANTIES; VENDOR'S WARRANTIES; USE OF THE LEASED PROPERTY

SECTION 9.01. Disclaimer of Warranties. THE AUTHORITY MAKES NO AGREEMENT, WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE OR FITNESS FOR USE OF THE LEASED PROPERTY OR THE PROJECT, OR WARRANTY WITH RESPECT THERETO. THE CITY ACKNOWLEDGES THAT THE AUTHORITY IS NOT A MANUFACTURER OF THE LEASED PROPERTY OR THE PROJECT OR A DEALER THEREIN, THAT THE CITY LEASES THE LEASED PROPERTY AS-IS, IT BEING AGREED THAT ALL OF THE AFOREMENTIONED RISKS ARE TO BE BORNE BY THE CITY. In no event shall the Authority and Trustee be liable for

any incidental, indirect, special or consequential damage in connection with or arising out of this Lease or the existence, furnishing, functioning or the City's use of any item or products or services provided for in this Lease.

SECTION 9.02. Vendor's Warranties. The Authority hereby irrevocably appoints the City its agent and attorney-in-fact during the term of this Lease, so long as the City shall not be in default hereunder, to assert from time to time whatever claims and rights, including warranties of the Leased Property or the Project, which the Authority may have against the manufacturers, vendors and contractors of the Leased Property or the Project. The City's sole remedy for the breach of such warranty, indemnification or representation shall be against the manufacturer or vendor or contractor of the Leased Property or the Project, and not against the Authority, nor shall such matter have any effect whatsoever on the rights and obligations of the Authority with respect to this Lease, including the right to receive full and timely payments hereunder. The City expressly acknowledges that the Authority makes, and has made, no representation or warranties whatsoever as to the existence or availability of such warranties of the manufacturer, vendor or contractor.

SECTION 9.03. Use of the Leased Property. The City will not install, use, operate or maintain the Leased Property improperly, carelessly, in violation of any applicable law or in a manner contrary to that contemplated by this Lease. The City shall provide all permits and licenses, if any, necessary for the installation and operation of the Leased Property. In addition, the City agrees to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of the Leased Property) with all laws of the jurisdictions in which its operations may extend and any legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Leased Property; provided, however, that the City may contest in good faith the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Authority, adversely affect the estate of the Authority in and to the Leased Property or its interest or rights under this Lease.

ARTICLE X. MISCELLANEOUS

SECTION 10.01. Law Governing. This Lease shall be governed exclusively by the provisions hereof and by the laws of the State as the same from time to time exist.

SECTION 10.02. Notices. All notices, statements, demands, consents, approvals, authorizations, offers, designations, requests, agreements or promises or other communications hereunder by either party to the other shall be in writing and shall be sufficiently given and served upon the other party if delivered personally or if mailed by United States registered mail, return receipt requested, postage prepaid:

If to the City:

City of El Cerrito
10890 San Pablo Avenue
El Cerrito, CA 94530-2392
Attention: City Manager

If to the Authority:

El Cerrito Public Financing Authority
10890 San Pablo Avenue
El Cerrito, CA 94530-2392
Attention: Executive Director

If to the Trustee:

Union Bank, N.A.
350 California Street, 11th Floor
San Francisco, CA 94104
Attention: Corporate Trust Services

If to the Bank:

JPMorgan Chase Bank, NA
5050 Broadway, 3rd Floor
Oakland, CA 94611

or to such other addresses as the respective parties may from time to time designate by notice in writing. A copy of any such notice or other document herein referred to shall also be delivered to the Trustee."

SECTION 10.03. Validity and Severability. If for any reason this Lease shall be held by a court of competent jurisdiction to be void, voidable, or unenforceable by the Authority or by the City, or if for any reason it is held by such a court that any of the covenants and conditions of the City hereunder, including the covenant to pay rentals hereunder, is unenforceable for the full term hereof, then and in such event this Lease is and shall be deemed to be a lease under which the rentals are to be paid by the City annually in consideration of the right of the City to possess, occupy and use the Leased Property, and all of the rental and other terms, provisions and conditions of this Lease, except to the extent that such terms, provisions and conditions are contrary to or inconsistent with such holding, shall remain in full force and effect.

SECTION 10.04. Net-Net-Net Lease. This Lease shall be deemed and construed to be a "net-net-net lease" and the City hereby agrees that the rentals provided for herein shall be an absolute net return to the Authority, free and clear of any expenses, charges or set-offs whatsoever.

SECTION 10.05. Taxes. The City shall pay or cause to be paid all taxes and assessments of any type or nature charged to the Authority or affecting the Project and the Leased Property or the respective interests or estates therein; provided that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the City shall be obligated to pay only such installments as are required to be paid during the term of this Lease as and when the same become due.

The City shall also pay directly such amounts, if any, in each year as shall be required by the Authority for the payment of all license and registration fees and all taxes (including, without limitation, income, excise, license, franchise, capital stock, recording, sales, use, value-added, property, occupational, excess profits and stamp taxes), levies, imposts, duties, charges, withholdings, assessments and governmental charges of any nature whatsoever, together with any additions to tax, penalties, fines or interest thereon, including, without limitation, penalties, fines or interest arising out of any delay or failure by the City to pay any of the foregoing or failure to file or furnish to the Authority or the Trustee for filing in a timely manner any returns, hereinafter levied or imposed against the Authority or the Leased Property or the Project, the rentals and other payments required hereunder or any parts thereof or interests of the City or the Authority or the Trustee therein by any governmental authority.

The City may, at the City's sole expense and in its name, in good faith contest any such taxes, assessments and other charges and, in the event of any such contest, may permit the taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom unless the Authority or the Trustee shall notify the City that, in the opinion of independent counsel, by nonpayment of any such items, the interest of the Authority in the Leased Property will be materially endangered or the Leased Property, or any part thereof, will be subject to loss or forfeiture, in which event the City shall promptly pay such taxes, assessments or charges or provide the Authority with full security against any loss which may result from nonpayment, in form satisfactory to the Authority and the Trustee.

SECTION 10.06. Section Headings. All section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this Lease.

SECTION 10.07. Amendment or Termination.

(A) The Authority and the City may at any time agree to the amendment or termination of this Lease; provided, however, that the Authority and the City agree and recognize that this Lease is entered into in accordance with the terms of the Trust Agreement, and accordingly, that any such amendment or termination shall only be made or effected in accordance with and subject to the terms of the Trust Agreement.

(B) If this Lease is amended to provide for an increase in Base Rental Payments to accommodate the issuance of Additional Bonds under the Trust Agreement, the City may agree, at its option, to pledge the Measure A Special Tax Revenues to the payment of such increase in Base Rental Payments, or may elect to make such Base Rental Payments payable only from the general funds of the City. In the event that the Measure A Special Tax Revenues are pledged to such additional Base Rental Payments, the City shall deliver to the Trustee a certificate to the effect that: (i) the Measure A Special Tax Revenues collected by the City in the most recent Fiscal Year are at least equal to one hundred twenty-five percent (125%) of the maximum annual Base Rental Payments (including such additional Base Rental Payments) payable under the Lease as amended; and (ii) the Measure A Special Tax is subject to collection by the City for each year during which such Base Rental Payments are scheduled to be paid.

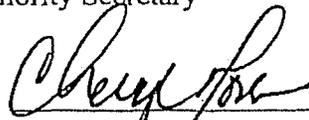
SECTION 10.08. Execution. This Lease may be executed in any number of counterparts, each of which shall be deemed to be an original, but all together shall constitute but one and the same Lease. It is also agreed that separate counterparts of this Lease may separately be executed by the Authority and the City, all with the same force and effect as though the same counterpart had been executed by both the Authority and the City.

IN WITNESS WHEREOF, the Authority and the City have caused this Facility Lease to be executed by their respective officers thereunto duly authorized, all as of the day and year first above written.

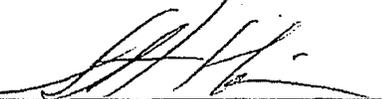
EL CERRITO PUBLIC FINANCING
AUTHORITY, as Lessor

By: 
Executive Director
Scott Hanin

Attest:
Authority Secretary

By: 
Cheryl Mose

CITY OF EL CERRITO, as Lessee

By: 
City Manager
Scott Hanin

Attest:
City Clerk

By: 
Cheryl Mose

EXHIBIT A

LEGAL DESCRIPTION OF THE LEASED PROPERTY

All of that certain real property situated in the State of California, County of Contra Costa, City of El Cerrito, described as follows, together with the improvements situated thereon:

PARCEL ONE:

Lots 53 and 63, as shown on the Amended Map of the Schmidt and Fink Tract, filed June 16, 1894, Book D of Maps, Page 80, Contra Costa County Records.

PARCEL TWO:

Portion of Lots 62 and 54, as shown on the Amended Map of the Schmidt and Fink Tract, filed June 16, 1894, Book D of Maps, Page 80, Contra Costa County Records, described as follows:

Beginning at the intersection of the southwesterly boundary line of the 2.87 acre parcel of land described in the deed to Pacific Gas and Electric Company, recorded in the office of the County Recorder of said County of Contra Costa in Book 586 of Official Records at page 228, with the northwesterly boundary line of Moeser Lane and running thence north 60° 30' east, along the northwesterly boundary line of Moeser Lane, approximately 50 feet to a point in the northeasterly boundary line of said 2.87 acre parcel of land; thence north 29° 00' west, along the northeasterly boundary line of said 2.87 acre parcel of land, approximately 513 feet to a point in the southeasterly boundary line of Fink Lane; thence south 61° 42' west, along the southeasterly boundary line of Fink Lane, approximately 50 feet to a point in the southwesterly boundary line of said 2.87 acre parcel of land; thence south 29° 00' east, along the southwesterly boundary line of said 2.87 acre parcel of land, approximately 513 feet to the point of beginning.

PARCEL THREE:

Portion of Lot 62, as shown on the Amended Map of the Schmidt and Fink Tract, filed June 16, 1894, Book D of Maps, Page 80, Contra Costa County Records, described as follows:

A strip of land 30 feet in width being bounded Northwesterly by the Northwesterly line of Lot 62, and Southeasterly by the Southeasterly line of Lot 62, and situated, lying and being on the Easterly side of and adjoining the parcel of land described in the deed to San Francisco and Bay Counties Railway, recorded March 3, 1908, in Book 133 of Deeds, Page 408, Official Records.

PARCEL FOUR:

Portion of Lot 54, as shown on the Amended Map of the Schmidt and Fink Tract, filed June 16, 1894, Book D of Maps, Page 80, Contra Costa County Records, described as follows:

A strip of land 30 feet in width being bounded Northwesterly by the Northwesterly line of Lot 54, and Southeasterly by the Southeasterly line of Lot 54, and situated, lying and being on the Easterly side of and adjoining that certain parcel of land described in the deed to San Francisco

and Bay Counties Railway, recorded March 3, 1908, in Book 133 of Deeds, Page 408, Official Records.

PARCEL FIVE:

A portion of Lots 54 and 62, as shown on the Amended Map of Schmidt and Fink Tract, filed June 16, 1894, Book D of Maps, Page 80, described as follows:

A strip of land 30 lying between Portola Drive (formerly Fink Lane) to the north, and Moeser Lane to the south, and westerly boundary being contiguous to the easterly boundary of Lots 53 and 63 of said Schmidt and Fink Tract, the easterly boundary being contiguous to the westerly boundary of the parcel of property described as Parcel 1 in the deed from Pacific Gas and Electric Company to the City of El Cerrito, recorded December 28, 1960, Book 3772, Page 206, Official Records.

APN: 503-203-021

EXHIBIT B

BASE RENTAL PAYMENT SCHEDULE

CITY OF EL CERRITO

<u>Payment Date</u>	<u>Designated As Principal</u>	<u>Designated As Interest</u>	<u>Amount of Payment</u>
2/25/2013		\$21,236.46	\$21,236.46
8/25/2013	\$312,800	24,661.70	337,461.70
2/25/2014		21,596.26	21,596.26
8/25/2014	323,300	21,596.26	344,896.26
2/25/2015		18,427.92	18,427.92
8/25/2015	328,200	18,427.92	346,627.92
2/25/2016		15,211.56	15,211.56
8/25/2016	332,300	15,211.56	347,511.56
2/25/2017		11,955.02	11,955.02
8/25/2017	340,800	11,955.02	352,755.02
2/25/2018		8,615.18	8,615.18
8/25/2018	343,500	8,615.18	352,115.18
2/25/2019		5,248.88	5,248.88
8/25/2019	350,400	5,248.88	355,648.88
2/25/2020		1,814.96	1,814.96
8/25/2020	185,200	1,814.96	187,014.96

1939980.4

Recorded at the Request of
Old Republic Title Company
Oakland

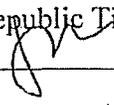
1170247

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

El Cerrito Public Financing Authority
10890 San Pablo Avenue
El Cerrito, CA 94530
Attention: Executive Director

EXEMPT FROM RECORDING FEES PER
GOVERNMENT CODE §§ 6103, 27383

CERTIFIED A TRUE COPY OF THE ORIGINAL
RECORDED IN THE OFFICIAL RECORDS OF
CONTRA COSTA COUNTY ON September 25, 2012
Under Recorder's Serial No. 2012-0234510
Old Republic Title Company

By:  _____

APN : 503-203-021

(SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE)

SITE LEASE

between the

CITY OF EL CERRITO

and

EL CERRITO PUBLIC FINANCING AUTHORITY

Dated as of September 1, 2012

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SITE LEASE

This Site Lease (this "Site Lease"), dated as of September 1, 2012, by and between the CITY OF EL CERRITO (the "City"), a general law city and municipal corporation duly organized and existing under the Constitution and laws of the State of California, as lessor, and the EL CERRITO PUBLIC FINANCING AUTHORITY (the "Authority"), a public entity and agency, duly organized and existing pursuant to an Agreement entitled "Joint Exercise of Powers Agreement" by and between the City of El Cerrito and the El Cerrito Redevelopment Agency, as lessee;

WITNESSETH:

WHEREAS, the Authority is a joint exercise of powers authority duly organized and operating pursuant to Chapter 5 of Division 7 of Title 1 of the Government Code of the State, of California;

WHEREAS, Article 4 of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California authorizes and empowers the Authority to issue bonds to assist local agencies in financing projects and programs consisting of certain public improvements or working capital or liability and other insurance needs whenever a local agency determines that there are significant public benefits from so doing;

WHEREAS, the Authority is empowered pursuant to the aforementioned Article 4 to issue its bonds and to apply the proceeds thereof to assist the City in financing and refinancing the rebuilding and renovation of certain City facilities, including the City Swim Center and other public capital facilities of the City (the "Project") by refunding the remaining outstanding 2002 Lease Revenue Bonds (Measure A Improvement Project) of the Authority (the "Prior Bonds") with proceeds of the Authority's 2012 Lease Revenue Refunding Bonds (the "Bonds");

WHEREAS, in order to reduce the borrowing costs of the Authority, and to help accelerate the financing of the Project, the Bonds shall be issued pursuant to Article 4 of Chapter 5 of Division 7 of Title 1 of the Government Code of State of California and pursuant to the Trust Agreement (the "Trust Agreement"), dated as of September 1, 2012, by and between the Authority and Union Bank, N.A., as trustee;

WHEREAS, the City intends to lease the Leased Property (as hereinafter defined) to the Authority pursuant to this Site Lease, and the Authority intends to leaseback the Leased Property to the City by a lease, entitled "Facility Lease," dated as of September 1, 2012 (the "Facility Lease"), between the Authority and the City; and

WHEREAS, under the Facility Lease, the City will be obligated to make base rental payments to the Authority for the lease of the Leased Property, which base rental payments shall be applied to pay principal of and interest on the Bonds; and

NOW, THEREFORE, IT IS HEREBY MUTUALLY AGREED as follows:

SECTION 1. Leased Property.

The City hereby leases to the Authority and the Authority hereby accepts any real property interest conveyed hereunder and hires from the City, on the terms and conditions hereinafter set forth, the real property and improvements thereon situated in the City of El Cerrito, State of California, and described in Exhibit A attached hereto and made a part hereof, together with any additional real property added thereto by any supplement or amendment hereto, or any real property substituted for all or any portion of the Leased Property in accordance with this Site Lease and the Trust Agreement; subject, however, to any conditions, reservations, and easements of record or known to the City (herein collectively called the "Leased Property").

SECTION 2. Term.

The term of this Site Lease shall commence on the date of recordation hereof in the office of the County Recorder of Contra Costa County, State of California, or on September 1, 2012, whichever is earlier, and shall end on September 1, 2020 unless such term is extended or sooner terminated as hereinafter provided. If on September 1, 2020 the Bonds shall not be fully paid, or if the rental payable under the Facility Lease shall have been abated at any time and for any reason, then the term of this Site Lease shall be extended until ten (10) days after the Bonds shall be fully paid, except that the term of this Site Lease shall in no event be extended beyond September 1, 2030. If prior to September 1, 2030 the Bonds shall be fully paid, the term of this Site Lease shall end ten (10) days thereafter or ten (10) days after written notice by the City to the Authority, whichever is earlier.

