
FISCAL AGENT AGREEMENT

by and between

CITY OF OXNARD

and

WELLS FARGO BANK, NATIONAL ASSOCIATION

as Fiscal Agent

Dated as of August 1, 2012

Relating to:

[\$[PRINCIPAL AMOUNT]

CITY OF OXNARD

ASSESSMENT DISTRICT NO. 2001-1

(RICE AVENUE/HIGHWAY 101 INTERCHANGE)

LIMITED OBLIGATION IMPROVEMENT REFUNDING BONDS

SERIES 2012

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I. STATUTORY AUTHORITY AND DEFINITIONS.....	5
Section 1.01 Authority for this Fiscal Agent Agreement	5
Section 1.02 Fiscal Agent Agreement for Benefit of Bond Owners	5
Section 1.03 Definitions.....	5
ARTICLE II. THE BONDS.....	11
Section 2.01 Bonds Issued	11
Section 2.02 Terms of Bonds	11
Section 2.03 Redemption.....	12
Section 2.04 Form of Bonds	15
Section 2.05 Execution of Bonds	15
Section 2.06 Transfer of Bonds	15
Section 2.07 Exchange of Bonds.....	15
Section 2.08 Bond Register	15
Section 2.09 Temporary Bonds	16
Section 2.10 Bonds Mutilated, Lost, Destroyed, or Stolen.....	16
ARTICLE III. ISSUANCE OF BONDS	17
Section 3.01 Issuance and Delivery of Bonds	17
Section 3.02 Validity of Bonds.....	17
Section 3.03 Pledge of Reassessments and Funds.....	17
Section 3.04 Limited Obligation.....	17
Section 3.05 No Acceleration	17
Section 3.06 Refunding of Bonds.....	17
Section 3.07 No Additional Bonds.....	18
ARTICLE IV. FUNDS AND ACCOUNTS	18
Section 4.01 Deposits	18
Section 4.02 [Reserved]	18
Section 4.03 Redemption Fund.....	18
Section 4.04 Rebate Fund	19
ARTICLE V. COVENANTS.....	19
Section 5.01 Collection of Reassessments	19
Section 5.02 Foreclosure	20
Section 5.03 Punctual Payment	21
Section 5.04 Extension of Time for Payment	21
Section 5.05 Against Encumbrance	21
Section 5.06 Books and Accounts.....	21
Section 5.07 Protection of Security and Rights of Owners.....	21
Section 5.08 Compliance with Law; Completion of Project.....	21
Section 5.09 Further Assurances.....	21
Section 5.10 Private Activity Bond Limitation	22
Section 5.11 Federal Guarantee Prohibition.....	22
Section 5.12 Rebate Requirement	22

Section 5.13	No Arbitrage.....	22
Section 5.14	Yield of the Bonds	22
Section 5.15	Maintenance of Tax-Exemption	22
ARTICLE VI. INVESTMENTS; LIABILITY.....		22
Section 6.01	Deposit and Investment of Moneys in Funds	22
Section 6.02	Acquisition, Disposition, and Valuation of Investments	23
Section 6.03	Liability of City	24
Section 6.04	Employment of Agents by City.....	25
ARTICLE VII. THE FISCAL AGENT		25
Section 7.01	Appointment of Fiscal Agent	25
Section 7.02	Liability of Fiscal Agent	26
Section 7.03	Information; Books and Accounts.....	27
Section 7.04	Notice to Fiscal Agent	27
Section 7.05	Compensation; Indemnification	28
Section 7.06	Interaction with the City	28
ARTICLE VIII. MODIFICATION OR AMENDMENT OF THIS FISCAL AGENT AGREEMENT.....		28
Section 8.01	Amendments Permitted.....	28
Section 8.02	Owners' Meetings	29
Section 8.03	Procedure for Amendment with Written Consent of Owners.....	29
Section 8.04	Disqualified Bonds	30
Section 8.05	Effect of Supplemental Fiscal Agent Agreement	30
Section 8.06	Endorsement or Replacement of Bonds Issued After Amendment 30	
Section 8.07	Amendatory Endorsement of Bonds	31
Section 8.08	Opinion of Bond Counsel	31
ARTICLE IX. MISCELLANEOUS		31
Section 9.01	Benefits Limited	31
Section 9.02	Successor is Deemed Included in All Reference to Predecessor	31
Section 9.03	Discharge of Fiscal Agent Agreement.....	31
Section 9.04	Execution of Documents and Proof of Ownership by Owners	32
Section 9.05	Waiver of Personal Liability	32
Section 9.06	Notices to and Demand on City, Fiscal Agent, and Trustee	32
Section 9.07	Partial Invalidity	33
Section 9.08	Unclaimed Moneys.....	33
Section 9.09	Applicable Law.....	33
Section 9.10	Conflict with Refunding Act	33
Section 9.11	Conclusive Evidence of Regularity.....	34
Section 9.12	Payment on Business Day.....	34
Section 9.13	Counterparts	34
EXHIBIT A	FORM OF BOND.....	A-1
EXHIBIT B	PERMITTED INVESTMENTS	B-1

FISCAL AGENT AGREEMENT

THIS FISCAL AGENT AGREEMENT (this “Fiscal Agent Agreement”) is made and entered into as of August 1, 2012, by and between the CITY OF OXNARD, duly organized and existing under the laws of the State of California (the “City”), and WELLS FARGO BANK, NATIONAL ASSOCIATION, duly organized and existing under the laws of the United States with a corporate trust office located in Los Angeles, California, as fiscal agent (the “Fiscal Agent”).

WITNESSETH:

WHEREAS, the City Council (the “City Council”) of the City of Oxnard (the “City”) has heretofore taken proceedings under the Municipal Improvement Act of 1913, Division 12 of the California Streets and Highways Code (the “Act”), has confirmed assessments upon the taxable real property within Assessment District No. 2001-1 (Rice Avenue/Highway 101 Interchange) (the “Assessment District”) described in its resolution of intention adopted by the City Council on January 8, 2002, and has issued its City of Oxnard, Assessment District No. 2001-1 (Rice Avenue/Highway 101 Interchange), Limited Obligation Improvement Bonds, Series 2002, in the original aggregate principal amount of \$15,125,000 (the “Prior Bonds”), secured by such assessments, pursuant to the Improvement Bond Act of 1915, Division 10 of the California Streets and Highways Code (the “Bond Law”), for the purpose of providing funds for the acquisition and construction of improvements benefiting the Assessment District; and

WHEREAS, under the Refunding Act of 1984 for 1915 Improvement Act Bonds (Division 11.5 of the California Streets and Highways Code) (the “Refunding Act”), the City took steps to reassess the property in the Assessment District and issue refunding bonds secured by such reassessments, the proceeds of which were used to refund the Prior Bonds; and

WHEREAS, pursuant to the Refunding Act, on July 17, 2012, the City Council adopted its Resolution No. _____ (the “Resolution of Issuance”), which resolution, among other matters, authorized the issuance of improvement bonds of the City designated “City of Oxnard Assessment District No. 2001-1 (Rice Avenue/Highway 101 Interchange) Limited Obligation Improvement Refunding Bonds, Series 2012” in the aggregate principal amount of not to exceed \$[PRINCIPAL AMOUNT] (the “Bonds”), upon the security of the remaining, unpaid reassessments levied in proceedings under the Refunding Act and the Resolution of Intention and provided that such issuance would be in accordance with this Fiscal Agent Agreement, and authorized the execution hereof; and

WHEREAS, it is in the public interest and for the benefit of the City and the owners of the Bonds that the City enter into this Fiscal Agent Agreement to provide for the issuance of the Bonds, the disbursement of proceeds of the Bonds, the disposition of the reassessments securing the Bonds and the administration and payment of the Bonds; and

WHEREAS, all things necessary to cause the Bonds, when authenticated by the Fiscal Agent and issued as provided in the Refunding Act, the Resolution of Issuance, and this Fiscal Agent Agreement, to be legal, valid, and binding and limited obligations in accordance with their terms, and all things necessary to cause the creation, authorization, execution, and delivery of

this Fiscal Agent Agreement and the creation, authorization, execution, and issuance of the Bonds, subject to the terms hereof, have in all respects been duly authorized.

NOW, THEREFORE, in consideration of the covenants and provisions herein set forth and for other valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties hereto do hereby agree as follows:

ARTICLE I.

STATUTORY AUTHORITY AND DEFINITIONS

Section 1.01 Authority for this Fiscal Agent Agreement. This Fiscal Agent Agreement is entered into pursuant to the provisions of the Refunding Act and the Resolution of Issuance.

Section 1.02 Fiscal Agent Agreement for Benefit of Bond Owners. The provisions, covenants, and agreements herein set forth to be performed by or on behalf of the City shall be for the equal benefit, protection, and security of the registered owners of the Bonds. All of the Bonds, without regard to the time or times of their issuance or maturity, shall be of equal rank without preference, priority, or distinction of any of the Bonds over any other thereof, except as expressly provided in or permitted by this Fiscal Agent Agreement. The Fiscal Agent may become the owner or pledgee of any of the Bonds in its own, or any other, capacity, with the same rights it would have if it were not Fiscal Agent.

Section 1.03 Definitions. Unless the context otherwise requires, the terms defined in this Section 1.03 shall, for all purposes of this Fiscal Agent Agreement, of any Supplemental Fiscal Agent Agreement (as herein defined), and of any certificate, opinion, or other document herein mentioned, have the meanings herein specified. All references herein to Articles, Sections, and other subdivisions are to the corresponding Articles, Sections, or subdivisions of this Fiscal Agent Agreement, and the words “herein,” “hereof,” “hereunder,” and other words of similar import refer to this Fiscal Agent Agreement as a whole and not to any particular Article, Section, or subdivision hereof.

“Act” means the Municipal Improvement Act of 1913, as amended, being Division 12 of the California Streets and Highways Code.

“Assessment District” means the area within the City designated “City of Oxnard Assessment District No. 2001-1 (Rice Avenue/Highway 101 Interchange),” formed by the City under the Act, the boundaries of which are as shown in a map thereof on file with the City Clerk.

“Auditor” means the auditor/controller or tax collector of the County, or such other official of the County who is responsible for preparing real property tax bills.

“Authorized Officer” means the City Manager, Chief Financial Officer, City Treasurer, City Attorney, Mayor, or any other officer or employee of the City authorized by the City Council or by an Authorized Officer to undertake the action referenced in this Fiscal Agent Agreement as required to be undertaken by an Authorized Officer.

“Bond” or “Bonds” means the bonds designated “City of Oxnard Assessment District No. 2001-1 (Rice Avenue/Highway 101 Interchange) Limited Obligation Improvement Refunding Bonds, Series 2012,” at any time Outstanding under this Fiscal Agent Agreement or any Supplemental Fiscal Agent Agreement.

“Bond Counsel” means any attorney or firm of attorneys acceptable to the City and nationally recognized for expertise in rendering opinions as to the legality and tax-exempt status of securities issued by public entities.

“Bond Date” means the dated date of the Bonds, which is the Closing Date.

“Bond Insurer” means any company insuring the bonds of the City of Oxnard Financing Authority, the proceeds of which bonds will be used to purchase the Bonds.

“Bond Law” means the Improvement Bond Act of 1915, as amended, being Division 10 of the California Streets and Highways Code.

“Bond Register” means the books maintained by the Fiscal Agent pursuant to Section 2.08 hereof for the registration and transfer of ownership of the Bonds.

“Bond Year” means the twelve-month period beginning on September 3 in each year and ending on September 2 in the following year except that (i) the first Bond Year shall begin on the Closing Date and end on the next September 2, and (ii) the last Bond Year may end on a prior redemption date.

“Business Day” means a day that is not a Saturday, Sunday, or legal holiday on which banking institutions in the State of California, or in any state in which the Principal Office of the Fiscal Agent is located, are closed, or a day on which the New York Stock Exchange is authorized or obligated by law or executive order to be closed.

“Chief Financial Officer” means the Chief Financial Officer of the City, or any designee thereof.

“City” means the City of Oxnard, California, and any successor thereto.

“City Attorney” means the City Attorney of the City or other designated counsel to the City, other than the Bond Counsel, with respect to the Assessment District.

“City Clerk” means the City Clerk of the City or designee of the City Clerk.

“City Council” means the City Council of the City.

“City Manager” means the City Manager of the City or designee of the City Manager.

“City Treasurer” means the City Treasurer of the City or designee of the City Treasurer.

“Closing Date” means the date upon which there is a physical delivery of the Bonds in exchange for the amount representing the purchase price of the Bonds by the Original Purchaser.

“County” means the County of Ventura, California.

“Debt Service” means, for each Bond Year, the sum of (i) the interest due on the Outstanding Bonds in such Bond Year, assuming that the Outstanding Bonds are retired as scheduled, and (ii) the principal amount of the Outstanding Bonds due in such Bond Year.

“Depository” or “Securities Depositories” means The Depository Trust Company, 55 Water Street, 22nd Floor, New York, New York 10041-0099, Attn. Call Notification Department, Facsimile transmission: (212) 855-7232, or, in accordance with the then current guidelines of the Securities and Exchange Commission, such other depositories, or no such depositories, as the City may indicate in a certificate of the City to the Fiscal Agent.

