

*STAFF REPORT**CITY OF OCEANSIDE*

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DATE: January 30, 2013

TO: Honorable Mayor and City Councilmembers  
Chairman and Members, Oceanside Public Financing Authority

FROM: City Treasurer's Office

SUBJECT: **ADOPTION OF RESOLUTIONS AUTHORIZING THE EXECUTION AND DELIVERY OF DOCUMENTS RELATING TO THE SALE AND DELIVERY OF, NOT TO EXCEED \$12,500,000, THE 2013 CERTIFICATES OF PARTICIPATION (2003 REFUNDING) AND AUTHORIZING CERTAIN DOCUMENTS AND DIRECTING CERTAIN ACTIONS IN CONNECTION THEREWITH; AND APPROVING A LEASE/PURCHASE AGREEMENT AND CERTAIN OTHER DOCUMENTS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF DOCUMENTS RELATING TO THE SALE AND DELIVERY OF THE 2013 CERTIFICATES OF PARTICIPATION (2003 REFUNDING) IN A PRINCIPAL AMOUNT NOT TO EXCEED \$12,500,000; AND APPROVAL OF A BUDGET APPROPRIATION IN THE AMOUNT OF \$1.5 MILLION IN ACCORDANCE WITH CITY COUNCIL POLICY 200-13**

**SYNOPSIS**

Staff recommends that the City Council and Oceanside Public Financing Authority adopt resolutions authorizing the execution and delivery of documents relating to the sale and delivery of, not to exceed \$12,500,000, the 2013 Certificates of Participation (2003 Refunding) and authorizing certain documents and directing certain actions in connection therewith; and approving a lease/purchase agreement and certain other documents in connection with the execution and delivery of documents relating to the sale and delivery of the 2013 Certificates of Participation (2003 Refunding) in a principal amount not to exceed \$12,500,000; and approve a budget appropriation in the amount of \$1.5 million in accordance with City Council Policy 200-13. The following documents pertaining to the sale of the certificates of participation, in substantially the form as attached, will be approved as part of the resolutions: Lease\Purchase Agreement, Site Lease, Assignment Agreement, Certificate Purchase Agreement, Escrow Agreement, and Trust Agreement. The bond's proceeds will be used to refund the existing 2003 Certificates of Participation (Series A Refunding).

## **BACKGROUND**

On October 9, 2002, City Council authorized the issuance of Certificates of Participation (COPs) to refund the 1993 Series A COP bonds in order to achieve cost savings due to lower bond market yields. The 1993 Series A COPs refunded the 1988 and 1991 San Luis Rey River Flood Control (Flood Control Project) COPs, and the 1989 Downtown Public Parking Project (Parking Project) COPs. The 1993 COPs also included \$6 million in new funding for additional flood control improvements and police equipment.

On January 7, 2003, the 2003 COPs (1993 Series A Refunding) were issued by the City of Oceanside, through the Oceanside Public Financing Authority, in a par amount of \$25,185,000. The COPs have a maturity date of April 1, 2023, and are eligible to be called on April 1, 2013. The interest rate on the bonds ranges from 3.00 percent to 5.25 percent. The outstanding principal on the bonds is \$15,270,000 as of April 1, 2012. Remaining annual debt service payments range from \$1.21 million to \$2.17 million. The bonds also have a required debt service reserve of \$2.15 million dollars as security on the bonds.

Of the total annual debt service, 75 percent is attributable to the Flood Control Project; the Parking Project makes up the remaining 25 percent of the debt service payment. The annual payments are budgeted from the following City Funds:

Fund 510 – San Luis Rey River Major Water Course	15%
Fund 711 – Water Operating	41%
Fund 101 – General Fund	44 %

The General Fund is responsible for the payment of all of the Parking Project debt (\$544,221 for Fiscal Year 2012-2013) and a portion of the Flood Control Project debt (\$400,000).

In an effort to lower operating costs related to the debt service payments for the 2003 COPs, staff began the process of refinancing the COPs at a lower interest rate. It was decided to issue the refunding bonds through a private placement sale. After soliciting bids from several financial institutions, Compass Bank of Alabama was selected as the private placement bank. On January 2, 2013, City Council authorized the City Manager to execute a commitment letter to Compass Bank. Upon execution of the letter, the City committed to issuing the bonds with the in the interest rate locked for 60 days.

## **ANALYSIS**

On January 14, 2013, the City Manager executed the commitment letter to Compass Bank. The following outlines the agreed upon terms of the 2013 COPs (2003 COP Refunding):

- Par Value: \$12,126,970

- Interest Rate: 1.776% (Fixed Rate Locked on January 15, 2013)
- Maturity Date: April 1, 2023
- Semi-Annual Payment Dates: April 1, October 1
- Annual Debt Service Payments: \$1,345,000 through FY 2019  
\$916,000 to \$921,000 FY 2020-2023
- Reserve Fund: None
- Pledged Assets: Fire Stations 2-6 and 602 Civic Center Drive Property

The recent bankruptcies filed by certain California municipalities have placed leased financing (of which COPs are categorized) under scrutiny. If non-essential assets are pledged, there is no recourse for bond or lien holders if the issuer were to default on the bonds. The original underlying assets of the 2003 COPs were the San Luis Rey Flood Control Channel and downtown parking lots. Since these assets are non-essential to the operation of the City, the pledge of the five fire stations and the code enforcement offices was required. An appraisal of the properties was obtained to determine a market value and fair rental value to ensure there is sufficient collateral on both an overall basis and annual basis to provide the required security on the bonds. The appraised market value of the assets was \$14.7 million, providing sufficient overall coverage. The fair rental value appraisal was not sufficient, however, to provide the necessary security to cover the annual debt service payments as proposed in the term sheet agreed upon between Compass Bank and the City. To ensure that the annual debt service payments will be properly secured, the debt service schedule was updated to provide for level debt service payments sufficient to cover the calculated fair rental value. The updated amortization method changed the repayment cash flows, prompting the Bank to re-evaluate the financing. As a result of the change in cash flows, the bank increased the index to 113 basis points over the 4-year London Interbank Offered Rate (LIBOR) comparative to the original bid of 103 basis points over the 4-year LIBOR. After the commitment letter was executed, the interest rate was locked for 60 days at 1.776 percent (January 15, 2013 4-year LIBOR rate of 0.646 basis points plus 113 basis points).

Based on the final interest rate and amortization schedule, the net present value savings over the life of the refunded COPs is estimated at \$2.1 million, or 13.99 percent. The average annual debt service savings is approximately \$571,800.

City Council is being asked to adopt resolutions that authorize the execution and of bond documents related to the sale of the COPs (such as the Lease/Purchase Agreement, Site Lease, Escrow Agreement, Assignment Agreement and Trust Agreement). The documents approved by Council will be finalized and executed at bond closing on February 28, 2013, with the exception of the Bond Counsel Agreement and the Placement Agent Agreement that will be executed upon approval by City Council. The not to exceed COP issuance amount of \$12.5 million is a maximum issuance limit;

a standard practice in municipal bond issuance. The maximum issuance limit provides flexibility in the event any unforeseen costs arise prior to the bond closing date.

In November 2012, City Council was provided a memorandum that discussed the use of a portion of a \$3.4 million surplus from Fiscal Year 2011-2012 to reduce long-term city debt in accordance with Council Policy 200-13, Section RE-5. The memorandum recommended the use of \$1.5 million of the surplus as additional cash funding toward the refunding of the 2003 Series A COPs. Staff is requesting that City Council approve a budget appropriation in the amount of \$1.5 million from unassigned General Fund reserves for the purpose of providing additional cash funds toward the refinancing.

**FISCAL IMPACT**

The City Council approved appropriation of \$1.5 million (in accordance with City Council Policy 200-13, Section RE-5) from the General Fund Unassigned Fund Balance (101.3100.0001) will be used to provide additional cash funding toward the refinancing of the COPs, effectively reducing the par value to be issued. The funds will be accounted for as follows:

Transfer from General Fund	1101.6900.0961
Transfer to OPFA – 03 COP Refunding SerA	170170961.6800.0101
Retirement of Debt Service – 03 COP	170170961.5651.1006

Based on the 1.776 percent interest rate on the refinanced COPS, the approximate average annual savings over the life of the bonds is \$571,800. The average annual savings per fund (based on current debt service payment allocation) is as follows:

<b>Approximate Annual Savings by Fund</b>		
<b>Fund Name</b>	<b>Allocation</b>	<b>Amount</b>
Fund 510 – SLRR Water Course	15%	\$ 85,800
Fund 711 – Water Operating	41%	\$234,400
Fund 101 – General Fund	44%	\$251,600
<b>Total Approximate Annual Savings</b>		<b>\$571,800</b>

The cost of issuing the bonds is estimated at \$140,000, which will cover fees such as placement agent fees, bond counsel fees, trustee fees, lender counsel fees, appraisal fees and title insurance. All fees are paid using bond proceeds.

The debt service payments on the 2013 COPs will be budgeted in Fund 961 – Oceanside Public Financing Authority Debt Service Fund. Debt service payment revenues will be transferred into Fund 961 from the General Fund (Fund 101), Water Operating Fund (Fund 711), and the San Luis Rey River Major Water Course Fund (Fund 510).

**COMMISSION OR COMMITTEE REPORT**

Does not apply.

**CITY ATTORNEY'S ANALYSIS**

The referenced documents have been reviewed by the City Attorney and approved as to form.

**RECOMMENDATION**

Staff recommends that the City Council and Oceanside Public Financing Authority adopt resolutions authorizing the execution and delivery of documents relating to the sale and delivery of, not to exceed \$12,500,000, the 2013 Certificates of Participation (2003 Refunding) and authorizing certain documents and directing certain actions in connection therewith; and approving a lease/purchase agreement and certain other documents in connection with the execution and delivery of documents relating to the sale and delivery of the 2013 Certificates of Participation (2003 Refunding) in a principal amount not to exceed \$12,500,000; and approve a budget appropriation in the amount of \$1.5 million in accordance with City Council Policy 200-13.

PREPARED BY:

SUBMITTED BY:



Michele C. Lund, CCMT  
Treasury Manager



Peter A. Weiss  
City Manager\Executive Director

REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager  
Gary Ernst, City Treasurer  
Teri Ferro, Director of Financial Services  
Cari Dale, Water Utilities Director



Attachments

1. Resolution of the City Council of the City of Oceanside authorizing the execution and delivery of documents relating to the sale and delivery of, not to exceed \$12,500,000, the 2013 Certificates of Participation (2003 Refunding) and authorizing certain documents and directing certain actions in connection therewith

2. Resolution of the Board of Directors of the Oceanside Public Financing Authority approving a lease/purchase agreement and certain other documents in connection with the execution and delivery of documents relating to the sale and delivery of the 2013 Certificates of Participation (2003 Refunding) in a principal amount not to exceed \$12,500,000
3. Trust Agreement between the Oceanside Public Financing Authority, the City of Oceanside and The Bank of New York Mellon Trust Company, N.A., as Trustee
4. Lease/Purchase Agreement between the Oceanside Public Financing Authority and the City of Oceanside
5. Site Lease between the City of Oceanside and the Oceanside Public Financing Authority
6. Assignment Agreement between the Oceanside Public Financing Authority, the City of Oceanside and The Bank of New York Mellon Trust Company, N.A., as Trustee
7. Certificate Purchase Agreement between the City of Oceanside and the Oceanside Public Financing Authority and Compass Bank of Alabama
8. Escrow Agreement between the City of Oceanside and The Bank of New York Mellon Trust Company, N.A., as Escrow Bank
9. Bond Counsel Agreement between the City of Oceanside and Stradling, Carlson, Yocca & Rauth
10. Placement Agent Agreement between the City of Oceanside and Piper Jaffray & Co
11. City Council Memorandum dated November 8, 2012, "General Fund Surplus"

1 RESOLUTION NO. \_\_\_\_\_

2 RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
3 OCEANSIDE AUTHORIZING THE EXECUTION AND  
4 DELIVERY OF DOCUMENTS RELATING TO THE SALE AND  
5 DELIVERY OF NOT TO EXCEED \$12,500,000 2013  
6 CERTIFICATES OF PARTICIPATION (2003 REFUNDING),  
7 AND AUTHORIZING CERTAIN DOCUMENTS AND  
8 DIRECTING CERTAIN ACTIONS IN CONNECTION  
9 THEREWITH

10 WHEREAS, the City of Oceanside (the "City") is a chartered city duly organized and  
11 existing under and pursuant to the Constitution and laws of the State of California (the "State");  
12 and

13 WHEREAS, the City and the Oceanside Public Financing Authority, a joint exercise of  
14 powers agency duly organized and existing under the laws of the State of California (the  
15 "Authority"), have heretofore entered into a Lease/Purchase Agreement, dated as of January 1,  
16 2003 (the "2003 Lease Agreement") pursuant to which the Authority agreed to lease to the City  
17 certain real property and improvements located thereon; and

18 WHEREAS, the Authority and the City have previously entered into certain agreements  
19 with respect to the execution and delivery of the \$25,815,000 City of Oceanside 2003  
20 Certificates of Participation (1993 Series A Refunding) (the "2003 Certificates"), which 2003  
21 Certificates evidenced undivided proportionate interests in lease payments made pursuant to the  
22 terms the 2003 Lease Agreement; and

23 WHEREAS, the City desires to prepay the 2003 Lease Agreement and to defease and  
24 refinance the 2003 Certificates; and

25 WHEREAS, the City wishes to enter into certain leases and other agreements and  
26 authorize the sale of 2013 Certificates of Participation (2003 Refunding) (the "Certificates")  
27 under the Trust Agreement described below in order to refinance the 2003 Lease Agreement; and

28 WHEREAS, the City, in order to facilitate the execution and delivery of the Certificates,  
intends to lease to the Authority the real property and improvements located thereon, consisting  
generally of Fire Stations 2, 3, 4, 5 and 6 and 602 Civic Center Drive (the "Property"), as set  
forth in Exhibit A to the Site Lease (as defined below) and to lease the Property back from the  
Authority pursuant to the Lease (as defined below); and

1           WHEREAS, all acts, conditions and things required by the Constitution and laws of the  
2 State to exist, to have happened and to have been performed precedent to and in connection with  
3 the consummation of the financing authorized hereby do exist, have happened and have been  
4 performed in regular and due time, form and manner as required by law, and the City is now duly  
5 authorized and empowered, pursuant to each and every requirement of law, to consummate such  
6 financing for the purpose, in the manner and upon the terms herein provided;

7           NOW, THEREFORE, the City Council of the City of Oceanside does resolve as follows:

8           SECTION 1. Findings. The City Council hereby specifically finds and declares that  
9 each of the statements, findings and determinations of the City set forth in the recitals set forth  
10 above and in the preambles of the documents approved herein are true and correct and that the  
11 refinancing of the 2003 Lease Agreement will result in significant public benefits for the  
12 residents of the City. The City Council hereby further finds and determines that there are  
13 significant public benefits to the citizens of the City of the type described in Section 6586(a) of  
14 Marks-Roos Local Bond Pooling Act of 1985 (the "Act") by having the Authority assist the City  
15 with respect to the refinancing of the 2003 Lease Agreement through the execution and delivery  
16 of the Certificates, in that the execution and delivery of the Certificates and related transactions  
17 will result in demonstrable savings in effective interest rate to the City.

18           SECTION 2. Authorization of Certificates. The City Council hereby expresses its  
19 intention of refinancing the 2003 Lease Agreement through the preparation, sale and delivery of  
20 Certificates in an amount not to exceed \$12,500,000.

21           SECTION 3. Lease/Purchase Agreement. The form of the Lease/Purchase Agreement  
22 between the City and the Authority (the "Lease"), presented to this meeting and on file with the  
23 City Clerk (the "Clerk"), is hereby approved. Each of the Mayor of the City (the "Mayor"), the  
24 City Manager of the City (the "City Manager") and the Financial Services Director of the City  
25 (the "Financial Services Director"), or their designees (collectively, the "Authorized Officers"),  
26 is hereby authorized and directed, for and in the name and on behalf of the City, to execute and  
27 deliver to the Authority the Lease in substantially said form, with such changes therein as the  
28 Authorized Officer or Officers executing the Lease may require or approve, such approval to be  
conclusively evidenced by the execution and delivery thereof by one or more of the Authorized  
Officers.

          SECTION 4. Appointment. The Bank of New York Mellon Trust Company, N.A. is  
appointed trustee (the "Trustee") under the Trust Agreement (defined below).

1 SECTION 5. Trust Agreement. The form of the Trust Agreement (the “Trust  
2 Agreement”) among the City, the Authority and the Trustee, presented to this meeting and on file  
3 with the Clerk, is hereby approved. Each of the Authorized Officers is hereby authorized and  
4 directed, for and in the name and on behalf of the City, to execute and deliver to the Authority  
5 and the Trustee the Trust Agreement in substantially said form, with such changes therein as the  
6 Authorized Officer or Officers executing the Trust Agreement may require or approve, such  
7 approval to be conclusively evidenced by the execution and delivery thereof by one or more of  
8 the Authorized Officers.

9 SECTION 6. Escrow Agreement. The form of the Escrow Agreement (the “Escrow  
10 Agreement”) by and between the City and The Bank of New York Mellon Trust Company, N.A.,  
11 as Escrow Bank, (the “Escrow Bank”), presented to this meeting and on file with the Clerk, is  
12 hereby approved. Each of the Authorized Officers is hereby authorized and directed, for and in  
13 the name and on behalf of the City, to execute and deliver to the Building Authority and the  
14 Escrow Bank the Escrow Agreement in substantially said form, with such changes therein as the  
15 Authorized Officer or Officers executing the Escrow Agreement may require or approve, such  
16 approval to be conclusively evidenced by the execution and delivery thereof by one or more of  
17 the Authorized Officers.