SECTION 3. Site Lease Rent.

The Authority shall pay to the City as and for rental hereunder the proceeds of the Bonds, such proceeds to be deposited in the funds specified in the Trust Agreement and applied as specified in the Trust Agreement and the Facility Lease.

SECTION 4. Purpose.

The Authority shall use the Leased Property solely for the purpose of refinancing the Prior Bonds that were issued to assist the City with the acquisition and construction of the Project and the leasing of the Leased Property to the City pursuant to the Facility Lease and for such purposes as may be incidental thereto; provided, that in the event of default by the City under the Facility Lease the Authority may exercise the remedies provided in the Facility Lease.

SECTION 5. Warranties of the City.

The City covenants and warrants to the Authority:

(1) That the City has good and marketable title to the Leased Property, has good authority to enter into, to execute and to deliver this Site Lease and the Facility Lease, and has duly authorized the execution and delivery of this Site Lease and the Facility Lease;

(2) That except for Permitted Encumbrances (as said term is defined in the Facility Lease), the Leased Property is not subject to any dedication, easement, right of way, reservation in patent, covenant, condition, restriction, lien or encumbrance which would prohibit or materially interfere with the financing as contemplated by the Facility Lease;

(3) That all taxes, assessments, or impositions of any kind with respect to the Leased Property, except current taxes, have been paid in full;

(4) That the Leased Property is properly zoned for its intended purposes; and

(5) That if a problem with the title to the Leased Property or the use thereof should develop, the City shall exercise its condemnation power to the extent permitted by law to obtain the necessary rights in the Leased Property that will enable the parties hereto to perform the transactions contemplated by the Facility Lease and this Site Lease.

SECTION 6. Warranties of the Authority.

The Authority covenants and warrants to the City that the Authority has the power and authority to enter into and deliver the Facility Lease, this Site Lease and the Trust Agreement, and to perform all of its duties and obligations thereunder, and has duly authorized the execution and delivery of this Site Lease, the Facility Lease and the Trust Agreement. The Authority will record this Site Lease to secure its interest hereunder.

SECTION 7. Assignments and Subleases.

Unless the City shall be in default under the Facility Lease, the Authority may not assign its rights under this Site Lease or sublet the Leased Property (except pursuant to the Trust Agreement), without the written consent of the City.

SECTION 8. Right of Entry; Easements.

The City reserves the right for any of its duly authorized representatives to enter upon the Leased Property at any reasonable time to inspect the same or to make any repairs, improvements or changes necessary for the preservation thereof.

SECTION 9. Termination.

The Authority agrees, upon the termination of this Site Lease, to quit and surrender the Leased Property in the same good order and condition as the same were in at the time of commencement of the term hereunder, reasonable wear and tear excepted, and agrees that any permanent improvements and structures existing upon the Leased Property at the time of the termination of this Site Lease shall remain thereon and title thereto shall vest in the City.

Upon the exercise of the option to purchase set forth in Section 7.03 of the Facility Lease and upon payment of the option price required by said section, the term of this Site Lease shall terminate as to the portion of the Leased Property upon which the part of the Project being so purchased is situated.

SECTION 10. Default.

In the event the Authority shall be in default in the performance of any obligation on its part to be performed under the terms of this Site Lease, which default continues for thirty (30) days following notice and demand for correction thereof to the Authority, the City may exercise any and all remedies granted by law, except that no merger of this Site Lease and of the Facility Lease shall be deemed to occur as a result thereof; provided, however, that the City shall have no power to terminate this Site Lease by reason of any default on the part of the Authority if such termination would affect or impair any assignment or sublease of all or any part of the Leased Property then in effect between the Authority and any assignee or subtenant of the Authority (other than the City under the Facility Lease). So long as any such assignee or subtenant of the Authority shall duly perform the terms and conditions of this Site Lease and of its then existing sublease (if any), such assignee or subtenant shall be deemed to be and shall become the tenant of the City hereunder and shall be entitled to all of the rights and privileges granted under any such assignment; provided, further, that so long as any Bonds are outstanding and unpaid in accordance with the terms thereof, the rentals or any part thereof payable to the Trustee shall continue to be paid to the Trustee.

SECTION 11. Quiet Enjoyment.

The Authority at all times during the term of this Site Lease, subject to the provisions of Section 9 hereof, shall peaceably and quietly have, hold and enjoy all of the Leased Property.

SECTION 12. Waiver of Personal Liability.

All liabilities under this Site Lease on the part of the Authority shall be solely liabilities of the Authority, as a public entity and agency, and the City hereby releases each and every member, director, officer, agent, or employee of the Authority of and from any personal or individual liability under this Site Lease. No member, director, officer, agent, or employee of the Authority shall at any time or under any circumstances be individually or personally liable under this Site Lease to the City or to any other party whomsoever for anything done or omitted to be done by the Authority hereunder.

SECTION 13. Taxes.

The City covenants and agrees to pay any and all assessments of any kind or character and also all taxes, including possessory interest taxes, levied or assessed upon the Leased Property (including both land and improvements).

SECTION 14. Eminent Domain.

In the event the whole or any part of the Leased Property or the improvements thereon (including any part of the Project) is taken by eminent domain proceedings, the interest of the Authority shall be recognized and is hereby determined to be the amount of the then unpaid or outstanding Bonds attributable to such part of the Project and shall be paid to the Trustee, and the balance of the award, if any, shall be paid to the City.

SECTION 15. Partial Invalidity.

If any one or more of the terms, provisions, covenants or conditions of this Site Lease shall to any extent be declared invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, the finding or order or decree of which becomes final, none of the remaining terms, provisions, covenants and conditions of this Site Lease shall be affected thereby, and each provision of this Site Lease shall be valid and enforceable to the fullest extent permitted by law.

SECTION 16. Notices.

All notices, statements, demands, consents, approvals, authorizations, offers, designations, requests or other communications hereunder by either party to the other shall be in writing and shall be sufficiently given and served upon the other party if delivered personally or if mailed by United States registered or certified mail, return receipt requested, postage prepaid, and, if to the Authority, addressed to the Authority to the Executive Director of the Authority, in care of the City Manager's Office, 10890 San Pablo Avenue, El Cerrito, California 94530, or if to the City, addressed to the City Manager of the City of El Cerrito, 10890 San Pablo Avenue, El Cerrito, California 94530, in either case with a copy to the Trustee, or to such other addresses as the respective parties may from time to time designate by notice in writing.

SECTION 17. Section Headings.

All section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this Site Lease.

SECTION 18. Execution.

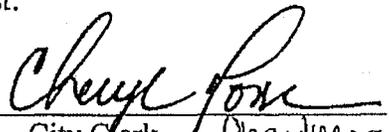
This Site Lease may be executed in any number of counterparts, each of which shall be deemed to be an original, but all together shall constitute but one and the same lease. It is also agreed that separate counterparts of this Site Lease may separately be executed by the City and the Authority, all with the same force and effect as though the same counterpart had been executed by both the City and the Authority.

IN WITNESS WHEREOF, the City and the Authority have caused this Site Lease to be executed by their respective officers thereunto duly authorized, all as of the day and year first above written.

CITY OF EL CERRITO, Lessor

By: 
City Manager
Scott Hamlin

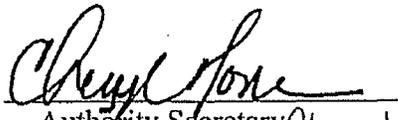
Attest:

By: 
City Clerk Cheryl Morse
City of El Cerrito

EL CERRITO PUBLIC FINANCING
AUTHORITY, Lessee

By: 
Executive Director
Scott Hamlin

Attest:

By: 
Authority Secretary Cheryl Morse

Certification of Acknowledgement

State of California

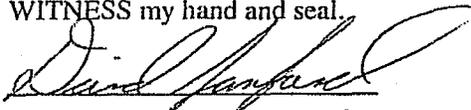
County of Contra Costa

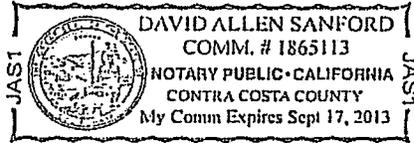
On SEPTEMBER 20, 2012 before me, David Sanford-Notary Public, personally appeared
SCOTT HANIN

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledge to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and seal.


David Allen Sanford (Seal)



David Allen Sanford Additional Optional Information _____

Although law does not require the information in this section, it could prevent fraudulent removal and reattachment of this acknowledgement to an unauthorized document and may prove useful to person(s) relying on the attached document.

DESCRIPTION OF THE ATTACHED DOCUMENTS

SITE LEASE BETWEEN THE CITY OF EL CERRITO & EL CERRITO PUBLIC FINANCING AUTHORITY
(Title or description of attached document)

Number of pages 10 Document date SEPT. 20, 2012

CAPACITY CLAIMED BY SIGNER

- Individual(s)
- Corporate Officer
- Partner(s)
- Attorney-In-Fact
- Trustee(s)
- Other _____

EXHIBIT A

LEGAL DESCRIPTION

That certain property situated in the State of California, County of Contra Costa, City of El Cerrito, described as follows, together with the public swim center facilities situated thereon:

PARCEL ONE:

Lots 53 and 63, as shown on the Amended Map of the Schmidt and Fink Tract, filed June 16, 1894, Book D of Maps, Page 80, Contra Costa County Records.

PARCEL TWO:

Portion of Lots 62 and 54, as shown on the Amended Map of the Schmidt and Fink Tract, filed June 16, 1894, Book D of Maps, Page 80, Contra Costa County Records, described as follows: Beginning at the intersection of the southwesterly boundary line of the 2.87 acre parcel of land described in the deed to Pacific Gas and Electric Company, recorded in the office of the County Recorder of said County of Contra Costa in Book 586 of Official Records at page 228, with the northwesterly boundary line of Moeser Lane and running thence north 60° 30' east, along the northwesterly boundary line of Moeser Lane, approximately 50 feet to a point in the northeasterly boundary line of said 2.87 acre parcel of land; thence north 29° 00' west, along the northeasterly boundary line of said 2.87 acre parcel of land, approximately 513 feet to a point in the southeasterly boundary line of Fink Lane; thence south 61° 42' west, along the southeasterly boundary line of Fink Lane, approximately 50 feet to a point in the southwesterly boundary line of said 2.87 acre parcel of land; thence south 29° 00' east, along the southwesterly boundary line of said 2.87 acre parcel of land, approximately 513 feet to the point of beginning.

PARCEL THREE:

Portion of Lot 62, as shown on the Amended Map of the Schmidt and Fink Tract, filed June 16, 1894, Book D of Maps, Page 80, Contra Costa County Records, described as follows: A strip of land 30 feet in width being bounded Northwestery by the Northwestery line of Lot 62, and Southeastery by the Southeastery line of Lot 62, and situated, lying and being on the Easterly side of and adjoining the parcel of land described in the deed to San Francisco and Bay Counties Railway, recorded March 3, 1908, in Book 133 of Deeds, Page 408, Official Records.

PARCEL FOUR:

Portion of Lot 54, as shown on the Amended Map of the Schmidt and Fink Tract, filed June 16, 1894, Book D of Maps, Page 80, Contra Costa County Records, described as follows: A strip of land 30 feet in width being bounded Northwestery by the Northwestery line of Lot 54, and Southeastery by the Southeastery line of Lot 54, and situated, lying and being on the Easterly side of and adjoining that certain parcel of land described in the deed to San Francisco and Bay Counties Railway, recorded March 3, 1908, in Book 133 of Deeds, Page 408, Official Records.

PARCEL FIVE:

A portion of Lots 54 and 62, as shown on the Amended Map of Schmidt and Fink Tract, filed June 16, 1894, Book D of Maps, Page 80, described as follows: A strip of land 30 lying between Portola Drive (formerly Fink Lane) to the north, and Moeser Lane to the south, and westerly boundary being contiguous to the easterly boundary of Lots 53 and 63 of said Schmidt and Fink Tract, the easterly boundary being contiguous to the westerly boundary of the parcel of property described as Parcel 1 in the deed from Pacific Gas and Electric Company to the City of El Cerrito, recorded December 28, 1960, Book 3772, Page 206, Official Records.

APN: 503-203-021

TRUST AGREEMENT

between the

EL CERRITO PUBLIC FINANCING AUTHORITY

and

UNION BANK, N.A.,
as Trustee

Dated as of September 1, 2012

\$2,516,500

El Cerrito Public Financing Authority
2012 Lease Revenue Refunding Bonds

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THIS TRUST AGREEMENT dated as of September 1, 2012 (this "**Trust Agreement**"), by and between UNION BANK, N.A., a national banking association duly organized and existing under and by virtue of the laws of the United States of America, as Trustee (the "**Trustee**"), and the EL CERRITO PUBLIC FINANCING AUTHORITY (the "**Authority**"), a public entity and agency, duly organized and existing pursuant to an Agreement entitled "Joint Exercise of Powers Agreement," by and between the City of El Cerrito (the "**City**") and the El Cerrito Redevelopment Agency.

WITNESSETH:

WHEREAS, the Authority is a joint exercise of powers authority duly organized and operating pursuant to Article 1 of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (hereafter, the Government Code);

WHEREAS, Article 4 of Chapter 5 of Division 7 of Title 1 of the Government Code (Sections 6584 and following thereof, entitled the Marks-Roos Local Bond Pooling Act of 1985) authorizes and empowers joint powers authorities to issue bonds to assist local agencies in financing and refinancing of projects and programs consisting of certain public improvements, among other things, whenever a local agency determines that there are significant public benefits from so doing;

WHEREAS, in connection with the issuance by the Authority of its 2002 Lease Revenue Bonds (Measure A Capital Improvement Project) (the "**Prior Bonds**"), the City and the Authority determined that the public capital improvements for the City's swim center (the "**Project**"), together with the financing assistance to be provided by the proceeds of the Prior Bonds, would result in significant public benefits;

WHEREAS, the Authority issued the Prior Bonds and provided financial assistance to the City in the form of the proceeds of sale of the Prior Bonds with respect to the construction and installation of the Project; and

WHEREAS, the Authority has determined that additional public benefits would result from the proposed refunding of the remaining outstanding Prior Bonds and proposes to issue its 2012 Lease Revenue Refunding Bonds for said purpose, and the Authority is empowered pursuant to the aforementioned Article 4 to issue its refunding bonds for said purpose;

WHEREAS, in order to provide for the authentication and delivery of the Bonds (as hereinafter defined), to establish and declare the terms and conditions upon which the Bonds are to be issued and secured and to secure the payment of the principal thereof and premium, if any, and interest thereon, the Authority has authorized the execution and delivery of this Trust Agreement;

WHEREAS, all acts and proceedings required by law necessary to make the Bonds, when executed by the Authority, authenticated and delivered by the Trustee and duly issued, the valid, binding and legal obligations of the Authority payable in accordance with their terms, and to constitute this Trust Agreement a valid and binding agreement of the parties hereto for the uses and purposes herein set forth in accordance with its terms, have been done and taken, and the execution and delivery of this Trust Agreement have been in all respects duly authorized;

NOW, THEREFORE, THIS TRUST AGREEMENT WITNESSETH, that in order to secure the payment of the principal of, premium, if any, and the interest on all Bonds at any time issued and outstanding under this Trust Agreement, according to their tenor, and to secure the performance and observance of all the covenants and conditions therein and herein set forth, and to declare the terms and conditions upon and subject to which the Bonds are to be issued and received, and in consideration of the premises and of the mutual covenants herein contained and of the purchase and acceptance of the Bonds by the holders thereof, and for other valuable considerations, the receipt whereof is hereby acknowledged, the Authority does hereby covenant and agree with the Trustee, for the benefit of the respective holders from time to time of the Bonds, as follows:

ARTICLE I. DEFINITIONS; EQUAL SECURITY

SECTION 1.01. Definitions. Unless the context otherwise requires, the terms defined in this Section shall for all purposes hereof and of any Supplemental Trust Agreement and of any certificate, opinion, request or other document herein or therein mentioned have the meanings herein specified:

“**Act**” means the Joint Exercise of Powers Act (being Sections 6500 and following, California Government Code) and all laws amendatory thereof or supplemental thereto.

“**Additional Payments**” shall have the meaning ascribed to such term in the Facility Lease.

“**Authority**” means the El Cerrito Public Financing Authority created pursuant to the Act under that certain agreement between the City and the Redevelopment Agency of the City of El Cerrito dated as of October 1, 1990 and its successors and assigns in accordance therewith.