“Escrow Agreement” means the Escrow Agreement, dated as of August 1, 2012, by and between the City and the Escrow Holder relating to the Prior Bonds, as may be amended or supplemented.

“Escrow Fund” means the fund by that name established in the Escrow Agreement.

“Escrow Holder” means Wells Fargo Bank, National Association, acting in its capacity as such under the Escrow Agreement, and any successor thereto.

“Fair Market Value” means the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm’s length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of Section 1273 of the Tax Code) and, otherwise, the term “Fair Market Value” means the acquisition price in a bona fide arm’s length transaction (as referenced above) if (i) the investment is a certificate of deposit that is acquired in accordance with applicable regulations under the Tax Code, (ii) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract, or other investment agreement) that is acquired in accordance with applicable regulations under the Tax Code, (iii) the investment is a United States Treasury Security-State and Local Government Series that is acquired in accordance with applicable regulations of the United States Bureau of Public Debt, or (iv) any commingled investment fund in which the City and related parties do not own more than a ten percent (10%) beneficial interest therein if the return paid by the fund is without regard to the source of the investment.

“Federal Securities” means any of the following which are non-callable and which at the time of investment are legal investments under the laws of the State of California for the moneys proposed to be invested therein:

(a) direct general obligations of (including obligations issued or held in book-entry form on the books of the Department of the Treasury of the United States of America), or obligations the payment of principal of and interest on which are directly or indirectly unconditionally guaranteed by, the United States of America; and

(b) direct obligations of any department, agency or instrumentality of the United States of America the timely payment of principal of and interest on which are fully guaranteed by the United States of America.

“Fiscal Agent” means Wells Fargo Bank, National Association, the Fiscal Agent appointed by the City and acting as the authentication agent, registrar, transfer agent, and paying agent for the Bonds and as an independent fiscal agent with the duties and powers herein provided, its successors and assigns, and any other corporation or association which may at any time be substituted in its place, as provided in Section 7.01 hereof.

“Fiscal Agent Agreement” means this Fiscal Agent Agreement, dated as of August 1, 2012, by and between the City and the Fiscal Agent, as amended or supplemented pursuant to the terms hereof

“Fiscal Year” means the twelve-month period extending from July 1 in a calendar year to June 30 of the succeeding year, both dates inclusive.

“Information Services” means Financial Information, Inc.’s “Financial Daily Called Bond Service,” 30 Montgomery Street, 10th Floor, Jersey City, New Jersey 07302, Attention: Editor; Kenny Information Services’ “Called Bond Service,” 55 Broad Street, 28th Floor, New York, New York 10004; Moody’s Investors Service “Municipal and Government,” 77 Center Drive, Suite 150, Charlotte, North Carolina 28217, Attention: Called Bonds Department; and Standard & Poor’s “Called Bond Record,” 25 Broadway, 3rd Floor, New York, New York 10004; or, in accordance with then current guidelines of the Securities and Exchange Commission, such other addressees providing information with respect to called bonds as the City may designate in writing to the Fiscal Agent.

“Interest Payment Dates” means March 2 and September 2 of each year, commencing March 2, 2013.

“Maximum Annual Debt Service” means the largest Debt Service for any Bond Year after the calculation is made through the final maturity date of any Outstanding Bonds.

“Moody’s” means Moody’s Investors Service, Inc., and its successors and assigns.

“Officer’s Certificate” means a written certificate or requisition of the City signed by an Authorized Officer of the City.

“Original Engineer’s Report” means the engineer’s report confirmed in connection with the formation of the Assessment District.

“Original Purchaser” means the City of Oxnard Financing Authority.

“Outstanding” when used as of any particular time with reference to Bonds, means, subject to the provisions of Section 8.04 hereof, all Bonds except:

(i) Bonds theretofore canceled by the Fiscal Agent or surrendered to the Fiscal Agent for cancellation;

(ii) Bonds paid or deemed to have been paid within the meaning of Section 9.03 hereof; or

(iii) Bonds in lieu of or in substitution for which other Bonds shall have been authorized, executed, issued, and delivered by the City pursuant to this Fiscal Agent Agreement or any Supplemental Fiscal Agent Agreement.

“Owner” or “Bond Owner” means the registered owner of any Outstanding Bond as shown on the Bond Register of the Fiscal Agent under Section 2.08 hereof

“Permitted Investments” means, subject to Section 6.01 hereof, any of the investments listed in Exhibit B attached hereto and incorporated herein by this reference, provided at the time of investment the investment is a legal investment under the laws of the State of California for the moneys proposed to be invested therein.

“Prepayment Account” means the account within the Redemption Fund and designated “City of Oxnard Assessment District No. 2001-1 (Rice Avenue/Highway 101 Interchange) Limited Obligation Improvement Refunding Bonds, Series 2012, Prepayment Account,” established and administered under Section 4.03 hereof.

“Principal Office” means the corporate trust office of the Fiscal Agent in Los Angeles, California, located at such address as shall be specified in a written notice by the Fiscal Agent to the City under Section 9.06 hereof.

“Prior Bonds” means the City of Oxnard Assessment District No. 2001-1 (Rice Avenue/Highway 101 Interchange) Limited Obligation Improvement Bonds, Series 2002, issued on August 27, 2002, in \$15,125,000 original aggregate principal amount. As of the Closing Date, \$12,845,000 in principal amount of the Prior Bonds are outstanding.

“Prior Bonds Improvement Fund” means the fund designated “City of Oxnard, Assessment District No. 2001-1 (Rice Avenue/Highway 101 Interchange), Limited Obligation Improvement Bonds, Series 2002, Improvement Fund,” established and administered under the Prior Fiscal Agent Agreement.

“Prior Bonds Rebate Fund” means the fund designated “City of Oxnard, Assessment District No. 2001-1 (Rice Avenue/Highway 101 Interchange), Limited Obligation Improvement Bonds, Series 2002, Rebate Fund,” established and administered under the Prior Fiscal Agent Agreement.

“Prior Bonds Redemption Fund” means the fund designated “City of Oxnard, Assessment District No. 2001-1 (Rice Avenue/Highway 101 Interchange), Limited Obligation Improvement Bonds, Series 2002, Redemption Fund,” established and administered under the Prior Fiscal Agent Agreement.

“Prior Bonds Reserve Fund” means the fund designated “City of Oxnard, Assessment District No. 2001-1 (Rice Avenue/Highway 101 Interchange), Limited Obligation Improvement Bonds, Series 2002, Reserve Fund,” established and administered under the Prior Fiscal Agent Agreement.

“Prior Fiscal Agent Agreement” means the Fiscal Agent Agreement dated as of August 1, 2002, by and between the City and the Fiscal Agent, relating to the Prior Bonds.

“Project” means the acquisitions and improvements described in the Original Engineer’s Report, as amended by resolution of the City Council.

“Reassessments” means the unpaid reassessments levied within the Assessment District by the City Council under the proceedings taken pursuant to the Refunding Act and the Resolution of Intention for the purpose of paying Debt Service on the Bonds.

“Rebate Fund” means the fund designated “City of Oxnard Assessment District No. 2001-1 (Rice Avenue/Highway 101 Interchange) Limited Obligation Improvement Refunding Bonds, Series 2012, Rebate Fund,” established and administered under Section 4.04 hereof.

“Record Date” means the fifteenth day of the calendar month immediately preceding the applicable Interest Payment Date.

“Redemption Fund” means the fund designated “City of Oxnard Assessment District No. 2001-1 (Rice Avenue/Highway 101 Interchange) Limited Obligation Improvement Refunding Bonds, Series 2012, Redemption Fund,” established and administered under Section 4.03 hereof.

“Refunding Act” means the Refunding Act of 1984 for 1915 Improvement Act Bonds (Division 11.5 of the California Streets and Highways Code).

“Resolution of Intention” means Resolution No. _____ adopted by the City Council on July 17, 2012.

“Resolution of Issuance” means Resolution No. _____ adopted by the City Council on July 17, 2012.

“S&P” means Standard & Poor’s Credit Markets Services, a division of The McGraw-Hill Companies, Inc., and its successors and assigns.

“Supplemental Fiscal Agent Agreement” means an agreement the execution of which is authorized by a resolution which has been duly adopted by the City Council under the Bond Law or the Refunding Act and which agreement is amendatory of or supplemental to this Fiscal Agent Agreement, but only if and to the extent that such agreement is specifically authorized hereunder.

“Tax Code” means the Internal Revenue Tax Code of 1986 as in effect on the date of issuance of the Bonds or (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the date of issuance of the Bonds, together with applicable temporary and final regulations promulgated, and applicable official public guidance published, under the Tax Code.

(E) **Interest.** The Bonds shall bear interest at the rates set forth above payable on the Interest Payment Dates in each year. Interest shall be calculated on the basis of a 360-day year composed of twelve 30-day months. Each Bond shall bear interest from the Interest Payment Date next preceding the date of authentication thereof unless (i) it is authenticated and registered as of an Interest Payment Date, in which event it shall bear interest from such Interest Payment Date, or (ii) it is authenticated prior to the first Interest Payment Date, in which event it shall bear interest from the Bond Date.

(F) **Method of Payment.** Interest on the Bonds (including the final interest payment upon maturity or earlier redemption) is payable by check of the Fiscal Agent mailed by first class mail to the registered Owner thereof at such registered Owner's address as it appears on the Bond Register maintained by the Fiscal Agent at the close of business on the Record Date preceding the Interest Payment Date (or by wire transfer to an account at a financial institution in the United States made on such Interest Payment Date so long as the Owner is the Original Purchaser or upon the written instructions of any Owner of \$1,000,000 or more in aggregate principal amount of the Bonds delivered to the Fiscal Agent prior to the applicable Record Date). The principal of the Bonds and any premium on the Bonds are payable in lawful money of the United States of America upon surrender of the Bonds at the Principal Office of the Fiscal Agent. All Bonds paid by the Fiscal Agent under this Section shall be canceled by the Fiscal Agent. The Fiscal Agent shall destroy the canceled Bonds and, upon request of the City, issue a certificate of destruction of such Bonds to the City.

Section 2.03 Redemption.

(A) **General.**

(i) Optional Redemption. [**CONFIRM:**] The Bonds or any portion of the principal thereof, in the principal amount of \$5,000 or any integral multiple thereof, maturing on or after September 2, 20__, may be redeemed, at the option of the City from any source of funds (excluding amounts transferred from the Prepayment Account constituting prepayments of Reassessments pursuant to Section 8767 of the Bond Law) on any Interest Payment Date on or after September 2, 20__, subject to the restrictions upon refunding of bonds hereinafter specified, by giving notice as provided in Subsection (C) of this Section 2.03 and by paying the redemption price set forth below (expressed as a percentage of the principal amount of the Bonds to be redeemed), plus accrued interest to the date of redemption, unless sooner surrendered, in which event said interest will be paid to the date of payment, all in the manner provided in the Refunding Act and the Bond Law:

<u>Redemption Dates</u>	<u>Redemption Price</u>
March 2, 20__, and September 2, 20__	_____ %
March 2, 20__, and September 2, 20__	_____ %
March 2, 20__, and thereafter	_____ %

(ii) Extraordinary Redemption. [**CONFIRM:**] Each Outstanding Bond or any portion of the principal thereof, in the principal amount of \$5,000 or any integral multiple

thereof, may be redeemed and paid in advance of maturity from amounts transferred from the Prepayment Account constituting prepayments of Reassessments pursuant to Section 8767 of the Bond Law, on any Interest Payment Date in any year, by giving notice as provided in Subsection (C) of this Section 2.03 and by paying the redemption price set forth below (expressed as a percentage of the principal amount of the Bonds to be redeemed), plus accrued interest to the date of redemption, unless sooner surrendered, in which event said interest will be paid to the date of payment, all in the manner provided in the Refunding Act and the Bond Law:

<u>Redemption Dates</u>	<u>Redemption Price</u>
March 2, 2013, through September 2, 20[17]	103%
March 2, 20__, and September 2, 20__	____%
March 2, 20__, and September 2, 20__	____%
March 2, 20__, and September 2, 20__	____%
March 2, 20__, and thereafter	____%

(iii) Mandatory Sinking Fund Redemption. The Bonds maturing on September 2, 20__, are subject to mandatory redemption in part on September 2 in the following years in the following amounts at a redemption price equal to the principal amount thereof together with accrued interest to the date fixed for redemption, without premium:

<u>Mandatory Redemption Date (September 2)</u>	<u>Principal Amount</u>
20__	\$____,000
20__	____,000
20__	____,000
20__	____,000
20__ (maturity)	____,000

In the event of any optional or extraordinary redemption of Bonds maturing on September 2, 20__, pursuant to subsection (A)(i) or (A)(ii) above, the schedule of mandatory sinking fund installments in subsection (A)(iii) shall be reduced in equal percentages, as nearly as practicable, provided that the reductions shall be made in multiples of \$5,000. The City shall provide the Fiscal Agent with the amended sinking fund payments schedule calculated as set forth above in an Officer's Certificate.