18 SECTION 7. Assignment Agreement. The Assignment Agreement between the Trustee  
19 and the Authority (the “Assignment Agreement”) in the form on file with the Clerk is hereby  
20 approved for execution and delivery by the Authority.

21 SECTION 8. Approval of Private Placement Agreement. The form of the Certificate  
22 Purchase Agreement (the “Purchase Agreement”) by and among the City, the Authority and  
23 Compass Bank presented to this meeting and on file with the Clerk is hereby approved. Each of  
24 the Authorized Officers is hereby authorized and directed for and on behalf of the City to execute  
25 and deliver the Purchase Agreement to Compass Bank in substantially said form, with such  
26 changes therein as the Authorized Officer or Officers executing the Purchase Agreement may  
27 require or approve, such approval to be conclusively evidenced by the execution and delivery  
28 thereof by any one of the Authorized Officers.

SECTION 9. Financial Services Director and City Manager to Establish Final Terms of  
Issuance. The Financial Services Director, the City Manager and their designees are each  
authorized, on behalf of the City, to establish and determine (i) the final principal amount of the  
Certificates, not to exceed \$12,500,000; and (ii) the final interest rates on various maturities of

1 the Certificates, not to exceed a total interest cost of 2.00% per annum for the Certificates as a  
2 whole.

3 SECTION 10. Site Lease. The form of the Site Lease (the "Site Lease"), between the  
4 Authority and the City, presented to this meeting and on file with the Clerk, is hereby approved.  
5 Each of the Authorized Officers is hereby authorized and directed, for and in the name and on  
6 behalf of the City, to execute and deliver to the Authority the Site Lease in substantially said  
7 form, with such changes therein as the Authorized Officer or Officers executing such document  
8 may require or approve, such approval to be conclusively evidenced by the execution and  
9 delivery thereof.

10 SECTION 11. Attestations. The Clerk or persons as may have been designated by the  
11 City Manager are hereby authorized and directed to attest the signature of the Authorized  
12 Officers designated herein to execute any documents described herein, and to affix and attest the  
13 seal of the City, as may be required or appropriate in connection with the execution and delivery  
14 of the Private Placement Agreement, the Lease, the Trust Agreement and the Site Lease.

15 SECTION 12. Professional Services. The Financial Services Director and the City  
16 Manager are each authorized to execute contracts with Stradling Yocca Carlson & Rauth, a  
17 Professional Corporation, to act as Bond Counsel to the City and Piper Jaffray & Co. to act as  
18 Placement Agent, which contracts shall be in substantially the form on file with the Clerk,  
19 together with such changes as may be approved by the Financial Services Director and the City  
20 Manager, or their designee, which changes shall be deemed approved by the execution and  
21 delivery of such contracts by any one of such officers.

22 SECTION 13. Other Actions. The Authorized Officers are each hereby authorized and  
23 directed, jointly and severally, to do any and all things and to execute and deliver any and all  
24 documents which each may deem necessary or advisable (including the execution and delivery  
25 of instruments terminating the leases and assignments pertaining to the 2003 Certificates and  
26 acquiring title insurance or other insurance required by the Lease Agreement or the Purchase  
27 Agreement and to pay associated costs of issuance, including legal costs of the purchaser of the  
28 Certificates) in order to consummate the sale, execution and delivery of the Certificates, the  
prepayment of the 2003 Certificates and the 2003 Lease Agreement and otherwise to carry out,  
give effect to and comply with the terms and intent of this Resolution, the Certificates, the Lease,  
the Trust Agreement, the Site Lease and the Purchase Agreement. Such actions heretofore taken  
by such officers or designees are hereby ratified, confirmed and approved. In the event that it is

1 determined by the City Manager, the Financial Services Director, or their designees, that there  
2 are limitations or restrictions on the ability of the City to lease any portion of the Site as  
3 contemplated by the Site Lease and the Lease, the Financial Services Director, the City Manager,  
4 and their designees, may designate other real property of the City to be leased pursuant to the  
5 Site Lease and the Lease with such designation to be conclusively evidenced by the execution  
6 and delivery of the Site Lease and the Lease by one or more of the Authorized Officers.

7 SECTION 14. Effect. This Resolution shall take effect immediately upon its passage.

8 PASSED AND ADOPTED by the City Council of the City of Oceanside, California, this  
9 \_\_\_\_\_ day of \_\_\_\_\_ 2013, by the following vote:

10 AYES:

11 NAYS:

12 ABSENT:

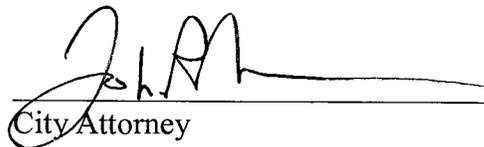
13 ABSTAIN:

14 \_\_\_\_\_  
15 MAYOR OF THE CITY OF OCEANSIDE

16 ATTEST:

17 APPROVED AS TO FORM:

18 \_\_\_\_\_  
19 City Clerk

20 \_\_\_\_\_  
21   
22 City Attorney

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RESOLUTION NO. \_\_\_\_\_

RESOLUTION OF THE BOARD OF DIRECTORS OF THE OCEANSIDE PUBLIC FINANCING AUTHORITY APPROVING A LEASE/PURCHASE AGREEMENT WITH THE CITY OF OCEANSIDE AND CERTAIN OTHER DOCUMENTS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE 2013 CERTIFICATES OF PARTICIPATION (2003 REFUNDING) IN A PRINCIPAL AMOUNT NOT TO EXCEED \$12,500,000

WHEREAS, the Oceanside Public Financing Authority is a joint exercise of powers authority duly organized and existing under the laws of the State of California (the "Authority") with the authority to assist in the financing of the acquisition, construction, installation and equipping of certain capital improvements on behalf of the City of Oceanside (the "City"); and

WHEREAS, the City and the Authority have heretofore entered into a Lease/Purchase Agreement, dated as of January 1, 2003 (the "2003 Lease Agreement") pursuant to which the Authority agreed to lease to the City certain real property and improvements located thereon; and

WHEREAS, the City and the Authority have previously entered into certain agreements with respect to the execution and delivery of the \$25,185,000 City of Oceanside 2003 Certificates of Participation (1993 Series A Refunding) (the "2003 Certificates"), which 2003 Certificates evidenced undivided proportionate interests in lease payments made pursuant to the terms the 2003 Lease Agreement; and

WHEREAS, in order to prepay the 2003 Lease Agreement and refinance and defease the 2003 Certificates, the Authority and the City have determined that it would be in the best interests of the Authority, the City and residents of the City to authorize the preparation, sale and delivery of the 2013 Certificates of Participation (2003 Refunding) in an aggregate principal amount not to exceed \$12,500,000 (the "Certificates"), which Certificates evidence fractional interests in certain lease payments to be made pursuant to the Lease (as defined below).

WHEREAS, in order to facilitate the execution and delivery of the Certificates, the City and the Authority desire to enter into a certificate purchase agreement by and among the Authority, the City and Compass Bank (the "Purchase Agreement"), a Site Lease between the City and the Authority (the "Site Lease") and a Lease/Purchase Agreement between the City and the Authority (the "Lease"), the forms of which have been presented to this Board of Directors at the meeting at which this Resolution is being adopted and pursuant to which the City will under

1 the Site Lease lease the certain real property and improvements located thereon, as set forth in  
2 Exhibit A to the Site Lease (the "Property"), to the Authority and under the Lease will lease the  
3 Property back from the Authority and pay certain Lease Payments (as defined in the Lease),  
4 which have been pledged to the owners of the Certificates by the Authority pursuant to a Trust  
5 Agreement among The Bank of New York Mellon Trust Company, N.A. (the "Trustee"), the  
6 City and the Authority (the "Trust Agreement"), the form of which has been presented to this  
7 Board of Directors at the meeting at which this Resolution is being adopted; and

8 WHEREAS, the Authority desires to assign its right to receive such Lease Payments from  
9 the City to the Trustee pursuant to an Assignment Agreement between the Authority and the  
10 Trustee (the "Assignment Agreement"), the form of which has been presented to this Board of  
11 Directors at the meeting at which this Resolution is being adopted;

12 NOW, THEREFORE, the Board of Directors of the Oceanside Public Financing  
13 Authority does hereby resolve as follows:

14 SECTION 1. Certificates. This Board of Directors hereby authorizes the preparation,  
15 sale and delivery of the Certificates in an aggregate principal amount not to exceed \$12,500,000  
16 in accordance with the terms and provisions of the Trust Agreement. The purposes for which the  
17 proceeds of the sale of the Certificates shall be expended are to refinance the 2003 Lease  
18 Agreement, and to pay the costs of the sale and delivery of the Certificates.

19 SECTION 2. Certificate Documents. The Site Lease, the Lease, the Trust Agreement  
20 and the Assignment Agreement (the "Agreements") presented at this meeting are approved.  
21 Each of the Chairman, Vice Chairman, Executive Director, Treasurer and Secretary of the  
22 Authority, or the Chairman's designee, are authorized and directed to execute and deliver the  
23 Agreements and to negotiate the terms of the Purchase Agreement. The Agreements shall be  
24 executed in substantially the forms hereby approved, with such additions thereto and changes  
25 therein as are recommended or approved by counsel to the Authority and approved by one or  
26 more of the foregoing officers of the Authority authorized to execute the documents, such  
27 approval to be conclusively evidenced by the execution and delivery thereof by one or more of  
28 the officers listed above. The Purchase Agreement shall be approved by one or more of the  
foregoing officers of the Authority authorized to negotiate its terms, such approval to be  
conclusively evidenced by the execution and delivery thereof by one or more of the officers  
listed above.

1 SECTION 3. Establishment of Final Terms of Issuance. The Financial Services  
2 Director of the City, the City Manager of the City or their designees are each authorized to  
3 establish and determine (i) the final principal amount of the Certificates, not to exceed  
4 \$12,500,000; and (ii) the final interest rates on various maturities of the Certificates, not to  
5 exceed a total interest cost of 2.00% per annum for the Certificates as a whole.

6 SECTION 4. Other Actions. The Chairman, Vice Chairman, Executive Director,  
7 Treasurer, Secretary and other officers of the Authority are authorized and directed, jointly and  
8 severally, to do any and all things and to execute and deliver any and all documents which they  
9 may deem necessary or advisable in order to consummate the sale and delivery of the  
10 Certificates, and the execution of the Agreements and otherwise effectuate the purposes of this  
11 Resolution (including, but not limited to, terminating or entering into any amendments to the  
12 agreements entered into in connection with the 2003 Certificates), and such actions previously  
13 taken by such officers are hereby ratified and confirmed.

14 SECTION 5. Effect. This Resolution shall take effect from and after its date of  
15 adoption.

16 PASSED AND ADOPTED by the Board of Directors of the Oceanside Public Financing  
17 Authority, California, this \_\_\_\_\_ day of \_\_\_\_\_, 2013, by the following vote:

18 AYES:

19 NAYS:

20 ABSENT:

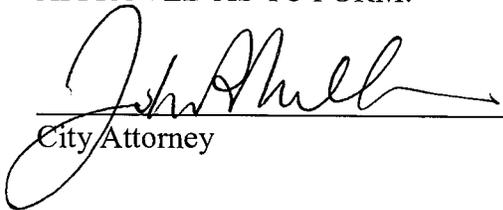
21 ABSTAIN:

22 \_\_\_\_\_  
CHAIRMAN OF THE OCEANSIDE  
PUBLIC FINANCING AUTHORITY

23 ATTEST:

APPROVED AS TO FORM:

24 \_\_\_\_\_  
25 Secretary

26   
27 \_\_\_\_\_  
28 City Attorney

**ATTACHMENT 3**

*Stradling Yocca Carlson & Rauth  
Draft of 1/15/13*

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**TRUST AGREEMENT**

**Dated as of February 1, 2013**

**by and among**

**THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.,  
as Trustee**

**and the**

**OCEANSIDE PUBLIC FINANCING AUTHORITY**

**and the**

**CITY OF OCEANSIDE**

**Relating to**

**§ \_\_\_\_\_  
CITY OF OCEANSIDE  
2013 CERTIFICATES OF PARTICIPATION  
(2003 REFUNDING)**

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**TABLE OF CONTENTS**

**Page**

ARTICLE I

DEFINITIONS

Section 1.01.	Definitions and Rules of Construction .....	2
Section 1.02.	Authorization.....	8
Section 1.03.	Equal Security .....	8

ARTICLE II

THE 2013 CERTIFICATES OF PARTICIPATION

Section 2.01.	Authorization.....	9
Section 2.02.	Description of Certificate .....	9
Section 2.03.	Form of Certificates.....	10
Section 2.04.	Execution.....	10
Section 2.05.	Application of Proceeds .....	10
Section 2.06.	Transfer and Exchange .....	10
Section 2.07.	Certificates Mutilated, Lost, Destroyed or Stolen.....	11
Section 2.08.	Execution of Documents and Proof of Ownership.....	11
Section 2.09.	Certificate Register.....	12
Section 2.10.	Registration and Book-Entry System .....	12
Section 2.11.	Destruction of Cancelled Certificates.....	15
Section 2.12.	Additional Certificates.....	15

ARTICLE III

ESTABLISHMENT OF FUNDS

Section 3.01.	Costs of Issuance Fund.....	17
Section 3.02.	Escrow Fund.....	17

ARTICLE IV

PREPAYMENT FUND

Section 4.01.	Establishment of Prepayment Fund.....	17
Section 4.02.	Extraordinary Prepayment.....	17
Section 4.03.	Prepayment.....	18
Section 4.04.	Selection of Certificates for Prepayment.....	19
Section 4.05.	Notice of Prepayment .....	19
Section 4.06.	Partial Prepayment of Certificates.....	20
Section 4.07.	Effect of Notice of Prepayment.....	20
Section 4.08.	Surplus.....	20

ARTICLE V

LEASE PAYMENTS; LEASE PAYMENT FUND

Section 5.01. Security Provisions ..... 20  
Section 5.02. Establishment of Lease Payment Fund..... 21  
Section 5.03. Deposits ..... 21  
Section 5.04. Application of Moneys ..... 21  
Section 5.05. Surplus..... 22

ARTICLE VI

[RESERVED]

ARTICLE VII

NET PROCEEDS FUND

Section 7.01. Establishment of Net Proceeds Fund: Deposits..... 22  
Section 7.02. Cooperation ..... 23

ARTICLE VIII

MONEYS IN FUNDS; INVESTMENT

Section 8.01. Held in Trust..... 23  
Section 8.02. Investments Authorized..... 23  
Section 8.03. Disposition of Investments ..... 24  
Section 8.04. Accounting ..... 24  
Section 8.05. Commingling of Moneys in Funds..... 25  
Section 8.06. Tax Covenants ..... 25  
Section 8.07. Rebate Fund..... 26

ARTICLE IX

THE TRUSTEE

Section 9.01. Appointment of Trustee..... 28  
Section 9.02. Merger or Consolidation..... 29  
Section 9.03. Protection of the Trustee ..... 29  
Section 9.04. Rights of the Trustee ..... 29  
Section 9.05. Standard of Care..... 30  
Section 9.06. Compensation of the Trustee..... 30  
Section 9.07. Indemnification of Trustee ..... 30  
Section 9.08. Trustee's Disclaimer of Warranties..... 32

ARTICLE X

MODIFICATION OR AMENDMENT OF AGREEMENTS

Section 10.01. Amendments Permitted ..... 32  
Section 10.02. [Reserved]..... 32  
Section 10.03. Disqualified Certificates ..... 33  
Section 10.04. Effect of Supplemental Agreement ..... 33  
Section 10.05. Endorsement or Replacement of Certificates Delivered After Amendments. 33  
Section 10.06. Amendatory Endorsement of Certificates ..... 33

ARTICLE XI

COVENANTS; NOTICES

Section 11.01. Compliance With and Enforcement of the Lease ..... 33  
Section 11.02. Payment of Taxes ..... 34  
Section 11.03. Observance of Laws and Regulations ..... 34  
Section 11.04. Prosecution and Defense of Suits ..... 34  
Section 11.05. City Budgets ..... 34  
Section 11.06. Further Assurances ..... 34

ARTICLE XII

LIMITATION OF LIABILITY

Section 12.01. Limited Liability of the City..... 35  
Section 12.02. No Liability of the City or Authority for Trustee Performance ..... 35  
Section 12.03. Limitation of Rights to Parties and Certificate Owner..... 35  
Section 12.04. No Liability of Authority to the Owner..... 35

ARTICLE XIII

EVENTS OF DEFAULT AND REMEDIES OF CERTIFICATE OWNERS

Section 13.01. Assignment of Rights ..... 36  
Section 13.02. Events of Default..... 36  
Section 13.03. Application of Funds ..... 36  
Section 13.04. Institution of Legal Proceedings..... 37  
Section 13.05. Non-Waiver ..... 37  
Section 13.06. Remedies Not Exclusive..... 37  
Section 13.07. Power of Trustee to Control Proceedings..... 37  
Section 13.08. Limitation on Certificate Owner’s Right to Sue..... 37  
Section 13.09. Agreement to Pay Attorneys’ Fees and Expenses..... 38

ARTICLE XIV

MISCELLANEOUS

Section 14.01. Defeasance..... 38  
Section 14.02. Non-Presentation of Certificates ..... 39  
Section 14.03. Acquisition of Certificates by City..... 40  
Section 14.04. Records..... 40  
Section 14.05. Notices..... 40  
Section 14.06. Governing Law..... 40  
Section 14.07. Binding Effect: Successors..... 40  
Section 14.08. Execution in Counterparts..... 41  
Section 14.09. Headings..... 41  
Section 14.10. Waiver of Notice ..... 41  
Section 14.11. Separability of Invalid Provisions ..... 41