“**Bank**” means JPMorgan Chase Bank, NA, the initial purchaser and sole Holder of the Bonds.

“**Base Rental Payments**” shall have the meaning ascribed to such term in the Facility Lease.

“**Bonds**” means the El Cerrito Public Financing Authority 2012 Lease Revenue Refunding Bonds, authorized by and at any time Outstanding pursuant hereto and executed, issued and delivered in accordance with Article II. The term “**Additional Bonds**” means all bonds of the Authority authorized by and at any time Outstanding pursuant hereto and executed, issued and delivered in accordance with Article III.

“**Bond Year**” means the twelve (12) month period ending on September 1 of each year to which reference is made (except that the first Bond Year shall commence on the Date of Delivery and end on September 1, 2013).

“**Business Day**” means any day other than a Saturday or Sunday or day upon which the Trustee is authorized by law to remain closed.

“Certificate of Bond Purchaser” means a certificate executed by the Bank, 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.

“Certificate of the Authority” means an instrument in writing signed by the Chairperson, Executive Director of the Authority, or by any other officer of the Authority duly authorized by the Authority for that purpose.

“Certificate of the City” means an instrument in writing signed by the Mayor of the City, City Manager of the City, or by either of such officers’ duly appointed designee, or by any other officer of the City duly authorized by the City Council of the City for that purpose.

“City” means the City of El Cerrito, California, a municipal corporation organized and existing under the Constitution of the State of California.

“Code” means the Internal Revenue Code of 1986.

“Costs of Issuance” means all items of expense directly or indirectly payable by or reimbursable to the City or the Authority and related to the authorization, execution and delivery of the Site Lease, the Facility Lease, the Trust Agreement and the sale of the Bonds, including, but not limited to, costs of preparation and reproduction of documents, costs of rating agencies, costs to provide information required by rating agencies, filing and recording fees, initial fees and charges of the Trustee, legal fees and charges, fees and disbursements of consultants and professionals, fees and charges for preparation, execution and safekeeping of the Bonds, title search and title insurance fees, fees of the Authority and any other authorized cost, charge or fee in connection with the issuance of the Bonds.

“Costs of Issuance Fund” means the fund by that name established pursuant to Section 2.11(i).

“Date of Delivery” means the Dated Date of the Bonds and the date on which the Bonds are delivered to the Bank as the original purchaser thereof.

“Dated Date” means September 26, 2012, as set forth on the face page of the Bonds.

“Debt Service” means, for any Fiscal Year, calendar year or other period, the sum of: (1) the interest accruing during such period on all Outstanding Bonds, assuming that all Outstanding Serial Bonds, if any, are retired as scheduled (except to the extent that such interest is to be paid from the proceeds of sale of any Bonds); and (2) that portion of the principal amount of all Outstanding Term Bonds scheduled for mandatory partial redemption on September 1 of such year or scheduled to be paid at the final maturity of the Bonds on September 1, 2020. The schedule of Debt Service on the Bonds is set forth in Exhibit B, attached hereto and by this reference incorporated herein.

“Event of Default” shall have the meaning ascribed to such term in Section 8.01.

“Facility Lease” means that certain lease, entitled “Facility Lease,” dated as of September 1, 2012, by and between the Authority and the City, as originally executed and recorded or as it may from time to time be supplemented, modified or amended pursuant to the provisions hereof and thereof.

“Fiscal Year” means the twelve (12) month period terminating on June 30 of each year, or any other annual accounting period hereafter selected and designated by the Authority as its Fiscal Year in accordance with applicable law.

“Holder” means any person who shall be the registered owner of any Outstanding Bond.

“Independent Consultant” means any nationally-recognized firm of consultants, appointed and paid by the Authority, and who, or each of whom:

(1) is not under the domination of the Authority or the City;

(2) does not have a substantial financial interest, direct or indirect, in the operations of the Authority or the City; and

(3) is not connected with the Authority or the City as a member, officer or employee of the Authority or the City, but who may be regularly retained to audit the accounting records of and make reports thereon to the Authority or the City.

“Information Services” means the Municipal Securities Rulemaking Board (MSRB) acting through the EMMA system for municipal securities disclosure or through any other electronic format or system which may hereafter be prescribed by the MSRB for purposes of the Rule, or such other services providing information with respect to called bonds as the Authority may designate in a Certificate of the Authority delivered to the Trustee.

“Interest Payment Date” means a date on which interest is due on the Bonds, being March 1 and September 1 of each year to which reference is made, commencing on March 1, 2013.

“Joint Powers Agreement” means the Joint Exercise of Powers Agreement by and between the City of El Cerrito and the El Cerrito Redevelopment Agency, dated October 1, 1990, as originally executed and as it may from time to time be amended or supplemented pursuant to the provisions hereof and thereof.

“Leased Property” means the real property described in Exhibit A to the Facility Lease, together with the swim center improvements situated thereon and all property subsequently added thereto, or any property substituted for all or any portion of the Leased Property in accordance with this Trust Agreement and the Facility Lease.

“Mandatory Sinking Account Payments” means the payments set forth in Section 4.03(e).

“Measure A” means the ballot measure approved by registered voters of the City at an election held on March 7, 2000.

“Measure A Special Tax Revenues” means the proceeds received by the City from the levy of the special tax authorized by the passage of Measure A.

“Moody’s Investors Service” or **“Moody’s”** means Moody’s Investors Service, a corporation duly organized and existing under and by virtue of the laws of the State of Delaware, and its successors and assigns, except that if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, then the term “Moody’s Investors Service” shall be deemed to refer to any other nationally recognized securities rating agency selected by the City.

“Opinion of Counsel” means a written opinion of counsel of recognized national standing in the field of law relating to municipal bonds, appointed and paid by the Authority.

“Outstanding” when used as of any particular time with reference to Bonds, means (subject to the provisions of Section 7.02) all Bonds except:

- (1) Bonds theretofore cancelled by the Trustee or surrendered to the Trustee for cancellation;
- (2) Bonds paid or deemed to have been paid within the meaning of Section 9.01; and
- (3) Bonds in lieu of or in substitution for which other Bonds shall have been executed, issued and delivered by the Authority pursuant hereto.

“Permitted Encumbrances” means: (1) liens for general ad valorem taxes and assessments, if any, not then delinquent, or which the City may, pursuant to the Facility Lease, permit to remain unpaid; (2) easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions which exist of record as of the date hereof and which the City certifies in writing will not materially impair the use of the Leased Property; (3) the Site Lease, as it may be amended from time to time; (4) the Facility Lease, as it may be amended from time to time; (5) this Trust Agreement, as it may be amended from time to time; (6) any right or claim of any mechanic, laborer, materialman, supplier or vendor not filed or perfected in the manner prescribed by law; (7) easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions to which the Authority, the Bank and the City consent in writing; and (8) liens relating to special assessments levied with respect to the Leased Property.

“Permitted Investments” means any of the following obligations if and to the extent that, at the time of making such investment, they are permitted by applicable law:

- A. The following, which may be used as Permitted Investments for all purposes, including but not limited to defeasance investments in refunding escrow accounts:
 - (1) Cash (insured at all times by the Federal Deposit Insurance Corporation or collateralized by Permitted Investments described in the following clause A(2)),

(2) Obligations of, or obligations guaranteed as to principal and interest by, the U.S. or any agency or instrumentality thereof, when such obligations are backed by the full faith and credit of the U.S. including:

- U.S. treasury obligations
- All direct or fully guaranteed obligations
- Farmers Home Administration
- General Services Administration
- Guaranteed Title XI financing
- Government National Mortgage Association (GNMA)
- State and Local Government Series

(3) Obligations of Government - Sponsored Agencies that are not backed by the full faith and credit of the U.S. Government:

- Federal Home Loan Mortgage Corp. (FHLMC) Debt obligations
- Farm Credit System (formerly: Federal Land Banks, Federal Intermediate Credit Banks, and Banks for Cooperatives)
- Federal Home Loan Banks (FHL Banks)
- Federal National Mortgage Association (FNMA) Debt obligations
- Financing Corp. (FICO) Debt obligations
- Resolution Funding Corp. (REFCORP) Debt obligations
- U.S. Agency for International Development (U.S. A.I.D) Guaranteed notes

Any security used for defeasance must provide for the timely payment of principal and interest and cannot be callable or prepayable prior to maturity or earlier redemption of the rated debt (excluding securities that do not have a fixed par value and/or whose terms do not promise a fixed dollar amount at maturity or call date).

U.S.A.I.D. securities must mature at least four (4) business days before the appropriate payment date.

B. The following, which may be used as Permitted Investments for all purposes other than defeasance investments in refunding escrow accounts.

(1) Obligations of any of the following federal agencies which obligations represent the full faith and credit of the United States of America, including:

- Export-Import Bank
- Rural Economic Community Development Administration
- U.S. Maritime Administration
- Small Business Administration
- U.S. Department of Housing & Urban Development (PHAs)
- Federal Housing Administration
- Federal Financing Bank

- (2) Direct obligations of any of the following federal agencies which obligations are not fully guaranteed by the full faith and credit of the United States of America:
- Senior debt obligations issued by the Federal National Mortgage Association (FNMA) or Federal Home Loan Mortgage Corporation (FHLMC)
 - Obligations of the Resolution Funding Corporation (REFCORP)
 - Senior debt obligations of the Federal Home Loan Bank System
 - Senior debt obligations of other Government Sponsored Agencies approved by the Bank;
- (3) U.S. dollar denominated deposit accounts, federal funds and bankers' acceptances with domestic commercial banks (including the Trustee and its affiliates) which have a rating on their short term certificates of deposit on the date of purchase of "P-1" by Moody's and "A-1" or "A-1+" by S&P and maturing not more than three hundred sixty (360) calendar days after the date of purchase. (Ratings on holding companies are not considered as the rating of the bank);
- (4) Commercial paper which is rated at the time of purchase in the single highest classification, "P- 1" by Moody's and "A-1+" by S&P and which matures not more than two hundred seventy(270) calendar days after the date of purchase;
- (5) Investments in a money market fund rated "AAAm" or "AAAm-G" or better by S&P (such funds may include funds for which the Trustee, its affiliates or subsidiaries provide investment advisory or other management services);
- (6) Pre-refunded Municipal Obligations defined as follows: any bonds or other obligations of any state of the United States of America or of any agency, instrumentality or local governmental unit of any such state which are not callable at the option of the obligor prior to maturity or as to which irrevocable instructions have been given by the obligor to call on the date specified in the notice; and
- (A) which are rated, based on an irrevocable escrow account or fund (the "escrow"), in the highest rating category of Moody's or S&P or any successors thereto; or
 - (B) (i) which are fully secured as to principal and interest and redemption premium, if any, by an escrow consisting only of cash or obligations described in paragraph A(2) above, which escrow may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to such irrevocable instructions, as appropriate; and (ii) which escrow is sufficient, as verified by a nationally recognized independent certified public accountant, to pay principal of and interest and redemption premium, if any, on the bonds or other obligations described in this paragraph on the

maturity date or dates specified in the irrevocable instructions referred to above, as appropriate.

- (7) Municipal obligations rated "Aaa/AAA" or general obligations of States with a rating of "A2/A" or higher by either Moody's or S&P; and
- (8) Investment agreements approved in writing by the Bank (supported by appropriate opinions of counsel).

C. The value of the above investments shall be determined as follows:

- a) For the purpose of determining the amount in any fund, all Permitted Investments credited to such fund shall be valued at fair market value. The Trustee shall determine the fair market value based on accepted industry standards and from an accepted industry provider selected by the Trustee.
- b) As to certificates of deposit and bankers' acceptances: the face amount thereof, plus accrued interest thereon; and
- c) As to any investment not specified above: the value thereof established by prior agreement among the Authority and the Trustee.

"Prior Bonds" means the 2002 Lease Revenue Bonds of the Authority, issued in 2002 to assist the City in the financing of the Project.

"Prior Trust Agreement" means the Trust Agreement, dated as of July 1, 2002, between the Authority and the Prior Trustee.

"Prior Trustee" means The Bank of New York Mellon Trust Company, N.A., as trustee for the Prior Bonds under the Prior Trust Agreement.

"Project" means the rebuilding and renovation of certain City facilities consisting of the City Swim Center.

"Record Date" means, with respect to an Interest Payment Date, the fifteenth day of the month immediately preceding such Interest Payment Date whether or not such day is a Business Day.

"Redemption Date" means the date prescribed by the Refunding Escrow Agreement for redemption of the remaining outstanding Prior Bonds.

"Representation Letter" means the blanket letter of representation from the Authority to The Depository Trust Company, New York, New York.

"Reserve Fund" means the fund by that name established pursuant to Section 4.03.

"Reserve Fund Requirement" means an amount equal to fifty percent (50%) of the balance on deposit on the Dated Date in the reserve fund for the Prior Bonds held by the Prior

Trustee under the Prior Trust Agreement, which is less than the least of: (i) ten percent (10%) of the initial offering price of the Bonds to the public; (ii) one hundred twenty-five percent (125%) of the average annual debt service on all Outstanding Bonds; or (iii) maximum annual debt service on all Outstanding Bonds; for purposes of this definition the annual period shall be the Bond Year.

“Revenue Fund” means the fund by that name established pursuant to Section 4.02.

“Revenues” means: (i) all Base Rental Payments and other payments paid by the City and received by the Authority pursuant to the Facility Lease (but not Additional Payments); and (ii) all interest or other income from any investment of any money in any fund or account established pursuant to this Trust Agreement or the Facility Lease (other than the Rebate Fund).

“Securities Depositories” means: The Depository Trust Company, 55 Water Street, 50th Floor, New York, N.Y. 10041-0099 Attn. Call Notification Department, Fax (212) 855-7232 or, in accordance with the then current guidelines of the Securities and Exchange Commission, to such other addresses and/or such other addresses and/or such other securities depositories, or to no such depositories, as the Authority may designate in a Certificate of the Authority delivered to the Trustee.

“Serial Bonds” means Bonds, maturing in specified years, for which no Mandatory Sinking Account Payments are provided. The Bonds will be issued initially as a single, fully-registered Term Bond, and there will be no Serial Bonds.

“Series” or **“series”** whenever used herein with respect to Bonds, means all of the Bonds designated as being of the same series, authenticated and delivered in a simultaneous transaction, regardless of variations in maturity, interest rate, redemption and other provisions, and any Bonds thereafter authenticated and delivered upon transfer or exchange or in lieu of or in substitution for (but not to refund) such Bonds as herein provided.

“Site Lease” means that certain lease, entitled “Site Lease,” dated as of September 1, 2012, by and between the City and the Authority, as originally executed and recorded or as it may from time to time be supplemented, modified or amended pursuant to the provisions hereof and thereof.

“Standard & Poor’s Corporation” or **“S&P”** means Standard & Poor’s Corporation, a corporation duly organized and existing under and by virtue of the laws of the State of New York, and its successors and assigns, except that if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, then the term Standard & Poor’s Corporation shall be deemed to refer to any other nationally recognized securities rating agency selected by the City.

“State” means the State of California.

“Supplemental Trust Agreement” means any trust agreement then in full force and effect which has been duly executed and delivered by the Authority and the Trustee amendatory hereof or supplemental hereto; but only if and to the extent that such Supplemental Trust Agreement is specifically authorized hereunder.

“Tax Certificate” means the Tax Certificate delivered by the Authority at the time of the issuance and delivery of a series of Bonds, as the same may be amended or supplemented in accordance with its terms.

“Term Bond” means a Bond providing for mandatory partial redemption of prescribed portions of the principal amount thereof on September 1 of the years prescribed for that purpose, together with a residual amount of principal payable on the maturity date of the Bond.

“Trust Agreement” means this Trust Agreement, dated as of September 1, 2012, between the Authority and the Trustee, as originally executed and as it may from time to time be amended or supplemented by all Supplemental Trust Agreements executed pursuant to the provisions hereof.

“Trustee” means Union Bank, N.A., or any other association or corporation which may at any time be substituted in its place as provided in Section 6.01.

“Written Request of the Authority” means an instrument in writing, signed by any person authorized to sign a Certificate of the Authority.

“Written Request of the City” means an instrument in writing signed by any person authorized to sign a Certificate of the City.

SECTION 1.02. Equal Security. In consideration of the acceptance of the Bonds by the Holders thereof, the Trust Agreement shall be deemed to be and shall constitute a contract among the Authority, the Trustee and the Holders from time to time of all Bonds authorized, executed, issued and delivered hereunder and then Outstanding to secure the full and final payment of the interest on and principal of and redemption premiums, if any, on all Bonds which may from time to time be authorized, executed, issued and delivered hereunder, subject to the agreements, conditions, covenants and provisions contained herein; and all agreements and covenants set forth herein to be performed by or on behalf of the Authority shall be for the equal and proportionate benefit, protection and security of all Holders of the Bonds without distinction, preference or priority as to security or otherwise of any Bonds over any other Bonds by reason of the series, number or date thereof or the time of authorization, sale, execution, issuance or delivery thereof or for any cause whatsoever, except as expressly provided herein or therein.