(B) Notice to Fiscal Agent. The Chief Financial Officer shall notify the Fiscal Agent of Bonds to be called for redemption upon prepayment of Reassessments in amounts sufficient therefor, or whenever sufficient surplus funds are available therefor in the Redemption Fund. The Fiscal Agent shall select Bonds for retirement in such a way that the ratio of Outstanding Bonds to issued Bonds shall be approximately the same in each annual series or maturity insofar as possible. Within each annual series or maturity, the Fiscal Agent shall select Bonds for retirement by lot. The provisions of Part 11.1 of the Bond Law are applicable to the advance payment of Reassessments and to the calling of the Bonds. The Chief Financial Officer shall advise the Fiscal Agent of such provisions to the extent not specified herein. The Chief Financial Officer shall give the Fiscal Agent written notice of the aggregate amount of Bonds

and maturities to be redeemed pursuant to Subsection (A) not less than 45 days prior to the applicable redemption date.

(C) Redemption Procedure by Fiscal Agent. The Fiscal Agent shall cause at least thirty (30) days written notice of any redemption to be given by registered or certified mail or by personal service, to the respective Owners of any Bonds designated for redemption, at their addresses appearing on the Bond Register in the Principal Office of the Fiscal Agent. If the Owner is other than the Original Purchaser, the Fiscal Agent shall also cause notice of redemption to be mailed to the Securities Depositories and to one or more of the Information Services at least one day earlier than the giving of notice to the Owners as aforesaid; provided, however, such mailing to the Securities Depositories and Information Services shall not be a condition precedent to such redemption and failure to so mail or of any person or entity to receive any such notice, or any defect in any notice of redemption, shall not affect the validity of the proceeding for the redemption of such Bonds. The following shall apply:

(i) Designation. Such notice shall state the redemption date and the redemption price and, if less than all of the then Outstanding Bonds are to be called for redemption, shall designate the Bond numbers of the Bonds to be redeemed by giving the individual Bond number of each Bond to be redeemed or shall state that all Bonds between two stated Bond numbers, both inclusive, are to be redeemed or that all of the Bonds of one or more maturities have been called for redemption, shall state as to any Bond called in part the principal amount thereof to be redeemed, and shall require that such Bonds be then surrendered at the Principal Office of the Fiscal Agent for redemption at said redemption price, and shall state that further interest on such Bonds, or the portion thereof to be redeemed, will not accrue from and after the redemption date.

(ii) Payment. Upon the payment of the redemption price of Bonds being redeemed, each check or other transfer of funds issued for such purpose shall, to the extent practicable, identify, by issue and maturity, the Bonds being redeemed with the proceeds of such check or other transfer.

(iii) New Bonds. Upon surrender of Bonds redeemed in part only, the City shall execute and the Fiscal Agent shall authenticate and deliver to the registered Owner, at the expense of the City, a new Bond or Bonds, of the same series and maturity, of authorized denominations in aggregate principal amount equal to the unredeemed portion of the Bond or Bonds.

(D) Effect of Redemption. From and after the date fixed for redemption, if funds available for the payment of the principal of, and interest and any premium on, the Bonds so called for redemption shall have been deposited in the Redemption Fund or Prepayment Account on the date fixed for redemption, such Bonds so called shall become due and payable and shall cease to be entitled to any benefit under this Fiscal Agent Agreement other than the right to receive payment of the redemption price, and no interest shall accrue thereon on or after the redemption date specified in such notice.

All Bonds redeemed by the Fiscal Agent pursuant to this Section 2.03 shall be canceled by the Fiscal Agent. The Fiscal Agent shall destroy the canceled Bonds and, upon request of the City, issue a certificate of destruction of such Bonds to the City.

Section 2.04 Form of Bonds. The Bonds, and the form of Fiscal Agent's certificate of authentication and the form of assignment to appear thereon, shall be substantially in the forms, respectively, set forth in Exhibit A attached hereto and by this reference incorporated herein, with necessary or appropriate variations, omissions, and insertions, as permitted or required by this Fiscal Agent Agreement, the Resolution of Issuance, the Refunding Act, and the Bond Law.

Section 2.05 Execution of Bonds. The Bonds shall be executed on behalf of the City by the facsimile signatures of its Treasurer and its City Clerk who are in office on the Closing Date. If any officer whose signature appears on any Bond ceases to be such officer before delivery of the Bonds to the Owner, such signature shall nevertheless be as effective as if the officer had remained in office until the delivery of the Bonds to the Owner. Any Bond may be signed and attested on behalf of the City by such persons who, as of the actual date of the execution of such Bond shall be the proper officers of the City although at the nominal date of such Bond any such person shall not have been such officer of the City. Only such Bonds as shall bear thereon a certificate of authentication in substantially the form set forth in Exhibit A attached hereto, manually executed and dated by the Fiscal Agent, shall be valid or obligatory for any purpose or entitled to the benefits of this Fiscal Agent Agreement, and such certificate of authentication of the Fiscal Agent shall be conclusive evidence that the Bonds registered hereunder have been duly authenticated, registered, and delivered hereunder and are entitled to the benefits of this Fiscal Agent Agreement.

Section 2.06 Transfer of Bonds. Any Bond may, in accordance with its terms, be transferred, upon the Bond Register under Section 2.08 hereof by the person in whose name it is registered, in person or by such person's duly authorized attorney, upon surrender of such Bond for cancellation, accompanied by delivery of a duly written instrument of transfer in a form acceptable to the Fiscal Agent. The cost for any services rendered or any expenses incurred by the Fiscal Agent in connection with any such transfer shall be paid by the City. The Fiscal Agent shall collect from the Owner requesting such transfer any tax or other governmental charge required to be paid with respect to such transfer. Whenever any Bond or Bonds shall be surrendered for transfer, the City shall execute and the Fiscal Agent shall authenticate and deliver a new Bond or Bonds, for like aggregate principal amount(s), maturity(ies), and interest rate(s) in the denominations herein authorized. Neither the City nor the Fiscal Agent shall be required to make such transfer of Bonds on or after a Record Date and before the next ensuing Interest Payment Date.

Section 2.07 Exchange of Bonds. Bonds may be exchanged at the Principal Office of the Fiscal Agent for a like aggregate principal amount of Bonds of authorized denominations and of the same maturity. The cost for any services rendered or any expenses incurred by the Fiscal Agent in connection with any such exchange shall be paid by the City. The Fiscal Agent shall collect from the Owner requesting such exchange any tax or other governmental charge required to be paid with respect to such exchange. Neither the City nor the Fiscal Agent shall be required to make such exchange of Bonds after a Record Date and before the next ensuing Interest Payment Date.

Section 2.08 Bond Register. The Fiscal Agent will keep, or cause to be kept, at its Principal Office the Bond Register for the registration and transfer of the Bonds which Bond Register shall show the series number, date, maturity amount, rate of interest, and last registered

Owner of each Bond and shall at all times be open to inspection by the City during regular business hours on any Business Day, upon reasonable notice; and, upon presentation for such purpose, the Fiscal Agent shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on said books, the ownership of the Bonds as hereinbefore provided.

Section 2.09 Temporary Bonds. The Bonds 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 authorized denominations as may be determined by the City, and may contain such reference to any of the provisions of this Fiscal Agent Agreement as may be appropriate. Every temporary Bond shall be executed by the City and authenticated by the Fiscal Agent upon the same conditions and in substantially the same manner as the definitive Bonds. If the City issues temporary Bonds it will execute and furnish definitive Bonds without delay and thereupon the temporary Bonds shall be surrendered, for cancellation, in exchange for the definitive Bonds at the Principal Office of the Fiscal Agent or at such other location as the Fiscal Agent shall designate, and the Fiscal Agent shall authenticate and 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 Fiscal Agent Agreement as definitive Bonds authenticated and delivered hereunder.

Section 2.10 Bonds Mutilated, Lost, Destroyed, or Stolen. If any Bond shall become mutilated, the City, at the expense of the Owner of said Bond, shall execute, and the Fiscal Agent shall authenticate and deliver, a new Bond of like tenor and principal amount in exchange and substitution for the Bond so mutilated, but only upon surrender to the Fiscal Agent of the Bond so mutilated. Every mutilated Bond so surrendered to the Fiscal Agent shall be canceled by it and destroyed by the Fiscal Agent who shall, upon request of the City, deliver a certificate of destruction thereof to the City. If any Bond shall be lost, destroyed, or stolen, evidence of such loss, destruction, or theft may be submitted to the Fiscal Agent and, if such evidence be satisfactory to the Fiscal Agent and indemnity satisfactory to the Fiscal Agent and the City shall be given, the City, at the expense of the Owner, shall execute, and the Fiscal Agent shall authenticate and deliver, a new Bond of like tenor and principal amount in lieu of and in substitution for the Bond so lost, destroyed, or stolen. The City may require payment of a sum not exceeding the actual cost of preparing each new Bond delivered under this Section 2.10 and of the expenses which may be incurred by the City and the Fiscal Agent for the preparation, execution, authentication, and delivery. Any Bond delivered under the provisions of this Section in lieu of any Bond alleged to be lost, destroyed, or stolen shall constitute an original additional contractual obligation on the part of the City whether or not the Bond so alleged to be lost, destroyed, or stolen is at any time enforceable by anyone, and shall be equally and proportionately entitled to the benefits of this Fiscal Agent Agreement with all other Bonds issued under this Fiscal Agent Agreement.

ARTICLE III.

ISSUANCE OF BONDS

Section 3.01 Issuance and Delivery of Bonds. At any time after the execution of this Fiscal Agent Agreement, the City may issue the Bonds in the aggregate principal amount set forth in Section 2.01 hereof and deliver the Bonds to the Fiscal Agent for authentication and delivery to, or upon the order of, the Original Purchaser. Pursuant to the Resolution of Issuance, the Authorized Officers of the City are authorized and directed to deliver any and all documents and instruments necessary to cause the issuance of the Bonds in accordance with the provisions of the Refunding Act, the Bond Law, the Act, the Resolution of Issuance, and this Fiscal Agent Agreement, and to do and cause to be done any and all acts and things necessary or convenient for delivery of the Bonds to the Original Purchaser.

Section 3.02 Validity of Bonds. The validity of the authorization and issuance of the Bonds shall not be dependent upon the completion of the Project or upon the performance by any person of such person's obligation with respect to the Project.

Section 3.03 Pledge of Reassessments and Funds. The Bonds shall be secured by a first pledge (which pledge shall be effected in the manner and to the extent herein provided) of all moneys deposited in the Redemption Fund (including the Prepayment Account therein). The Reassessments deposited into said funds (except as otherwise provided herein) are hereby dedicated to the payment of the principal of, and interest and any premium on, the Bonds as provided herein and in the Refunding Act until all of the Bonds have been paid and retired or until moneys or Federal Securities have been set aside irrevocably for that purpose in accordance with Section 9.03 hereof.

Section 3.04 Limited Obligation. All obligations of the City under this Fiscal Agent Agreement and the Bonds shall not be general obligations of the City, but shall be limited obligations, payable solely from the Reassessments and the funds pledged therefore hereunder. Neither the faith nor credit of the City, nor of any of its members, nor of the State of California or any political subdivision thereof, is pledged to the payment of the Bonds. The Bonds are "Limited Obligation Improvement Bonds" under Section 8769(b) of the Bond Law and are payable solely from and secured solely by the Reassessments and the amounts in the Redemption Fund created hereunder. Notwithstanding any other provision of this Fiscal Agent Agreement, the City is not obligated to advance available surplus funds from the City treasury to cure any deficiency in the Redemption Fund; provided, however, the City is not prevented, in its sole discretion, from so advancing funds.

Section 3.05 No Acceleration. The principal of the Bonds shall not be subject to acceleration hereunder. Nothing in this Section 3.05 shall in any way prohibit the redemption of Bonds under Section 2.03 hereof, or the defeasance of the Bonds and discharge of this Fiscal Agent Agreement under Section 9.03 hereof.

Section 3.06 Refunding of Bonds. The Bonds are subject to refunding pursuant to Divisions 11 or 11.5 of the California Streets and Highways Code.

Section 3.07 No Additional Bonds. No additional bonds shall be issued for the Assessment District on a parity with the Bonds. Nothing herein shall preclude the issuance of refunding bonds for the Bonds, subject to any restrictions otherwise applicable to such refunding.

ARTICLE IV.

FUNDS AND ACCOUNTS

Section 4.01 Deposits.

(A) The proceeds from the sale of the Bonds in the amount of \$_____ (representing the aggregate principal amount of the Bonds of \$[PRINCIPAL AMOUNT].00, less a purchaser's discount of \$_____) shall be transferred to the Escrow Holder for deposit into the Escrow Fund.

(B) Concurrently with the delivery of the Bonds, moneys represented by cash and investments in the following funds created under the Prior Fiscal Agent Agreement shall be applied, transferred, or maintained as follows:

(i) \$_____ contained in the Prior Bonds Redemption Fund shall be transferred to the Escrow Holder for deposit into the Escrow Fund;

(ii) \$_____ contained in the Prior Bonds Reserve Fund shall be transferred to the Escrow Holder for deposit into the Escrow Fund;

(iii) \$_____ contained in the Prior Bonds Improvement Fund shall be transferred to the Escrow Holder for deposit into the Escrow Fund; and

(iv) All amounts, if any, contained in the Prior Bonds Rebate Fund shall be applied as set forth in the Prior Fiscal Agent Agreement.