Signature Page ..... S-1

EXHIBIT A FORM OF CERTIFICATE OF PARTICIPATION..... A-1  
EXHIBIT B FORM OF INVESTOR LETTER..... B-1

## TRUST AGREEMENT

THIS TRUST AGREEMENT, dated as of January 1, 2013, by and among THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., a national banking association duly organized and existing under the laws of the United States of America, as trustee (the "Trustee"), the OCEANSIDE PUBLIC FINANCING AUTHORITY, a joint exercise of powers authority duly organized and existing under the laws of the State of California, as Authority under the Lease hereinafter referred to (the "Authority"), and the CITY OF OCEANSIDE, a municipal corporation duly organized and existing under the Constitution and laws of the State of California, as lessee under the Lease (the "City");

### WITNESSETH:

WHEREAS, the City and the Authority have heretofore entered into a Lease/Purchase Agreement, dated as of January 1, 2003f (the "2003 Lease Agreement"), pursuant to which the Authority agreed to lease to the City certain real property and improvements located thereon; and

WHEREAS, the City has previously caused to be executed and delivered its City of Oceanside 2003 Certificates of Participation (1993 Series A Refunding) (the "2003 Certificates"), which 2003 Certificates were secured by lease payments under and pursuant to the terms the 2003 Lease Agreement; and

WHEREAS, the City and the Authority desire to defease and refinance the 2003 Certificates (the "Project"); and

WHEREAS, for the purpose of refinancing the 2003 Lease Agreement and the 2003 Certificates, the City and the Authority desire to enter into a Lease/Purchase Agreement, dated as of January 1, 2013 (the "Lease"), whereby the City has agreed to lease certain real property and improvements located thereon (collectively, the "Property"), defined below, from the Authority; and

WHEREAS, the City and the Authority have authorized the sale of the \$\_\_\_\_\_ City of Oceanside 2013 Certificates of Participation, (2003 Refunding) (the "Certificates"), each evidencing fractional interests in the Lease Payments and Prepayments made by the City under the Lease, in order to refinance the Project; and

WHEREAS, as security for the Certificates, the Authority will assign the rights to receive certain Lease Payments described in the Lease, and the Authority and the City will grant a security interest in all moneys held by the Trustee hereunder (other than the Rebate Fund as described herein) to the Trustee for the benefit of the Owners of Certificates executed and delivered hereunder; and

WHEREAS, Section 5420 et seq. of the California Government Code (the "Government Code") provides statutory authority for pledging collateral for the payment of principal or prepayment price of, and interest, any agreement, including certificates of participation, and the Government Code creates a continuing perfected security interest on which shall attach immediately to such collateral irrespective of whether the parties to the pledge document have notice of the pledge and without the need for any physical delivery, recordation, filing or further act, and therefore the City and the Authority hereby warrant and represent that pursuant to the Lease, this Trust Agreement

and the Government Code, the Authority has a first priority perfected security interest in the Lease Payments described in the Lease represented by the Certificates.

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

ARTICLE I  
DEFINITIONS

Section 1.01. Definitions and Rules of Construction. Unless the context otherwise requires, the terms defined in this Section shall, for all purposes of this Trust Agreement, have the meanings herein specified. Unless the context otherwise indicates, words importing the singular number shall include the plural number and vice versa. The terms “hereby,” “hereof,” “hereto,” “herein,” “hereunder” and any similar terms, as used in this Trust Agreement, refer to this Trust Agreement as a whole.

“Additional Certificates” means certificates of participation authorized by a supplemental Trust Agreement that are executed and delivered by the Trustee under and pursuant to Section 2.12.

“Additional Payments” means all amounts payable by the City as Additional Payments as defined in Section 4.11 of the Lease.

“Assignment Agreement” means the Assignment Agreement related to the Certificates, dated as of the date hereof, by and between the Trustee and the Authority, and any duly authorized and executed amendments thereto.

“Authority” means the Oceanside Public Financing Authority, a joint exercise of powers authority organized under the laws of the State, its successors and assigns.

“Authority Representative” means the Chairman, Vice Chairman, Secretary, Treasurer, Executive Director, Assistant Executive Director or Assistant Treasurer of the Authority, or any other person authorized to act on behalf of the Authority under or with respect to the Lease.

“Beneficial Owner” means any person which (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Certificates (including persons holding Certificates through nominees, depositories or other intermediaries), or (b) is treated as the owner of any Certificates for federal income tax purposes.

“Building Authority” means the Oceanside Building Authority, a joint exercise of power authority organized under the laws of the State, it’s successors and assigns.

“Business Day” means any day other than (i) a Saturday or Sunday, or (ii) a day on which banking institutions in the State of New York or the State of California are authorized or required by law or executive order to remain closed.

“Certificates” means the \$\_\_\_\_\_ aggregate principal amount of City of Oceanside 2013 Certificates of Participation, (2003 Refunding) to be executed and delivered by the Trustee pursuant to this Trust Agreement.

“Certificate Year” means the period extending from April 2 of each year to April 1 of the subsequent calendar year, provided that the first Certificate Year shall commence on the Closing Date and end on April 1, 2013.

“City” means the City of Oceanside, a municipal corporation organized and existing under the laws and Constitution of the State, and its successors and assigns.

“City Representative” means the City Manager, Administrative Services Director and Chief Financial Officer of the City or any other person authorized by the City Manager of the City to act on behalf of the City with respect to the Lease or this Trust Agreement.

“Closing Date” means the date on which the Certificates, duly executed by the Trustee, are delivered to the Original Purchaser thereof.

“Code” means the Internal Revenue Code of 1986, and the regulations issued thereunder, as the same may be amended from time to time, and any successor provisions of law. Reference to a particular section of the Code shall be deemed to be a reference to any successor to any such section.

“Costs of Issuance” means all expenses incurred in connection with the authorization, issuance, sale and delivery of the Bonds and the application of the proceeds of the Bonds, including but not limited to all compensation, fees and expenses (including but not limited to fees and expenses for legal counsel) of the City, the Authority and the Trustee, compensation to any financial consultants or underwriters, legal fees and expenses, Bond insurance premiums filing and recording costs, rating agency fees, costs of preparation and reproduction of documents and costs of printing.

“Costs of Issuance Fund” means the fund by that name established and held by the Trustee pursuant to Section 3.01.

“Delivery Date” means February \_\_, 2013.

“Escrow Agreement” means that certain Escrow Agreement dated as of January 1, 2013, by and between the City and The Bank of New York Mellon Trust Company, N.A., as Escrow Bank, providing for the defeasance of the Certificates.

“Escrow Fund” means the fund by that name established and held by the Trustee pursuant to Section 3.02.

“Event of Default” means an event of default under the Lease, as defined in Section 9.1 thereof.

“Fiscal Year” means the fiscal year of the City commencing July 1 and ending June 30 of the next year.

“Government Obligations” means Permitted Investments of the type described in paragraph (A) of the definition thereof.

“Independent Counsel” means an attorney duly admitted to the practice of law before the highest court of the state in which such attorney maintains an office and who is not an employee of the Authority, the Trustee or the City.

“Interest Payment Date” means October 1 and April 1 of each year commencing April 1, 2013.

“Investor Letter” means the letter delivered by the Owner or any subsequent transferor substantially in the form attached hereto as Exhibit B.

“Lease” means the Lease/Purchase Agreement related to the Certificates, dated as of the date hereof, by and between the City and the Authority, and any duly authorized and executed amendments thereto.

“Lease Payment” means any payment required to be paid by the City to the Authority pursuant to Section 4.4 of the Lease.

“Lease Payment Date” means the Lease Payment Date defined in Section 4.4(a) of the Lease, which shall be each March 15 and September 15 commencing September 15, 2013.

“Lease Payment Fund” means the fund by that name established and held by the Trustee pursuant to Article V hereof.

“Letter of Representations” means the letter of the City delivered to and accepted by the Depository on or prior to delivery of the Certificates as book-entry certificates making reference to the DTC Operational Arrangements memorandum, as it may be amended from time to time, setting forth the basis on which the Depository serves as depository for such book-entry certificates, as such letters were originally executed or as they may be supplemented or revised or replaced by letters from the City and the Trustee delivered to and accepted by the Depository.

“Moody’s” means Moody’s Investors Service or any successors or assigns thereto.

“Net Proceeds” means any proceeds of any insurance, performance bonds or taking by eminent domain or condemnation paid with respect to the Property remaining after payment therefrom of any expenses (including attorneys’ fees) incurred in the collection thereof.

“Net Proceeds Fund” means the fund by that name established and held by the Trustee pursuant to Article VII hereof.

“Nominee” means the nominee of the Depository, which may be the Depository, as determined from time to time pursuant to Section 2.10 hereof.

“Outstanding” when used as of any particular time with respect to Certificates, means (subject to the provisions of Section 10.03 hereof) all Certificates theretofore executed and delivered by the Trustee under this Trust Agreement except:

- (1) Certificates theretofore cancelled by the Trustee or surrendered to the Trustee for cancellation;
- (2) Certificates for the payment or prepayment of which funds or Government Obligations, together with interest earned thereon, in the necessary amount shall have theretofore been deposited with the Trustee (whether upon or prior to the maturity or prepayment date of such Certificates), provided that, if such Certificates are to be prepaid prior to maturity, notice of such prepayment shall have been given as

provided in Section 4.05 hereof or provision satisfactory to the Trustee shall have been made for the giving of such notice; and

- (3) Certificates in lieu of or in exchange for which other Certificates shall have been executed and delivered by the Trustee pursuant to Sections 2.06 and 2.07 hereof.

Notwithstanding anything herein to the contrary, in the event that the principal and/or interest with respect to the Certificates shall be paid by the Owner pursuant to the Insurance Policy, the Certificates shall remain Outstanding for all purposes, not be defeased or otherwise satisfied and not be considered paid by the City.

“Owner” or “Certificate Owner” or “Owner of a Certificate”, or any similar term, when used with respect to a Certificate means the person in whose name such Certificate is registered on the registration books maintained by the Trustee. The initial Owner shall be Compass Bank, an Alabama Corporation.

“Participants” means those broker-dealers, banks and other financial institutions from time to time for which the Depository holds book-entry certificates as securities depository.

“Permitted Investments” means, if and to the extent permitted by law and by any policy guidelines promulgated by the City (provided that the Trustee shall be entitled to rely upon any investment directions from the City as conclusive certification to the Trustee that the investments described therein are so authorized under the laws of the State of California and comply with any policy guidelines promulgated by the City):

(1) For all purposes including defeasance investments in refunding escrow accounts (the Trustee is entitled to rely upon investment direction of the City as a certification that such investment is a Permitted Investment):

- (a) cash (insured at all times by the Federal Deposit Insurance Corporation); or
- (b) obligations of, or obligations guaranteed as to principal and interest by, the U.S. or any agency or instrumentality thereof, when such obligations are based by the full faith and credit of the U.S., including:

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

(c) obligations of Government-Sponsored Agencies that are not backed by the full faith and credit of the U.S. Government, including:

- Federal Home Loan Mortgage Corp. (FHLMC) Debt obligations
- Farm Credit System (formerly Federal Land Banks, Federal Intermediate Credit Banks and Banks for Cooperatives)
- Federal Home Loan Banks (FHL Banks)

- Federal National Mortgage Association (FNMA) Debt obligations
- Financing Corp. (FICO) Debt obligations
- U.S. Agency for International Development (U.S. A.I.D.) Guaranteed notes

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

(2) For all purposes other than defeasance investments in refunding escrow accounts:

(a) obligations of any of the following federal agencies which obligations represent the full faith and credit of the United States of America, including: Export-Import Bank, Rural Economic Community Development Administration, U.S. Maritime Administration, Small Business Administration, U.S. Department of Housing & Urban Development (PHA's), Federal Housing Administration and Federal Financing Bank;

(b) direct obligations of any of the following federal agencies which obligations are not fully guaranteed by the full faith and credit of the United States of America: senior debt obligations rated "Aaa" by Moody's or "AAA" by S&P issued by the Federal National Mortgage Association (FNMA) or Federal Home Loan Mortgage Corporation (FHLMC), obligations of the Resolution Funding Corporation (REFCORP), senior debt obligations of the Federal Home Loan Bank System and senior debt obligations of other Government Sponsored Agencies approved by the Owner;

(c) U.S. dollar denominated deposit accounts and bankers' acceptances with domestic commercial banks (including those of the Trustee and its affiliates) which have rating on their short term certificates of deposit on the date of purchase of "A-1" or "A-1+" by S&P and "P-1" by Moody's and maturing no more than 360 days after the date of purchase (ratings on holding companies are not considered as the rating of the bank);

(d) commercial paper which is rated at the time of purchase in the single highest classification, "A-1+" by S&P and "P-1" by Moody's and which matures not more than 270 days after the date of purchase;

(e) investments in a money market fund rated "AAAm" or "AAAm-G" or better by S&P, including funds for which the Trustee or its affiliates provide investment advisory or other management services;

(f) pre-refunded Municipal Obligations defined as follows: Any bonds or other obligations or any state of the United States of America of any agency, instrumentality or local governmental unit of any such state, which are not callable at the option of the obligor prior to maturity or as to which irrevocable instructions have been given by the obligor to call on the date specified in the notice; and

(i) which are rated, based on an irrevocable escrow account or fund (the "escrow"), in the highest rating category of S&P or Moody's or any successors thereto; or

(ii) (1) which are fully secured as to principal and interest and redemption premium, if any, by an escrow consisting only of cash or obligations described in paragraph (1)(b) above, which escrow may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to such irrevocable instructions, as appropriate, and (2) which escrow is sufficient, as verified by a nationally recognized independent certified public accountant, to pay principal of and interest and redemption premium, if any, on the bonds or other obligations described in this paragraph on the maturity date or dates specified in the irrevocable instructions referred to above, as appropriate;

(g) municipal obligations rated "Aaa/AAA" or general obligations of states with a rating of at least "A2/A" or higher by both Moody's and S&P;

(h) investment agreements approved in writing by the Owner (supported by appropriate opinions of counsel);

(i) the Local Agency Investment Fund of the State, created pursuant to Section 16429.1 of the California Government Code, to the extent the Trustee is authorized to register such investment in its name; and

(j) other forms of investments (including repurchase agreements) approved in writing by the Owner.

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

"Value" which shall be determined as of the end of each month, means that the value of any investments shall be calculated as follows:

(a) for the purpose of determining the amount of any fund, all Permitted Investments credited to such fund shall be valued at fair market value. The Trustee shall determine the fair market value based on accepted industry standards and from accepted industry providers. Accepted industry providers shall include, but are not limited to, pricing services provided by Financial Times Interactive Data Corporation, Merrill Lynch, Salomon Smith Barney, Bear Stearns, or Lehman Brothers.

(b) As to certificates of deposit and bankers' acceptances: the face amount thereof, plus accrued interest.

(c) As to any investment not specified above: the value thereof established by prior agreement between the City, the Trustee and the Owner.

"Prepayment" means any payment made by the City pursuant to Article X of the Lease as a prepayment of Lease Payments.

"Prepayment Fund" means the fund by that name established and held by the Trustee pursuant to Article IV hereof.

“Principal Office or Corporate Trust Office” means the corporate trust office of the Trustee at 700 South Flower Street, Suite 500, Los Angeles, California 90017-4104, Attention: Corporate Trust Services; or such other or additional offices as may be designated by the Trustee.

“Property” has the meaning set forth in the Lease.

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

“S&P” means Standard & Poor’s Ratings Services or any successors or assigns thereto.

“Site Lease” means the Site Lease related to the Certificates, dated the date hereof, by and between the Authority and the City.

“Special Counsel” means Stradling Yocca Carlson & Rauth, a Professional Corporation, or any other attorney or firm of attorneys of nationally recognized standing in matters pertaining to the tax-exempt status of interest on obligations issued by states and their political subdivisions and acceptable to the City.

“State” means the State of California.

“Tax Certificate” means the Tax Certificate, dated as of the Closing Date, concerning matters pertaining to the use and investment of proceeds of the Certificates executed and delivered to the City on the date of execution and delivery of the Certificates, including any and all exhibits attached thereto.

“Term” means the time during which the Lease is in effect, as provided in Section 4.2 of the Lease.

“Trustee” means The Bank of New York Mellon Trust Company, N.A., a national banking association duly organized and existing under the laws of the United States of America, and any successor trustee.

“Trust Agreement” or “Agreement” means this Trust Agreement, together with any amendments hereof or supplements hereto permitted to be made hereunder.

Section 1.02. Authorization. Each of the parties hereby represents and warrants that it has full legal authority and is duly empowered to enter into this Trust Agreement, and has taken all actions necessary to authorize the execution of this Trust Agreement by the officers and persons signing it.

Section 1.03. Equal Security. In consideration of the acceptance of the Certificates by the Owners, this Trust Agreement shall be deemed to be and shall constitute a contract between the Trustee and the Owners to secure the full and final payment of the interest, if any, and principal represented by the Certificates which may be executed and delivered hereunder, subject to each of the agreements, conditions, covenants and terms contained herein; and all agreements, conditions, covenants and terms contained herein required to be observed or performed by or on behalf of the Trustee shall be for the equal and proportionate benefit, protection and security of all Owners without distinction, preference or priority as to security or otherwise of any Certificates over any other Certificates by reason of the number or date thereof or the time of execution or delivery thereof or for

any cause whatsoever, except as expressly provided herein or therein. All of the Certificates are equally secured as provided in this Section 1.3, except as may be otherwise expressly provided in this Trust Agreement.

## ARTICLE II

### THE 2013 CERTIFICATES OF PARTICIPATION

Section 2.01. Authorization. Upon written request of the City Representative the Trustee will execute and deliver to the Owner a single Certificate in an aggregate principal amount of \$\_\_\_\_\_ representing proportionate ownership interests in the Lease Payments and the Prepayments.

Section 2.02. Description of Certificate.