ARTICLE II. ISSUANCE OF THE BONDS

SECTION 2.01. Authorization and Purpose of the Bonds. The Authority has reviewed all proceedings heretofore taken relative to the authorization of the Bonds and has found, as a result of such review, and hereby finds and determines that all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in the issuance of the Bonds do exist, have happened and have been performed in due time, form and manner as required by law, and that the Authority is now duly authorized, pursuant to each and every requirement of the Act, to issue the Bonds in the form and manner provided herein for the purpose of providing funds to assist in the refinancing of Project by providing for the refunding of the Prior Bonds, and that the Bonds shall be entitled to the benefit, protection and security of the provisions hereof.

SECTION 2.02. Terms of the Bonds.

The Bonds shall be designated "El Cerrito Public Financing Authority 2012 Lease Revenue Refunding Bonds," and shall be in the aggregate principal amount of Two Million Five Hundred Sixteen Thousand Five Hundred Dollars (\$2,516,500). The Bonds shall be dated as of the Dated Date and shall be issued initially as a single, fully-registered Term Bond in the principal amount of \$2,516,500, registered to the Bank as the initial purchaser and sole Holder of all of the Bonds. There shall be no Serial Bonds delivered on the Date of Delivery.

The Bonds shall mature on September 1, 2020, and shall bear interest at the rate of one and ninety-six one-hundredths percent (1.960%) per annum.

The principal of and redemption premiums, if any, on the Bonds shall be payable in lawful money of the United States of America at the corporate trust office of the Trustee in San Francisco, California or such other place as designated by the Trustee. The Bonds shall bear interest at the rate set forth above, payable on March 1, 2013, and semiannually thereafter on March 1 and September 1 in each year until maturity. Interest on the Bonds shall be computed using a year of three hundred sixty (360) days consisting of twelve (12) thirty (30) day months.

The Bonds shall bear interest from the Interest Payment Date next preceding the date of authentication thereof, unless such date of authentication is an Interest Payment Date or during the period from the sixteenth day of the month preceding an Interest Payment Date to such Interest Payment Date, in which event they shall bear interest from such Interest Payment Date, or unless such date of authentication is on or before the first Record Date, in which event they shall bear interest from the Dated Date; provided, however, that if at the time of authentication of any Bond interest is then in default on the Outstanding Bonds, such Bond shall bear interest from the Interest Payment Date to which interest has previously been paid or made available for payment on the Outstanding Bonds.

Payment of interest on the Bonds due on or before the maturity or prior redemption thereof shall be made on the Interest Payment Date to the person whose name appears in the Bonds' registration books kept by the Trustee pursuant to Section 2.08 as the registered owner thereof as of the close of business on the Record Date for an Interest Payment Date, whether or not such day is a Business Day, such interest to be paid by check mailed on the Interest Payment Date by first-class mail to such registered owner at the address as it appears in such books; provided that upon the written request of a Holder of \$1,000,000 or more in aggregate principal amount of the Bonds received by the Trustee prior to the applicable Record Date, interest shall be paid by wire transfer in immediately available funds.

SECTION 2.03. Redemption of the Bonds.

(A) Extraordinary Redemption. The Bonds are subject to redemption by the Authority on any date prior to maturity, upon notice as hereinafter provided, as a whole, or in part by lot within "each stated maturity" in integral multiples of five thousand dollars (\$5,000) of principal, from prepayments made by the City pursuant to Section 7.02(A) of the Facility Lease, at a prepayment price equal to the sum of the principal amount thereof, without premium, plus accrued interest thereon to the redemption date. For purposes of the foregoing sentence, the

phrase “each stated maturity” shall include each September 1 for which a prescribed portion of the principal amount of the Term Bonds is scheduled for mandatory partial redemption. Whenever less than all of the outstanding Bonds are to be redeemed on any one date, the Trustee shall select the Bonds to be redeemed in part from the outstanding Bonds on a pro rata basis so that the aggregate annual debt service on Bonds which shall be payable after such redemption date shall be as nearly proportional as practicable to the aggregate annual debt service on Bonds Outstanding prior to such redemption date.

(B) Optional Redemption. The Bonds are also subject to optional redemption in whole or in part on any Interest Payment Date on and after September 1, 2017, prior to the maturity date of September 1, 2020, from any source of funds lawfully available for such purpose and deposited by the Authority or the City, but only in principal amounts evenly divisible by \$5,000, at a redemption price equal to the principal amount of the Bonds being redeemed, without premium, together with accrued interest to the date fixed for redemption.

If less than all Outstanding Bonds are to be optionally redeemed at any one time, the Trustee shall select the Bonds of “each maturity date” to be redeemed in the same manner as prescribed in the foregoing subsection (A) for extraordinary redemption and shall promptly notify the Authority in writing of the amount of the Bonds so selected for redemption. For purposes of such selection, Bonds shall be deemed to be composed of five thousand dollars (\$5,000) multiples of principal, and any such multiple may be separately redeemed.

(C) Mandatory Partial Redemption of Term Bonds. The Term Bonds, maturing on September 1, 2020, shall be subject to mandatory partial redemption each September 1, commencing on September 1, 2013, and concluding on September 1, 2019, with the final principal amount of the Term Bonds being payable at maturity, in accordance with the following schedule of mandatory partial redemption:

<u>Redemption Date</u> (September 1)	<u>Amount</u> <u>Redeemed</u>
2013	\$312,800
2014	323,300
2015	328,200
2016	332,300
2017	340,800
2018	343,500
2019	350,400
2020 (maturity)	185,200

(D) Notice of Redemption. For the period during which the Bank is the Holder of all of the Bonds, notice of redemption shall be provided by electronic means or by first-class mail by the Trustee to the Bank, not less than thirty (30) nor more than sixty (60) days prior to the redemption date.

In the event that the registered ownership of the Bonds or any of them is later transferred to another party, notice of redemption thereafter shall be provided to (i) all Holders of the Bonds

designated for redemption at their addresses appearing on the registration books of the Trustee, (ii) the Municipal Securities Rulemaking Board and (iii) one or more Information Services. Notice of redemption to any Securities Depository and the Information Services shall be given by registered mail, electronic mail or overnight delivery or facsimile transmission. Each notice of redemption shall state the date of such notice, the redemption price, if any, (including the name and appropriate address of the Trustee), the CUSIP number (if any) of the maturity or maturities, and, if less than all of any such maturity is to be redeemed, the distinctive certificate numbers of the Bonds of such maturity, to be redeemed and, in the case of Bonds to be redeemed in part only, the respective portions of the principal amount to be redeemed. Each such notice shall also state that on said date there will become due and payable on each of said Bonds the redemption price, if any, thereof and in the case of a Bond to be redeemed in part only, the specified portion of the principal amount to be redeemed, together with interest accrued thereon to the redemption date, and that from and after such redemption date interest thereon shall cease to accrue, and shall require that such Bonds be then surrendered at the address of the Trustee specified in the redemption notice. Failure to receive such notice shall not invalidate any of the proceedings taken in connection with such redemption.

In the event of redemption of Bonds (other than sinking fund redemptions), the Trustee shall mail a notice of redemption upon receipt of a Written Request of the Authority, received by the Trustee forty-five (45) days prior to the redemption date but only after the Authority shall file a Certificate of the Authority with the Trustee stating that on or before the date set for redemption, the Authority shall have deposited with or otherwise made available to the Trustee for deposit in the Principal Account the money required for payment of the redemption price, including accrued interest, of all the Bonds then to be called for redemption, together with the estimated expense of giving such notice.

If notice of redemption has been duly given as aforesaid and money for the payment of the redemption price of the Bonds called for the redemption is held by the Trustee, then on the redemption date designated in such notice Bonds so called for redemption shall become due and payable, and from and after the date so designated interest on such Bonds shall cease to accrue, and the Holders of such Bonds shall have no rights in respect thereof except to receive payment of the redemption price thereof.

All Bonds redeemed pursuant to the provisions of this Section shall be cancelled by the Trustee and shall be destroyed with a certificate of destruction furnished to the Authority upon its request and shall not be reissued.

SECTION 2.04. Form of Bonds. The Bonds and the authentication and registration endorsement and assignment to appear thereon shall be substantially in the form set forth in Exhibit A hereto attached and by this reference herein incorporated.

SECTION 2.05. Execution of Bonds. The Chairperson of the Authority is hereby authorized and directed to execute each of the Bonds on behalf of the Authority, and the Secretary of the Authority is hereby authorized and directed to countersign each of the Bonds on behalf of the Authority. The signatures of such Chairperson and Secretary may be either manual or by printed, lithographed or engraved by facsimile reproduction. In case any officer whose signature appears on the Bonds shall cease to be such officer before the delivery of the Bonds to

the purchaser thereof, such signature shall nevertheless be valid and sufficient for all purposes as if such officer had remained in office until such delivery of the Bonds.

Only those Bonds bearing thereon a certificate of authentication and registration in the form hereinbefore recited, executed manually and dated by the Trustee, shall be entitled to any benefit, protection or security hereunder or be valid or obligatory for any purpose, and such certificate of the Trustee shall be conclusive evidence that the Bonds so authenticated and registered have been duly authorized, executed, issued and delivered hereunder and are entitled to the benefit, protection and security hereof.

SECTION 2.06. Transfer and Payment of the Bonds. Any Bond may, in accordance with its terms, be transferred in the books required to be kept pursuant to the provisions of Section 2.08 by the person in whose name it is registered, in person or by his duly authorized attorney, upon surrender of such Bonds for cancellation accompanied by a duly executed written instrument of transfer in a form acceptable by the Trustee and by an executed copy of a Certificate of Bond Purchaser, executed by an authorized representative of the proposed transferee. Whenever any Bond or Bonds shall be surrendered for transfer, the Authority shall execute and the Trustee shall authenticate and deliver to the transferee a new Bond or Bonds of the same series and maturity for a like aggregate principal amount of authorized denominations. The Trustee shall require the payment by the Holder requesting such transfer of any tax or other governmental charge required to be paid with respect to such transfer as a condition precedent to the exercise of such privilege. The cost of printing Bonds and any services rendered or expenses incurred by the Trustee in connection with any transfer shall be paid by the Authority.

The Authority and the Trustee may deem and treat the registered owner of any Bonds as the absolute owner of such Bonds for the purpose of receiving payment thereof and for all other purposes, whether such Bonds shall be overdue or not, and neither the Authority nor the Trustee shall be affected by any notice or knowledge to the contrary; and payment of the interest on and principal of and redemption premium, if any, on such Bonds shall be made only to such registered owner, which payments shall be valid and effectual to satisfy and discharge liability on such Bonds to the extent of the sum or sums so paid.

The Trustee shall not be required to register the transfer of or exchange any Bonds which have been selected for redemption in whole or in part, from and after the day of mailing of a notice of redemption of such Bond selected for redemption in whole or in part as provided in Section 2.03 or during the period established by the Trustee for selection of Bonds for redemption.

SECTION 2.07. Exchange of the Bonds. The Bonds may be exchanged at the corporate trust office of the Trustee in Los Angeles, California, or such other place as designated by the Trustee for a like aggregate principal amount of Bonds of the same series and maturity of other authorized denominations. The Trustee shall require the payment by the Holder requesting such exchange of any tax or other governmental charge required to be paid with respect to such exchange as a condition precedent to the exercise of such privilege. The cost of printing Bonds and any services rendered or expenses incurred by the Trustee in connection with any exchange shall be paid by the Authority. The Trustee shall not be required to exchange any Bond which

has been selected for redemption in whole or in part, from and after the day of mailing of a notice of redemption of such Bond selected for redemption in whole or in part as provided in Section 2.03 or during the period established by the Trustee for selection of Bonds for redemption.

SECTION 2.08. Bond Registration Books. The Trustee will keep sufficient books for the registration and transfer of the Bonds which shall during normal business hours be open to inspection by the Authority, and upon presentation for such purpose the Trustee shall, under such reasonable regulations as it may prescribe, register or transfer the Bonds in such books as hereinabove provided.

SECTION 2.09. Mutilated, Destroyed, Stolen or Lost Bonds. If any Bond shall become mutilated the Trustee at the expense of the Holder shall thereupon authenticate and deliver, a new Bond of like tenor and amount in exchange and substitution for the Bond so mutilated; but only upon surrender at the corporate trust office of the Trustee in San Francisco, California or such other place as designated by the Trustee of the Bond so mutilated. Every mutilated Bond so surrendered to the Trustee shall be cancelled.

If any Bond shall be lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Trustee and, if such evidence be satisfactory to the Trustee and indemnity satisfactory to the Trustee shall be given, the Trustee, at the expense of the Holder, shall thereupon authenticate and deliver, a new Bond of like tenor in lieu of and in substitution for the Bond so lost, destroyed or stolen.

The Trustee may require payment of a reasonable sum for each new Bond issued under this Section 2.09 and of the expenses which may be incurred by the Authority and the Trustee in the premises. Any Bond issued 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 Trust Agreement with all other Bonds. Neither the Authority nor the Trustee shall be required to treat both the original Bond and any replacement Bond as being Outstanding for the purpose of determining the principal amount of Bonds which may be issued hereunder or for the purpose of determining any, percentage of Bonds Outstanding hereunder, but both the original and replacement Bond shall be treated as one and the same.

SECTION 2.10. Temporary Bonds. The Bonds issued under this Trust Agreement may be initially issued 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 Authority, shall be in fully registered form and may contain such reference to any of the provisions of this Trust Agreement as may be appropriate. Every temporary Bond shall be executed and authenticated as authorized by the Authority, in accordance with the terms of the Act. If the Authority issues temporary Bonds it will execute and furnish definitive Bonds without delay and thereupon the temporary Bonds may be surrendered, for cancellation, in exchange therefor at the corporate trust office of the Trustee in San Francisco, California, or such other place as designated by the Trustee and the Trustee shall deliver in exchange for such temporary Bonds an equal aggregate principal amount of definitive Bonds of authorized denominations. Until so exchanged, the temporary Bonds shall be entitled to the same benefits under this Trust Agreement as definitive Bonds delivered hereunder.

SECTION 2.11. Procedure for the Issuance of Bonds; Application of Proceeds. At any time after the sale of the Bonds in accordance with the Act, the Authority shall execute the Bonds and deliver them to the Trustee, and thereupon the Bonds shall be authenticated and delivered by the Trustee to the purchaser thereof upon the Written Request of the Authority and upon receipt of payment therefor from the purchaser thereof.

The proceeds of the Bonds shall be deposited as follows:

(i) The Trustee shall deposit \$79,142.01 in the Costs of Issuance Fund, which fund is hereby created and which fund the Authority hereby agrees to maintain with the Trustee until the earlier of the date on which no funds remain in said fund or the date which is six months after the Date of Delivery. All money in the Costs of Issuance Fund shall be used and withdrawn by the Trustee at the Written Request of the Authority to pay the Costs of Issuance of the Bonds upon receipt of a Written Request of the Authority filed with the Trustee, each of which shall be sequentially numbered and shall state the person to whom payment is to be made, the amount to be paid, the purpose for which the obligation was incurred and that such payment is a proper charge against said fund. Any remaining balance in the Costs of Issuance Fund, if any, as of the date on which the fund is closed shall be transferred by the Trustee to the City for deposit into an appropriate fund of the City to be expended for such capital improvements and capital replacement purposes as are authorized by the provisions of Chapter 4.56 (Measure A Special Tax) of the El Cerrito Municipal Code.

(ii) The Trustee shall deposit \$185,332.50 in the Reserve Fund established pursuant to Section 4.03, being the sum equal to the Reserve Fund Requirement.

(iii) The Trustee shall deposit the remainder of the proceeds of the Bonds, in the amount of \$2,252,025.49, in the Refunding Fund, which fund is hereby created.

SECTION 2.12. Use of Moneys in the Refunding Fund. As soon as practicable on the Date of Delivery, the amount of \$2,066,692.99 shall be transferred by the Trustee from the Refunding Fund to the Prior Trustee for deposit into the principal account within the Revenue Fund held by the Prior Trustee under the Prior Trust Agreement. The Authority shall provide the Prior Trustee with a Written Request of the Authority to apply the moneys thereby transferred, together with the moneys transferred from the reserve account for the Prior Bonds held by the Prior Trustee under the Prior Trust Agreement to the interest account and the principal account within such Revenue Fund, to the redemption of the remaining outstanding Prior Bonds on the Redemption Date.

Upon making the transfer specified by the foregoing paragraph, the Trustee shall transfer the remaining balance of \$185,332.50 in the Refunding Fund to the City for deposit into an appropriate fund of the City to be expended for such capital improvements and capital replacement purposes as are authorized by the provisions of Chapter 4.56 (Measure A Special Tax) of the El Cerrito Municipal Code.