(C) Concurrently with the delivery of the Bonds, \$_____ held by the City representing payments of assessments with respect to the Prior Bonds shall be transferred to the Escrow Holder for deposit into the Escrow Fund.

Section 4.02 [Reserved]

Section 4.03 Redemption Fund.

(A) **Establishment of Redemption Fund.** The Redemption Fund is hereby established as a separate fund to be held by the Fiscal Agent to the credit of which deposits shall be made as required by this Fiscal Agent Agreement, the Refunding Act, or the Bond Law. Moneys in the Redemption Fund shall be held by the Fiscal Agent for the benefit of the City and the Owners of the Bonds, shall be disbursed for the payment of the principal of, and interest on, the Bonds as provided below. Within the Redemption Fund there is hereby established the following separate account to be held in trust by the Fiscal Agent for the benefit of the City and the Owners:

(i) **Prepayment Account.** The Prepayment Account shall be used exclusively for the administration of any prepayments of Reassessments pursuant to Section 8767 of the Bond Law, to assure the timely redemption of Bonds. In the event all of the Reassessments are prepaid in full, the Prepayment Account shall be closed.

(B) **Disbursements.** On each Interest Payment Date, the Fiscal Agent shall withdraw from the Redemption Fund and pay to the Owners of the Bonds the principal of, and interest and any premium, then due and payable on the Bonds. Ten (10) Business Days prior to each Interest Payment Date, the Fiscal Agent shall determine if the amounts to be on deposit in the Redemption Fund (following the transfer of collected Reassessments from the City) will be sufficient to pay the Debt Service due on the Bonds on such Interest Payment Date. Upon such determination, the Fiscal Agent shall immediately provide written notice to the Trustee of either (i) the sufficiency of the funds in the Redemption Fund or (ii) the insufficiency of such funds together with the amount of such deficiency. If there are insufficient funds in the Redemption Fund to make the payments provided for in the first sentence of this Subsection, the Fiscal Agent shall apply the available funds first to the payment of interest on the Bonds, then to the payment of principal due on the Bonds, and then to payment of principal due on the Bonds by reason of Bonds called for redemption under Section 2.03(A) hereof.

(C) **Investment.** Moneys in the Redemption Fund (and the accounts therein) shall be invested and deposited in accordance with Section 6.01 hereof. Interest earnings and profits resulting from such investment and deposit shall be retained in the Redemption Fund (and the accounts therein).

Section 4.04 Rebate Fund. The Rebate Fund is hereby established as a separate fund to be held by the Fiscal Agent. The City shall cause to be deposited in the Rebate Fund, from other funds that may be available to the City, from time to time, amounts determined to be sufficient to pay any rebate under Section 5.12 hereof. Investments in the Rebate Fund shall be yield restricted to a yield not in excess of that of the Bonds. Monies in the Rebate Fund are not pledged to pay Debt Service nor are they subject to any lien in favor of the Bond Owners. The City shall advise the Fiscal Agent as to the particulars of such deposits and investments and the Fiscal Agent shall have no liability with respect to the calculation of or payment of any rebate amounts owed under Section 5.12 hereof.

ARTICLE V.

COVENANTS

Section 5.01 Collection of Reassessments. The City shall comply with all requirements of the Act, the Bond Law, the Refunding Act, and this Fiscal Agent Agreement to assure the timely collection of the Reassessments, including, without limitation, the enforcement of delinquent Reassessments. To that end, the following shall apply:

(A) **Calculation.** The Reassessments as set forth on the list thereof on file with the City Treasurer together with the interest thereon, shall be payable in annual series corresponding in number and proportionate amount to the number of installments and principal amounts of the Bonds maturing. An annual proportion of each Reassessment shall be payable in each Fiscal

Year preceding the date of maturity of each of the Bonds issued sufficient to pay the Bonds when due and such proportion of each Reassessment coming due in any year, together with the annual interest thereon, shall be payable in the same manner and at the same time and in the same installments as the general taxes on real property are payable, and become delinquent at the same times and in the same proportionate amounts and bear the same proportionate penalties and interest after delinquency as do the general taxes on real property. Except for administrative costs described in Subsection (C) of this Section 5.01, the City shall cause all sums received from the collection of the Reassessments and of the interest and penalties thereon to be placed in the Redemption Fund not later than ten (10) Business Days prior to the applicable Interest Payment Date.

(B) Auditor Record. The Chief Financial Officer shall, before the final date on which the Auditor will accept the transmission of the Reassessments for the parcels within the Assessment District for inclusion on the next secured property tax roll, prepare or cause to be prepared, and shall transmit to the Auditor, such data as the Auditor requires to include the installments of the Reassessments on the next secured tax roll. The Chief Financial Officer is hereby authorized to employ consultants to assist in computing the installments of the Reassessments hereunder and in reconciling Reassessments billed to amounts received as provided in the Subsection (C) of this Section 5.01.

(C) Additional Costs. In addition to any amounts authorized pursuant to Section 8682 of the Bond Law to be included with the annual amounts of installments as aforesaid, the City, under Section 8682.1 of the Bond Law, may cause to be entered on the reassessment roll on which taxes will next become due, opposite each lot or parcel of land within the Assessment District in the manner set forth in Section 8682, each lot's pro rata share of the estimated annual expenses of the City in connection with the administrative duties thereof for the Bonds, including, but not limited to, the costs of registration, authentication, transfer, and compliance with the provisions of Article V hereof. Delinquent Reassessments shall be subject to foreclosure under Section 5.02 hereof. Any costs and administrative expenses collected by the City shall be retained by the City (and not remitted to the Fiscal Agent) to be used to pay such costs and administrative expenses.

Section 5.02 Foreclosure. The City hereby covenants with and for the benefit of the Owners of the Bonds that it will order, and cause to be commenced, and thereafter diligently prosecute an action in the superior court to foreclose the lien of any Reassessment or installment thereof which has been billed, but has not been paid, pursuant to and as provided in Sections 8830 through 8835 (inclusive) of the Bond Law and the conditions specified in this Section 5.02. The Chief Financial Officer shall notify the City Attorney of any such delinquency of which the Chief Financial Officer is aware, and the City Attorney shall commence, or cause to be commenced, such foreclosure proceedings, including collection actions preparatory to the filing of any complaint. The City Attorney is hereby authorized to employ special counsel to conduct any such foreclosure proceedings. For the benefit of the registered owners of the Bonds, the City shall annually reconcile Reassessment levies and Reassessment collections and shall initiate judicial foreclosure proceedings within 90 days following the end of a Fiscal Year in which there is any delinquency in the payment of a Reassessment. The City shall diligently prosecute to completion such foreclosure proceedings as may be necessary to collect the delinquent amounts

notwithstanding the payment by the County of any Reassessments under Sections 4701-4717 of the California Revenue and Taxation Code.

Section 5.03 Punctual Payment. The City will punctually pay or cause to be paid the principal of, and interest and any premium on, the Bonds when and as due in strict conformity with the terms of this Fiscal Agent Agreement and any Supplemental Fiscal Agent Agreement, and it will faithfully observe and perform all of the conditions, covenants, and requirements of this Fiscal Agent Agreement and all Supplemental Fiscal Agent Agreements and of the Bonds.

Section 5.04 Extension of Time for Payment. In order to prevent any accumulation of claims for interest after maturity, the City shall not, directly or indirectly, extend or consent to the extension of the time for the payment of any claim for interest on any of the Bonds and shall not, directly or indirectly, be a party to the approval of any such arrangement by purchasing or funding said claims for interest or in any other manner. In case any such claim for interest shall be extended or funded, whether or not with the consent of the City, such claim for interest so extended or funded shall not be entitled, in case of default hereunder, to the benefits of this Fiscal Agent Agreement, except subject to the prior payment in full of the principal of all of the Bonds then Outstanding and of all claims for interest which shall not have been extended or funded.

Section 5.05 Against Encumbrance. The City will not encumber, pledge, or place any charge or lien upon any of the Reassessments or other amounts pledged to the Bonds superior to or on a parity with the pledge and lien herein created for the benefit of the Bonds, except as permitted by the Resolution of Issuance, this Fiscal Agent Agreement, the Refunding Act, the Act, or the Bond Law.

Section 5.06 Books and Accounts. The City will keep, or cause to be kept, proper books of record and accounts, separate from all other records and accounts of the City, in which complete and correct entries shall be made of all transactions relating to the Reassessments, which records shall be subject to inspection by the Owners upon reasonable prior notice on any Business Day.

Section 5.07 Protection of Security and Rights of Owners. The City will preserve and protect the security of the Bonds and the rights of the Owners thereto, and will warrant and defend their rights to such security against all claims and demands of all persons. From and after the delivery of any of the Bonds by the City, the Bonds shall be incontestable by the City.

Section 5.08 Compliance with Law; Completion of Project. The City will comply with all applicable provisions of the Act and the Bond Law in completing the acquisition and construction of the Project, if applicable; provided that the City shall have no obligation to advance any funds to complete the Project.

Section 5.09 Further Assurances. The City will adopt, make, execute, and deliver any and all such further resolutions, instruments, and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Fiscal Agent Agreement, and for the better assuring and confirming unto the Owners of the rights and benefits provided in this Fiscal Agent Agreement.

Section 5.10 Private Activity Bond Limitation. The City shall assure that the proceeds of the Bonds are not so used as to cause the Bonds to satisfy the private business tests of Section 141(b) of the Tax Code or the private loan financing test of Section 141(c) of the Tax Code.

Section 5.11 Federal Guarantee Prohibition. The City shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause any of the Bonds to be “federally guaranteed” within the meaning of Section 149(b) of the Tax Code.

Section 5.12 Rebate Requirement. The City shall take any and all actions necessary to assure compliance with Section 148(f) of the Tax Code, relating to the rebate of excess investment earnings, if any, to the federal government, to the extent that such section is applicable to the Bonds.

Section 5.13 No Arbitrage. The City shall not take, or permit or suffer to be taken by the City, by the Fiscal Agent, or otherwise, any action with respect to the proceeds of the Bonds which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the date of issuance of the Bonds would have caused the Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Tax Code.

Section 5.14 Yield of the Bonds. In determining the yield of the Bonds for purposes of compliance with Sections 5.12 and 5.13 hereof, the City will take into account redemption (including premium, if any) in advance of maturity based on the reasonable expectations of the City, as of the date of delivery of the Bonds, regarding prepayments of Reassessments and use of prepayments for redemption of the Bonds, without regard to whether or not prepayments are received or Bonds are redeemed.

Section 5.15 Maintenance of Tax-Exemption. The City shall take all actions necessary to assure the exclusion of interest on the Bonds from the gross income of the Owners of the Bonds to the same extent as such interest is permitted to be excluded from gross income under the Tax Code as in effect on the date of issuance of the Bonds.

ARTICLE VI.

INVESTMENTS; LIABILITY

Section 6.01 Deposit and Investment of Moneys in Funds. Subject in all respects to the provisions of Section 6.02 hereof, moneys in any fund or account created or established by this Fiscal Agent Agreement and held by the Fiscal Agent shall be invested by the Fiscal Agent in Permitted Investments, as directed pursuant to an Officer’s Certificate filed with the Fiscal Agent at least two (2) Business Days in advance of the making of such investments. The following shall apply to such investments:

(A) Investments. In the absence of any such Officer’s Certificate, the Fiscal Agent shall invest any such moneys in Permitted Investments described in clause (15) of the definition thereof that by their terms mature prior to the date on which such moneys are required to be paid out hereunder to the extent reasonable and practicable, and if such investments cannot be made

the Fiscal Agent shall hold such funds uninvested until such investments can be made. Obligations purchased as an investment of moneys in any fund shall be deemed to be part of such fund or account, subject, however, to the requirements of this Fiscal Agent Agreement for transfer of interest earnings and profits resulting from investment of amounts in funds and accounts.

(B) Fiscal Agent. The Fiscal Agent may act as principal or agent in the acquisition or disposition of any investment. The Fiscal Agent shall incur no liability for losses arising from any investments made pursuant to this Section 6.01.

(C) Commingling. Subject in all respects to the provisions of Section 5.15 hereof, investments in any and all funds and accounts may at the discretion of the Fiscal Agent be commingled in a separate fund or funds for purposes of making, holding, and disposing of investments, notwithstanding provisions herein for transfer to or holding in or to the credit of particular funds or accounts of amounts received or held by the Fiscal Agent hereunder, provided that the Fiscal Agent shall at all times account for such investments strictly in accordance with the funds and accounts to which they are credited and otherwise as provided in this Fiscal Agent Agreement.

(D) Sales. The Fiscal Agent shall sell or present for redemption, any investment security whenever it shall be necessary to provide moneys to meet any required payment, transfer, withdrawal, or disbursement from the fund or account to which such investment security is credited and the Fiscal Agent shall not be liable or responsible for any loss resulting from the acquisition or disposition of such investment security in accordance herewith.

(E) City Treasury. For funds held by the City Treasurer, the foregoing provisions of this Section 6.01 shall also apply, except that an Officer's Certificate shall not be required. For such funds, the City shall keep records or accounts of all expenditures or disbursements therefrom which records shall be available for inspection during business hours on any Business Day upon prior written request.