(a) The Certificate shall be dated the Delivery Date and shall mature on April 1, 2023 and shall bear interest (calculated on the basis of a 360-day year of twelve 30-day months) at the rate of \_\_\_\_%.

The Certificate shall be delivered in fully registered form numbered from one upwards in consecutive numerical order (with such alphabetical prefix as the Trustee shall determine). The Certificate shall be executed and delivered in the denominations of \$5,000 and any integral multiple thereof.

Each Certificate shall bear interest from the Interest Payment Date next preceding the date of execution thereof, unless (i) it is executed during the period from the day after the Record Date for an Interest Payment Date to and including such Interest Payment Date, in which event it shall bear interest from such Interest Payment Date, or (ii) it is executed on or prior to the Record Date for the first Interest Payment Date, in which event interest shall be payable from the Closing Date; provided, however, that if, at the time of execution of any Certificate interest with respect to such Certificate is in default, such Certificate shall bear interest from the Interest Payment Date to which interest has been paid or made available for payment with respect to such Certificate.

(b) Payment Provisions. Interest with respect to any Certificate shall be payable in lawful money of the United States of America by check or draft of the Trustee, mailed no later than the Interest Payment Date to the Owner at his address as it appears, on the Record Date, on the registration books maintained by the Trustee or at such other address as has been furnished to the Trustee in writing by the Owner on or prior to such Record Date; provided, however, that at the written request of the Owner of at least \$1,000,000 in aggregate principal amount of Outstanding Certificates filed with the Trustee prior to any Record Date, interest with respect to such Certificates shall be paid to such Owner on each succeeding Interest Payment Date (unless such request has been revoked in writing) by wire transfer of immediately available funds to an account in the United States designated in such written request. Payments of defaulted interest with respect to the Certificates shall be paid by check or draft to the registered Owners of the Certificates as of a special record date to be fixed by the Trustee, notice of which special record date shall be given to the registered Owners of the Certificates no less than ten days prior thereto. The principal of and premium, if any, on the Certificates is payable when due upon surrender thereof at the Principal Office in lawful money of the United States of America.

Section 2.03. Form of Certificates. The Certificates and the assignment to appear thereon shall be substantially in the forms set forth in Exhibit A attached hereto and by this reference incorporated herein with such appropriate additions, modifications, and insertions as are permitted or required by this Trust Agreement or the Owner. Pending the preparation of definitive Certificates the Certificates may be executed and delivered in temporary form exchangeable for definitive Certificates when ready for delivery. If the Trustee delivers temporary Certificates, it shall execute and deliver definitive Certificates in an equal aggregate principal amount of authorized denominations, when available, without additional charge, and thereupon the temporary Certificates shall be surrendered to the Trustee at its Principal Office. Until so exchanged, the temporary Certificates shall be entitled to the same benefits under this Trust Agreement as definitive Certificates.

Section 2.04. Execution. The Certificates shall be executed by and in the name of the Trustee by the manual signature of any authorized signatory of the Trustee. The Trustee shall insert the date of execution of each Certificate in the place provided thereon.

Section 2.05. Application of Proceeds. The proceeds from the sale of the Certificates in the amount of \$\_\_\_\_\_ shall be deposited with the Trustee and applied as follows: \$\_\_\_\_\_ to the Costs of Issuance Fund and \$\_\_\_\_\_ to the Escrow Fund.

The Trustee may, in its discretion, establish a temporary fund or account in its books or records to facilitate such deposits and transfers.

Section 2.06. Transfer and Exchange.

(a) Transfer of Certificates. Any Certificate may, in accordance with its terms, be transferred upon the books required to be kept pursuant to the provisions of Section 2.09 by the person in whose name it is registered, in person or by his duly authorized attorney, upon surrender of such Certificate for cancellation at the Principal Office accompanied by delivery of a written instrument of transfer in a form acceptable to the Trustee, duly executed, and the delivery of an executed Investor Letter substantially in the form attached hereto as Exhibit B. The Certificates may be transferred in whole only and not in part. Whenever any Certificate shall be surrendered for transfer, the Trustee shall execute and deliver a new Certificate of the same tenor and maturity, for like aggregate principal amount in authorized denominations. The Trustee may require the payment by the Certificate Owner requesting such transfer of any tax or other governmental charge required to be paid with respect to such exchange.

(b) Exchange of Certificates. Certificates may be exchanged at the Principal Office for a like aggregate principal amount of Certificates of other authorized denominations of the same tenor and maturity. The Trustee may require the payment by the Certificate Owner requesting such exchange of any tax or other governmental charge required to be paid with respect to such exchange. All Certificates surrendered pursuant to the provisions of this Section shall be cancelled and destroyed by the Trustee and shall not be redelivered.

(c) Time for Transfer or Exchange. The Trustee shall not be obligated to transfer or exchange any Certificate after a Record Date and before the following Interest Payment Date, or during the period in which it is selecting Certificates for prepayment, or after notice of prepayment has been given as provided in Section 4.05.

Section 2.07. Certificates Mutilated, Lost, Destroyed or Stolen. If any Certificate shall become mutilated, the Trustee, at the expense of the Owner of said Certificate, shall execute and deliver a new Certificate of like tenor, maturity and principal amount in exchange and substitution for the Certificate so mutilated, but only upon surrender to the Trustee of the Certificate so mutilated. Every mutilated Certificate so surrendered to the Trustee shall be cancelled by it. If any Certificate shall be lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Trustee, and, if such evidence is satisfactory to the Trustee and, if an indemnity, satisfactory to the Trustee indemnifying the Trustee, the Authority and the City, shall be given, the Trustee, at the expense of the Certificate Owner, shall execute and deliver a new Certificate of like tenor, maturity and principal amount and numbered as the Trustee shall determine in lieu of and in substitution for the Certificate so lost, destroyed or stolen. The Trustee may require payment of an appropriate fee for each new Certificate delivered under this Section and of the expenses which may be incurred by the Trustee in carrying out the duties under this Section. Any Certificate executed under the provisions of this Section in lieu of any Certificate alleged to be lost, destroyed or stolen shall be equally and proportionately entitled to the benefits of this Trust Agreement with all other Certificates secured by this Trust Agreement. The Trustee shall not be required to treat both the original Certificate and any replacement Certificate as being Outstanding for the purpose of determining the principal amount of Certificates which may be executed and delivered hereunder or for the purpose of determining any percentage of Certificates Outstanding hereunder, but both the original and replacement Certificate shall be treated as one and the same. Notwithstanding any other provision of this Section, in lieu of delivering a new Certificate in place of one which has been mutilated, lost, destroyed or stolen, and which has matured, or has been called for prepayment, the Trustee may make payment with respect to such Certificate upon receipt of the above-mentioned indemnity.

Section 2.08. Execution of Documents and Proof of Ownership. Any request, direction, consent, revocation of consent, or other instrument in writing required or permitted by this Trust Agreement to be signed or executed by Certificate Owners may be in any number of concurrent instruments of similar tenor, and may be signed or executed by such Owners in person or by their attorneys or agents appointed by an instrument in writing for that purpose, or by any bank, trust company or other depository for such Certificates. Proof of the execution of any such instrument, or of any instrument appointing any such attorney or agent, and of the ownership of Certificates shall be sufficient for any purpose of this Trust Agreement (except as otherwise herein provided), if made in the following manner:

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

(b) The fact of the ownership of Certificates by any person, the amount and numbers of such Certificates and the date of execution shall be proved by the registration books maintained pursuant to Section 2.09 hereof.

Nothing contained in this Article II shall be construed as limiting the Trustee to such proof, it being intended that the Trustee may accept any other evidence of the matters herein stated which the Trustee may deem sufficient. Any request or consent of the Owner of any Certificate shall bind every future Owner of the same Certificate in respect of anything done or to be done by the Trustee in pursuance of such request or consent.

Section 2.09. Certificate Register. The Trustee will keep or cause to be kept at its Principal Office sufficient books for the registration and transfer of the Certificates which shall, during normal working hours and upon reasonable notice, be open to inspection by the City and the Authority; and, upon presentation for such purpose, the Trustee shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on said books, Certificates as hereinbefore provided. The City, the Authority and the Trustee shall be entitled to treat the registered owner of a Certificate as the absolute owner thereof for all purposes, whether or not a Certificate shall be overdue and the City, the Authority and the Trustee shall not be affected by any notice to the contrary.

Section 2.10. Registration and Book-Entry System.

(a) Initial Registration and Election of Book-Entry System. The Certificates shall initially be delivered as registered Certificates in the name of the Owner and shall not be delivered as book-entry certificates. The City, at its sole option, may require the Owner to surrender its Certificates in order to include in the Depository's book-entry system. If the City shall elect to deliver any Certificates in book-entry, then the City shall cause the delivery of a separate single fully registered Certificate (which may be typewritten) for each maturity date of such Certificates in an authorized denomination corresponding to that total principal amount of the Certificates designated to mature on such date. Upon such delivery, the ownership of each such Certificate shall be registered in the Certificate register in the name of the Nominee, as nominee of the Depository, and ownership of the Certificates, or any portion thereof, may not thereafter be transferred except as provided in Section 2.10(d).

With respect to book-entry Certificates, the City and the Trustee shall have no responsibility or obligation to any Participant or to any person on behalf of which such a Participant holds an interest in such book-entry Certificates. Without limiting the immediately preceding sentence, the City and the Trustee shall have no responsibility or obligation with respect to (i) the accuracy of the records of the Depository, the Nominee, or any Participant with respect to any ownership interest in book-entry Certificates, (ii) the delivery to any Participant or any other person, other than an Owner as shown in the Certificate register, of any notice with respect to book-entry Certificates, including any notice of prepayment, (iii) the selection by the Depository and its Participants of the beneficial interests in book-entry Certificates to be prepaid in the event the City prepays the Certificates in part, or (iv) the payment by the Depository or any Participant or any other person, of any amount with respect to principal, premium, if any, or interest evidenced and represented by book-entry Certificates. The City and the Trustee may treat and consider the person in whose name each book-entry Certificate is registered in the Certificate register as the absolute Owner of such book-entry Certificate for the purpose of payment of principal, premium and interest with respect to such Certificate, for the purpose of giving notices of prepayment and other matters with respect to such Certificate, for the purpose of registering transfers with respect to such Certificate, and for all other purposes whatsoever. The Trustee shall pay all principal, premium, if any, and interest evidenced and represented by the Certificates only to or upon the order of the respective Owner, as shown in the Certificate register, or his respective attorney duly authorized in writing, and all such payments shall

be valid and effective to fully satisfy and discharge the City's obligations with respect to payment of principal, premium, if any, and interest evidenced and represented by the Certificates to the extent of the sum or sums so paid. No person other than an Owner, as shown in the Certificate register, shall receive a Certificate evidencing the obligation to make payments of principal, premium, if any, and interest evidenced and represented by the Certificates. Upon delivery by the Depository to the Owner and the Trustee, of written notice to the effect that the Depository has determined to substitute a new nominee in place of the Nominee, and subject to the provisions herein with respect to Record Dates, the word "Nominee" in this Trust Agreement shall refer to such nominee of the Depository.

(b) Delivery of Letter of Representations. In order to qualify the book-entry Certificates for the Depository's book-entry system, the City shall execute and deliver to the Depository a Letter of Representations. The execution and delivery of a Letter of Representations shall not in any way impose upon the City any obligation whatsoever with respect to persons having interests in such book-entry Certificates other than the Owners, as shown on the Certificate register. In addition to the execution and delivery of a Letter of Representations, the City shall take such other actions, not inconsistent with this Trust Agreement, as are reasonably necessary to qualify book-entry Certificates for the Depository's book-entry program.

(c) Selection of Depository. In the event (i) the Depository determines not to continue to act as securities depository for book-entry Certificates, or (ii) the City determines that continuation of the book-entry system is not in the best interest of the beneficial owners of the Certificates or the City, then the City will discontinue the book-entry system with the Depository. If the City determines to replace the Depository with another qualified securities depository, the City shall prepare or direct the preparation of a new single, separate, fully registered Certificate for each of the maturity dates of such book-entry Certificates, registered in the name of such successor or substitute qualified securities depository or its Nominee as provided in subsection (d) hereof. If the City fails to identify another qualified securities depository to replace the Depository, then the Certificates shall no longer be restricted to being registered in such Certificate register in the name of the Nominee, but shall be registered in whatever name or names the Owners transferring or exchanging such Certificates shall designate, in accordance with the provisions of Section 2.06 hereof.

(d) Payments to Depository. Notwithstanding any other provision of this Trust Agreement to the contrary, so long as all Outstanding Certificates are held in book-entry and registered in the name of the Nominee, all payments with respect to principal, prepayment premium, if any, and interest evidenced and represented by such Certificate and all notices with respect to such Certificate shall be made and given, respectively to the Nominees, as provided in the Letter of Representations or as otherwise instructed by the Depository and agreed to by the Trustee notwithstanding any inconsistent provisions herein.

(i) The Certificates shall be initially executed and delivered as provided in Section 2.01 hereof. If such Certificates are initially registered in the name of the Nominee, then registered ownership of such Certificates, or any portions thereof, may not thereafter be transferred except:

(A) to any successor of DTC or its nominee, or of any substitute depository designated pursuant to clause (B) of subsection (i) of this Section 2.10(d) ("Substitute Depository"); provided that any successor of

DTC or Substitute Depository shall be qualified under any applicable laws to provide the service proposed to be provided by it;

(B) to any Substitute Depository, upon (1) the resignation of DTC or its successor (or any Substitute Depository or its successor) from its functions as depository, or (2) a determination by the City that DTC (or its successor) is no longer able to carry out its functions as depository; provided that any such Substitute Depository shall be qualified under any applicable laws to provide the services proposed to be provided by it; or

(C) to any person as provided below, upon (1) the resignation of DTC or its successor (or any Substitute Depository or its successor) from its functions as depository, or (2) a determination by the City that DTC or its successor (or Substitute Depository or its successor) is no longer able to carry out its functions as depository.

(ii) In the case of any transfer pursuant to clause (A) or clause (B) of subsection (i) of this Section 2.10(d), upon receipt of all Outstanding Certificates by the Trustee, together with a written request of the City to the Trustee designating the Substitute Depository, a single new Certificate, which the City shall prepare or cause to be prepared, shall be executed and delivered for each maturity of Certificates then Outstanding, registered in the name of such successor or such Substitute Depository or their Nominees, as the case may be, all as specified in such written request of the City. In the case of any transfer pursuant to clause (C) of subsection (i) of this Section 2.10(d), upon receipt of all Outstanding Certificates by the Trustee, together with a written request of the City to the Trustee, new Certificates, which the City shall prepare or cause to be prepared, shall be executed and delivered in such denominations and registered in the names of such persons as are requested in such written request of the City, subject to the limitations of Section 2.01 hereof, provided that the Trustee shall not be required to deliver such new Certificates within a period of less than sixty (60) days from the date of receipt of such written request from the City.

(iii) In the case of a partial prepayment or an advance refunding of any Certificates evidencing a portion of the principal maturing in a particular year, DTC or its successor (or any Substitute Depository or its successor) shall make an appropriate notation on such Certificates indicating the date and amounts of such reduction in principal, in form acceptable to the Trustee, all in accordance with the Letter of Representations. The Trustee shall not be liable for such Depository's failure to make such notations or errors in making such notations.

(iv) The City and the Trustee shall be entitled to treat the person in whose name any Certificate is registered as the Owner thereof for all purposes of this Trust Agreement and any applicable laws, notwithstanding any notice to the contrary received by the Trustee or the City; and the City and the Trustee shall not have responsibility for transmitting payments to, communicating with, notifying, or otherwise dealing with any beneficial owners of the Certificates. Neither the City nor the Trustee shall have any responsibility or obligation, legal or otherwise, to any such beneficial owners or to any other party, including DTC or its successor (or Substitute

Depository or its successor), except to the Owner of any Certificates, and the Trustee may rely conclusively on its records as to the identity of the Owners of the Certificates.

Section 2.11. Destruction of Cancelled Certificates. Whenever in this Trust Agreement provision is made for the surrender or cancellation by the Trustee and the delivery to the City of any Certificates, the Trustee will cancel and destroy such Certificates and deliver a certificate of such destruction to the City upon its request.