SECTION 2.13. Validity of the Bonds. The validity of the Bonds shall not be dependent upon the continuing availability of the Project for the use and enjoyment of the City. The recital contained in the Bonds that the same are issued pursuant to the Act and pursuant

hereto shall be conclusive evidence of their validity and of the regularity of their issuance, and all Bonds shall be incontestable from and after their issuance. The Bonds shall be deemed to be issued, within the meaning hereof, whenever the definitive Bonds (or any temporary Bonds exchangeable therefor) shall have been delivered to the purchaser thereof and the proceeds of sale thereof received.

SECTION 2.14. No Provision Made For Book-Entry Bonds.

(A) As provided in Section 2.01 above, the Bonds shall be issued as a single, fully registered Term Bond, registered in the name of the Bank as the initial purchaser and Holder of all of the Bonds.

(B) No provision has been made or will be made pertaining the later exchange of the Bonds for bonds in book-entry form. The Bonds shall be issued and held only in fully-certificated form, registered in the name of the Holder, who shall not be Securities Depository.

**ARTICLE III.
ISSUANCE OF ADDITIONAL BONDS**

SECTION 3.01. Conditions for the Issuance of Additional Bonds. The Authority may at any time issue Additional Bonds pursuant to a Supplemental Trust Agreement, payable from the Revenues as provided herein and secured by a pledge of and charge and lien upon the Revenues as provided herein equal to the pledge, charge and lien securing the Outstanding Bonds theretofore issued hereunder, and subject to the following specific conditions, which are hereby made conditions precedent to the issuance of any such Additional Bonds:

(A) The Authority shall be in compliance with all agreements and covenants contained herein, and no Event of Default shall have occurred and be continuing.

(B) The Supplemental Trust Agreement may provide that a portion of such proceeds shall be applied to the payment of the interest due or to become due on said Additional Bonds during the estimated period of any construction and for a period of not to exceed twelve (12) months thereafter.

(C) The Supplemental Trust Agreement shall provide, if necessary, that from such proceeds or other sources an amount shall be deposited in the Reserve Fund so that following such deposit there shall be on deposit in the Reserve Fund an amount at least equal to the Reserve Fund Requirement.

(D) The aggregate principal amount of Bonds issued and at any time Outstanding hereunder shall not exceed any limit imposed by law, by this Trust Agreement or by any Supplemental Trust Agreement.

(E) The Facility Lease shall have been amended in accordance with Section 10.07 of the Facility Lease, if necessary, so that the Base Rental Payments payable by the City thereunder in each Fiscal Year shall at least equal Debt Service, including Debt Service on the Additional Bonds, in each Fiscal Year.

(F) During the period in which the Bank is the sole Holder of the Bonds, the issuance of Additional Bonds shall require the prior written consent of the Bank.

(G) To the extent applicable, the Holders of Additional Bonds shall comply with such suitability requirements and transfer restrictions as are applicable to the Bank and any successor Holder or Holders of the Bonds.

SECTION 3.02. Proceedings for Authorization of Additional Bonds. Whenever the Authority and the City shall determine to execute and deliver any Additional Bonds pursuant to Section 3.01, and subject to compliance with all of the conditions set forth in Section 3.01, the Authority and the Trustee shall enter into a Supplemental Trust Agreement providing for the issuance of such Additional Bonds, specifying the maximum principal amount of such Additional Bonds and prescribing the terms and conditions of such Additional Bonds including whether the Additional Bonds are intended to be parity bonds.

The Supplemental Trust Agreement shall prescribe the form or forms of such Additional Bonds and, subject to the provisions of Section 3.01, shall provide for the distinctive designation, denominations, method of numbering, dates, interest rates, provisions for redemption (if desired) and places of payment of principal and interest.

Before such Additional Bonds shall be issued, the City and the Authority shall file or cause to be filed the following documents with the Trustee:

(A) An Opinion of Counsel setting forth: (1) that such Counsel has examined the Supplemental Trust Agreement and the amendment to the Facility Lease required by Section 3.01(e); (2) that the execution and delivery of the Additional Bonds have been and duly authorized by the City and the Authority; and (3) that said amendment to the Facility Lease, when duly executed by the City and the Authority, will be a valid and binding obligation of the City and the Authority.

(B) A Certificate of the City that the requirements of Section 3.01 have been met and whether the City has pledged the Parcel Tax Revenues to the payment of such increase in Base Rental Payments.

(C) A certified copy of a resolution of the City authorizing the execution of the amendments to the Facility Lease required by Section 3.01(e).

(D) A certified copy of a resolution of the Authority authorizing the execution of the amendments to the Facility Lease required by Section 3.01(e).

(E) An executed counterpart or duly authenticated copy of any amendment to the Facility Lease required by Section 3.01(e).

(F) A Certificate of the City stating that the insurance required by Sections 5.01, 5.02 and 5.03 of the Facility Lease is in effect.

Upon the delivery, to the Trustee of the foregoing instruments and upon the Trustee's receipt of Certificates of the City and of the Authority stating that all applicable provisions of

this Trust Agreement have been complied with (so as to permit the execution and delivery of the Additional Bonds in accordance with the Supplemental Trust Agreement then delivered to the Trustee), the Trustee shall authenticate and deliver said Additional Bonds, in the aggregate principal amount specified in such Supplemental Trust Agreement, to, or upon the Written Request of, the Authority.

SECTION 3.03. Limitations on the Issuance of Obligations Payable from Revenues. The Authority will not, so long as any of the Bonds are Outstanding, issue any obligations or securities, however denominated, payable in whole or in part from Revenues except the following:

(A) Bonds of any Series authorized pursuant to Sections 3.01 and 3.02; or

(B) Obligations which are junior and subordinate to the payment of the principal, premium, interest and reserve fund requirements for the Bonds and which subordinated obligations are payable as to principal, premium, interest and reserve fund requirements, if any, only out of Revenues after the prior payment of all amounts then required to be paid hereunder from Revenues for principal, premium, interest and reserve fund requirements for the Bonds, as the same become due and payable and at the times and in the manner as required in this Trust Agreement.

ARTICLE IV. REVENUES

SECTION 4.01. Pledge of Revenues. All Revenues and any other amounts (including proceeds of the sale of the Bonds) held by the Trustee in any fund or account established hereunder (other than amounts on deposit in the Rebate Fund created pursuant to Section 5.03) are hereby irrevocably pledged to the payment of the interest and premium, if any, on and principal of the Bonds as provided herein, and the Revenues shall not be used for any other purpose while any of the Bonds remain Outstanding; provided, however, that out of the Revenues and other moneys there may be applied such sums for such purposes as are permitted hereunder. This pledge shall constitute a pledge of and a first lien and charge upon the Revenues and all other moneys on deposit in the funds and accounts established hereunder (excluding other amounts on deposit in the Rebate Fund created pursuant to Section 5.03) for the payment of the interest on and principal of the Bonds in accordance with the terms hereof and thereof.

The Authority hereby assigns to the Trustee all of the Authority's rights and remedies under the Facility Lease. The assignment of the Facility Lease to the Trustee is solely in its capacity as Trustee under this Trust Agreement and the duties, powers and liabilities of the Trustee in acting hereunder shall be subject to the provisions of this Trust Agreement, including, without limitation, the provisions of Article VI hereof. The Trustee shall have no responsibility for the representation, covenants or warranties of the Authority under the Facility Lease.

SECTION 4.02. Receipt and Deposit of Revenues in the Revenue Fund. In order to carry out and effectuate the pledge, charge and lien contained herein, the Authority agrees and covenants that all Revenues when and as received shall be received by the Authority in trust hereunder for the benefit of the Holders and shall be transferred when and as received by the

Authority to the Trustee for deposit in the Revenue Fund, which fund is hereby created and which fund the Authority hereby agrees and covenants to maintain with the Trustee so long as any Bonds shall be Outstanding hereunder. All Revenues shall be accounted for through and held in trust in the Revenue Fund, and the Authority shall have no beneficial right or interest in any of the Revenues except only as herein provided. All Revenues, whether received by the Authority in trust or deposited with the Trustee as herein provided, shall nevertheless be allocated, applied and disbursed solely to the purposes and uses hereinafter in this Article set forth, and shall be accounted for separately and apart from all other accounts, funds, money or other resources of the Authority.

SECTION 4.03. Establishment and Maintenance of Accounts for Use of Money in the Revenue Fund. Subject to Section 5.03, all money in the Revenue Fund shall be set aside by the Trustee in the following respective special funds within the Revenue Fund (each of which is hereby created and each of which the Authority hereby covenants and agrees to cause to be maintained) in the following order of priority:

- (A) Interest Account,
- (B) Principal Account, and
- (C) Reserve Fund.

All money in each of such funds and accounts shall be held in trust by the Trustee and shall be applied, used and withdrawn only for the purposes hereinafter authorized in this Section.

(D) Interest Account. On or before each Interest Payment Date, the Trustee shall set aside from the Revenue Fund and deposit in the Interest Account that amount of money which is equal to the amount of interest becoming due and payable on all Outstanding Bonds on such Interest Payment Date.

No deposit need be made in the Interest Account if the amount contained therein is at least equal to the aggregate amount of interest becoming due and payable on all Outstanding Bonds on such Interest Payment Date.

All money in the Interest Account shall be used and withdrawn by the Trustee solely for the purpose of paying the interest on the Bonds as it shall become due and payable (including accrued interest on any Bonds purchased or redeemed prior to maturity).

(E) Principal Account. All money in the Principal Account shall be used and withdrawn by the Trustee solely for the purpose of paying the principal of the Bonds as such principal shall become due and payable, whether at maturity or by virtue of scheduled mandatory partial redemption of Term Bonds as provided in Section 2.03(C).

(F) Reserve Fund. All money in the Reserve Fund shall be used and withdrawn by the Trustee solely for the purpose of replenishing the Interest Account or the Principal Account, in that order, in the event of any deficiency at any time in either of such accounts, except that so long as the Authority is not in default hereunder, any cash amounts in

the Reserve Fund in excess of the Reserve Fund Requirement shall be withdrawn from the Reserve Fund and deposited in the Revenue Fund on or before each Interest Payment Date.

Forthwith upon completing the deposits into the Principal Account and the Principal Account of the amounts, respectively, of principal and interest payable on the Bonds on September 1, 2019, and upon the Written Request of the Authority to the Trustee, the Trustee shall transfer to the City the balance then on deposit in the Reserve Fund on condition that the City shall deposit said amount into a fund or account from which the City will apply said amount to finance capital facilities which constitute a lawful expenditure of Measure A Special Tax Revenues.

SECTION 4.04. Application of Insurance Proceeds. In the event of any damage to or destruction of any part of the Leased Property covered by insurance, the Authority, except as hereinafter provided, shall cause the proceeds of such insurance to be utilized for the repair, reconstruction or replacement of the damaged or destroyed portion of the Leased Property, and the Trustee shall hold said proceeds in a fund established by the Trustee for such purpose separate and apart from all other funds, to the end that such proceeds shall be applied to the repair, reconstruction or replacement of the Leased Property to at least the same good order, repair and condition as it was in prior to the damage or destruction, insofar as the same may be accomplished by the use of said proceeds. The Trustee shall invest said proceeds in Permitted Investments pursuant to the Written Request of the City, as agent for the Authority under the Facility Lease, and withdrawals of said proceeds shall be made from time to time upon the filing with the Trustee of a Written Request of the City, stating that the City has expended moneys or incurred liabilities in an amount equal to the amount therein stated for the purpose of the repair, reconstruction or replacement of the Leased Property, and specifying the items for which such moneys were expended, or such liabilities were incurred, in reasonable detail. The City shall file a Written Request with the Trustee that sufficient funds from insurance proceeds or from any funds legally available to the City, or from any combination thereof, are available in the event it elects to repair, reconstruct or replace the Leased Property. Any balance of such proceeds not required for such repair, reconstruction or replacement and the proceeds of use and occupancy insurance shall be treated by the Trustee as Base Rental Payments and applied in the manner provided by Section 4.01. Alternatively, the City, at its option, if the proceeds of such insurance together with any other moneys then available for such purpose are sufficient to prepay all, in case of damage or destruction in whole of the Leased Property, or that portion, in the case of partial damage or destruction of the Leased Property, of the Base Rental Payments relating to the damaged or destroyed portion of the Leased Property, may elect not to repair, reconstruct or replace the damaged or destroyed portion of the Leased Property and thereupon shall cause said proceeds to be used for the redemption of Outstanding Bonds pursuant to the applicable provisions of Section 2.03 and the corresponding provisions of any Supplemental Trust Agreement. The City shall not apply the proceeds of insurance as set forth in this Section 4.04 to redeem the Bonds in part due to damage or destruction of a portion of the Leased Property unless the Trustee receives a Certificate of the Authority that the Base Rental Payments on the undamaged portion of the Leased Property will be sufficient to pay the initially-scheduled principal and interest on the Bonds remaining unpaid after such redemption.

SECTION 4.05. Deposit and Investments of Money in Accounts and Funds. All money held by the Trustee in any of the accounts or funds established pursuant hereto shall be

invested in Permitted Investments at the Written Request of the Authority, which Written Request shall comply with Section 5.03. In the absence of instructions, the Trustee shall invest any moneys held by it in obligations of the type described in clause B(5) of the definition of Permitted Investments.

Investments (except investment agreements) in Trust Agreement funds and accounts shall be valued at the market value thereof, exclusive of accrued interest.

Investments purchased with funds on deposit in the Revenue Fund shall mature not later than the payment date immediately succeeding the investment; provided that funds on deposit in the Revenue Fund which exceed the principal and interest payments on the Bonds due on the next succeeding Interest Payment Date may be invested in Permitted Investments having a maturity not later than the Interest Payment Date which next follows such next succeeding Interest Payment Date. Investments (except investment agreements or repurchase agreements) purchased with funds on deposit in the Reserve Fund shall have a term to maturity not greater than September 1, 2020.

All interest or profits received on the investment of amounts in the Reserve Fund shall be deposited in the Revenue Fund. The Trustee shall not be liable for any losses on such investments.

The Authority acknowledges that to the extent regulations of the Controller of the Currency or other applicable regulatory entity grant the Authority the right to receive brokerage confirmations of security transactions as they occur, the Authority will not receive such confirmations to the extent permitted by law. The Trustee shall furnish the Authority periodic cash transaction statements which include detail for all investment transactions effected by the Trustee or brokers selected by the Authority. Upon the Authority's election, such statements will be delivered via the Trustee's online service, and upon electing such service, paper statements will be provided only upon request. The Authority waives the right to receive brokerage confirmations of security transactions effected by the Trustee as they occur, to the extent permitted by law. The Authority further understands that trade confirmations for securities transactions effected by the Trustee will be available upon request and at no additional cost, and other trade confirmations may be obtained from the applicable broker. The Trustee or any of its affiliates may act as sponsor, advisor or manager in connection with any investment made by the Trustee hereunder.

ARTICLE V. COVENANTS OF THE AUTHORITY

SECTION 5.01. Punctual Payment and Performance. The Authority will punctually pay out of the Revenues the interest on and the principal of and redemption premiums, if any, to become due on every Bond issued hereunder in strict conformity with the terms hereof and of the Bonds, and will faithfully observe and perform all the agreements and covenants to be observed or performed by the Authority contained herein and in the Bonds.

SECTION 5.02. Against Encumbrances. The Authority will not make any pledge of or place any charge or lien upon the Revenues except as provided herein, and will not issue

any bonds, notes or obligations payable from the Revenues or secured by a pledge of or charge or lien upon the Revenues except as provided in Section 3.03.

SECTION 5.03. Tax Covenants; Rebate Fund.

(A) In addition to the funds and accounts created pursuant to Section 4.03, the Trustee shall establish and maintain a fund separate from any other fund or account established and maintained hereunder designated as the Rebate Fund. There shall be deposited in the Rebate Fund such amounts as are required to be deposited therein pursuant to the Tax Certificate and in accordance with written instructions of the Authority. All money at any time deposited in the Rebate Fund shall be held by the Trustee in trust, to the extent required to satisfy the Rebate Requirement (as defined in the Tax Certificate), for payment to the United States of America. Notwithstanding the provisions of Sections 4.01, 4.02, 4.05, 8.02 and 9.01 relating to the pledge of Revenues, the allocation of money in the Revenue Fund, the investments of money in any fund or account, the application of funds upon acceleration and the defeasance of Outstanding Bonds, all amounts required to be deposited into or on deposit in the Rebate Fund shall be governed exclusively by this Section 5.03 and by the Tax Certificate (which is incorporated herein by reference). The Trustee shall be deemed conclusively to have complied with such provisions if it follows the written directions of the Authority, and shall have no liability or responsibility to enforce compliance by the Authority with the terms of the Tax Certificate.