Section 6.02 Acquisition, Disposition, and Valuation of Investments.

(A) Fair Market Value. Except as otherwise provided in Subsection (B) of this Section 6.02, the City covenants that all investments of amounts deposited in any fund or account created by or pursuant to this Fiscal Agent Agreement, or otherwise containing gross proceeds of the Bonds (within the meaning of Section 148 of the Tax Code) shall be acquired, disposed of, and valued (as of the date that valuation is required by this Fiscal Agent Agreement or the Tax Code) at Fair Market Value.

(B) Present Value. Investments in funds or accounts (or portions thereof) that are subject to a yield restriction under applicable provisions of the Tax Code shall be valued at their present value (within the meaning of Section 148 of the Tax Code).

(C) Administration. The City acknowledges that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the City the right to receive brokerage confirmations of security transactions as they occur, the City specifically

waives receipt of such confirmations to the extent permitted by law. The Fiscal Agent will furnish the City periodic cash transaction statements which include detail for all investment transactions made by the Fiscal Agent hereunder.

Section 6.03 Liability of City. The City shall not incur any responsibility in respect of the Bonds or this Fiscal Agent Agreement other than in connection with the duties or obligations explicitly provided herein or in the Bonds. The City shall not be liable to any Owner in connection with the performance of its duties hereunder, except for its own gross negligence or willful default. The City shall not be bound to ascertain or inquire as to the performance or observance of any of the terms, conditions, covenants, or agreements of the Fiscal Agent herein or of any of the documents executed by the Fiscal Agent in connection with the Bonds, or as to the existence of a default thereunder. Under this Fiscal Agent Agreement, the following shall apply to the City:

(A) Reliance. In the absence of bad faith, the City and its officers and employees, may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the City and conforming to the requirements of this Fiscal Agent Agreement. The City and its officers and employees shall not be liable for any error of judgment made in good faith.

(B) Expenditures. No provision of this Fiscal Agent Agreement shall require the City to expend or risk its own general funds or otherwise incur any financial liability (other than with respect to the foreclosure proceedings for delinquent Reassessments and the payment of fees and costs of the Fiscal Agent) in the performance of any of its obligations hereunder or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(C) Counsel. The City may rely and shall be protected in acting or refraining from acting upon any notice, resolution, request, consent, order, certificate, report, warrant, bond, or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or proper parties. The City may consult with counsel, who may be the City Attorney, 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.

(D) Owners. The City shall not be bound to recognize any person as the Owner of a Bond unless duly registered and until such Bond is submitted for inspection, if required, and his title thereto satisfactorily established, if disputed.

(E) Certificate. Whenever in the administration of its duties under this Fiscal Agent Agreement the City shall deem it necessary or desirable that a matter be proved or established 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 willful misconduct on the part of the City, be deemed to be conclusively proved and established by a certificate of the Fiscal Agent or other expert retained by the City for the purposes hereof, and such certificate shall be full warrant to the City for any action taken or suffered under the provisions of this Fiscal Agent

Agreement or any Supplemental Fiscal Agent Agreement upon the faith thereof, but in its discretion the City may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as to it may deem reasonable.

Section 6.04 Employment of Agents by City. In order to perform its duties and obligations hereunder, the City may employ such persons or entities as it deems necessary or advisable. The City shall not be liable for any of the acts or omissions of such persons or entities employed by it with reasonable care and in good faith hereunder, and shall be entitled to rely, and shall be fully protected in doing so, upon the opinions, calculations, determinations, and directions of such persons or entities.

ARTICLE VII.

THE FISCAL AGENT

Section 7.01 Appointment of Fiscal Agent. Wells Fargo Bank, National Association, at the Principal Office, is hereby appointed Fiscal Agent and paying agent for the Bonds. The Fiscal Agent undertakes to perform such duties, and only such duties, as are specifically set forth in this Fiscal Agent Agreement, and no implied covenants or obligations shall be read into this Fiscal Agent Agreement against the Fiscal Agent. With respect to the appointment of the Fiscal Agent, the following shall apply:

(A) Successor. Any company into which the Fiscal Agent 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 Fiscal Agent may sell or transfer all or substantially all of its corporate trust business, provided such company shall be eligible under the following paragraph of this Section 7.01, shall be the successor to such Fiscal Agent without the execution or filing of any paper or any further act, anything herein to the contrary notwithstanding. The Fiscal Agent shall give the City thirty (30) days written notice of any such succession hereunder.

(B) Removal. The City may at any time remove the Fiscal Agent initially appointed and any successor thereto, and may appoint a successor or successor's thereto, but any Fiscal Agent shall be a bank or trust company having a combined capital (exclusive of borrowed capital) and surplus of at least Fifty Million Dollars (\$50,000,000) (including, for such purpose, the combined capital and surplus of any parent company) and subject to supervision or examination by federal or state authority. If such bank or trust company publishes a report of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the purposes of this Section 7.01, combined capital and surplus of such bank or trust company shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

(C) Resignation. The Fiscal Agent may at any time resign by giving forty-five (45) days written notice to the City and by giving to the Owners notice by mail of such resignation. Upon receiving notice of such resignation, the City shall promptly appoint a successor Fiscal Agent, satisfying the requirements of Subsection 7.01(B) above, by an instrument in writing.

Any resignation or removal of the Fiscal Agent shall become effective upon acceptance of appointment by the successor Fiscal Agent.

(D) Court Action. If no appointment of a successor Fiscal Agent shall be made pursuant to the foregoing provisions of this Section 7.01 within thirty (30) days after the Fiscal Agent shall have given to the City written notice or after a vacancy in the office of the Fiscal Agent shall have occurred by reason of its inability to act, the Fiscal Agent or any Bond Owner may apply to any court of competent jurisdiction to appoint a successor Fiscal Agent. Said court may thereupon, after such notice, if any, as such court may deem proper, appoint a successor Fiscal Agent.

(E) Inability. If, by reason of the judgment of any court, the Fiscal Agent is rendered unable to perform its duties hereunder, all such duties and all of the rights and powers of the Fiscal Agent hereunder shall be assumed by and vest in the City Treasurer of the City in trust for the benefit of the Owners. The City covenants for the direct benefit of the Owners that its City Treasurer in such case shall be vested with all of the rights and powers of the Fiscal Agent hereunder, and shall assume all of the responsibilities and perform all of the duties of the Fiscal Agent hereunder, in trust for the benefit of the Owners of the Bonds.

Section 7.02 Liability of Fiscal Agent. With respect to the liability of the Fiscal Agent, the following shall apply:

(A) Limitations. The recitals of facts, covenants, and agreements herein and in the Bonds contained shall be taken as statements, covenants, and agreements of the City, and the Fiscal Agent assumes no responsibility for the correctness of the same, makes no representations as to the validity or sufficiency of this Fiscal Agent Agreement or of the Bonds, or shall incur any responsibility in respect thereof, other than in connection with the duties or obligations herein or in the Bonds assigned to or imposed upon it. The Fiscal Agent shall not be liable in connection with the performance of its duties hereunder, except for its own negligence or willful misconduct. The Fiscal Agent assumes no responsibility or liability for any information, statement or recital in any official statement or other disclosure material prepared or distributed with respect to the issuance of the Bonds.

(B) Reliance. The Fiscal Agent may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Fiscal Agent and conforming to the requirements of this Fiscal Agent Agreement; but in the case of any such certificates or opinions by which any provision hereof are specifically required to be furnished to the Fiscal Agent, the Fiscal Agent shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Fiscal Agent Agreement. Except as provided above in this paragraph, Fiscal Agent shall be protected and shall incur no liability in acting or proceeding, or in not acting or not proceeding, in good faith, reasonably and in accordance with the terms of this Fiscal Agent Agreement, upon any resolution, order, notice, request, consent or waiver, certificate, statement, affidavit, or other paper or document which it shall in good faith reasonably believe to be genuine and to have been adopted or signed by the proper person or to have been prepared and furnished pursuant to any provision of this Fiscal Agent Agreement, and the Fiscal Agent shall not be under any duty to

make any investigation or inquiry as to any statements contained or matters referred to in any such instrument.

(C) **Good Faith.** The Fiscal Agent shall not be liable for any error of judgment made in good faith by a responsible officer unless it shall be proved that the Fiscal Agent was negligent in ascertaining the pertinent facts.

(D) **Expenditure.** No provision of this Fiscal Agent Agreement shall require the Fiscal Agent to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers.

(E) **Security.** The Fiscal Agent shall be under no obligation to exercise any of the rights or powers vested in it by this Fiscal Agent Agreement at the request or direction of any of the Owners pursuant to this Fiscal Agent Agreement unless such Owners shall have offered to the Fiscal Agent reasonable security or indemnity against the costs, expenses, and liabilities which might be incurred by it in compliance with such request or direction.

(F) **Owner.** The Fiscal Agent may become the owner of the Bonds with the same rights it would have if it were not the Fiscal Agent.

(G) **Agreements.** The Fiscal Agent shall have no obligation or duty whatsoever to monitor or enforce the collection or deposit with it of the Reassessments or other funds to be deposited with it hereunder, or as to the correctness of the amounts received, but its responsibility shall be limited to the accounting for such funds as it shall actually receive.

Section 7.03 Information; Books and Accounts. The Fiscal Agent shall provide to the City such information relating to the Bonds and the funds and accounts maintained by the Fiscal Agent hereunder as the City shall reasonably request, including but not limited to quarterly statements reporting funds held and transactions by the Fiscal Agent. The Fiscal Agent will keep, or cause to be kept, proper books of record and accounts, separate from all other records and accounts of the Fiscal Agent, in which complete and correct entries shall be made of all transactions made by it relating to the expenditure of amounts disbursed from the Redemption Fund. Such books of record and accounts shall, upon reasonable notice, at all times during business hours on any Business Day be subject to the inspection of the City and the Owners of not less than ten percent (10%) of the principal amount of the Bonds then Outstanding, or their representatives duly authorized in writing.

Section 7.04 Notice to Fiscal Agent. The Fiscal Agent may conclusively rely, without undertaking any investigation or inquiry, and shall be protected in acting or refraining from acting upon any notice, resolution, request, requisition, consent, order, certificate, report, warrant, bond, or other paper or document reasonably believed by it to be genuine and to have been signed or presented by the proper party or proper parties. The Fiscal Agent may consult with counsel, who may be counsel to the City, 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. The Fiscal Agent shall not be bound to recognize any person as the Owner of a Bond unless and until such person is the registered Owner of such Bond and such Bond is submitted for inspection, if required, and

such Owner's title thereto satisfactorily established, if disputed. Whenever in the administration of its duties under this Fiscal Agent Agreement the Fiscal Agent shall deem it necessary or desirable that a matter be proved or established 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 willful misconduct on the part of the Fiscal Agent, be deemed to be conclusively proved and established by a certificate of an Authorized Officer of the City, and such certificate shall be full warrant to the Fiscal Agent for any action taken or suffered under the provisions of this Fiscal Agent Agreement or any Supplemental Fiscal Agent Agreement upon the faith thereof, but in its discretion the Fiscal Agent may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as to it may seem reasonable.

Section 7.05 Compensation; Indemnification. The City shall pay to the Fiscal Agent from time to time reasonable compensation for all services rendered as Fiscal Agent under this Fiscal Agent Agreement, and also all reasonable expenses, charges, counsel fees, and other disbursements, including those of the Fiscal Agent's in house or other attorneys and agents, incurred in and about the performance of their powers and duties under this Fiscal Agent Agreement, but the Fiscal Agent shall not have a lien therefor on any funds at any time held by it under this Fiscal Agent Agreement. The City further agrees, to the extent permitted by applicable law, to indemnify and save the Fiscal Agent, its officers, employees, directors, and agents harmless against any costs, claims, expenses, or liabilities which it may incur in the exercise and performance of its powers and duties hereunder which are not due to its negligence or willful misconduct. The obligation of the City under this Section 7.05 shall survive resignation or removal of the Fiscal Agent under this Fiscal Agent Agreement and payment of the Bonds and discharge of this Fiscal Agent Agreement.

Section 7.06 Interaction with the City. In conducting its duties hereunder whenever the Fiscal Agent is required or deems it appropriate to communicate with the City, it shall communicate with the Chief Financial Officer unless otherwise specifically required hereunder. All statements and reports required to be produced by the Fiscal Agent hereunder shall be provided to the Chief Financial Officer unless otherwise specifically provided hereunder.

ARTICLE VIII.

MODIFICATION OR AMENDMENT OF THIS FISCAL AGENT AGREEMENT

Section 8.01 Amendments Permitted.

(A) **Consent.** This Fiscal Agent Agreement and the rights and obligations of the City and of the Owners of the Bonds may be modified or amended at any time by a Supplemental Fiscal Agent Agreement pursuant to the affirmative vote at a meeting of Owners, or with the written consent without a meeting, of the Owners of at least sixty percent (60%) in aggregate principal amount of the Bonds then Outstanding, exclusive of Bonds disqualified as provided in Section 8.04 hereof. No such modification or amendment shall (i) extend the maturity of any Bond or reduce the interest rate thereon, or otherwise alter or impair the obligation of the City to pay the principal of, and the interest and any premium on, any Bond, without the express consent of the Owner of such Bond, or (ii) permit the creation by the City of any pledge or lien upon the Reassessments superior to or on a parity with the pledge and lien created for the benefit of the

Bonds (except as otherwise permitted by the Act, the Refunding Act, the Resolution of Issuance, the laws of the State of California, or this Fiscal Agent Agreement), or reduce the percentage of Bonds required for the amendment hereof, or to amend this Section 8.01. Any such amendment may not modify any of the rights or obligations of the Fiscal Agent without its written consent.