Section 2.12. Additional Certificates. Subsequent to the execution and delivery by the Trustee of the Certificates, the Trustee shall, upon written request or requests of the City Representative and of the Authority Representative, execute and deliver from time to time one or more series of Additional Certificates in such aggregate principal amount as may be set forth in such written request or requests, provided that there shall have been compliance with all of the following conditions, which are hereby made conditions precedent to the preparation, execution and delivery of such Additional Certificates:

(a) The parties to this Trust Agreement shall have executed a supplemental agreement which (i) sets forth the terms and provisions of such Additional Certificates, including the establishment of such funds and accounts, which may be separate and apart from the funds and accounts established hereunder for the Certificates, as shall be necessary or appropriate, and (ii) requires that prior to the delivery of such Additional Certificates the Reserve Requirement with respect to such Additional Certificates shall be on deposit in the Reserve Fund established hereunder or in a reserve fund established under such supplemental agreement;

(b) The scheduled principal and interest payable with respect to such Additional Certificates shall be payable only on Interest Payment Dates applicable to the Certificates;

(c) The Lease shall have been amended, if necessary, to (i) increase or adjust the Lease Payments due and payable on each Lease Payment Date to an amount sufficient to pay the principal, premium (if any) and interest payable with respect to all Outstanding Certificates, including all Additional Certificates as and when the same mature or become due and payable (except to the extent such principal, premium and interest may be payable out of moneys then in the Reserve Fund or otherwise on deposit with the Trustee in accordance with this Trust Agreement), (ii) if appropriate, amend the definition of "Property" to include as part of the Property all or any portion of additions, betterments, extensions, improvements or replacements, or such other real or personal property (whether or not located upon the Property as such Property is constituted as of the date of this Trust Agreement), to be financed, acquired or constructed by the preparation, execution and delivery of such Additional Certificates, and (iii) make such other revisions to the Lease as are necessitated by the execution and delivery of such Additional Certificates (provided, however, that such other revisions shall not prejudice the rights of the Owners of Outstanding Certificates as granted them under the terms of this Trust Agreement);

(d) There shall have been delivered to the Trustee a counterpart of the amendments required by subsection 2.12(c) hereof;

(e) The Trustee shall have received a certificate of the Authority Representative that there exists on the part of the Authority no Event of Default (or any event which, once all notice or grace periods have passed, would constitute an Event of Default);

(f) The Trustee shall have received a certificate of the City Representative that (i) there exists on the part of the City no Event of Default (or any event which, once all notice or grace periods have passed, would constitute an Event of Default) and (ii) the Lease Payments as increased or adjusted do not exceed in any year the fair rental value of the Property (as such term is defined in the amended Lease);

(g) The Trustee shall have received an opinion of Special Counsel substantially to the effect that (i) said supplemental agreement and said amendments to the Lease comply in all respects with the requirements of this Section 2.12, (ii) said supplemental agreement and said amendments to the Lease have been duly authorized, executed and delivered by each of the respective parties thereto (provided that said opinion of Special Counsel, in rendering the opinions set forth in this clause (ii), shall be entitled to rely upon one or more other opinions of counsel, including counsel to any of the respective parties to said supplemental agreement or said amendments to the Lease), (iii) assuming that no Event of Default has occurred and is continuing, this Trust Agreement, as amended by said supplemental agreement, and the Lease, as amended by the respective amendments thereto, constitute the legal, valid and binding obligations of the respective parties thereto, enforceable against said parties in accordance with their respective terms (except to the extent that enforcement thereof may be limited by bankruptcy, insolvency, moratorium, debt adjustment or other laws affecting creditors' rights generally, and except to the extent that enforcement thereof may be limited by general principles of equity, regardless of whether enforcement is sought in a legal or equitable proceeding) and (iv) the execution of such supplemental agreement and said amendments to the Lease, and performance by the parties thereunder, will not result in the inclusion of the interest portion of any Lease Payments payable with respect to any Certificates, including Additional Certificates, theretofore prepared, executed and delivered, in the gross income of the Owners of the Certificates for purposes of federal income taxation;

(h) The City shall have provided the Owner written notice of the proposed execution and delivery of such Additional Certificates at the addresses indicated in Section 14.05 and shall have received prior written consent of the Owner with respect to such Additional Certificates; provided that any Additional Certificates being delivered to refund any outstanding Certificates shall not require the prior written consent of the Owner if the aggregate maximum annual debt service with respect to the Certificates and the Additional Certificates during any remaining year that the Certificates will be outstanding does not exceed maximum annual debt service with respect to the Certificates prior to such refunding.

(i) There shall have been delivered to the Trustee an endorsement to or reissuance of the title insurance policy delivered under Section 5.5 of the Lease providing that the insured amount is at least equal to the aggregate principal amount of all of the Certificates and Additional Certificates outstanding upon the execution and delivery of such Additional Certificates; and

(j) Such other conditions shall have been satisfied, and such other instruments shall have been duly executed and delivered to the Trustee (with a copy to the Owner), as the City or the Authority shall have reasonably requested.

Upon delivery to the Trustee of the foregoing instruments, the Trustee shall cause to be executed and delivered Additional Certificates representing the aggregate principal amount specified in such supplemental agreement, and such Additional Certificates shall be equally and ratably secured with all Certificates, including any Additional Certificates, theretofore prepared, executed

and delivered, all without preference, priority or distinction (other than with respect to maturity, payment, prepayment or sinking fund payment (if any)) of any one Certificate, including Additional Certificates, over any other; provided, however, that no provision of this Trust Agreement shall require the City to consent to or otherwise permit the preparation, execution and delivery of Additional Certificates, it being understood and agreed that any such consent or other action of the City to permit the preparation, execution and delivery of Additional Certificates, or lack thereof, shall be in the sole discretion of the City.

### ARTICLE III

#### ESTABLISHMENT OF FUNDS

Section 3.01. Costs of Issuance Fund. The Trustee shall establish, maintain and hold in trust a separate fund designated as the "Costs of Issuance Fund." The moneys in the Costs of Issuance Fund shall be used and withdrawn by the Trustee to pay the Costs of Issuance upon submission of a written requisition from a City Representative stating the person to whom payment is to be made, the amount to be paid, the purpose for which the obligation was incurred and that such payment is a proper charge against said fund. On the second Business Day preceding April 1, 2013, or upon the earlier written request of a City Representative, all amounts remaining in the Costs of Issuance Fund shall be transferred by the Trustee to the Lease Payment Fund.

Section 3.02. Escrow Fund. The Trustee shall establish and maintain a separate fund to be known as the "Escrow Fund." Except as otherwise provided herein, moneys in the Escrow Fund shall be used solely for the funding of the Escrow Fund established pursuant to the Escrow Agreement for the defeasance of the Certificates and pursuant to written instructions of the City and shall be fully disbursed at the Closing Date. Upon the transfer of moneys as contemplated in this Section 3.02, the Trustee shall close the Escrow Fund and transfer any remaining proceeds therein to the Bond Fund for credit to the next Lease Payments then due.

### ARTICLE IV

#### PREPAYMENT FUND

Section 4.01. Establishment of Prepayment Fund. The Trustee shall establish a special fund designated as the "City of Oceanside (2003 Refunding) Prepayment Fund," referred to herein as the "Prepayment Fund;" shall keep such fund separate and apart from all other funds and moneys held by it; and shall administer such fund as herein provided. Moneys to be used for prepayment of the Certificates shall be deposited into the Prepayment Fund and used solely for the purpose of prepaying the Certificates in advance of their maturity on the date designated for prepayment and upon presentation and surrender of such Certificates to the Trustee.

Section 4.02. Extraordinary Prepayment. The Certificates are subject to prepayment prior to their respective maturity dates on any date, in whole or in part, from Net Proceeds which the Trustee shall deposit in the Prepayment Fund as provided in Section 6.1(c) of the Lease at least 45 days prior to the date fixed for prepayment and credited towards the prepayment made by the City pursuant to Section 10.2(a) of the Lease, at a prepayment price equal to the principal amount thereof together with accrued interest to the date fixed for prepayment, without premium.

Section 4.03. Prepayment

(a) Optional Prepayment. [Confirm] The Certificates are subject to prepayment prior to maturity in whole or in part on any date, at the option of the City, in the event the City exercises its option under Section 10.3 of the Lease to prepay all or a portion of the principal component of the Lease Payments (in integral multiples of \$5,000), at a prepayment price equal to the principal component to be prepaid, plus accrued interest to the date fixed for prepayment, together with a prepayment premium (based on the principal amount of the Certificates to be prepaid) as follows:

*Any date on or prior to:*

Said option shall be exercised by the City at any time by giving written notice to the Authority and the Trustee of the exercise of such option at least thirty (30) days prior to said date. After receiving such written notice from the City, the Trustee shall in turn provide notice to the Owner, at least fifteen (15) days prior to the date of exercise of such option, that the City is exercising the aforesaid prepayment option. In the event the City gives notice to the Trustee of its intention to exercise such option, but fails to deposit with the Trustee on or prior to the prepayment date an amount equal to the prepayment price, the City will continue to pay the Lease Payments as if no such notice had been given.

(b) Mandatory Sinking Account Prepayment. The Certificates maturing April 1, 2023 are subject to prepayment in part by lot, on April 1 in each of the following years from sinking account payments as set forth below at a prepayment price equal to the principal amount thereof to be prepaid, without premium; provided, however, that if some but not all of the Certificates have been prepaid pursuant to an optional or extraordinary prepayment, the total amount of all future sinking account payments will be reduced by the aggregate principal amount of the Certificates so prepaid as nearly as practicable in a pro rata basis in integral multiples of \$5,000. In addition, in lieu of prepayment thereof, the Certificates may be purchased by the City and tendered to the Trustee pursuant to the provisions hereof.

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***Mandatory Prepayment Date  
(April 1)***

***Principal Amount***

2013	\$
2014	
2015	
2016	
2017	
2018	
2019	
2020	
2021	
2022	
2023*	

\* Final Maturity.

If prior to one of the mandatory prepayment dates specified above the City purchases any Certificates, then at least 45 days prior to the prepayment date the City shall notify the Trustee as to the principal amount purchased, and the amount of Certificates so purchased shall be credited at the time of purchase, to the extent of the full principal amount thereof, to reduce the upcoming sinking account payment for the applicable maturity of the Certificates so purchased. All Certificates purchased pursuant to this subsection shall be cancelled pursuant to Section 14.03 hereof.

Section 4.04. Selection of Certificates for Prepayment. Whenever provision is made in this Trust Agreement for extraordinary prepayment of Certificates pursuant to Section 4.02 hereof, the Trustee shall select Certificates for prepayment pro rata among maturities and by lot within any maturity. The Trustee shall promptly notify the City and the Authority in writing of the Certificates so selected for prepayment by mailing to the City and the Authority copies of the notice of prepayment provided for in Section 4.05. The City shall provide the Trustee with a revised sinking fund schedule upon any prepayments.

Section 4.05. Notice of Prepayment.

(a) Content. When prepayment is authorized or required pursuant to this Article IV, the Trustee shall give notice of the prepayment of the Certificates to Owners. Such notice shall specify: (a) the prepayment date, (b) the prepayment price, (c) if less than all of the Outstanding Certificates of a maturity are to be prepaid, the Certificate numbers (and in the case of partial prepayment, the respective principal amounts), (d) [Reserved], (e) the place or places where the prepayment will be made, (f) the original date of execution and delivery of the Certificates, and (g) any other descriptive information regarding the Certificates needed to identify accurately the Certificates being prepaid. Such notice shall further state that on the specified date there shall become due and payable upon each Certificate to be prepaid, the portion of the principal amount of such Certificate to be prepaid, together with interest accrued to said date, and that from and after such date, provided that moneys therefor have been deposited with the Trustee, interest with respect thereto shall cease to accrue and be payable.

(b) [Reserved].

Section 4.06. Partial Prepayment of Certificates. Upon surrender by the Owner of a Certificate for partial prepayment at the Principal Office, payment of such partial prepayment of the principal amount of a Certificate will be paid to such Owner. Upon surrender of any Certificate prepaid in part only, the Trustee shall execute and deliver to the registered Owner thereof, at the expense of the City, a new Certificate or Certificates which shall be of authorized denominations equal in principal amount to the unprepaid portion of the Certificate surrendered and of the same tenor and maturity. Such partial prepayment shall be valid upon payment of the amount thereby required to be paid to such Owner, and the City, the Authority and the Trustee shall be released and discharged from all liability to the extent of such payment.

Section 4.07. Effect of Notice of Prepayment. Notice having been given to the Owners of the Certificates as aforesaid, and the moneys for the prepayment (including, the interest to the applicable date of prepayment), having, been set aside in the Prepayment Fund, the Certificates shall become due and payable on said date of prepayment, and, upon presentation and surrender thereof at the Principal Office, said Certificates shall be paid at the prepayment price with respect thereto, plus interest accrued and unpaid to said date of prepayment.

If, on said date of prepayment, moneys for the prepayment of all the Certificates to be prepaid, together with interest to said date of prepayment, shall be held by the Trustee so as to be available therefor on such date of prepayment, and, if notice of prepayment thereof shall have been given as aforesaid, then, from and after said date of prepayment, interest with respect to the Certificates to be prepaid shall cease to accrue and become payable. All moneys held by or on behalf of the Trustee for the prepayment of Certificates shall be held in trust for the account of the Owners of the Certificates so to be prepaid, without liability for interest thereon.

All Certificates paid at maturity or prepaid prior to maturity pursuant to the provisions of this Article shall be cancelled upon surrender thereof and destroyed.

Section 4.08. Surplus. Any funds remaining in the Prepayment Fund after prepayment and payment of all Certificates Outstanding, including accrued interest and payment of any applicable fees and expenses to the Trustee pursuant to Sections 9.06 and 9.07 hereof and any other Additional Payments payable under the Lease or provision made therefor satisfactory to the Trustee, and provision for any amounts required to be transferred to the Rebate Fund pursuant to Section 8.08 hereof, shall be withdrawn by the Trustee and remitted to the City.

## ARTICLE V

### LEASE PAYMENTS; LEASE PAYMENT FUND

#### Section 5.01. Security Provisions.

(a) Assignment of Rights in Lease. The Authority has, pursuant to the Assignment Agreement, presently assigned and set over to the Trustee certain of its rights in the Lease, including but not limited to all of the Authority's rights to receive and collect all of the Lease Payments, the Prepayments and all other amounts required to be deposited in the Lease Payment Fund pursuant to the Lease or pursuant hereto. All Lease Payments, Prepayments and such other amounts to which the Authority may at any time be entitled (other than amounts due to the Authority under Section 4.11 of the Lease) shall be paid directly to the Trustee, and all of the Lease Payments and Prepayments collected or received by the Authority shall be deemed to be held and to have been

collected or received by the Authority as the agent of the Trustee and if received by the Authority at any time shall be deposited by the Authority with the Trustee within five (5) Business Days after the receipt thereof, and all such Lease Payments shall be forthwith deposited by the Trustee upon the receipt thereof in the Lease Payment Fund, all such Prepayments shall be forthwith deposited by the Trustee upon the receipt thereof in the Prepayment Fund.

(b) Security Interest in Moneys and Funds. The Authority and the City, as their interests may appear, hereby grant to the Trustee for the benefit of the Owners a lien on and a security interest in all moneys in the funds held by the Trustee under this Trust Agreement (excepting only the Rebate Fund and any moneys to be deposited into the Rebate Fund), including without limitation, the Lease Payment Fund, the Reserve Fund, the Prepayment Fund, the Escrow Fund and the Net Proceeds Fund, and all such moneys shall be held by the Trustee in trust and applied to the respective purposes specified herein and in the Lease.

(c) Pledge of Lease Payments and Proceeds. The Lease Payments and any proceeds from the re-letting or any other disposition of the Property pursuant to Article IX of the Lease (the "Lease Proceeds") are hereby irrevocably pledged to and shall be used for the punctual payment of the interest and principal represented by the Certificates and the Lease Payments and Lease Proceeds shall not be used for any other purpose while any of the Certificates remain Outstanding. This pledge shall constitute a first lien on the Lease Payments and Lease Proceeds in accordance with the terms hereof, subject to Section 13.03 hereof.

Section 5.02. Establishment of Lease Payment Fund. The Trustee shall establish a special fund designated as the "City of Oceanside (2003 Refunding) Lease Payment Fund" and shall establish an Interest Account therein. All moneys at any time deposited by the Trustee in the Lease Payment Fund shall be held by the Trustee in trust for the benefit of the Owners of the Certificates. So long as any Certificates are Outstanding, neither the City nor the Authority shall have any beneficial right or interest in the Lease Payment Fund or the moneys deposited therein, except only as provided in this Trust Agreement, and such moneys shall be used and applied by the Trustee as hereinafter set forth.

Section 5.03. Deposits. There shall be deposited in the Lease Payment Fund all Lease Payments and in the Prepayment Fund all Prepayments received by the Trustee, including any moneys received by the Trustee for deposit therein pursuant to Section 2.05 hereof and Section 4.4 of the Lease, and any other moneys required to be deposited therein pursuant to the Lease, including without limitation Section 5.4(c) of the Lease (regarding proceeds of rental interruption insurance) or pursuant to this Trust Agreement, which moneys shall be applied as a credit towards any Lease Payment then due.

Section 5.04. Application of Moneys. Except as provided in this Section 5.04, all amounts in the Lease Payment Fund shall be used and withdrawn by the Trustee solely for the purpose of paying the principal and interest with respect to the Certificates as the same shall become due and payable, in accordance with the provisions of Article II and Article IV hereof, subject to the requirement that investment earnings not required to make the payments due from the Lease Payment Fund may be transferred to the Rebate Fund, to the extent necessary to comply with Section 8.08 hereof.

On or before each Interest Payment Date, the Trustee shall set aside an amount sufficient to pay the interest becoming due and payable on such Interest Payment Date on all Outstanding

Certificates. Moneys so set aside shall be used and withdrawn by the Trustee solely for the purpose of paying the interest with respect to the Certificates as it shall become due and payable (including, accrued interest with respect to any Certificates prepaid prior to maturity).

On or before each Interest Payment Date on which the principal of the Certificates shall be payable, the Trustee shall set aside an amount equal to (i) the principal amount of the Certificates coming due and payable on such Interest Payment Date pursuant to Section 2.02, and (ii) the prepayment price of the Certificates (consisting of the principal amount thereof and any applicable premiums) required to be prepaid on such Interest Payment Date pursuant to any of the provisions of Article IV hereof. Moneys so set aside shall be used and withdrawn by the Trustee solely for the purpose of (i) paying the principal of the Certificates at the maturity thereof, or (ii) paying the principal of and premium (if any) on any Certificates upon the prepayment thereof pursuant to Section 4.03(b) hereof.

Section 5.05. Surplus. Any funds remaining in the Lease Payment Fund after payment of all Certificates Outstanding, including accrued interest and payment of any applicable fees to the Trustee pursuant to Sections 9.06 and 9.07 hereof and any other Additional Payments due under the Lease, or provision made therefor satisfactory to the Trustee, and provision for any amounts required to be transferred to the Rebate Fund pursuant to Section 8.08 hereof, shall be withdrawn by the Trustee and remitted to the City.