(B) Any funds remaining in the Rebate Fund after redemption and payment with respect to all of the Bonds, or provision made therefor satisfactory to the Trustee, including accrued interest and payment of any applicable fees and expenses to the Trustee and satisfaction of the Rebate Requirement (as defined in the Tax Certificate), shall be withdrawn by the Trustee and remitted to or upon the direction of the Authority.

(C) The Authority shall not use or permit the use of any proceeds of Bonds or any funds of the Authority, directly or indirectly, to acquire any securities or obligations, and shall not take or permit to be taken any other action or actions, which would cause any Bonds to be an "arbitrage bond" within the meaning of Section 148 of the Code, "private activity bond" within the meaning of Section 141(a) of the Code, or "federally guaranteed" within the meaning of Section 149(b) of the Code and any such applicable requirements promulgated from time to time thereunder. The Authority shall observe and not violate the requirements of Section 148 of the Code and any such applicable regulations. The Authority shall comply with all requirements of Sections 148 and 149(b) of the Code to the extent applicable to the Bonds. In the event that at any time the Authority is of the opinion that for purposes of this Section 5.03(C) it is necessary to restrict or to limit the yield on the investment of any moneys held by the Trustee under this Trust Agreement, the Authority shall so instruct the Trustee under this Trust Agreement in writing, and the Trustee shall take such action as may be necessary in accordance with such instructions.

(D) The Authority and the Trustee (as directed by the Authority) specifically covenant to comply with the provisions and procedures of the Tax Certificate.

(E) The Authority shall not use or permit the use of any proceeds of the Bonds or any funds of the Authority, directly or indirectly, in any manner, and shall not take or omit to

take any action that would cause any of the Bonds to be treated as an obligation not described in Section 103(a) of the Code.

(F) Notwithstanding any provisions of this Section 5.03 if the Authority shall provide to the Trustee an Opinion of Counsel that any specified action required under this Section 5.03 is no longer required or that some further or different action is required to maintain the exclusion from gross income for federal income tax purposes of interest with respect to the Bonds, the Trustee and the Authority may conclusively rely on such opinion in complying with the requirements of this Section, and, notwithstanding Article VII hereof, the covenants hereunder shall be deemed to be modified to that extent.

SECTION 5.04. Accounting Records and Reports. The Authority will keep or cause to be kept proper books of record and accounts in which complete and correct entries shall be made of all transactions relating to the receipts, disbursements, allocation and application of the Revenues, and such books shall be available for inspection by the Trustee, at reasonable hours and under reasonable conditions. Not more than one hundred and eighty (180) days after the close of each Fiscal Year, the Authority shall furnish or cause to be furnished to the Trustee and the Bank or the Bank's successors or assigns as Holder or Holders of the Bonds a complete financial statement covering receipts, disbursements, allocation and application of Revenues for such Fiscal Year. The Authority shall also keep or cause to be kept such other information as required under the Tax Certificate. The Trustee shall have no duty to review or examine such statement.

SECTION 5.05. Prosecution and Defense of Suits. The Authority will defend against every suit, action or proceeding at any time brought against the Trustee upon any claim to the extent arising out of the receipt, application or disbursement of any of the Revenues or to the extent involving the failure of the Authority to fulfill its obligations hereunder; provided that the Trustee or any affected Holder at its election may appear in and defend any such suit, action or proceeding. The Authority will indemnify and hold harmless the Trustee against any and all liability claimed or asserted by any person to the extent arising out of such failure by the Authority, and will indemnify and hold harmless the Trustee against any attorney's fees or other expenses which it may incur in connection with any litigation to which it may become a party by reason of its actions hereunder, except for any loss, cost, damage or expense resulting from the negligence or willful misconduct by the Trustee. Notwithstanding any contrary provision hereof, this covenant shall remain in full force and effect even though all Bonds secured hereby may have been fully paid and satisfied.

SECTION 5.06. Further Assurances. Whenever and so often as reasonably requested to do so by the Trustee or any Holder, the Authority 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 Holders all rights, interests, powers, benefits, privileges and advantages conferred or intended to be conferred upon them hereby.

ARTICLE VI. THE TRUSTEE

SECTION 6.01. The Trustee. Union Bank, N.A., shall serve as the Trustee for the Bonds for the purpose of receiving all money which the Authority is required to deposit with the Trustee hereunder and for the purpose of allocating, applying and using such money as provided herein and for the purpose of paying the interest on and principal of and redemption premiums, if any, on the Bonds presented for payment in Los Angeles, California, or such other place as designated by the Trustee with the rights and obligations provided herein. The Authority agrees that any Trustee appointed under this Trust Agreement shall have a principal office in Los Angeles or San Francisco, California.

The Trustee may be removed at any time, at the request of the Bank, for any breach of the Trust set forth herein.

The Authority may at any time (with the written consent of the Bank), unless there exists any event of default as defined in Section 8.01, remove the Trustee 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 approved in writing by the Bank. Every successor Trustee appointed pursuant to this Section shall be a trust company, national banking association or bank in good standing located in or incorporated under the laws of the State, duly authorized to exercise trust powers and subject to examination by federal or State authority, having (or in the case of an association, bank, banking corporation or trust company included in a bank holding company, the related bank holding company shall have) a reported capital and surplus of not less than Fifty Million Dollars (\$50,000,000) and acceptable to the Bank. If such bank, banking corporation or trust company publishes a report of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the purpose of this section the combined capital and surplus of such bank, 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 Trustee may at any time resign by giving written notice of such resignation to the Authority and the Bank and by mailing by first class mail to the Holders notice of such resignation. Upon receiving such notice of resignation, the Authority shall promptly appoint a successor Trustee by an instrument in writing. Any removal or resignation of a Trustee and appointment of a successor Trustee shall become effective only upon the acceptance of appointment by the successor Trustee. If, within thirty (30) days after notice of the removal or resignation of the Trustee no successor Trustee shall have been appointed and shall have accepted such appointment, the removed or resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee, 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 Trustee having the qualifications required hereby.

The Trustee is hereby authorized to pay or redeem the Bonds when duly presented for payment at maturity or on redemption prior to maturity. The Trustee shall cancel all Bonds upon payment thereof or upon the surrender thereof by the Authority and shall destroy such Bonds, and a certificate of destruction shall be delivered to the Authority. The Trustee shall keep accurate records of all Bonds paid and discharged and cancelled by it.

The Trustee shall, prior to an event of default, and after the curing or waiver of all events of default that may have occurred, perform such duties and only such duties as are specifically set forth in this Trust Agreement and no implied duties or obligations shall be read into this Trust

Agreement. The Trustee shall, during the existence of any event of default (that has not been cured or waived), exercise such of the rights and powers vested in it by this Trust Agreement, and use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of his or her own affairs.

SECTION 6.02. Liability of Trustee. The recitals of facts, agreements and covenants herein and in the Bonds shall be taken as recitals of facts, agreements and covenants of the Authority, and the Trustee assumes no responsibility for the correctness of the same or makes any representation as to the sufficiency or validity hereof or of the Bonds, nor shall the Trustee 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 Trustee shall not be liable in connection with the performance of its duties hereunder except for its own negligence or willful misconduct.

The Trustee shall not be bound to recognize any person as the Holder of a Bond unless and until such Bond is submitted for inspection, if required, and such Holder's title thereto satisfactorily established, if disputed.

The Trustee shall not be liable for any error of judgment made in good faith by a responsible officer, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts.

The Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of not less than a majority in aggregate principal amount of the Bonds at the time Outstanding, relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee under this Trust Agreement.

The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Trust Agreement at the request, order or direction of any of the Holders pursuant to the provisions of this Trust Agreement unless such Holders shall have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities that may be incurred therein or thereby. The Trustee has no obligation or liability to the Holders for the payment of interest on, principal of or redemption premium, if any, with respect to the Bonds from its own funds; but rather the Trustee's obligations shall be limited to the performance of its duties hereunder.

The Trustee shall not be deemed to have knowledge of any event of default unless and until an officer at the Trustee's corporate trust office in San Francisco, California, or such other corporate trust office specified in writing to the Authority, responsible for the administration of its duties hereunder shall have actual knowledge thereof or the Trustee shall have received written notice thereof at its corporate trust office in San Francisco, California, or such other corporate trust office specified in writing to the Authority. The Trustee shall not be bound to ascertain or inquire as to the performance or observance of any of the terms, conditions, covenants or agreements herein or of any of the documents executed in connection with the Bonds, or as to the existence of a default or event of default thereunder. The Trustee shall not be responsible for the validity or effectiveness of any collateral given to or held by it.

The Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through attorneys-in-fact, agents or receivers.

The Trustee shall not be concerned with or accountable to anyone for the subsequent use or application of any moneys which shall be released or withdrawn in accordance with the provisions hereof.

Whether or not therein expressly so provided, every provision of this Trust Agreement, the Facility Lease or related documents relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Article.

The Trustee makes no representation or warranty, express or implied as to the title, value, design, compliance with specifications or legal requirements, quality, durability, operation, condition, merchantability or fitness for any particular purpose for the use contemplated by the Authority or City of the Project. In no event shall the Trustee be liable for incidental, indirect, special or consequential damages in connection with or arising from the Facility Lease or this Trust Agreement or the existence, furnishing or use of the Project.

The Trustee shall be protected in acting upon any notice, resolution, requisition, request (including any Written Request of the Authority), consent, order, certificate, report, opinion, bond or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties. The Trustee may consult with counsel, who may be counsel of or to the Authority, with regard to legal questions, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance therewith.

Whenever in the administration of its rights and obligations hereunder the Trustee shall deem it necessary or desirable that a 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 Trustee, be deemed to be conclusively proved and established by a Certificate of the Authority, which certificate shall be full warrant to the Trustee for any action taken or suffered under the provisions hereof upon the faith thereof, but in its discretion the Trustee may in lieu thereof accept other evidence of such matter or may require such additional evidence as it may deem reasonable.

No provision of this Trust Agreement shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance or exercise of any of its duties hereunder, or in the exercise of its rights or powers.

The Trustee shall have no responsibility or liability with respect to any information, statements or recital in any disclosure material, if any, prepared or distributed with respect to the issuance of the Bonds. The Authority represents and warrants that no Official Statement, Offering Memorandum, or other disclosure material was prepared, approved by the Authority, or otherwise provided to the Bank with respect to the sale of the Bonds to the Bank. As a condition precedent to delivery of the Bonds to the Bank, the Bank will be required to execute and deliver to the Authority a Certificate of Bond Purchaser in the form and having substantially the contents of the Certificate of Bond Purchaser attached hereto as Exhibit C.

Any company into which the Trustee may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which the Trustee may sell or transfer all or substantially all of its corporate trust business, provided such company shall be eligible under Section 6.01, shall be the successor to such Trustee without execution or filing of any further act, anything herein to the contrary notwithstanding.

SECTION 6.03. Compensation and Indemnification of Trustee. The Authority covenants to pay to the Trustee from time to time, and the Trustee shall be entitled to, reasonable compensation for all services rendered by it in the exercise and performance of any of the powers and duties hereunder of the Trustee, and the Authority will pay or reimburse the Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by the Trustee in accordance with any of the provisions of this Trust Agreement (including the reasonable compensation and the expenses and disbursements of its counsel and of all persons not regularly in its employ) except any such expense, disbursement or advance as may arise from its negligence or willful misconduct. The Authority, to the extent permitted by law, shall indemnify, defend and hold harmless the Trustee against any loss, damages, liability or expense incurred without negligence or bad faith on the part of the Trustee, arising out of or in connection with the acceptance or administration of the trusts created hereby, including costs and expenses (including attorneys' fees) of defending itself against any claim or liability in connection with the exercise or performance of any of its powers hereunder. The rights of the Trustee and the obligations of the Authority under this Section 6.03 shall survive the discharge of the Bonds and this Trust Agreement and the resignation or removal of the Trustee. The Trustee shall be entitled to interest on all amounts advanced by it hereunder at the prime rate then in effect plus two percent (2%).

ARTICLE VII. AMENDMENT OF THE TRUST AGREEMENT

SECTION 7.01. Amendment of the Trust Agreement. The Trust Agreement and the rights and obligations of the Authority and of the Holders may be amended at any time by a Supplemental Trust Agreement which shall become binding when the written consents of the Holders of a majority in aggregate principal amount of the Bonds then Outstanding, exclusive of Bonds disqualified as provided in Section 7.02, are filed with the Trustee. No such amendment shall: (1) extend the maturity of or reduce the interest rate on or amount of interest on or principal of or redemption premium, if any, on any Bond without the express written consent of the Holder of such Bond; (2) permit the creation by the Authority of any pledge of or charge or lien upon the Revenues as provided herein superior to or on a parity with the pledge, charge and lien created hereby for the benefit of the Bonds; (3) reduce the percentage of Bonds required for the written consent to any such amendment; or (4) modify any rights or obligations of the Trustee, the Authority or the City without their prior written assent thereto, respectively.

Subject to the prior written consent of the Bank, the Trust Agreement and the rights and obligations of the Authority and of the Holders may also be amended at any time by a Supplemental Trust Agreement which shall become binding upon adoption without the consent of any Holders, and only to the extent permitted by law and after receipt of an approving Opinion

of Counsel, for any purpose that will not materially adversely affect the interests of the Holders, including (without limitation) for any one or more of the following purposes:

(A) to add to the agreements and covenants required herein to be performed by the Authority other agreements and covenants thereafter to be performed by the Authority, or to surrender any right or power reserved herein to or conferred herein on the Authority;

(B) To make such provisions for the purpose of curing any ambiguity or of correcting, curing or supplementing any defective provision contained herein or in regard to questions arising hereunder which the Authority may deem desirable or necessary and not inconsistent herewith;

(C) to provide for the issuance of any Additional Bonds and to provide the terms of such Additional Bonds, subject to the conditions and upon compliance with the procedure set forth in Article III (which shall be deemed not to adversely affect Holders); or

(D) to add to the agreements and covenants required herein, such agreements and covenants as may be necessary to qualify the Trust Agreement under the Trust Indenture Act of 1939.

SECTION 7.02. Disqualified Bonds. Bonds owned or held by or for the account of the Authority or the City shall not be deemed Outstanding for the purpose of any consent or other action or any calculation of Outstanding Bonds provided in this Article, and shall not be entitled to consent to or take any other action provided in this Article provided, however, that the Trustee shall not be deemed to have knowledge that any Bond is owned or held by or for the account of the Authority or the City unless the Authority or the City is the registered Holder or the Trustee has received written notice that any other registered Holder is the owner or is holding for the account of the Authority or City.

SECTION 7.03. Endorsement or Replacement of Bonds After Amendment. After the effective date of any action taken as hereinabove provided, the Authority may determine that the Bonds may bear a notation by endorsement in form approved by the Authority as to such action, and in that case upon demand of the Holder of any Outstanding Bonds and presentation of his Bond for such purpose at the office of the Trustee a suitable notation as to such action shall be made on such Bond. If the Authority shall so determine, new Bonds so modified as, in the opinion of the Authority, shall be necessary to conform to such action shall be prepared and executed, and in that case upon demand of the Holder of any Outstanding Bond a new Bond or Bonds shall be exchanged at the office of the Trustee without cost to each Holder for its Bond or Bonds then Outstanding upon surrender of such Outstanding Bonds.

SECTION 7.04. Amendment by Mutual Consent. The provisions of this Article shall not prevent any Holder from accepting any amendment as to the particular Bonds held by such Holder, provided that due notation thereof is made on such Bonds.

ARTICLE VIII. EVENTS OF DEFAULT AND REMEDIES OF HOLDERS

SECTION 8.01. Events of Default and Acceleration of Maturities. If one or more of the following events (herein called "events of default") shall happen, that is to say:

(A) if default shall be made by the Authority in the due and punctual payment of the interest on any Bond when and as the same shall become due and payable;

(B) if default shall be made by the Authority in the due and punctual payment of the principal of or redemption premium, if any, on any Bond when and as the same shall become due and payable, whether at maturity as therein expressed or by proceedings for redemption;

(C) if default shall be made by the Authority in the performance of any of the agreements or covenants required herein to be performed by the Authority, and such default shall have continued for a period of thirty (30) days after the Authority shall have been given notice in writing of such default by the Trustee;

(D) if the Authority shall file a petition or answer seeking arrangement or reorganization under the federal bankruptcy laws or any other applicable law of the United States of America or any state therein, or if a court of competent jurisdiction shall approve a petition filed with or without the consent of the Authority seeking arrangement or reorganization under the federal bankruptcy laws or any other applicable law of the United States of America or any state therein, or if under the provisions of any other law for the relief or aid of debtors any court of competent jurisdiction shall assume custody or control of the Authority or of the whole or any substantial part of its property; or

(E) If an Event of Default has occurred under Section 6.01 of the Facility Lease, then and in each and every such case during the continuance of such event of default the Trustee may, and upon the written request of the Holders of not less than fifty-one percent (51%) in aggregate principal amount of the Bonds then Outstanding (with the written consent of the Bank), or at the direction of the Bank, shall, by notice in writing to the Authority, declare the principal of all Bonds then Outstanding and the interest accrued thereon to be due and payable immediately, and upon any such declaration the same shall become due and payable, anything contained herein or in the Bonds to the contrary notwithstanding. The Trustee shall promptly notify all Holders by first class mail of any such event of default which is continuing.