(B) Without Consent. This Fiscal Agent Agreement and the rights and obligations of the City and of the Owners may also be modified or amended at any time by a Supplemental Fiscal Agent Agreement, without the consent of any Owners, only to the extent permitted by law and only for any one or more of the following purposes:

(i) Additions. To add to the covenants and agreements of the City in this Fiscal Agent Agreement contained, other covenants and agreements thereafter to be observed, or to limit or surrender any right or power herein reserved to or conferred upon the City which will not adversely affect the rights of the Owners of the Bonds;

(ii) Affecting Bonds. To make modifications not adversely affecting any Outstanding Bonds of the City in any material respect;

(iii) Corrective Action. To make such provisions for the purpose of curing any ambiguity, or of curing, correcting or supplementing any defective provision contained in this Fiscal Agent Agreement, or in regard to questions arising under this Fiscal Agent Agreement, as the City and the Fiscal Agent may deem necessary or desirable and not inconsistent with this Fiscal Agent Agreement, and which shall not adversely affect the rights of the Owners of the Bonds; or

(iv) Tax Exemption. To make such additions, deletions, or modifications as may be necessary or desirable to assure exemption from federal income taxation of interest on the Bonds.

Section 8.02 Owners' Meetings. The City may at any time call a meeting of the Owners. In such event the City is authorized to fix the time and place of said meeting and to provide for the giving of notice thereof and to **fix** and adopt rules and regulations for the conduct of said meeting.

Section 8.03 Procedure for Amendment with Written Consent of Owners. The City and the Fiscal Agent may at any time adopt a Supplemental Fiscal Agent Agreement amending the provisions of the Bonds or of this Fiscal Agent Agreement or any Supplemental Fiscal Agent Agreement, to the extent that such amendment is permitted by Section 8.01 hereof, to take effect when and as provided in this Section 8.03. With respect to such Supplemental Fiscal Agent Agreement under this Section 8.03, the following shall apply:

(A) Request. A copy of such Supplemental Fiscal Agent Agreement, together with a request to Owners for their consent thereto, shall be hand-delivered or mailed by first class mail, by the Fiscal Agent to each Owner of Bonds Outstanding, but failure to mail copies of such Supplemental Fiscal Agent Agreement and request shall not affect the validity of the Supplemental Fiscal Agent Agreement when assented to as in this Section 8.03 provided.

(B) Consents. Such Supplemental Fiscal Agent Agreement shall not become effective unless there shall be filed with the Fiscal Agent the written consents of the Owners of at least sixty percent (60%) in aggregate principal amount of the Bonds then Outstanding (exclusive of Bonds disqualified as provided in Section 8.04 hereof) and a notice shall have been hand-delivered or mailed as hereinafter in this Section 8.03 provided. Each such consent shall be effective only if accompanied by proof of ownership of the Bonds for which such consent is given, which proof shall be such as is permitted by Section 9.04 hereof. Any such consent shall be binding upon the Owner of the Bonds giving such consent and on any subsequent Owner (whether or not such subsequent Owner has notice thereof) unless such consent is revoked in writing by the Owner giving such consent or a subsequent Owner by filing such revocation with the Fiscal Agent prior to the date when the notice hereinafter in this Section 8.03 provided for has been mailed.

(C) Notice. After the Owners of the required percentage of Bonds shall have filed their consents to the Supplemental Fiscal Agent Agreement, the City shall hand-deliver or mail a notice to the Owners in the manner hereinbefore provided in this Section 8.03 for the mailing of the Supplemental Fiscal Agent Agreement, stating in substance that the Supplemental Fiscal Agent Agreement has been consented to by the Owners of the required percentage of Bonds and will be effective as provided in this Section 8.03 (but failure to mail copies of said notice shall not affect the validity of the Supplemental Fiscal Agent Agreement or consents thereto). Proof of the delivery or mailing of such notice shall be filed with the Fiscal Agent. A record, consisting of the papers required by this Section 8.03 to be filed with the Fiscal Agent, shall be proof of the matters therein stated until the contrary is proved. The Supplemental Fiscal Agent Agreement shall become effective upon the filing with the Fiscal Agent of the proof of matters therein of such notice, and the Supplemental Fiscal Agent Agreement shall be deemed conclusively binding (except as otherwise hereinabove specifically provided in this Article) upon the City and the Owners of all Bonds at the expiration of sixty (60) days after such filing, except in the event of a final decree of a court of competent jurisdiction setting aside such consent in a legal action or equitable proceeding for such purpose commenced within such 60-day period.

Section 8.04 Disqualified Bonds. Bonds owned or held for the account of the City, excepting any pension or retirement fund, shall not be deemed Outstanding for the purpose of any vote, consent, or other action or any calculation of Outstanding Bonds provided for in this Article VIII, and shall not be entitled to vote upon, consent to, or take any other action provided for in this Article VIII.

Section 8.05 Effect of Supplemental Fiscal Agent Agreement. From and after the time any Supplemental Fiscal Agent Agreement becomes effective pursuant to this Article VIII, this Fiscal Agent Agreement shall be deemed to be modified and amended in accordance therewith, the respective rights, duties, and obligations under this Fiscal Agent Agreement of the City and all Owners of Bonds Outstanding shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modifications and amendments, and all the terms and conditions of any such Supplemental Fiscal Agent Agreement shall be deemed to be part of the terms and conditions of this Fiscal Agent Agreement for any and all purposes.

Section 8.06 Endorsement or Replacement of Bonds Issued After Amendment. The City may determine that Bonds issued and delivered after the effective date of any action

taken as provided in this Article VIII shall bear a notation, by endorsement or otherwise, in form approved by the City, as to such action. In that case, upon request of the Owner of any Bond Outstanding at such effective date and presentation of the Owner's Bond for that purpose at the Principal Office of the Fiscal Agent or at such other office as the City may select and designate for that purpose, a suitable notation shall be made on such Bond. The City may determine that new Bonds, so modified as in the opinion of the City is necessary to conform to such Owners' action, shall be prepared, executed, and delivered. In that case, upon request of the Owner of any Bonds then Outstanding, such new Bonds shall be exchanged at the Principal Office of the Fiscal Agent without cost to any Owner, for Bonds then Outstanding, upon surrender of such Bonds.

Section 8.07 Amendatory Endorsement of Bonds. The provisions of this Article VIII shall not prevent any Owner from accepting any amendment as to the particular Bonds held by such owner, provided that due notation thereof is made on such Bonds.

Section 8.08 Opinion of Bond Counsel. The Fiscal Agent, at its request, shall be supplied with an opinion of Bond Counsel, at the City's expense, to the effect that any amendment made under this Article VIII was made in compliance with the terms of this Article VIII.

ARTICLE IX.

MISCELLANEOUS

Section 9.01 Benefits Limited. Nothing in this Fiscal Agent Agreement, expressed or implied, is intended to give to any person other than the City, the Fiscal Agent, and the Owners, any right, remedy or claim under or by reason of this Fiscal Agent Agreement. Any covenants, stipulations, promises, or agreements in this Fiscal Agent Agreement contained by and on behalf of the City shall be for the sole and exclusive benefit of the Owners and the Fiscal Agent.

Section 9.02 Successor is Deemed Included in All Reference to Predecessor. Whenever in this Fiscal Agent Agreement or any Supplemental Fiscal Agent Agreement either the City or the Fiscal Agent is named or referred to, such reference shall be deemed to include the successors or assigns thereof, and all the covenants and agreements in this Fiscal Agent Agreement contained by or on behalf of the City or the Fiscal Agent shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

Section 9.03 Discharge of Fiscal Agent Agreement. Subject to the provisions of Section 2.03 hereof, if the City shall pay and discharge the entire indebtedness on all Bonds Outstanding in any one or more of the following ways:

(A) **Payment.** By paying or causing to be paid the principal of and interest and any premium on, all Bonds Outstanding, as and when the same become due and payable.

(B) **Cash.** By depositing with the Fiscal Agent, in trust, at or before maturity, money which, together with the amounts then on deposit in the funds and accounts provided for in the Redemption Fund is fully sufficient to pay all Bonds Outstanding, including all principal, interest and redemption premium.

(C) Federal Securities. By irrevocably depositing with the Fiscal Agent, in trust, cash and Federal Securities in such amount as the City shall determine, as confirmed by an independent certified public accountant, which will, together with the interest to accrue thereon and moneys then on deposit in the fund and accounts provided for in the Redemption Fund, be fully sufficient to pay and discharge the indebtedness on all Bonds, including all principal and interest, at or before their respective maturity dates.

(D) Actions. If such Bonds are to be redeemed prior to the maturity thereof notice of such redemption shall have been given as provided in this Fiscal Agent Agreement or provision satisfactory to the Fiscal Agent shall have been made for the giving of such notice, then, at the election of the City, and notwithstanding that any Bonds shall not have been surrendered for payment, the pledge of the Reassessments and other funds provided for in this Fiscal Agent Agreement and all other obligations of the City under this Fiscal Agent Agreement with respect to all Bonds Outstanding shall cease and terminate, except only the obligation of the City to pay or cause to be paid to the Owners of the Bonds not so surrendered and paid all sums due thereon, the obligation of the City to assure that no action is taken or failed to be taken if such action or failure adversely affects the exclusion of interest on the Bonds from gross income for federal income tax purposes, and all amounts owing to the Fiscal Agent pursuant to Section 7.05 hereof; and thereafter Reassessments shall not be payable to the Fiscal Agent. Notice of such election shall be filed with the Fiscal Agent. Any funds thereafter held by the Fiscal Agent upon payments of all fees and expenses of the Fiscal Agent, which are not required for said purpose, shall be paid over to the City to be used by the City as provided in the Act, the Refunding Act, and the Bond Law.

Section 9.04 Execution of Documents and Proof of Ownership by Owners. Any request, declaration, or other instrument which this Fiscal Agent Agreement may require or permit to be executed by Owners may be in one or more instruments of similar tenor, and shall be executed by Owners in person or by their attorneys appointed in writing. Except as otherwise herein expressly provided, the fact and date of the execution by any Owner or his attorney of such request, declaration, or other instrument, or of such writing appointing such attorney, may be proved by the certificate of any notary public or other officer authorized to take acknowledgments of deeds to be recorded in the state in which he purports to act, that the person signing such request, declaration, 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 Bonds and the amount, maturity, number, and date of holding the same shall be proved by the registry books. Any consent, request, declaration, or other instrument or writing of the then registered Owner of any Bond shall bind all future Owners of such Bond in respect of anything done or suffered to be done by the City or the Fiscal Agent in good faith and in accordance therewith.

Section 9.05 Waiver of Personal Liability. No member, officer, agent, or employee of the City shall be individually or personally liable for the payment of the principal of, or interest or any premium on, the Bonds; but nothing herein contained shall relieve any such member, officer, agent, or employee from the performance of any official duty provided by law.

Section 9.06 Notices to and Demand on City, Fiscal Agent, and Trustee. Any notice or demand which by any provision of this Fiscal Agent Agreement is required or permitted to be

given or served to or on the City, the Fiscal Agent, or the Trustee may be given or served by being deposited postage prepaid in a post office letter box addressed (until another address is filed by the City, the Fiscal Agent, or the Trustee, as applicable) as follows:

City: City of Oxnard
300 West Third Street
Oxnard, CA 93030
Attention: Chief Financial Officer

Fiscal Agent: Wells Fargo Bank, National Association
707 Wilshire Boulevard, 17th Floor
Los Angeles, CA 90017
Attention: Corporate Trust

Trustee: Wells Fargo Bank, National Association
707 Wilshire Boulevard, 17th Floor
Los Angeles, CA 90017
Attention: Corporate Trust

Section 9.07 Partial Invalidity. If any Section, paragraph, sentence, clause, or phrase of this Fiscal Agent Agreement shall for any reason be held illegal, invalid, or unenforceable, such holding shall not affect the validity of the remaining portions of this Fiscal Agent Agreement. The City hereby declares that it would have adopted this Fiscal Agent Agreement and each and every other Section, paragraph, sentence, clause, or phrase hereof and authorized the issue of the Bonds pursuant thereto irrespective of the fact that any one or more Sections, paragraphs, sentences, clauses, or phrases of this Fiscal Agent Agreement may be held illegal, invalid, or unenforceable.

Section 9.08 Unclaimed Moneys. Anything contained herein to the contrary notwithstanding, any moneys held by the Fiscal Agent in trust for the payment and discharge of the principal of, and the interest and any premium on, the Bonds which remains unclaimed for two (2) years after the date when payments of principal, interest and any premium have become payable, shall be repaid by the Fiscal Agent to the City as its absolute property free from any trust, and the Fiscal Agent shall thereupon be released and discharged with respect thereto and the Bond Owners shall look only to the City for the payment of the principal of, and interest and any premium on, such Bonds.