## ARTICLE VI

[RESERVED]

## ARTICLE VII

### NET PROCEEDS FUND

Section 7.01. Establishment of Net Proceeds Fund: Deposits. The Trustee shall establish when required a special fund designated as the "City of Oceanside (2003 Refunding) Net Proceeds Fund," referred to herein as the "Net Proceeds Fund," to be maintained and held in trust for the benefit of the Owners, subject to disbursement therefrom as provided herein. The Trustee shall deposit Net Proceeds in the Net Proceeds Fund as provided in Section 6.1(a) of the Lease.

(a) Casualty Insurance. The Trustee shall disburse Net Proceeds for replacement or repair of the Property as provided in Section 6.1(b) of the Lease, or transfer such proceeds to the Prepayment Fund upon notification of the City Representative as provided in Section 6.1(c) of the Lease. Pending such application, such Net Proceeds may be invested by the Trustee as directed by the City in Permitted Investments that mature not later than such times moneys are expected to be needed to pay such costs of repair or replacement. After all of the Certificates have been paid and the entire amount of principal and interest with respect to the Certificates has been paid in full, or provision made for payment satisfactory to the Trustee, including provision for all amounts required to be transferred to the Rebate Fund pursuant to Section 8.08 hereof, the Trustee shall pay any remaining moneys in the Net Proceeds Fund to the City after payment of any amounts due to the Trustee pursuant to Sections 9.06 and 9.07 hereof and any other Additional Payments due under the Lease.

(b) Title Insurance. Proceeds of any policy of title insurance received by the Trustee with respect to the Property shall be applied and disbursed by the Trustee upon the Written Request of the City as follows:

(i) If the City determines that the title defect giving rise to such proceeds has not substantially interfered with its use and occupancy of the Property and will not result in an abatement of Lease Payments and Additional Payments payable by the City under the Lease (such determination to be certified by the City in writing), such proceeds shall, with the written approval of the Owner, be remitted to the City and used for any lawful purpose thereof; or

(ii) If the City determines that the title defect giving rise to such proceeds has substantially interfered with its use and occupancy of the Property and will result in an abatement of Lease Payments and Additional Payments payable by the City under the Lease; then the Trustee shall, with the written approval of the Owner, immediately deposit such proceeds in the Prepayment Fund and such proceeds shall be applied to the prepayment of Certificates in the manner provided in Section 4.02 hereof.

Section 7.02. Cooperation. The Authority and the Trustee shall cooperate fully with the City at the expense of the City in filing any proof of loss with respect to any insurance policy maintained pursuant to Article V of the Lease and in the prosecution or defense of any prospective or pending condemnation proceeding with respect to the Property or any item or portion thereof; provided, however, the Trustee shall not be obligated to take any action hereunder if it is not indemnified to its satisfaction from and against any liability or expense arising therefrom.

## ARTICLE VIII

### MONEYS IN FUNDS; INVESTMENT

Section 8.01. Held in Trust. The moneys and investments held by the Trustee under this Trust Agreement, other than in the Rebate Fund, are irrevocably held in trust for the benefit of the Owners and, in the case of the Rebate Fund, for payment as required to the United States Treasury, and for the purposes herein specified, and such moneys, and any income or interest earned thereon, shall be expended only as provided in this Trust Agreement, and shall not be subject to levy or attachment or lien by or for the benefit of any creditor of the Authority, the Trustee or the City, or any of them.

Section 8.02. Investments Authorized.

(a) By Trustee. Subject to the further provisions of this Article VIII, moneys held by the Trustee hereunder shall be invested and reinvested on maturity thereof by the Trustee pursuant to Section 8.02(b). The Trustee will report any such investments to the City on a monthly basis in its regular statements. Prior to the occurrence of any Event of Default, the Trustee shall not take any discretionary action against any consent under any investment agreement without the prior written consent of the City Representative.

(b) Upon Direction of the City. The City Representative shall direct by facsimile, to the designated trust officer responsible for the administration of this Trust Agreement,

followed by oral notification and distribution by U.S. Mail or overnight courier service of such notice, such investment in specific Permitted Investments not less than two Business Days prior to the date that such Permitted Investment is to take effect. Such investments and reinvestments shall be made giving full consideration for the time at which funds are required to be available based among other things, scheduled completion of the various components of the Project. In the event that the City Representative does not so direct the Trustee, the Trustee shall invest in the Permitted Investments described in paragraph 2(e) of the definition thereof contained in Section 1.01; provided, however, that any such investment shall be made by the Trustee only if, prior to the date on which such investment is to be made, the Trustee shall have received a written direction of the City specifying a specific money market fund and, if no such written direction of the City is so received, the Trustee shall hold such moneys uninvested.

Investments purchased with funds on deposit in the Lease Payment Fund and Prepayment Fund shall mature not later than the Interest Payment Date or prepayment date, as appropriate, immediately succeeding the investment. Notwithstanding anything to the contrary contained herein, investments purchased with funds on deposit in the Reserve Fund shall have an average aggregate weighted term to maturity of not greater than five years; provided that such amounts may be invested in an investment agreement described in paragraph 2(h) of the definition of Permitted Investments to the later of the final maturity of the Certificates or any Additional Certificates so long as such amounts may be withdrawn at any time, without penalty, for application in accordance with Article VI hereof; and provided that no such investment of amounts in the Reserve Fund allocable to the Certificates or a series of Additional Certificates shall mature later than the respective final maturity date of the Certificates or the series of Additional Certificates, as applicable.

(c) Registration. Such investments, if registrable, shall be registered in the name of the Trustee for the benefit of the Owners and held by the Trustee or its nominee.

(d) Trustee as Purchaser or Agent. The Trustee may purchase or sell to itself or any affiliate, as principal or agent, investments authorized by this Section. The Trustee may act as purchaser or agent in the making or disposing of any investment. The Trustee or any of its affiliates may act as a sponsor of, or as an advisor to any provider of, Permitted Investments hereunder. 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 Trustee will furnish the City periodic cash transaction statements which include detail for all investment transactions made by the Trustee hereunder.

(e) Trustee Standard of Care. Except as otherwise provided in Section 9.05, the Trustee shall not be responsible or liable for any loss suffered in connection with any investment of funds or sale of such investment made by it in accordance with this Section or disposition made by it in accordance with Section 8.05(b).

Section 8.03. Disposition of Investments. Any income, profit or loss on the investment of moneys held by the Trustee hereunder shall be credited to the respective fund for which it is held, except as otherwise provided herein.

Section 8.04. Accounting. The Trustee shall furnish to the City, not less than monthly, an accounting (which may be in the form of its regular statements) of all investments made by the Trustee and all funds and amounts held by the Trustee; provided, that the Trustee shall not be

obligated to deliver an accounting for any fund or account that (i) has a balance of zero and (ii) has not had any activity since the last reporting date. The Trustee shall keep accurate records of all funds administered by it and of all Certificates paid and discharged.

(a) Disposition of Investments. Subject to the provisions of Section 8.08 hereof, the Trustee shall sell, or present for prepayment, any Permitted Investment so purchased by the Trustee whenever it shall be necessary in order to provide moneys to meet any required payment, transfer, withdrawal or disbursement from the fund to which such Permitted Investment is credited.

Section 8.05. Commingling of Moneys in Funds. The Trustee may, and upon the written request of the City Representative shall, commingle any of the funds held by it pursuant to this Trust Agreement into a separate fund or funds for investment purposes only; provided, however, that all funds or accounts held by the Trustee hereunder shall be accounted for separately notwithstanding such commingling by the Trustee. The City shall ensure that any such commingling complies with Section 1.148-4 of the Treasury Regulations, and shall provide direction to the Trustee accordingly.

Section 8.06. Tax Covenants.

(a) General. The City and the Authority hereby covenant with the holders of the Certificates that, notwithstanding any other provisions of this Trust Agreement, they shall not take any action, or fail to take any action, if any such action or failure to take action would adversely affect the exclusion from gross income of interest with respect to the Certificates under Section 103 of the Code. The Authority hereby covenants with the holders of the of the Certificates that, notwithstanding any other provision of this Trust Agreement, to the extent that the Authority may have control over the proceeds of the Certificates, it shall not take any action that would adversely affect the exclusion from gross income of interest with respect to the Certificates under Section 103 of the Code. The City and the Authority (to the extent that the Authority may have control over the Project or the proceeds of the Certificates) shall not, directly or indirectly, use or permit the use of proceeds of the Certificates, or any portion thereof, by any person other than a governmental unit (as such term is used in Section 141 of the Code), in such manner or to such extent as would result in the loss of exclusion from gross income for federal income tax purposes of interest with respect to the Certificates.

(b) Use of Proceeds. The City and the Authority (to the extent that the Authority may have control over the proceeds of the Certificates) shall not take any action, or fail to take any action, if any such action or failure to take action would cause the Certificates to be “private activity bonds” within the meaning of Section 141 of the Code, and in furtherance thereof, shall not make any use of the proceeds of the Certificates, or any portion thereof, or any other funds of the City, that would cause the Certificates to be “private activity bonds” within the meaning of Section 141 of the Code. To that end, so long as any Certificates are outstanding, the City and the Authority, with respect to such proceeds and such other funds, will comply with applicable requirements of the Code and all regulations of the United States Department of the Treasury issued thereunder and under Section 103 of the Code, to the extent such requirements are, at the time, applicable and in effect. The City shall establish reasonable procedures necessary to ensure continued compliance with Section 141 of the Code and the continued qualification of the Certificates as “governmental bonds.”

(c) Arbitrage. The City and the Authority (to the extent that the Authority may have control over the Project or the proceeds of the Certificates) shall not, directly or indirectly, use or permit the use of any proceeds of any Certificates, or of the Project, or other funds of the City, or

take or omit to take any action, that would cause the Certificates to be “arbitrage bonds” within the meaning of Section 148 of the Code. To that end, the City and the Authority shall comply with all requirements of Section 148 of the Code and all regulations of the United States Department of the Treasury issued thereunder to the extent such requirements are, at the time, in effect and applicable to the Certificates.

(d) Federal Guarantee. The City and the Authority (to the extent that the Authority may have control over the proceeds of the Certificates) shall not make any use of the proceeds of the Certificates or any other funds of the City, or take or omit to take any other action, that would cause the Certificates to be “federally guaranteed” within the meaning of Section 149(b) of the Code.

(e) Compliance with Tax Certificate. In furtherance of the foregoing tax covenants of this Section, the City covenants that it will comply with the provisions of the Tax Certificate, which is incorporated herein as if fully set forth herein. These covenants shall survive payment in full or defeasance of the Certificates.

#### Section 8.07. Rebate Fund.

(a) General. The Trustee shall establish a special fund designated the “City of Oceanside (2003 Refunding) Rebate Fund” (the “Rebate Fund”). All amounts at any time on deposit in the Rebate Fund shall be held by the Trustee in trust, to the extent required to satisfy the requirement to make rebate payments to the United States (the “Rebate Requirement”) pursuant to Section 148 of the Code and the Treasury Regulations promulgated thereunder (the “Treasury Regulations”). Such amounts shall be free and clear of any lien under this Trust Agreement and shall be governed by this Section and Section 8.07 of this Trust Agreement and by the Tax Certificate executed by the City. The Trustee shall be deemed conclusively to have complied with the Rebate Requirement if it follows the directions of the City, and shall have no independent responsibility to, or liability resulting from its failure to, enforce compliance by the City with the Rebate Requirement.

(i) Within 45 days of the end of the fifth Certificate Year and each fifth Certificate Year thereafter, (1) the City shall calculate or cause to be calculated with respect to the Certificates the amount that would be considered the “rebate amount” within the meaning of Section 1.148-3 of the Treasury Regulations, and (2) the City shall transfer to the Trustee for deposit in the Rebate Fund, if and to the extent required, amounts sufficient to cause the balance in the Rebate Fund to be equal to the “rebate amount” so calculated. The City may direct that such amount be transferred from the Prepayment Fund, the Loan Payment Fund and the Reserve Fund to the extent permitted by Sections 4.08, 5.04 and 6.03 hereof.

(ii) The City shall not be required to deposit any amount to the Rebate Fund in accordance with preceding sentence if the amount on deposit in the Rebate Fund prior to the deposit required to be made under this subsection (a) equals or exceeds the “rebate amount” calculated in accordance with the preceding sentence. Such excess may be withdrawn from the Rebate Fund to the extent permitted under subsection (f) of this Section.

(iii) The City shall not be required to calculate the “rebate amount,” and shall not be required to deposit any amount to the Rebate Fund in accordance with

this subsection (a), with respect to all or a portion of the proceeds of the Certificates (including amounts treated as proceeds of the Certificates) (1) to the extent such proceeds satisfy the expenditure requirements of Section 148(f)(4)(B) or Section 148(f)(4)(C) of the Code or Section 1.148-7(d) of the Treasury Regulations, whichever is applicable, and otherwise qualify for the exception to the Rebate Requirement pursuant to whichever of said sections is applicable, (2) to the extent such proceeds are subject to an election by the City under Section 148(f)(4)(C)(vii) of the Code to pay a 1-1/2% penalty in lieu of arbitrage rebate in the event any of the percentage expenditure requirements of Section 148(f)(4)(C) are not satisfied, or (3) to the extent such proceeds qualify for the exception to arbitrage rebate under Section 148(f)(4)(A)(ii) of the Code for amounts in a “bona fide debt service fund.”

(b) Withdrawal Following Payment of Certificates. Any funds remaining in the Rebate Fund after repayment of all the Certificates and any amounts described in paragraph (ii) of subsection (c) of this Section, or provision made therefor satisfactory to the Trustee, including accrued interest and payment of any applicable fees to the Trustee, shall be withdrawn by the Trustee and remitted to the City.

(c) Withdrawal for Payment of Rebate. Upon the City’s written direction, but subject to the exceptions contained in subsection (a) of this Section to the requirement to calculate the “rebate amount” and make deposits to the Rebate Fund, the Trustee shall pay to the United States, from amounts on deposit in the Rebate Fund,

(i) not later than 60 days after the end of (1) the fifth Certificate Year, and (2) each fifth Certificate Year thereafter, an amount that, together with all previous rebate payments, is equal to at least 90% of the ‘rebate amount’ calculated as of the end of such Certificate Year in accordance with Section 1.148-3 of the Treasury Regulations; and

(ii) not later than 60 days after the payment of all Certificates, an amount equal to 100% of the “rebate amount” calculated as of the date of such payment (and any income attributable to the “rebate amount” determined to be due and payable) in accordance with Section 1.148-3 of the Treasury Regulations.

(d) Rebate Payments. Each payment required to be made pursuant to subsection (c) of this Section shall be made to the Internal Revenue Service Center, Ogden, Utah 84201 (or such other address as is permitted or required by the Internal Revenue Service), on or before the date on which such payment is due, and shall be accompanied by Internal Revenue Service Form 8038-T, which shall be completed by the arbitrage rebate consultant for execution by the City and provided to the Trustee.

(e) Deficiencies in the Rebate Fund. In the event that, prior to the time any payment is required to be made from the Rebate Fund, the amount in the Rebate Fund is not sufficient to make such payment when such payment is due, the City shall calculate the amount of such deficiency and direct the Trustee to deposit an amount received from the City equal to such deficiency into the Rebate Fund prior to the time such payment is due.

(f) Withdrawals of Excess Amounts. In the event that immediately following the calculation required by subsection (a) of this Section, but prior to any deposit made under said

subsection, the amount on deposit in the Rebate Fund exceeds the “rebate amount” calculated in accordance with said subsection, upon written instructions from the City, the Trustee shall withdraw the excess from the Rebate Fund and credit such excess to the Lease Payment Fund.

(g) Record Keeping. The City shall retain records of all determinations made hereunder until six years after the complete retirement of the Certificates.

(h) Survival of Defeasance. Notwithstanding anything in this Trust Agreement to the contrary, the Rebate Requirement shall survive the payment in full or defeasance of the Certificates.

## ARTICLE IX

### THE TRUSTEE

#### Section 9.01. Appointment of Trustee.

(a) Appointment. The Bank of New York Mellon Trust Company, N.A. , a national banking association duly organized and existing under the laws of the United States of America, is hereby appointed Trustee by the Authority and the City.

(b) Qualifications. The Authority and the City agree that they will maintain a Trustee having a corporate trust office in New York, New York, San Francisco, California, Seattle, Washington, or Los Angeles, California capable of exercising trust powers in the State of California, with a reported capital surplus of at least Seventy-Five Million Dollars (\$75,000,000), or be a member of a bank holding company system, which shall have a combined capital and surplus of at least Seventy-Five Million Dollars (\$75,000,000), and subject to supervision or examination by federal or state authority, so long as any Certificates are Outstanding. If such bank, national banking association or trust company publishes a report of condition at least annually pursuant to law or to the requirements of any supervising or examining authority above referred to then for the purpose of this Section the combined capital and surplus of such bank, national banking association 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) Removal. The Owner and, so long as there is no Event of Default, the City, may remove the Trustee initially appointed, and any successor thereto, and may appoint a successor or successors thereto.

(d) Resignation. The Trustee may, upon prior written notice to the City, the Owner and the Authority, resign; provided that such resignation shall not take effect until the successor Trustee is appointed as provided in this Section 9.01. Upon receiving such notice of resignation, the City shall promptly appoint a successor Trustee subject to written approval of the Owner. In the event the City does not name a successor Trustee within thirty (30) days of receipt of notice of the Trustees’ resignation, then the Trustee may petition a federal or state court to seek the immediate appointment of a successor Trustee.

(e) Successor. Any successor Trustee shall be a bank, national banking association or trust company meeting the qualifications as set forth in Subsection (b) above. Any resignation or removal of the Trustee and appointment of a successor Trustee shall become effective

upon acceptance of appointment by the successor Trustee and upon receipt of written approval of the Owner.

Section 9.02. Merger or Consolidation. Any company or banking association into which the Trustee may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which the Trustee may sell or transfer all or substantially all of its corporate trust business, provided that such company shall be eligible under Section 9.01, shall be the successor to the Trustee without the execution or filing of any paper or further act, anything herein to the contrary notwithstanding.