This provision, however, is subject to the condition that if at any time after the principal of the Bonds then Outstanding shall have been so declared due and payable and before any judgment or decree for the payment of the money due shall have been obtained or entered the Authority shall deposit with the Trustee a sum sufficient to pay all matured interest on all the Bonds and all principal of the Bonds matured prior to such declaration, with interest at the rate borne by such Bonds on such overdue interest and principal, and the reasonable fees and expenses of the Trustee, and any and all other defaults known to the Trustee (other than in the payment of interest on and principal of the Bonds due and payable solely by reason of such declaration) shall have been made good or cured to the satisfaction of the Trustee or provision deemed by the Trustee to be adequate shall have been made therefor, then and in every such case the Holders of not less than fifty-one percent (51%) in aggregate principal amount of Bonds then Outstanding (with the written consent of the Bank), or the Bank, by written notice to the

Authority and to the Trustee, may on behalf of the Holders of all the Bonds then Outstanding rescind and annul such declaration and its consequences; but no such rescission and annulment shall extend to or shall affect any subsequent default or shall impair or exhaust any right or power consequent thereon.

SECTION 8.02. Application of Funds Upon Acceleration. All moneys in the accounts and funds provided in Sections 2.11, 4.02, 4.03 and 4.05 upon the date of the declaration of acceleration by the Trustee as provided in Section 8.01 and all Revenues (other than Revenues on deposit in the Rebate Fund) thereafter received by the Authority hereunder shall be transmitted to the Trustee and shall be applied by the Trustee in the following order:

(A) First, to the payment of the reasonable fees, costs and expenses of the Trustee in providing for the declaration of such event of default, and in the exercise of any remedies, including reasonable compensation to their accountants and counsel together with interest on any amounts advanced as provided herein including further, any outstanding sums owed under Section 6.03 and to the payment of the reasonable costs and expenses of the Holders, if any, in carrying out the provisions of this article, including reasonable compensation to its accountants and counsel; and

(B) Second, upon presentation of the several Bonds, and the stamping thereon of the amount of the payment if only partially paid or upon the surrender thereof if fully paid, to the payment of the whole amount then owing and unpaid upon the Bonds for interest and principal, with (to the extent permitted by law) interest on the overdue interest and principal at the rate borne by such Bonds, and in case such money shall be insufficient to pay in full the whole amount so owing and unpaid upon the Bonds, then to the payment of such interest, principal and (to the extent permitted by law) interest on overdue interest and principal without preference or priority among such interest, principal and interest on overdue interest and principal ratably to the aggregate of such interest, principal and interest on overdue interest and principal.

SECTION 8.03. Institution of Legal Proceedings by Trustee. Subject to Section 8.01 hereof, if one or more of the events of default shall happen and be continuing, the Trustee may, and upon the written request of the Holders of a majority in principal amount of the Bonds then Outstanding, and upon being indemnified to its satisfaction therefor, shall, proceed to protect or enforce its rights or the rights of the Holders of Bonds under this Trust Agreement and under Article VI of the Facility Lease by a suit in equity or action at law, either for the specific performance of any covenant or agreement contained herein, or in aid of the execution of any power herein granted, or by mandamus or other appropriate proceeding for the enforcement of any other legal or equitable remedy as the Trustee shall deem most effectual in support of any of its rights and duties hereunder.

SECTION 8.04. Non-Waiver. Nothing in this Article or in any other provision hereof or in the Bonds shall affect or impair the obligation of the Authority, which is absolute and unconditional, to pay the interest on and principal of and redemption premiums, if any, on the Bonds to the respective Holders of the Bonds at the respective dates of maturity or upon prior redemption as provided herein from the Revenues as provided herein pledged for such payment, or shall affect or impair the right of such Holders, which is also absolute and unconditional, to

institute suit to enforce such payment by virtue of the contract embodied herein and in the Bonds.

A waiver of any default or breach of duty or contract by the Trustee or any Holder 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 of duty or contract. No delay or omission by the Trustee or any Holder to exercise any right or remedy accruing upon any default or breach of duty or contract shall impair any such right or remedy or shall be construed to be a waiver of any such default or breach of duty or contract or an acquiescence therein, and every right or remedy conferred upon the Holders by the Act or by this Article may be enforced and exercised from time to time and as often as shall be deemed expedient by the Trustee or the Holders.

If any action, proceeding or suit to enforce any right or exercise any remedy is abandoned, the Authority, the Trustee and any Holder shall be restored to their former positions, rights and remedies as if such action, proceeding or suit had not been brought or taken.

SECTION 8.05. Actions by Trustee as Attorney-in-Fact. Any action, proceeding or suit which any Holder shall have the right to bring to enforce any right or remedy hereunder may be brought by the Trustee for the equal benefit and protection of all Holders, whether or not the Trustee is a Holder, and the Trustee is hereby appointed (and the successive Holders, by taking and holding the Bonds issued hereunder, shall be conclusively deemed to have so appointed it) the true and lawful attorney-in-fact of the Holders for the purpose of bringing any such action, proceeding or suit and for the purpose of doing and performing any and all acts and things for and on behalf of the Holders as a class or classes as may be advisable or necessary in the opinion of the Trustee as such attorney-in-fact.

SECTION 8.06. Remedies Not Exclusive. No remedy herein conferred upon or reserved to the Holders is intended to be exclusive of any other remedy, and each 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 the Act or any other law.

SECTION 8.07. Limitation on Holders' Right to Sue. No Holder of any Bond issued hereunder shall have the right to institute any suit, action or proceeding at law or equity, for any remedy under or upon this Trust Agreement, unless: (a) such Holder shall have previously given to the Trustee written notice of the occurrence of an event of default as defined in Section 8.01 hereunder; (b) the Holders of at least a majority in aggregate principal amount of all the Bonds then Outstanding shall have made written request upon the Trustee to exercise the powers hereinbefore granted or to institute such suit, action or proceeding in its own name and the Bank will have consented to such request; (c) said Holders shall have tendered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities to be incurred in compliance with such request; and (d) the Trustee shall have refused or omitted to comply with such request for a period of sixty (60) days after such request shall have been received by, and said tender of indemnity shall have been made to, the Trustee.

Such notification, request, tender of indemnity and refusal or omission are hereby declared, in every case, to be conditions precedent to the exercise by any Holder of Bonds of any

remedy hereunder; it being understood and intended that no one or more owners of Bonds shall have any right in any manner whatever by his or their action to enforce any right under this Trust Agreement, except in the manner herein provided, and that all proceedings at law or in equity to enforce any provision of the Trust Agreement shall be instituted, had and maintained in the manner herein provided and for the equal benefit of all Holders of the Outstanding Bonds.

ARTICLE IX. DEFEASANCE

SECTION 9.01. Discharge of Bonds.

(A) If the Authority shall pay or cause to be paid or there shall otherwise be paid to the Holders of all Outstanding Bonds the interest thereon and the principal thereof and the redemption premiums, if any, thereon at the times and in the manner stipulated herein and therein, and all amounts due and owing to the Trustee have been paid in full, then the Holders of such Bonds shall cease to be entitled to the pledge of and charge and lien upon the Revenues as provided herein, and all agreements, covenants and other obligations of the Authority to the Holders of such Bonds hereunder shall thereupon cease, terminate and become void and be discharged and satisfied. In such event, the Trustee shall execute and deliver to the Authority all such instruments as may be necessary or desirable to evidence such discharge and satisfaction, the Trustee shall pay over or deliver to the Authority all money or securities held by it pursuant hereto which are not required for the payment of the interest on and principal of and redemption premiums, if any, on such Bonds.

(B) Any Outstanding Bonds shall prior to the maturity date or redemption date thereof be deemed to have been paid within the meaning of and with the effect expressed in subsection (A) of this Section if: (1) in case any of such Bonds are to be redeemed on any date prior to their maturity date, the Authority shall have given to the Trustee in form satisfactory to it irrevocable instructions to provide notice in accordance with Section 2.03 or in the corresponding section of a Supplemental Trust Agreement; (2) there shall have been deposited with the Trustee either: (a) money in an amount which shall be sufficient; or (b) Permitted Investments of the type described in clauses A and B of the definition of Permitted Investments and which are not subject to redemption prior to maturity (including any such Permitted Investments issued or held in book-entry form on the books of the Treasury of the United States of America), the interest on and principal of which when paid will provide money which, together with the money, if any, deposited with the Trustee at the same time, shall be sufficient, in the opinion of an Independent Consultant, to pay when due the interest to become due on such Bonds on and prior to the maturity date or redemption date thereof, as the case may be, and the principal of and redemption premiums, if any, on such Bonds; and (3) in the event such Bonds are not by their terms subject to redemption within the next succeeding sixty (60) days, the Authority shall have given the Trustee in form satisfactory to it irrevocable instructions to mail as soon as practicable, a notice to the Holders of such Bonds that the deposit required by clause (2) above has been made or shall be made with the Trustee on or prior to the maturity date or redemption date thereof and that such Bonds following such payment are deemed to have been paid in accordance with this section and stating the maturity date or redemption date upon which money is to be available for the payment of the principal of and redemption premiums, if any, on such Bonds. Any notice by the Authority respecting defeasance may be conditioned upon

approval by the Authority of such defeasance and any financing transaction to provide proceeds thereof, upon conclusion of such financing and such other conditions reasonably required by the Authority.

SECTION 9.02. Unclaimed Money. Anything contained herein to the contrary notwithstanding, any money held by the Trustee in trust for the payment and discharge of any of the Bonds or interest thereon which remains unclaimed for two (2) years after the date when such Bonds or interest thereon have become due and payable, either at their stated maturity dates or by call for redemption prior to maturity, if such money was held by the Trustee at such date, or for two (2) years after the date of deposit of such money if deposited with the Trustee after the date when such Bonds have become due and payable, shall be repaid by the Trustee to the Authority as its absolute property free from trust, and the Trustee shall thereupon be released and discharged with respect thereto and the Holders shall not look to the Trustee for the payment of such Bonds; provided, however, that before being required to make any such payment to the Authority, the Trustee may, and at the request of the Authority shall, at the expense of the Authority, cause to be published once a week for two (2) successive weeks in a Financial Newspaper of general circulation in Los Angeles and in San Francisco, California and in the same or a similar Financial Newspaper of general circulation in New York, New York a notice that such money remains unclaimed and that, after a date named in such notice, which date shall not be less than thirty (30) days after the date of the first publication of each such notice, the balance of such money then unclaimed will be returned to the Authority.

ARTICLE X. BOND INSURANCE

[Reserved – Not Used]

ARTICLE XI. MISCELLANEOUS

SECTION 11.01. Liability of Authority Limited to Revenues. Notwithstanding anything contained herein, the Authority shall not be required to advance any money derived from any source other than the Revenues as provided herein for the payment of the interest on or principal of or redemption premiums, if any, on the Bonds or for the performance of any agreements or covenants herein contained. The Authority may, however, advance funds for any such purpose so long as such funds are derived from a source legally available for such purpose without incurring an indebtedness.

The Bonds are limited obligations of the Authority and are payable, as to interest thereon, principal thereof and any premiums upon the redemption of any thereof, solely from the Revenues as provided herein, and the Authority is not obligated to pay them except from the Revenues. All the Bonds are equally secured by a pledge of and charge and lien upon the Revenues, and the Revenues constitute a trust fund for the security and payment of the interest on and principal of and redemption premiums, if any, on the Bonds as provided herein. The Bonds are not a debt of the Authority, the State of California or any of its political subdivisions,

and neither the Authority, said State nor any of its political subdivisions is liable thereon, nor in any event shall the Bonds be payable out of any funds or properties other than those of the Authority as provided herein. The Bonds do not constitute an indebtedness within the meaning of any constitutional or statutory limitation or restriction.

SECTION 11.02. Benefits of the Trust Agreement Limited to Parties. Nothing in this Trust Agreement expressed or implied is intended or shall be construed to confer upon, or to give or grant to, any person or entity, other than the Authority, the Trustee and the Holders of the Bonds, any right, remedy or claim under or by reason of this Trust Agreement or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Trust Agreement contained by and on behalf of the Authority shall be for the sole and exclusive benefit of the Authority, the Trustee and the Holders of the Bonds.

SECTION 11.03. The Bank As Third Party Beneficiary. To the extent that this Trust Agreement confers upon or gives or grants to the Bank any right, remedy or claim under or by reason of this Trust Agreement, the Bank is hereby explicitly recognized as being a third-party beneficiary hereunder and may enforce any such right remedy or claim conferred, given or granted hereunder.

SECTION 11.04. Successor Is Deemed Included In All References To Predecessor. Whenever herein either the Authority or any member, officer or employee thereof or of the State of California is named or referred to, such reference shall be deemed to include the successor to the powers, duties and functions that are presently vested in the Authority or such member, officer or employee, and all agreements and covenants required hereby to be performed by or on behalf of the Authority or any member, officer or employee thereof shall bind and inure to the benefit of the respective successors thereof whether so expressed or not.

SECTION 11.05. Execution of Documents by Holders. Any declaration, request or other instrument which is permitted or required herein to be executed by Holders may be in one or more instruments of similar tenor and may be executed by Holders in person or by their attorneys appointed in writing. The fact and date of the execution by any Holder or his attorney of any declaration, request or other instrument or of any writing appointing such attorney may be proved by the certificate of any notary public or other officer authorized to make acknowledgments of deeds to be recorded in the state or territory in which he purports to act that the person signing such declaration, request or other instrument or writing acknowledged to him the execution thereof, or by an affidavit of a witness of such execution duly sworn to before such notary public or other officer. The ownership of any Bonds and the amount, maturity, number and date of holding the same may be proved by the registration books relating to the Bonds at the corporate trust office of the Trustee in San Francisco, California, or such other place as designated by the Trustee.

Any declaration, request, consent or other instrument or writing of the Holder of any Bond shall bind all future Holders of such Bond with respect to anything done or suffered to be done by the Trustee or the Authority in good faith and in accordance therewith.

SECTION 11.06. Waiver of Personal Liability. No member, officer or employee of the Authority or the City shall be individually or personally liable for the payment of the interest

on or principal of or redemption premiums, if any, on the Bonds by reason of their issuance, but nothing herein contained shall relieve any such member, officer or employee from the performance of any official duty provided by the Act or any other applicable provisions of law or hereby.

SECTION 11.07. Acquisition of Bonds by Authority. All Bonds acquired by the Authority, whether by purchase or gift or otherwise, shall be surrendered to the Trustee for cancellation.

SECTION 11.08. Destruction of Cancelled Bonds. Whenever provision is made for the return to the Authority of any Bonds which have been cancelled pursuant to the provisions hereof, the Trustee shall in fact destroy such Bonds and furnish to the Authority a certificate of such destruction as provided in Section 6.01.

SECTION 11.09. Content of Certificates. Every Certificate of the Authority with respect to compliance with any agreement, condition, covenant or provision provided herein shall include: (a) a statement that the person or persons making or giving such certificate have read such agreement, condition, covenant or provision and the definitions herein relating thereto; (b) a brief statement as to the nature and scope of the examination or investigation upon which the statements contained in such certificate are based; (c) a statement that, in the opinion of the signers, they have made or caused to be made such examination or investigation as is necessary to enable them to express an informed opinion as to whether or not such agreement, condition, covenant or provision has been complied with; and (d) a statement as to whether, in the opinion of the signers, such agreement, condition, covenant or provision has been complied with.

Any Certificate of the Authority may be based, insofar as it relates to legal matters, upon an Opinion of Counsel unless the person making or giving such certificate knows that the Opinion of Counsel with respect to the matters upon which his certificate may be based, as aforesaid, is erroneous, or in the exercise of reasonable care should have known that the same was erroneous. Any Opinion of Counsel may be based, insofar as it relates to factual matters information with respect to which is in the possession of the Authority, upon a representation by an officer or officers of the Authority unless the counsel executing such Opinion of Counsel knows that the representation with respect to the matters upon which his opinion may be based, as aforesaid, is erroneous, or in the exercise of reasonable care should have known that the same was erroneous.