Section 9.09 Applicable Law. This Fiscal Agent Agreement shall be governed by and enforced in accordance with the laws of the State of California applicable to contracts made and performed in the State of California.

Section 9.10 Conflict with Refunding Act. In the event of a conflict between any provision of this Fiscal Agent Agreement with any provision of the Refunding Act, the provision of the Refunding Act shall prevail over the conflicting provision of this Fiscal Agent Agreement.

Section 9.11 Conclusive Evidence of Regularity. Bonds issued pursuant to this Fiscal Agent Agreement shall constitute conclusive evidence of the regularity of all proceedings under the Refunding Act relative to their issuance and the levy of the Reassessments.

Section 9.12 Payment on Business Day. In any case where the date of the maturity of interest or of principal (and premium, if any), of the Bonds or the date fixed for redemption of any Bonds or the date any action is to be taken pursuant to this Fiscal Agent Agreement is other than a Business Day, the payment of interest or principal or the action need not be made on such date but may be made on the next succeeding day which is a Business Day with the same force and effect as if made on the date required and no additional interest shall accrue from such Interest Payment Date until such Business Day.

Section 9.13 Counterparts. This Fiscal Agent Agreement may be executed in counterparts, each of which shall be deemed an original.

[Remainder of Page Intentionally Left Blank]

WELLS FARGO BANK, NATIONAL
ASSOCIATION, as Fiscal Agent

By: _____
Authorized Officer

CITY OF OXNARD

By: _____
Dr. Thomas E. Holden, Mayor

ATTEST:

Daniel Martinez, City Clerk

APPROVED AS TO FORM:

Alan Holmberg, City Attorney

APPROVED AS TO CONTENT:

James Cameron
City Chief Financial Officer

EXHIBIT A

[FORM OF BOND]

No. _____

\$ _____

United States of America
State of California

CITY OF OXNARD
ASSESSMENT DISTRICT NO. 2001-1 (RICE AVENUE/HIGHWAY 101 INTERCHANGE)
LIMITED OBLIGATION IMPROVEMENT REFUNDING BOND
SERIES 2012

<u>Interest Rate</u> _____ %	<u>Maturity Date</u> September 2, 20__	<u>Dated Date</u> August __, 2012
---------------------------------	---	--------------------------------------

REGISTERED OWNER: CITY OF OXNARD FINANCING AUTHORITY (ASSIGNED TO WELLS FARGO BANK, NATIONAL ASSOCIATION)

PRINCIPAL AMOUNT: _____ DOLLARS

Under and by virtue of the Refunding Act of 1984 for 1915 Improvement Act Bonds (Division 11.5 of the California Streets and Highways Code) (the "Refunding Act"), the City of Oxnard, California (the "City"), will, out of the redemption fund for the payment of the Bonds issued upon the unpaid portion of reassessments made for the refinancing of the acquisition, work, and improvements more fully described in proceedings of the City Council (the "City Council") of the City pursuant to a Resolution of Intention adopted by the City Council on July 17, 2012, pay to the registered owner named above or registered assigns, on the maturity date stated above, the principal amount stated above, in lawful money of the United States of America and in like manner will pay interest from the Interest Payment Date (as hereinafter defined) next preceding the date on which this Bond is authenticated, unless this Bond is authenticated and registered as of an Interest Payment Date, in which event it shall bear interest from such Interest Payment Date, or unless this Bond is authenticated and registered prior to March 2, 2013, in which event it shall bear interest from the dated date above until payment of the principal amount shall have been discharged, at the rate per annum stated above, payable semiannually on March 2 and September 2 (each an "Interest Payment Date") in each year commencing on March 2, 2013. As to any registered owner hereof, the principal and redemption premiums, if any, shall be payable at the office of Wells Fargo Bank, National Association, as fiscal agent, authentication agent, registrar, transfer agent, and paying agent (the "Fiscal Agent"), in Los Angeles, California, and interest shall be paid by check, draft, or warrant mailed to the registered owner hereof at the registered owner's address as it appears on the records of, or at such address as may have been filed with the Fiscal Agent, for that purpose, as of the 15th day of the calendar month immediately preceding each Interest Payment Date (or by wire transfer made on such Interest Payment Date if the Owner is the Original Purchaser or upon the written instructions of any Owner of \$1,000,000 or more in aggregate principal amount of the Bonds delivered to the Fiscal Agent prior to the applicable Record Date).

This Bond will continue to bear interest after maturity at the rate above stated; provided it is presented at maturity and payment thereof is refused upon the sole ground that there are not sufficient moneys in the redemption fund with which to pay same. If it is not presented at maturity, interest thereon will run until maturity.

This Bond shall not be entitled to any benefit under the Refunding Act, the resolution authorizing the issuance of the Bonds (the "Resolution of Issuance"), and the Fiscal Agent Agreement, dated as of August 1, 2012, between the City and the Fiscal Agent (the "Fiscal Agent Agreement") or become valid or obligatory for any purpose, until the Certificate of Authentication and Registration hereon endorsed shall have been dated and signed by the Fiscal Agent. Capitalized terms used herein shall have the meanings ascribed to such terms in the Fiscal Agent Agreement unless otherwise specified herein.

This Bond is one of several annual series of Bonds of like date, tenor, and effect, but differing in amounts, maturities, and interest rates, issued by the City under the Refunding Act, the Resolution of Issuance, and the Fiscal Agent Agreement for the purpose of refunding outstanding assessment bonds, and is secured by the moneys in the redemption fund and by the unpaid portion of reassessments, and, including principal and interest, is payable exclusively out of the redemption fund.

This Bond is transferable by the registered owner hereof, in person or by the owner's attorney duly authorized in writing, at the office of the Fiscal Agent, subject to the terms and conditions provided in the Resolution of Issuance and the Fiscal Agent Agreement, including the payment of certain charges, if any, upon surrender and cancellation of this Bond. Upon such transfer, a new registered Bond or Bonds, of any authorized denomination or denominations, of the same maturity, and for the same aggregate principal amount, will be issued to the transferee in exchange therefor.

Bonds shall be registered only in the name of an individual (including joint owners), a corporation, a partnership, or a trust.

Neither the City nor the Fiscal Agent shall be required to make such exchange or registration of transfer of Bonds during the period commencing on the 15th day of the calendar month immediately preceding any Interest Payment Date and ending before such Interest Payment Date.

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

[CONFIRM:] The Bonds or any portion of the principal thereof, in the principal amount of \$5,000 or any integral multiple thereof, maturing on or after September 2, 20__, may be redeemed, at the option of the City from any source of funds (excluding amounts transferred from the Prepayment Account constituting prepayments of Reassessments pursuant to Section 8767 of the Bond Law) on any Interest Payment Date on or after September 2, 20__, subject to the restrictions upon refunding of bonds specified in the Fiscal Agent Agreement, by giving

notice as provided in in the Fiscal Agent Agreement and by paying the redemption price set forth below (expressed as a percentage of the principal amount of the Bonds to be redeemed), plus accrued interest to the date of redemption, unless sooner surrendered, in which event said interest will be paid to the date of payment, all in the manner provided in the Refunding Act and the Bond Law:

<u>Redemption Dates</u>	<u>Redemption Price</u>
March 2, 20__, and September 2, 20__	_____%
March 2, 20__, and September 2, 20__	_____%
March 2, 20__, and thereafter	_____%

[**CONFIRM:**] Each Outstanding Bond or any portion of the principal thereof, in the principal amount of \$5,000 or any integral multiple thereof, may be redeemed and paid in advance of maturity from amounts transferred from the Prepayment Account constituting prepayments of Reassessments pursuant to Section 8767 of the Bond Law, on any Interest Payment Date in any year, by giving notice as provided in in the Fiscal Agent Agreement and by paying the redemption price set forth below (expressed as a percentage of the principal amount of the Bonds to be redeemed), plus accrued interest to the date of redemption, unless sooner surrendered, in which event said interest will be paid to the date of payment, all in the manner provided in the Refunding Act and the Bond Law:

<u>Redemption Dates</u>	<u>Redemption Price</u>
March 2, 2013, through September 2, 20[17]	103%
March 2, 20__, and September 2, 20__	_____%
March 2, 20__, and September 2, 20__	_____%
March 2, 20__, and September 2, 20__	_____%
March 2, 20__, and thereafter	_____%

The Bonds maturing on September 2, 20__, are subject to mandatory redemption in part on September 2 in the following years in the following amounts at a redemption price equal to the principal amount thereof together with accrued interest to the date fixed for redemption, without premium:

<u>Mandatory Redemption Date (September 2)</u>	<u>Principal Amount</u>
20__	\$_____,000
20__	_____,000
20__	_____,000
20__	_____,000
20__ (maturity)	_____,000

In the event of any optional or extraordinary redemption of Bonds maturing on September 2, 20__, the schedule of mandatory sinking fund installments shall be reduced in equal percentages, as nearly as practicable, provided that the reductions shall be made in

multiples of \$5,000. The City shall provide the Fiscal Agent with the amended sinking fund payments schedule calculated as set forth above in an Officer's Certificate.

This Bond is a "limited obligation improvement refunding bond" because, under the Resolution of Intention and the Fiscal Agent Agreement, the City is not obligated to advance funds from the City treasury to cover any deficiency which may occur in the redemption fund for the Bonds; however, the City is not prevented, in its sole discretion, from so advancing funds.

IN WITNESS WHEREOF, the City of Oxnard has caused this Bond to be signed in facsimile by its Treasurer and by its City Clerk, all as of the ___th day of August, 2012.

CITY OF OXNARD

City Clerk

Treasurer

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

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

Dated: _____, 2012

WELLS FARGO BANK, NATIONAL ASSOCIATION,
as Fiscal Agent

By: _____
Authorized Signatory

ASSIGNMENT

For value received the undersigned do(es) hereby sell, assign and transfer unto

(Name, Address, and Tax Identification or Social Security Number of Assignee)

the within-mentioned registered Bond and hereby irrevocably constitute(s) and appoint(s),

attorney, to transfer the same on the books of the Fiscal Agent 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 within Bond in every particular, without enlargement or any change whatsoever.

Signature Guaranty: _____

NOTE: Signature must be approved by a qualified guarantor.

EXHIBIT B
PERMITTED INVESTMENTS

“Permitted Investments” means any of the following to the extent then permitted by law and Section 6.01 hereof:

(1) Direct obligations of the United States of America and securities fully and unconditionally guaranteed as to the timely payment of principal and interest by the United States of America (“U.S. Government Securities”).

(2) Direct obligations (see footnote ¹) of the following federal agencies which are fully guaranteed by the full faith and credit of the United States of America:

(a) Export-Import Bank of the United States - Direct obligations and fully guaranteed certificates of beneficial interest

(b) Federal Housing Administration - debentures

(c) General Services Administration - participation certificates

(d) Government National Mortgage Association (“GNMAs”) - guaranteed mortgage-backed securities and guaranteed participation certificates

(e) Small Business Administration - guaranteed participation certificates and guaranteed pool certificates

(f) U.S. Department of Housing & Urban Development - local authority bonds

(g) U.S. Maritime Administration - guaranteed Title XI financings

(h) Washington Metropolitan Area Transit Authority - guaranteed transit bonds

(3) Direct obligations of the following federal agencies which are not fully guaranteed by the faith and credit of the United States of America:

(a) Federal National Mortgage Association (“FNMA”) - senior debt obligations rated Aaa by Moody’s and AAA by S&P

¹ The following are explicitly excluded from the securities enumerated in clauses 2 and 3:

- (a) All derivative obligations, including without limitation inverse floaters, residuals, interest-only, principal-only and range notes;
- (b) Obligations that have a possibility of returning a zero or negative yield if held to maturity;
- (c) Obligations that do not have a fixed par value or those whose terms do not promise a fixed dollar amount at maturity or call date; and
- (d) Collateralized Mortgage-Backed Obligations (“CMOs”).