Section 9.03. Protection of the Trustee.

(a) Reliance Upon Papers or Documents. The Trustee shall be protected and shall incur no liability in acting or proceeding in good faith upon any resolution, notice, telegram, facsimile transmission, electronic mail, request, consent, direction, waiver, certificate, statement, affidavit, voucher, bond, requisition or other paper or document which it shall in good faith believe to be genuine and to have been passed or signed by the proper board or person or to have been prepared and furnished pursuant to any of the provisions of this Trust Agreement, and the Trustee shall be under no duty to make any investigation or inquiry as to any statements contained or matters referred to in any such instrument, but may, in the absence of bad faith on its part, accept and rely upon the same as conclusive evidence of the truth and accuracy of such statements. In the event the Trustee shall make any investigation into the content of any such certifications, the Trustee shall not thereby be deemed to have expanded the scope of its duties.

(b) Reliance Upon Opinions of Counsel. The Trustee may consult with its counsel or 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 in accordance therewith. Before being required to take any action, the Trustee may require an opinion of Independent Counsel acceptable to the Trustee which opinion shall be made available to the other parties hereto upon request, which counsel may be counsel to any of the parties hereto, or a verified certificate of any party hereto, or both, concerning the proposed action and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken by the Trustee in reliance thereon.

(c) Reliance Upon Requested Certificates. Whenever in the administration of its duties under this Trust Agreement, the Trustee 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), in the absence of bad faith on its part, shall be deemed to be conclusively proved and established by the certificate of the City Representative or the Authority Representative and such certificate shall be full warranty to the Trustee for any action taken or suffered under the provisions of this Trust Agreement in reliance thereon, but in its discretion the Trustee may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as to it may seem reasonable, provided however that the duties and obligations of the Trustee shall not be deemed expanded thereby.

Section 9.04. Rights of the Trustee.

(a) Ownership of Certificates. The Trustee may become an Owner with the same rights it would have if it were not Trustee; may acquire and dispose of other bonds or evidence of

indebtedness of the City with the same rights it would have if it were not the Trustee; and may act as a depository for and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Owners, whether or not such committee shall represent the Owners of the majority in principal amount of the Certificates then Outstanding.

(b) Attorneys, Agents, Receivers. The Trustee may execute any of the trusts or powers hereof and perform the duties required of it hereunder by or through attorneys, agents, or receivers, shall not be responsible for the actions or omissions of such attorneys, agents or receivers if appointed by it with reasonable care, and shall be entitled to advice of counsel concerning all matters of trust and its duty hereunder.

(c) Funds and Accounts. In addition to the funds and accounts established or required to be established pursuant to this Trust Agreement, the Trustee may establish such additional funds and accounts as it deems necessary or appropriate to perform its duties hereunder, and shall have the right to close such accounts in its discretion.

Section 9.05. Standard of Care. So long as there is no Event of Default, (a) the Trustee shall not be liable in connection with the performance of its duties hereunder, except for its own negligence or willful misconduct, and (b) the Trustee shall only perform those duties specifically set forth herein and no implied duties, covenants or obligations whatsoever shall be read into this Trust Agreement. In the event of and during the continuance of an Event of Default, the Trustee shall exercise such care in performing its duties hereunder as a corporate trustee would exercise in such event.

Section 9.06. Compensation of the Trustee. As an Additional Payment under Section 4.11 of the Lease, the City shall, from time to time, pay such amounts as are specified in any written agreement with the City and, on demand, pay to the Trustee to the extent not covered by such agreement reasonable compensation for its services and the services of any accountants, consultants, attorneys and other experts as may be engaged by the Trustee to provide services under this Trust Agreement pursuant to a written agreement between the City and the Trustee and reasonable expenses. The City's obligation hereunder shall remain valid and binding notwithstanding maturity and payment of the Certificates or the resignation or removal of the Trustee.

Section 9.07. Indemnification of Trustee. The City shall, to the extent permitted by law, indemnify and save the Trustee and its officers, directors, agents, and employees harmless from and against (whether or not litigated) all claims, losses, costs, expenses, liability and damages, including legal fees and expenses, arising out of (i) the use, maintenance, condition or management of, or from any work or thing done on, the Property by the City, (ii) any breach or default on the part of the City in the performance of any of its obligations under this Trust Agreement and any other agreement made and entered into for purposes of the Property, (iii) any act of negligence of the City or of any of its agents, contractors, servants, employees or licensees with respect to the Property, (iv) any act of negligence of any assignee of, or purchaser from, the City or of any of its or their agents, contractors, servants, employees or licensees with respect to the Property, or (v) the exercise and performance by the Trustee of its powers and duties hereunder or any related document, (vi) the sale of the Certificates and the carrying out of any of the transactions contemplated by the Certificates or this Trust Agreement, or (vii) any untrue statement or alleged untrue statement of any material fact or omission or alleged omission to state a material fact necessary to make the statements made in light of the circumstances in which they were made, not misleading in any official statement or other

disclosure document utilized in connection with the sale of the Certificates. The indemnification set forth in this Section 9.07 shall extend to the Trustee's officers, agents, employees, successors and assigns. No indemnification will be made under this Section or elsewhere in this Trust Agreement or other agreements for willful misconduct or negligence by the Trustee, its officers, agents, employees, successors or assigns. The City's obligations hereunder shall remain valid and binding notwithstanding maturity and payment of the Certificates, or the resignation or removal of the Trustee.

In accepting the trust hereby created, the Trustee acts solely as Trustee for the Owners and not in its individual capacity, and all persons, including, without limitation, the Owners, Authority and the City, having any claim against the Trustee arising from this Trust Agreement shall look only to the funds and accounts held by the Trustee hereunder for payment, except as otherwise provided herein or where the Trustee has breached its standard of care as described in Section 9.05 hereof. Under no circumstances shall the Trustee be liable in its individual capacity for the obligations evidenced by the Certificates.

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

The Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Owners of not less than a majority in aggregate principal amount of the Certificates at the time Outstanding relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee or in the exercise of any right hereunder.

The Trustee is authorized and directed to execute in its capacity as Trustee the Assignment Agreement.

Every provision of this Trust Agreement, the Lease, the Site Lease and the Assignment Agreement relating to the conduct or liability of the Trustee shall be subject to the provisions of this Trust Agreement, including without limitation, this Article IX.

The Trustee shall have no responsibility with respect to any information, statement or recital in any official statement, offering memorandum or any other disclosure material prepared or distributed with respect to the Certificates.

The Trustee shall not to be deemed to have knowledge of any Event of Default hereunder or under the Lease unless it has actual knowledge thereof at its Principal Office.

The Trustee agrees to accept and act upon instructions or directions pursuant to this Trust Agreement sent by unsecured e-mail, facsimile transmission or other similar unsecured electronic methods, provided, however, that, the Trustee shall have received an incumbency certificate listing persons designated to give such instructions or directions and containing specimen signatures of such designated persons, which such incumbency certificate shall be amended and replaced whenever a person is to be added or deleted from the listing. If the Authority elects to give the Trustee e-mail or facsimile instructions (or instructions by a similar electronic method) and the Trustee in its discretion elects to act upon such instructions, the Trustee's understanding of such instructions shall be deemed controlling. The Trustee shall not be liable for any losses, costs or expenses arising directly or

indirectly from the Trustee's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The Authority agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties.

The Trustee shall not be liable to the parties hereto or deemed in breach or default hereunder if and to the extent its performance hereunder is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the Trustee and could not have been avoided by exercising due care. Force majeure shall include but not be limited to acts of God, terrorism, war, riots, strikes, fire, floods, earthquakes, epidemics or other similar occurrences.

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

The permissive right of the Trustee to do things enumerated in this Trust Agreement shall not be construed as a duty and it shall not be answerable for other than its negligence or willful misconduct.

The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Trust Agreement at the request, order or direction of any of the Certificate Owners pursuant to the provisions of this Trust Agreement unless such Certificate Owners shall have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities which may be incurred therein or thereby.

Section 9.08. Trustee's Disclaimer of Warranties. THE TRUSTEE MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR FITNESS FOR THE USE CONTEMPLATED BY THE CITY OF THE PROPERTY, OR ANY PORTION THEREOF. THE CITY ACKNOWLEDGES THAT THE CITY IS LEASING THE PROPERTY AS IS. In no event shall the Trustee be liable for incidental, indirect, special or consequential damages, in connection with or arising out of the Lease, the Site Lease, the Assignment Agreement or this Trust Agreement for the existence, furnishing, functioning or the City's use and possession of the Property.

## ARTICLE X

### MODIFICATION OR AMENDMENT OF AGREEMENTS

Section 10.01. Amendments Permitted. This Trust Agreement and the rights and obligations of the Owner, and the Lease and the rights and obligations of the parties thereto, may be modified or amended at any time, by a supplemental agreement or amendment thereto, upon receipt by the Trustee of written consent of the Owner. No such modification or amendment, however, shall modify any of the rights or obligations of the Trustee without its written assent thereto. Any such supplemental agreement shall become effective upon execution and delivery by the parties hereto or thereto as the case may be.

Section 10.02. [Reserved]

Section 10.03. Disqualified Certificates. Certificates owned or held by or for the account of the City or the Authority or by any person directly or indirectly controlled or controlled by, or under direct or indirect common control with the City or the Authority (except any Certificates held in any pension or retirement fund) shall not be deemed Outstanding for the purpose of any vote, consent, waiver or other action or any calculation of Outstanding Certificates provided for in this Trust Agreement, and shall not be entitled to vote upon, consent to, or take any other action provided for in this Trust Agreement.

The City or the Trustee may adopt appropriate regulations to require each Owner, before his consent provided for in this Article X shall be deemed effective, to reveal if the Certificates as to which such consent is given are disqualified as provided in this Section 10.03 hereof. Upon request of the Trustee, the Authority and the City shall specify in a certificate to the Trustee those Certificates disqualified pursuant to this Section and the Trustee may conclusively rely on such certificate.

Section 10.04. Effect of Supplemental Agreement. From and after the time any supplemental agreement becomes effective pursuant to this Article X, this Trust Agreement or the Lease, as the case may be, shall be deemed to be modified and amended in accordance therewith, the respective rights, duties and obligations of the parties hereto or thereto and all Owners of Certificates Outstanding, as the case may be, shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modification and amendment, and all the terms and conditions of any supplemental agreement shall be deemed to be part of the terms and conditions of this Trust Agreement or the Lease, as the case may be, for any and all purposes.

Section 10.05. Endorsement or Replacement of Certificates Delivered After Amendments. The Trustee may determine that Certificates delivered after the effective date of any action taken as provided in this Article X shall bear a notation, by endorsement, in form approved by the Trustee, as to such action. In that case, upon demand of the Owner of any Outstanding Certificate at such effective date and presentation of his Certificate for such purpose at the Principal Office, a suitable notation shall be made on such Certificate. The Trustee may determine that new Certificates, so modified as in the opinion of the Trustee is necessary to conform to such Owner's action, shall be prepared, executed and delivered. In that case, upon demand of the Owner of any Certificate then Outstanding, such new Certificate shall be exchanged in the Principal Office without cost to such Owner, for a Certificate of the same character then Outstanding, upon surrender of such Certificate.

Section 10.06. Amendatory Endorsement of Certificates. Subject to Section 10.01 hereof, the provisions of this Article X shall not prevent an Owner from accepting any amendment as to the particular Certificates held by him, provided that due notification thereof is made on such Certificates.

## ARTICLE XI

### COVENANTS; NOTICES

Section 11.01. Compliance With and Enforcement of the Lease. The City covenants and agrees with the Owner to perform all obligations and duties imposed on it under the Lease. The Authority covenants and agrees with the Owner to perform all obligations and duties imposed on it under the Lease.

The City will not do or permit anything to be done, or omit or refrain from doing anything, in any case where any such act done or permitted to be done, or any such omission of or refraining from action, would or might be a ground for cancellation or termination of the Lease by the Authority thereunder. The Authority and the City, immediately upon receiving or giving any notice, communication or other document in any way relating to or affecting their respective estates, or either of them, in the Property, which may or can in any manner affect such estate of the City, will deliver the same, or a copy thereof, to the Trustee.

Section 11.02. Payment of Taxes. The City shall pay all taxes as provided in Section 7.7(b) of the Lease.

Section 11.03. Observance of Laws and Regulations. The City will well and truly keep, observe and perform all valid and lawful obligations or regulations now or hereafter imposed on it by contract, or prescribed by any law of the United States, or of the State, or by any officer, board or commission having jurisdiction or control, as a condition of the continued enjoyment of any and every right, privilege or franchise now owned or hereafter acquired by the City, including its right to exist and carry on business as a municipal corporation, to the end that such rights, privileges and franchises shall be maintained and preserved, and shall not become abandoned, forfeited or in any manner impaired.

Section 11.04. Prosecution and Defense of Suits. The City shall promptly, and also upon request of the Trustee or the Owner, take such action as may be necessary or proper to remedy or cure any defect in or cloud upon the title to the Property, whether now existing or hereafter developing and shall prosecute all such suits, actions and other proceedings as may be appropriate for such purpose.

Section 11.05. City Budgets. In accordance with Section 4.7 of the Lease, the City Representative shall certify to the Trustee on or before August 1 of each year that the City has included all Lease Payments (other than Lease Payments of advance rental), Additional Payments due under the Lease in the Fiscal Year covered by its annual budget and the amount so included. If the City fails to certify that it has included all such Lease Payments and Additional Payments in such annual budget, the Trustee shall promptly provide the City written notice specifying that the City has failed to observe and perform its covenant and agreement in such Section 4.7 and requesting that such failure be remedied within 30 days, or such failure shall constitute an Event of Default under Section 9.1(b) of the Lease. The Trustee shall forward a copy of such notice to the Authority and to the Owner. Upon receipt of such notice, the City shall notify the Trustee of the proceedings proposed to be taken by the City, and shall keep the Trustee advised of all proceedings thereafter taken by the City.

Section 11.06. Further Assurances. The Authority and the City will 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 Agreement, and for the better assuring and confirming unto the Owner the rights and benefits provided herein.

## ARTICLE XII

### LIMITATION OF LIABILITY

Section 12.01. Limited Liability of the City. Except for the payment of Lease Payments, Additional Payments and Prepayments when due in accordance with the Lease and the performance of the other covenants and agreements of the City contained herein and in the Lease, the City shall have no obligation or liability to any of the other parties hereto or to the Owners with respect to this Trust Agreement or the terms, execution, delivery or transfer of the Certificates, or the distribution of Lease Payments to the Owner by the Trustee.

Section 12.02. No Liability of the City or Authority for Trustee Performance. Except as expressly provided herein, neither the City nor the Authority shall have any obligation or liability to any other parties hereto or to the Owner with respect to the performance by the Trustee of any duty imposed upon it under this Trust Agreement.

(a) No Investment Advice. The Trustee shall have no obligation or responsibility for providing information to the Owner concerning the investment character of the Certificates.

(b) Sufficiency of this Trust Agreement or Lease Payments. The Trustee makes no representations as to the validity or sufficiency of the Certificates, shall incur no responsibility in respect thereof, other than in connection with the duties or obligations herein or in the Certificates assigned to or imposed upon it. The Trustee shall not be responsible or liable for the sufficiency or enforceability of the Lease, the Site Lease or the Assignment Agreement. The Trustee shall not be liable for the sufficiency or collection of any Lease Payments or other moneys required to be paid to it under the Lease (except as provided in this Trust Agreement), its right to receive moneys pursuant to said Lease, or the value of or title to the Property.

(c) Actions of Authority and City. The Trustee shall have no obligation or liability to any of the other parties or the Owners with respect to this Trust Agreement or failure or refusal of any other party to perform any covenant or agreement made by any of them under this Trust Agreement or the Lease, but shall be responsible solely for the performance of the duties and obligations expressly imposed upon it hereunder as provided in Section 9.05.

(d) Recitals and Agreements of Authority and City. The recitals of facts, covenants and agreements herein and in the Certificates contained shall be taken as statements, covenants and agreements of the City or the Authority (as the case may be), and the Trustee assumes no responsibility for the correctness of the same.

Section 12.03. Limitation of Rights to Parties and Certificate Owner. Nothing in this Trust Agreement or in the Certificates expressed or implied is intended or shall be construed to give any person other than the City, the Authority, the Trustee and the Owner, any legal or equitable right, remedy or claim under or in respect of this Trust Agreement or any covenant, condition or provision hereof; and all such covenants, conditions and provisions are and shall be for the sole and exclusive benefit of the City, the Authority, the Trustee and the Owner.

Section 12.04. No Liability of Authority to the Owner. Except as expressly provided herein, the Authority shall not have any obligation or liability to the Owner with respect to the payment when due of the Lease Payments by the City or with respect to the observance or performance by the

City of the other agreements, conditions, and covenant imposed upon the City by the Lease or by this Trust Agreement.

### ARTICLE XIII

#### EVENTS OF DEFAULT AND REMEDIES OF CERTIFICATE OWNERS

Section 13.01. Assignment of Rights. The parties hereto acknowledge that pursuant to the Assignment Agreement the Authority has transferred, assigned and set over to the Trustee for the benefit of the Owners, certain of the Authority's rights under the Lease.

Section 13.02. Events of Default.

(a) Remedies. If an Event of Default shall happen, then, and in each and every such case during the continuance of such Event of Default, the Trustee may exercise any and all remedies available pursuant to law or granted pursuant to the Lease; provided, however, that notwithstanding anything herein or in the Lease to the contrary, THERE SHALL BE NO RIGHT UNDER ANY CIRCUMSTANCES TO ACCELERATE THE MATURITIES OF THE CERTIFICATES OR OTHERWISE TO DECLARE ANY LEASE PAYMENTS NOT THEN IN DEFAULT TO BE IMMEDIATELY DUE AND PAYABLE. Section 9.2 of the Lease is hereby incorporated by reference.