SECTION 11.10. Publication for Successive Weeks. Any publication required to be made hereunder for successive weeks in a Financial Newspaper may be made in each instance upon any Business Day of the first week and need not be made on the same Business Day of any succeeding week or in the same Financial Newspaper for any subsequent publication, but may be made on different Business Days or in different Financial Newspapers, as the case may be.

SECTION 11.11. Accounts and Funds; Business Days. Any account or fund required herein to be established and maintained by the Trustee may be established and maintained in the accounting records of the Trustee either as an account or a fund, and may, for the purposes 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 all

such accounts and funds shall at all times be maintained with industry practice and with due regard for the protection of the security of the Bonds and the rights of the Holders. Any action required to occur hereunder on a day which is not a Business Day shall be required to occur on the next succeeding Business Day.

SECTION 11.12. Notices. All written notices to be given hereunder shall be given by mail to the party entitled thereto at its address set forth below, or at such other address as such party may provide to the other party in writing from time to time, namely:

If to the Authority:

El Cerrito Public Financing Authority
10890 San Pablo Avenue
El Cerrito, CA 94530-2392
Attention: Executive Director

If to the Trustee:

Union Bank, N.A.
350 California Street, 11th Floor
San Francisco, CA 94104
Attention: Corporate Trust Services

In the alternative, any such notice may be given by fax at the following fax numbers or such other fax number as such party may provide to the other party in writing from time to time, namely:

If to the Authority:

El Cerrito Public Financing Authority
Fax number (510) 215-4379

If to the Trustee:

Union Bank, N.A.
Attention: Corporate Trust Services
Fax number (415) 273-2592

SECTION 11.13. Article and Section Headings and References. The headings or titles of the several articles and sections hereof and the table of contents appended hereto shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof. All references herein to "Articles," "Sections" and other subdivisions or clauses are to the corresponding articles, sections, subdivisions or clauses hereof; and the words "hereby," "herein," "hereof," "hereto," "herewith," "hereunder" and other words of similar import refer to the Trust Agreement as a whole and not to any particular article, section, subdivision or clause hereof.

SECTION 11.14. Partial Invalidity. If any one or more of the agreements or covenants or portions thereof required hereby to be performed by or on the part of the Authority or the Trustee shall be contrary to law, then such agreement or agreements, such covenant or covenants or such portions thereof shall be null and void and shall be deemed separable from the remaining agreements and covenants or portions thereof and shall in no way affect the validity hereof or of the Bonds, and the Holders shall retain all the benefit, protection and security afforded to them under the Act or any other applicable provisions of law. The Authority and the Trustee hereby declare that they would have executed and delivered the Trust Agreement and each and every other article, section, paragraph, subdivision, sentence, clause and phrase hereof and would have authorized the issuance of the Bonds pursuant hereto irrespective of the fact that any one or more articles, sections, paragraphs, subdivisions, sentences, clauses or phrases hereof or the application thereof to any person or circumstance may be held to be unconstitutional, unenforceable or invalid.

SECTION 11.15. Execution in Several Counterparts. This Trust Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the Authority and the Trustee shall preserve undestroyed, shall together constitute but one and the same instrument.

SECTION 11.16. Amendments to Site Lease and Facility Lease. The Authority shall not supplement, amend, modify or terminate any of the terms of the Site Lease or Facility Lease, or consent to any such supplement, amendment, modification or termination, without the written consent of the Trustee and the Bank. The Trustee shall give such written consent only if:

(A) such supplement, amendment, modification or termination will not materially adversely affect the interests of the Holders or result in any material impairment of the security hereby given for the payment of the Bonds (provided that such supplement, amendment or modification shall not be deemed to have such adverse effect or to cause such material impairment solely by reason of providing for the payment of Additional Bonds as required by Section 3.01(e)); or

(B) the Trustee first obtains the written consent of the Holders of a majority in principal amount of the Bonds then Outstanding to such supplement, amendment, modification or termination; provided, that no such supplement, amendment, modification or termination shall reduce the amount of Base Rental Payments to be made to the Authority or the Trustee by the City pursuant to the Facility Lease, or extend the time for making such payments, or permit the creation of any lien prior to or on a parity with the lien created by the Facility Lease (except as expressly provided in the Facility Lease), in each case without the written consent of all of the Holders of the Bonds then Outstanding.

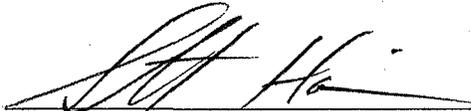
SECTION 11.17. Dispute Resolution. The Bonds are being purchased on the Closing Date by the Bank. As a material inducement for the Bank paying the purchase price of and accepting delivery of the Bonds on the Closing Date, the Authority and the Trustee hereby accept and agree to be bound by the following 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 8.01 respecting the right of the Bank, while the Holder 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 Authority, the Trustee and the Bank 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 to such binding arbitration. 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.

SECTION 11.18. Waiver of Immunity. To the fullest extent permitted by California law, the Authority expressly waives and agrees not to claim sovereign immunity in any suits or judicial proceedings in connection with the provision by the Bank of products or services to the Authority during the time that any of the Bonds remain outstanding.

IN WITNESS WHEREOF, the EL CERRITO PUBLIC FINANCING AUTHORITY has caused this Trust Agreement to be signed in its name by one of its duly authorized officers and UNION BANK, N.A., in token of its acceptance of the trusts created hereunder, has caused this Trust Agreement to be signed by one of the officers thereunder duly authorized, all as of the day and year first above written.

EL CERRITO PUBLIC FINANCING AUTHORITY

By: 
Executive Director

UNION BANK, N.A., as Trustee

By: 
Authorized Officer

EXHIBIT A

(FORM OF BOND)

**EL CERRITO PUBLIC FINANCING AUTHORITY
2012 LEASE REVENUE REFUNDING BONDS**

No. R-1

\$2,516,500

NEITHER THE FULL FAITH AND CREDIT OF THE AUTHORITY NOR THE CITY OF EL CERRITO IS PLEDGED FOR THE PAYMENT OF THE INTEREST ON OR PRINCIPAL OF THE BONDS AND NO TAX OR OTHER SOURCE OF FUNDS OTHER THAN THE REVENUES HEREINAFTER REFERRED TO IS PLEDGED TO PAY THE INTEREST ON OR PRINCIPAL OF THE BONDS. NEITHER THE PAYMENT OF THE PRINCIPAL OF NOR INTEREST ON THE BONDS CONSTITUTES A DEBT, LIABILITY OR OBLIGATION OF THE CITY OF EL CERRITO.

INTEREST RATE
_____ %

MATURITY DATE
September 1, 2020

DATED DATE
_____, 2012

REGISTERED OWNER: JPMORGAN CHASE BANK, NA

PRINCIPAL AMOUNT: Two Million Five Hundred Sixteen Thousand Five Hundred Dollars

THE EL CERRITO PUBLIC FINANCING AUTHORITY, a joint exercise of powers authority, duly organized and existing under and pursuant to the laws of the State of California (the "Authority"), for value received hereby, promises to pay (but only out of the Revenues hereinafter referred to) to the registered owner identified above or registered assigns, on the maturity date specified above (subject to any right of prior redemption hereinafter provided for) the principal sum specified above, together with interest on such principal sum from the interest payment date next preceding the date of registration of this Bond (unless this Bond is registered as of an interest payment date or during the period from the sixteenth day of the month preceding an interest payment date to such interest payment date, in which event it shall bear interest from such interest payment date, or unless this Bond is registered prior to February 15, 2013, in which event it shall bear interest from the original issue date specified above), until the principal hereof shall have been paid, such interest to be paid at the interest rate per annum specified above, payable on March 1, 2013 and semiannually thereafter on each March 1 and September 1. Interest due on or before the maturity or prior redemption of this Bond shall be payable only by check mailed by first-class mail on each Interest Payment Date to the registered owner hereof; provided that upon the written request of a Holder of \$1,000,000 or more in aggregate principal amount of Bonds received by Union Bank, N.A., as Trustee, prior to the applicable record date, interest shall be paid by wire transfer in immediately available funds. The principal hereof is payable in lawful money of the United States of America at the corporate trust office of the Trustee in San Francisco, California, or such other place as designated by the Trustee.

This Bond represents the entire issue of bonds of the Authority designated as its “ El Cerrito Public Financing Authority 2012 Lease Revenue Refunding Bonds” (the “**Bonds**”), in the aggregate principal amount of Two Million Five Hundred Sixteen Thousand Five Hundred Dollars (\$2,516,500), authorized pursuant to Marks-Roos Local Bond Pooling Act of 1985 (Sections 6584 and following, California Government Code; hereafter the “**Act**”), and issued pursuant to a Trust Agreement, dated as of September 1, 2012 (the “**Trust Agreement**”), between the Authority and the Trustee. Copies of the Trust Agreement are available at the corporate trust office of the Trustee in San Francisco, California.

The Authority has designated the Bonds as “qualified tax-exempt obligations” within the meaning of Section 265(b)(3)(B) of the Internal Revenue Code of 1986.

The Bonds are issued to provide funds for the refunding of the remaining outstanding 2002 Lease Revenue Bonds (Measure A Capital Improvement Project) issued by the Authority in 2002 to assist the City of El Cerrito (the “**City**”) in the financing of a swim center of the City. The Bonds are limited obligations of the Authority and are payable, as to interest thereon and principal thereof, solely from certain proceeds of the Bonds held in certain funds and accounts pursuant to the Trust Agreement and the revenues (the “**Revenues**”) derived from Base Rental Payments made by the City, and all interest or other investment income, pursuant to the Facility Lease, dated as of September 1, 2012 (the “**Facility Lease**”), by and between the Authority and the City, and the Authority is not obligated to pay interest or premium, if any, on and principal of Bonds except from the Revenues. Under the provisions of the Facility Lease, the City has pledged the proceeds of a voter-approved special tax levied annually on taxable property in the City known as the “**Measure A Special Tax**” (as said term is defined in the Facility Lease) as security for its obligation to make the Base Rental Payments and certain additional payments as prescribed by the Facility Lease, and the City has covenanted for the benefit of the Holders of the Bonds that, so long as any of the Bonds remain outstanding at the beginning of a Fiscal Year, it will levy and collect the Measure A Special Tax for that Fiscal Year in an aggregate amount which, when combined with the unencumbered balance on deposit in the City’s “**Measure A Special Tax Fund**” (as said term is defined in the Facility Lease), is at least equal to one hundred ten percent (110%) of the principal and interest coming due on the Bonds during such Fiscal Year.

All Bonds are equally and ratably secured in according to the terms and conditions of the Trust Agreement by a pledge, lien and charge on the Revenues, and the Revenues constitute a trust fund for the security and payment of the interest or premium, if any, on and principal of the Bonds as provided in the Trust Agreement. The full faith and credit of the Authority and the City of El Cerrito are not pledged to the payment of the interest or premium, if any, on or principal of the Bonds. No tax other than the Measure A Special Tax shall ever be levied or collected to pay the interest on or principal of the Bonds. The Bonds are not secured by a legal or equitable pledge of or charge or lien upon any property of the Authority or any of its income or receipts except the Revenues, and neither the payment of the interest on nor principal of the Bonds is a debt, liability or general obligation of the Authority. Additional bonds payable from the Revenues may be issued which will rank equally as to security with the Bonds, but only subject to the conditions and upon compliance with the procedures set forth in the Trust Agreement. Reference is hereby made to the Act and to the Trust Agreement and any and all amendments thereof and supplements thereto for a description of the terms on which the Bonds

are issued, the provisions with regard to the nature and extent of the Revenues, the rights of the registered owners of the Bonds, security for payment of the Bonds, remedies upon default and limitations thereon, and amendment of the Trust Agreement (with or without consent of the registered owners of the Bonds); and all the terms of the Trust Agreement are hereby incorporated herein and constitute a contract between the Authority and the registered owner of this Bond, to all the provisions of which the registered owner of this Bond, by acceptance hereof, agrees and consents.

The Bonds are subject to redemption by the Authority on the dates, at the prices, and pursuant to the terms and provisions set forth in the Trust Agreement.

Without limiting the generality of the foregoing reference to redemption pursuant to the terms and provisions set forth in the Trust Agreement, the Bonds are subject to mandatory partial redemption on September 1 of the years set forth in the following table, in the principal amount set forth at a redemption price equal to 100% of the principal amount thereof, without premium, together with accrued interest to the date of redemption:

<u>Redemption Date</u> (September 1)	<u>Amount</u> [To Come]
2013	
2014	
2015	
2016	
2017	
2018	
2019	
2020 (maturity)	

Notice to any Holder of the Bonds of the scheduled mandatory partial redemptions shall not be required, and interest shall cease to accrue from and after the September 1 redemption date on the principal amount of the Bonds payable by mandatory partial redemption on said September 1.

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

This Bond is transferable by the Holder hereof, in person or by his attorney duly authorized in writing, at the corporate trust office of the Trustee or such other place as designated by the Trustee, but only in the manner, subject to the requirements and limitations provided in the Trust Agreement; and upon payment of the charges provided in the Trust Agreement, surrender of this Bond together with a written instrument of transfer satisfactory to the Trustee duly executed by the registered owner or his duly authorized attorney, and submission of an executed Certificate of Bond Purchaser (as said term is defined in the Trust Agreement), executed by an authorized representative of the transferee, a new fully registered Bond or Bonds in the same aggregate principal amount in authorized denominations will be issued to the

transferee in exchange therefor. The Authority and the Trustee may deem and treat the registered owner hereof as the absolute owner hereof for the purpose of receiving payment of the interest hereon and principal hereof and for all other purposes, whether or not this Bond shall be overdue, and neither the Authority nor the Trustee shall be affected by any notice or knowledge to the contrary; and payment of the interest on and principal of this Bond shall be made only to such registered owner, which payments shall be valid and effectual to satisfy and discharge liability on this Bond to the extent of the sum or sums so paid.

The Trust Agreement and the rights and obligations of the Authority and of the owners of the Bonds and of the Trustee 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 Trust 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 Authority 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 Holder 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 Trustee, all as more fully set forth in the Trust Agreement.

This Bond shall not be entitled to any benefit, protection or security under the Trust Agreement or become valid or obligatory for any purpose until the certificate of authentication and registration hereon endorsed shall have been executed and dated by the Trustee.

It is hereby certified that all acts, conditions and things required by law 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 law and that the amount of this Bond, together with all other indebtedness of the Authority, does not exceed any limit prescribed by the Constitution or laws of the State of California and is not in excess of the amount of Bonds permitted to be issued under the Trust Agreement.

IN WITNESS WHEREOF, the El Cerrito Public Financing Authority has caused this Bond to be executed in its name and on its behalf by the manual signature of the Chairman of the Authority and countersigned by the manual signature of the Secretary of said Authority, and has caused this Bond to be dated as of the Dated Date specified above.

EL CERRITO PUBLIC FINANCING AUTHORITY

[SEAL]

By: _____
Chair

Attest:

By: _____
Secretary

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This is one of the Bonds described in the within-mentioned Trust Agreement which has been authenticated on _____, 2012.

_____, as Trustee

By: _____

ASSIGNMENT

For value received the undersigned hereby sells, assigns and transfers unto (Taxpayer Identification Number: _____) the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____ attorney to transfer the within bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

Note: The signature to this Assignment must correspond with the name as written on the face of the Bond in every particular, without alteration or enlargement or any change whatever.

Signature Guaranteed: _____

Notice: Signature must be guaranteed by a eligible guarantor institution.

EXHIBIT B

(DEBT SERVICE SCHEDULE FOR BONDS)

<u>Payment</u> <u>Date</u>	<u>Principal</u>	<u>As Interest</u>	<u>Debt Service</u> <u>Payable</u>
3/1/2013		\$21,236.46	\$21,236.46
9/1/2013	\$312,800	24,661.70	337,461.70
3/1/2014		21,596.26	21,596.26
9/1/2014	323,300	21,596.26	344,896.26
3/1/2015		18,427.92	18,427.92
9/1/2015	328,200	18,427.92	346,627.92
3/1/2016		15,211.56	15,211.56
9/1/2016	332,300	15,211.56	347,511.56
3/1/2017		11,955.02	11,955.02
9/1/2017	340,800	11,955.02	352,755.02
3/1/2018		8,615.18	8,615.18
9/1/2018	343,500	8,615.18	352,115.18
3/1/2019		5,248.88	5,248.88
9/1/2019	350,400	5,248.88	355,648.88
3/1/2020		1,814.96	1,814.96
9/1/2020	185,200	1,814.96	187,014.96

EXHIBIT C

(FORM OF CERTIFICATE OF BOND PURCHASER)

El Cerrito Public Financing Authority
2012 Lease 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 \$2,516,500 aggregate principal amount of El Cerrito Public Financing Authority 2012 Lease 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 Authority 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 Authority 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 Authority 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 at 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: _____, 2012

JPMORGAN CHASE BANK N.A.

By: _____

Authorized Representative