- (b) Federal Home Loan Mortgage Corporation (“FHLMCs”) - participation certificates and senior debt obligations rated Aaa by Moody’s and AAA by S&P
 - (c) Federal Home Loan Banks - consolidated debt obligations
 - (d) Student Loan Marketing Association - debt obligations
 - (e) Resolution Funding Corporation - debt obligations
- (4) Direct, general obligations of any state of the United States of America or any subdivision or agency thereof whose uninsured and unguaranteed general obligation debt is rated, at the time of purchase, A2 or better by Moody’s and A or better by S&P, or any obligation fully and unconditionally guaranteed by any state, subdivision, or agency whose uninsured and unguaranteed general obligation debt is rated, at the time of purchase, A2 or better by Moody’s and A or better by S&P.
- (5) Commercial paper (having original maturities of not more than 270 days) rated, at the time of purchase, P-1 by Moody’s and A-1 or better by S&P.
- (6) Certificates of deposit, savings accounts, deposit accounts, or money market deposits in amounts that are continuously and fully insured by the Federal Deposit Insurance Corporation (“FDIC”), including the Bank Insurance Fund and the Savings Association Insurance Fund.
- (7) Certificates of deposit, deposit accounts, federal funds, or bankers’ acceptances (in each case having maturities of not more than 365 days following the date of purchase) of any domestic commercial bank or United States branch office of a foreign bank, provided that such bank’s short-term certificates of deposit are rated P-1 by Moody’s and A-1 or better by S&P (not considering holding company ratings).
- (8) Investments in money-market funds rated AAAM or AAAM-G by S&P. Such money market funds may include funds for which the Fiscal Agent or its affiliates or subsidiaries provide investment advisory or other management services.
- (9) State-sponsored investment pools rated AA- or better by S&P.
- (10) Repurchase agreements that meet the following criteria:
- (a) A master repurchase agreement or specific written repurchase agreement, substantially similar in form and substance to the Public Securities Association or Bond Market Association master repurchase agreement, governs the transaction.
 - (b) Acceptable providers shall consist of (i) registered broker/dealers subject to Securities Investors’ Protection Corporation (“SIPC”) jurisdiction or commercial banks insured by the FDIC, if such broker/dealer or bank has an uninsured, unsecured, and unguaranteed rating of A3/P-1 or better by Moody’s and A-/A-1 or better by S&P, or (ii) domestic structured investment companies approved by the Bond Insurer and

rated, or domestic structured investment companies with a guarantor rated, Aaa by Moody's and AAA by S&P.

(c) The repurchase agreement shall require termination thereof if the counterparty's ratings are suspended, withdrawn, or fall below A3 or P-1 from Moody's, or A- or A-1 from S&P. Within ten (10) days, the counterparty shall repay the principal amount plus any accrued and unpaid interest on the investments.

(d) The repurchase agreement shall limit acceptable securities to U.S. Government Securities and to the obligations of GNMA, FNMA, or FHLMC described in clauses 2(d), 3(a), and 3(b) above. The fair market value of the securities in relation to the amount of the repurchase obligation, including principal and accrued interest, is equal to a collateral level of at least 104% for U.S. Government Securities and 105% for GNMA, FNMA, or FHLMCs. The repurchase agreement shall require (i) the Fiscal Agent or an independent third party acting solely as agent for the Fiscal Agent (the "Agent") to value the collateral securities no less frequently than weekly, (ii) the delivery of additional securities if the fair market value of the securities is below the required level on any valuation date, and (iii) liquidation of the repurchase securities if any deficiency in the required percentage is not restored within two (2) Business Days of such valuation.

(e) The repurchase securities shall be delivered free and clear of any lien to the Fiscal Agent or the Agent, and such Agent is (i) a Federal Reserve Bank or (ii) a bank which is a member of the FDIC and which has combined capital, surplus, and undivided profits or, if appropriate, a net worth, of not less than \$50 million, and the Fiscal Agent shall have received written confirmation from such third party that such third party holds such securities, free and clear of any lien, as agent for the Fiscal Agent.

(f) A perfected first security interest in the repurchase securities shall be created for the benefit of the Fiscal Agent, and the City and the Fiscal Agent shall receive an opinion of counsel as to the perfection of the security interest in such repurchase securities and any proceeds thereof.

(g) The repurchase agreement shall have a term of one year or less, or shall be due on demand.

(h) The repurchase agreement shall establish the following as events of default, the occurrence of any of which shall require the immediate liquidation of the repurchase securities, unless the Bond Insurer directs otherwise:

i. insolvency of the broker/dealer or commercial bank serving as the counterparty under the repurchase agreement;

ii. failure by the counterparty to remedy any deficiency in the required collateral level or to satisfy the margin maintenance call under clause 10(d) above; or

iii. failure by the counterparty to repurchase the repurchase securities on the specified date for repurchase.

(11) Investment agreements (also referred to as guaranteed investment contracts) that meet the following criteria:

(a) A master agreement or specific written investment agreement governs the transaction.

(b) Acceptable providers of uncollateralized investment agreements shall consist of (i) domestic FDIC-insured commercial banks, or U.S. branches of foreign banks, rated at least Aa2 by Moody's and AA by S&P; (ii) domestic insurance companies rated Aaa by Moody's and AAA by S&P; and (iii) domestic structured investment companies approved by the Bond Insurer and rated, or domestic structured investment companies with a guarantor rated, Aaa by Moody's and AAA by S&P.

(c) Acceptable providers of collateralized investment agreements shall consist of (i) registered broker/dealers subject to SIPC jurisdiction, if such broker/dealer has an uninsured, unsecured, and unguaranteed rating of A1 or better by Moody's and A+ or better by S&P; (ii) domestic FDIC-insured commercial banks, or U.S. branches of foreign banks, rated at least A1 by Moody's and A+ by S&P; (iii) domestic insurance companies rated at least A1 by Moody's and A+ by S&P; and (iv) domestic structured investment companies approved by the Bond Insurer and rated, or domestic structured investment companies with a guarantor rated, Aaa by Moody's and AAA by S&P. Required collateral levels shall be as set forth in clause 11(f) below.

(d) The investment agreement shall provide that, if the provider's ratings fall below Aa3 by Moody's or AA- by S&P, the provider shall within ten (10) days either (i) repay the principal amount plus any accrued and interest on the investment; or (ii) deliver Permitted Collateral as provided below.

(e) The investment agreement must provide for termination thereof if the provider's ratings are suspended, withdrawn, or fall below A3 from Moody's or A- from S&P. Within ten (10) days, the provider shall repay the principal amount plus any accrued interest on the agreement, without penalty.

(f) The investment agreement shall provide for the delivery of collateral described in clause (i) or (ii) below ("Permitted Collateral") which shall be maintained at the following collateralization levels at each valuation date:

i. U.S. Government Securities at 104% of principal plus accrued interest; or

ii. Obligations of GNMA, FNMA, or FHLMC (described in clauses 2(d), 3(a), and 3(b) above) at 105% of principal and accrued interest.

(g) The investment agreement shall require the Fiscal Agent or the Agent to determine the market value of the Permitted Collateral not less than weekly and notify

the investment agreement provider on the valuation day of any deficiency. Permitted Collateral may be released by the Fiscal Agent to the provider only to the extent that there are excess amounts over the required levels. Market value, with respect to collateral, may be determined by any of the following methods:

i. the last quoted “bid” price as shown in Bloomberg, Interactive Data Systems, Inc., The Wall Street Journal, or Reuters;

ii. valuation as performed by a nationally recognized pricing service, whereby the valuation method is based on a composite average of various bid prices; or

iii. the lower of two (2) bid prices by nationally recognized dealers. Such dealers or their parent holding companies shall be rated investment grade and shall be market makers in the securities being valued.

(h) Securities held as Permitted Collateral shall be free and clear of all liens and claims of third parties, held in a separate custodial account, and registered in the name of the Fiscal Agent or the Agent.

(i) The provider shall grant the Fiscal Agent or the Agent a perfected first security interest in any collateral delivered under an investment agreement. For investment agreements collateralized initially and in connection with the delivery of Permitted Collateral under clause 11(f) above, the Fiscal Agent and the Bond Insurer shall receive an opinion of counsel as to the perfection of the security interest in the collateral.

(j) The investment agreement shall provide that moneys invested under the agreement must be payable and putable at par to the Fiscal Agent without condition, breakage fee, or other penalty, upon not more than two (2) Business Days’ notice, or immediately on demand for any reason for which the funds invested may be withdrawn from the applicable fund or account established under the authorizing document, as well as the following:

i. In the event of a deficiency in the debt service account;

ii. Upon acceleration after an event of default;

iii. Upon refunding of the Bonds in whole or in part; or

iv. If a determination is later made by a nationally recognized bond counsel that investments must be yield-restricted.

Notwithstanding the foregoing, the agreement may provide for a breakage fee or other penalty that is payable in arrears and not as a condition of a draw by the Fiscal Agent if the City’s obligation to pay such fee or penalty is subordinate to its obligation to pay debt service on the Bonds.

(k) The investment agreement shall establish the following as events of default, the occurrence of any of which shall require the immediate liquidation of the investment securities:

i. Failure of the provider or the guarantor (if any) to make a payment when due or to deliver Permitted Collateral of the character, at the times, or in the amounts described above;

ii. Insolvency of the provider or the guarantor (if any) under the investment agreement;

iii. Failure by the provider to remedy any deficiency with respect to required Permitted Collateral;

iv. Failure by the provider to make a payment or observe any covenant under the agreement;

v. The guaranty (if any) is terminated, repudiated, or challenged; or

vi. Any representation of warranty furnished to the Fiscal Agent or the City in connection with the agreement is false or misleading.

(l) The investment agreement must incorporate the following general criteria:

i. "Cure periods" for payment default shall not exceed two (2) Business Days;

ii. The agreement shall provide that the provider shall remain liable for any deficiency after application of the proceeds of the sale of any collateral, including costs and expenses incurred by the Fiscal Agent or the Bond Insurer;

iii. Neither the agreement or guaranty agreement, if applicable, may be assigned (except to a provider that would otherwise be acceptable under these guidelines) or amended without the prior consent of the Bond Insurer;

iv. If the investment agreement is for a reserve fund, reinvestments of funds shall be required to bear interest at a rate at least equal to the original contract rate;

v. The provider shall be required to immediately notify the Bond Insurer and the Fiscal Agent of any event of default or any suspension, withdrawal, or downgrade of the provider's ratings;

vi. The agreement shall be unconditional and shall expressly disclaim any right of set-off or counterclaim; and

- vii. The agreement shall require the provider to submit information reasonably requested by the Bond Insurer, including balance invested with the provider, type and market value of collateral, and other pertinent information.
- (12) Forward delivery agreements in which the securities delivered mature on or before each interest payment date (for debt service or debt service reserve funds) or draw down date (construction funds) that meet the following criteria:
- (a) A specific written investment agreement governs the transaction.
 - (b) Acceptable providers shall be limited to (i) any registered broker/dealer subject to the SIPC jurisdiction, if such broker/dealer or bank has an unsecured, unsecured, and unguaranteed obligation rated A3 /P-1 or better by Moody's and A-/A-1 or better by S&P; (ii) any commercial bank insured by the FDIC, if such bank has an unsecured, unsecured, and unguaranteed obligation rated A3/P-1 or better by Moody's and A-/A-1 or better by S&P; and (iii) domestic structured investment companies approved by the Bond Insurer and rated, or domestic structured investment companies with a guarantor rated, Aaa by Moody's and AAA by S&P.
 - (c) The forward delivery agreement shall provide for termination or assignment (to a qualified provider hereunder) of the agreement if the provider's ratings are suspended, withdrawn, or fall below A3 or P-1 from Moody's or A- or A-1 from S&P. Within ten (10) days, the provider shall fulfill any obligations it may have with respect to shortfalls in market value. There shall be no breakage fee payable to the provider in such event.
 - (d) Permitted securities shall include the investments listed in clauses 1, 2, and 3 above.
 - (e) The forward delivery agreement shall include the following provisions:
 - i. The permitted securities must mature at least one (1) Business Day before a debt service payment date or scheduled draw. The maturity amount of the permitted securities must equal or exceed the amount required to be in the applicable fund on the applicable valuation date.
 - ii. The agreement shall include market standard termination provisions, including the right to terminate for the provider's failure to deliver qualifying securities or otherwise to perform under the agreement. There shall be no breakage fee or penalty payable to the provider in such event.
 - iii. Any breakage fees shall be payable only on Interest Payment Dates and shall be subordinated to the payment of debt service fund and reserve fund replenishments.
 - iv. The provider must submit at closing a bankruptcy opinion to the effect that upon any bankruptcy, insolvency, or receivership of the provider, the

securities will not be considered to be a part of the provider's estate, and shall otherwise be acceptable to the Bond Insurer.

v. The agreement may not be assigned (except to a provider that would otherwise be acceptable under these guidelines) or amended without the prior written consent of the Bond Insurer.

(13) Forward delivery agreements in which the securities delivered mature after the funds may be required but provide for the right of the issuer or the Fiscal Agent to put the securities back to the provider under a put, guaranty, or other hedging arrangement, only with the prior written consent of the Bond Insurer.

(14) Pre-refunded Municipal Obligations defined as follows: Any bonds or other obligations of the State of California or of any agency, instrumentality, or local governmental unit of the State of California 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 which are rated, based on an irrevocable escrow account or fund, in the highest rating category of S&P and Moody's.

(15) Shares in any money market mutual fund registered under the Investment Company Act of 1940 whose investment portfolio consists solely of direct obligations of the United States Government, provided that any such fund has been rated in the highest category by a nationally recognized rating agency and, provided further, that such mutual funds may include funds for which the Fiscal Agent or its affiliates or subsidiaries provide investment advisory or other management services.

(16) The Local Agency Investment Fund ("LAIF").

(17) Other forms of investments approved in writing by the Bond Insurer with notice by the City to S&P.

(18) Maturity of investments shall be governed by the following:

(a) Investments of monies (other than reserve funds) shall be in securities and obligations maturing not later than the dates on which such monies will be needed to make payments.

(b) Investments shall be considered as maturing on the first date on which they are redeemable without penalty at the option of the holder or the date on which the Fiscal Agent may require their repurchase pursuant to repurchase agreements.

(c) Investments of monies in reserve funds not payable upon demand shall be restricted to maturities of five (5) years or less.