(b) Actual Knowledge. The Trustee shall not be deemed to have knowledge of any Event of Default unless and until the trust officer responsible for the administration of this Trust Agreement shall have actual knowledge thereof, or shall have received written notice thereof at the Principal Office.

Section 13.03. Application of Funds. All moneys received by the Trustee pursuant to any right given or action taken under the provisions of this Article XIII or of Article IX of the Lease, shall be deposited into the Lease Payment Fund and be applied by the Trustee after payment of all amounts due and payable under Section 9.06 and Section 9.07 hereof and Section 4.11 of the Lease in the following order upon presentation of the several Certificates, and the stamping thereon of the payment if only partially paid, or upon the surrender thereof if fully paid -

First, Costs and Expenses: to the payment of the costs, fees and expenses of the Trustee in declaring such Event of Default and incurred in and about the performance of its powers and duties under this Trust Agreement, including reasonable compensation to its or their agents, attorneys and counsel and then any such amounts incurred by the Owner;

Second, Interest: to the payment to the persons entitled thereto of all installments of interest then due in the order of the maturity of such installment, and, if the amount available shall not be sufficient to pay in full any installment or installments maturing on the same date, then to the payment thereof ratably according to the amounts due thereon, to the persons entitled thereto, without any discrimination or preference; and

Third, Principal: to the payment to the persons entitled thereto of the unpaid principal with respect to any Certificates which shall have become due, whether at maturity or by call for prepayment, in the order of their due dates, with interest on the overdue principal and interest at a rate equal to the rate paid with respect to the Certificates and, if the amount available shall not be

sufficient to pay in full all the amounts due with respect to the Certificates on any date, together with such interest, then to the payment thereof ratably, according to the amounts of principal due on such date to the persons entitled thereto, without any discrimination or preference.

Section 13.04. Institution of Legal Proceedings. If one or more Events of Default shall happen and be continuing, the Trustee may, and upon the written request of the Owner and upon being indemnified to its satisfaction therefor, shall, proceed to protect or enforce its rights or the rights of the Owner by a suit in equity or action at law, either for the specific performance of any covenant or agreement contained herein or in the Lease, or in aid of the execution of any power herein granted, or by mandamus or other appropriate proceeding for the enforcement of any other legal or equitable remedy as the Trustee shall deem most effectual in support of any of its rights or duties hereunder; provided that such written request shall not be otherwise than in accordance with provisions of law and this Trust Agreement and that the Trustee shall have the right to decline to follow any such written request if the Trustee shall be advised by counsel that the action or proceeding so requested may not be taken lawfully or if the Trustee in good faith shall determine that the action or proceeding so requested would be unjustly prejudicial to the Certificate Owners not a party to such written request or expose the Trustee to liability. In no event shall counsel to the Trustee be deemed counsel to the Owner, and any communications between the Trustee and its counsel shall be deemed confidential and privileged.

Section 13.05. Non-Waiver. Nothing in this Article XIII or in any other provision of this Trust Agreement or in the Certificates shall affect or impair the obligation of the City which is absolute and unconditional, to pay or prepay the Lease Payments as provided in the Lease. No delay or omission of the Trustee or of the Owner to exercise any right or power arising upon the happening of any Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or an acquiescence therein, and every power and remedy given by this Article XIII to the Trustee or to the Owner may be exercised from time to time and as often as shall be deemed expedient by the Trustee or the Owner.

Section 13.06. Remedies Not Exclusive. No remedy herein conferred upon or reserved to the Trustee or to the Owner is intended to be exclusive of any other remedy, and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing, at law or in equity or by statute or otherwise.

Section 13.07. Power of Trustee to Control Proceedings. In the event that the Trustee, upon the happening of an Event of Default, shall have taken any action, by judicial proceedings or otherwise, pursuant to its duties hereunder, whether upon its own discretion or upon the request of the Owner, it shall have full power, in the exercise of its discretion for the best interest of the Owners of the Certificates, with respect to the continuance, discontinuance, withdrawal, compromise, settlement or other disposal of such action; provided, however, that the Trustee shall not, unless there no longer continues an Event of Default, discontinue, withdraw, compromise or settle, or otherwise dispose of any litigation pending at law or in equity, if at the time there has been filed with it a written request signed by the Owner opposing such discontinuance, withdrawal, compromise, settlement or other disposal of such litigation.

Section 13.08. Limitation on Certificate Owner's Right to Sue. The Owner shall not have the right to institute any suit, action or proceeding at law or in equity, for any remedy under or upon this Trust Agreement, unless (a) the Owner shall have previously given to the Trustee written notice of the occurrence of an Event of Default under the Lease; (b) the Owner shall have made written

request upon the Trustee to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name; (c) the Owner shall have tendered to the Trustee reasonable indemnity against the costs, expenses and liabilities to be incurred in compliance with such request; (d) the Trustee shall have refused or omitted to comply with such request for a period of 60 days after such written request shall have been received by, and said tender of indemnity shall have been made to, the Trustee; and (e) there shall have been a default in the payment of the Lease Payments as the same become due.

Such notification, request, tender of indemnity, refusal or omission, and default are hereby declared, in every case, to be conditions precedent to the exercise by the Owner of any remedy hereunder.

Section 13.09. Agreement to Pay Attorneys' Fees and Expenses. In the event any party to this Trust Agreement should default under any of the provisions hereof and the nondefaulting party should employ attorneys or incur other expenses for the collection of moneys or the enforcement or observance of any obligation or agreement on the part of the defaulting party contained herein, the defaulting party agrees that it will on demand therefor pay to the nondefaulting party the reasonable fees of such attorneys and such other expenses so incurred by the nondefaulting party.

#### ARTICLE XIV

#### MISCELLANEOUS

##### Section 14.01. Defeasance.

(a) Methods. If and when any Outstanding Certificates shall be paid and discharged in any one or more of the following ways:

(i) Payment or Prepayment: by well and truly paying or causing to be paid the principal, interest and prepayment premiums (if any) with respect to such Certificates Outstanding, as and when the same become due and payable;

(ii) Cash: if prior to maturity and having given at least thirty (30) days prior written notice of prepayment by depositing with the Trustee, in trust, concurrent with the giving of such notice, an amount of cash which (together with cash then on deposit in the Lease Payment Fund and the Reserve Fund together with the interest to accrue thereon, in the event of payment or provision for payment of all Outstanding Certificates) is sufficient to pay such Certificates Outstanding, including all principal and interest and premium, if any; or

(iii) Government Obligations: by irrevocably depositing with the Trustee, in trust, Government Obligations together with cash, if required, in such amount as will, in the opinion of an independent certified public accountant, together with interest to accrue thereon (and, in the event of payment or provision for payment of all Outstanding Certificates, moneys then on deposit in the Lease Payment Fund and the Reserve Fund together with the interest to accrue thereon), be fully sufficient to pay and discharge such Certificates (including all principal and interest represented thereby and prepayment premiums if any) at or before their maturity date;

and all other amounts due hereunder have been paid in full, then, notwithstanding that any Certificates shall not have been surrendered for payment, all obligations of the Authority, the Trustee and the City with respect to such Certificates shall cease and terminate, except only the obligation of the City and the Authority to comply with the provisions of Sections 8.07 and 8.08 hereof and the obligation of the Trustee to pay or cause to be paid, from Lease Payments paid by or on behalf of the City from funds deposited pursuant to paragraphs (ii) and (iii) of this Section, to the Owners of the Certificates not so surrendered and paid all sums due with respect thereto, and in the event of deposits pursuant to paragraphs (ii) and (iii) of this Section, the Certificates shall continue to represent direct and proportionate interests of the Owners thereof in Lease Payments under the Lease.

(b) Surplus Moneys. Any funds held by the Trustee, at the time of payment or provision for payment of all Outstanding Certificates pursuant to the one of the procedures described in paragraphs (a)(i) through (a)(iii) of this Section, which are not required for the payment to be made to the Owners, shall be paid over to the City, after the payment of any amounts due to the Trustee pursuant to Sections 9.06 and 9.07 hereof, any amounts due and owing to the Owner, and any other Additional Payments due under the Lease.

(c) Surviving Provisions. Notwithstanding the satisfaction and discharge hereof, the Trustee shall retain such rights, powers and privileges hereunder as may be necessary or convenient for the payment of the principal, interest and prepayment premium, if any, on the Certificates and for the registration, transfer and exchange of the Certificates.

(d) Opinions and Reports. Prior to any defeasance becoming effective under this Section, the City shall cause to be delivered (i) an executed copy of a report, addressed to the Trustee, the City and the Owner, in form and substance acceptable to the City and the Owner of a nationally recognized firm of certified public accountants, verifying that the Government Obligations and cash, if any, satisfy the requirements of Section 14.01(a) above, and (ii) a copy of the escrow deposit agreement entered into in connection with such defeasance, which escrow deposit agreement shall be in form and substance acceptable to the Owner.

Section 14.02. Non-Presentation of Certificates. In the event any Certificate shall not be presented for payment when the principal with respect thereto becomes due, either at maturity, or at the date fixed for prepayment thereof, if moneys sufficient to pay such Certificate shall have been deposited in the Prepayment Fund or Lease Payment Fund, as applicable, all liability of the City and the Trustee to the Owner thereof for payment of such Certificate shall forthwith cease, terminate and be completely discharged, and thereupon it shall be the duty of the Trustee to hold such moneys, without liability for interest thereon, for the benefit of the Owner of such Certificate who shall thereafter be restricted exclusively to such moneys, for any claim of whatever nature on his or her part under this Trust Agreement or on, or with respect to, said Certificate.

Any moneys so deposited with and held by the Trustee not so applied to the payment of Certificates within two (2) years after the date on which the same shall have become due shall be paid by the Trustee to the City, free from the trusts created by this Trust Agreement. Prior to forwarding any such moneys to the City, the Trustee may publish notice of its intention to transfer such funds in The Bond Buyer or another financial newspaper of general circulation in New York, New York. In addition, Trustee shall be indemnified from and against any and all liabilities to third parties resulting from its actions under this Section. Thereafter, Owners shall be entitled to look only to the City for payment, and then only to the extent of the amount so repaid by the Trustee. The City



Section 14.08. Execution in Counterparts. This Trust Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same agreement.

Section 14.09. Headings. The headings or titles of the several Articles and Sections hereof, and any table of contents appended to copies hereof, shall be solely for convenience of reference and shall not affect the meaning, construction or effect of this Trust Agreement. All references herein to “Articles”, “Sections” and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Trust Agreement; and the words “herein,” “hereof,” “hereunder” and other words of similar import refer to this Trust Agreement as a whole and not to any particular Article, Section or subdivision hereof.

Section 14.10. Waiver of Notice. Whenever in this Trust Agreement the giving of notice by mail or otherwise is required, the giving of such notice may be waived in writing by the person entitled to receive such notice and in any case the giving or receipt of such notice shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

Section 14.11. Separability of Invalid Provisions. In case any one or more of the provisions contained in this Trust Agreement or in the Certificates shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such invalidity, illegality or unenforceability shall not affect any other provision of this Trust Agreement, and this Trust Agreement shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein. The parties hereto hereby declare that they would have entered into this Trust Agreement and each and every other section, paragraph, sentence, clause or phrase hereof and authorized the delivery of the Certificates pursuant thereto irrespective of the fact that any one or more sections, paragraphs, sentences, clauses or phrases of this Trust Agreement may be held illegal, invalid or unenforceable.

*[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]*

IN WITNESS WHEREOF, the parties have executed this Trust Agreement as of the date and year first above written.

CITY OF OCEANSIDE

By: \_\_\_\_\_  
Its: City Manager

ATTEST:

\_\_\_\_\_  
City Clerk

OCEANSIDE PUBLIC FINANCING AUTHORITY

By: \_\_\_\_\_  
Its: Executive Director

ATTEST:

\_\_\_\_\_  
Secretary

THE BANK OF NEW YORK MELLON TRUST  
COMPANY, N.A. , as Trustee

By: \_\_\_\_\_  
Its: Authorized Officer



Los Angeles, California, or such other place as designated by the Trustee (said office being herein referred to as the "Principal Office").

The Registered Owner of this Certificate is entitled to receive, subject to the terms of the Lease, on the maturity date specified above, the principal amount specified above, representing a portion of the Lease Payments designated as principal coming due during the preceding twelve months, and to receive on April 1, 2013, and semiannually thereafter on October 1 and April 1 of each year (each, a "Payment Date") until payment in full of said portion of principal, the Registered Owner's portion of the Lease Payments designated as interest coming due during the six months immediately preceding each of the Payment Date provided that interest with respect hereto shall be payable from the Payment Date next preceding the date of execution of this Certificate unless (i) this Certificate is executed during the period from the day after the fifteenth day of the month preceding a Payment Date (the "Record Date") to and including such Payment Date, in which event interest shall be payable from such Payment Date, or (ii) unless this Certificate is executed on or prior to March 15, 2013, in which event interest shall be payable from the Delivery Date hereof. The portion of the Lease Payments designated as interest is computed on the basis of a 360-day year of twelve 30-day months and is the result of the multiplication of the aforesaid portion of the Lease Payments designated as principal by the rate per annum identified above. Said amounts are payable in lawful money of the United States of America. The amount representing principal payable at maturity or upon prepayment in whole or in part is payable to the Registered Owner upon presentation and surrender of this Certificate at the Principal Office of the Trustee. The amounts representing interest are payable by check mailed by the Trustee by first class mail, postage prepaid, to the Registered Owner hereof as of the Record Date preceding the Payment Date at the address as it appears on the registration books of the Trustee. Interest with respect to any Certificates may, at the option of any Owner of Certificates in an aggregate principal amount of \$1,000,000 or more evidenced by the written request of such Owner to the Trustee, be paid to such Owner by wire transfer to the bank and account number on file with the Trustee as of the Record Date.

This Certificate is one of the \$\_\_\_\_\_ aggregate principal amount of "City of Oceanside 2013 Certificates of Participation (2003 Refunding)" (the "Certificates") which have been executed and delivered by the Trustee pursuant to the terms of a Trust Agreement dated as of January 1, 2013 (the "Trust Agreement"), by and among the Trustee, the Authority and the City. The City is authorized to enter into the Lease and the Trust Agreement under the Constitution and laws of the State of California. Reference is hereby made to the Lease and the Trust Agreement (copies of which are on file at the Principal Office of the Trustee) for a description of the terms on which the Certificates are delivered, the rights thereunder of the Registered Owners of the Certificates, the rights, duties and immunities of the Trustee and the rights and obligations of the City under the Lease, to all of the provisions of which Lease and Trust Agreement the Registered Owner of this Certificate, by acceptance hereof, assents and agrees.

The City is obligated to pay Lease Payments from any source of legally available funds, and the City has covenanted in the Lease to make the necessary annual appropriations therefor. The obligation of the City to pay the Lease Payments does not constitute an obligation of the City for which the City is obligated to levy or pledge any form of taxation or for which the City has levied or pledged any form of taxation. The obligation of the City to pay Lease Payments does not constitute a debt of the City, the State of California or any of its political subdivisions within the meaning of any Constitutional or statutory debt limitation or restriction. The City's obligation to pay Lease Payments may be abated during any period in which, by reason of material damage, destruction, title defect, or taking by eminent domain or condemnation there is substantial interference with the use

and right of possession by the City of the Property. Failure of the City to pay Lease Payments during any such period shall not constitute a default under the Lease, the Trust Agreement or this Certificate.

To the extent and in the manner permitted by the terms of the Trust Agreement, the provisions of the Trust Agreement may be amended by the parties thereto with the written consent of the Owner. No such modification or amendment shall modify any of the rights or obligations of the Trustee without its written assent thereto.

This Certificate is transferable in whole, but not in part, by the Registered Owner hereof, in person or by his duly authorized attorney, at the Principal Office of the Trustee, to a Purchaser who has executed an Investor Letter, but only in the manner, subject to the limitations and upon payment of the charges provided in the Trust Agreement and upon surrender and cancellation of this Certificate. Upon such transfer a new Certificate or Certificates, of an authorized denomination or denominations, for the same aggregate principal amount, maturity and interest rate, will be delivered to the transferee. This Certificate also may be exchanged for a like aggregate principal amount of Certificates of other authorized denominations as prescribed in the Trust Agreement. The City, the Authority, and the Trustee may treat the Registered Owner hereof as the absolute owner hereof for all purposes whether or not this Certificate shall be overdue, and the City, the Authority and the Trustee shall not be affected by any notice to the contrary.

The Trustee shall not be required to transfer any Certificate selected for prepayment or be required to transfer any Certificate during the period in which the Trustee is selecting Certificates for prepayment.

The Certificates are subject to prepayment, on any date, in whole or in part, from Net Proceeds deposited by the Trustee in the Prepayment Fund established under the Trust Agreement at least 45 days prior to the date fixed for prepayment, at a prepayment price equal to the principal amount thereof together with accrued interest to the date fixed for prepayment, without premium.

The Certificates are subject to prepayment prior to maturity in whole or in part on any date, at the option of the City, in the event the City exercises its option under Section 10.3 of the Lease to prepay all or a portion of the principal component of the Lease Payments (in integral multiples of \$5,000), at a prepayment price equal to the principal component to be prepaid, plus accrued interest to the date fixed for prepayment, together with a prepayment premium (based on the principal amount of the Certificates to be prepaid) as follows: [TO COME]

*Any date on or prior to:*

Certificates maturing April 1, 2023 are subject to prepayment in part by lot, on April 1 in each of the following years from sinking account payments as set forth below at a prepayment price equal to the principal amount thereof to be prepaid, without premium; provided, however, that if some but not all of the Certificates have been prepaid pursuant to an optional or extraordinary prepayment, the total amount of all future sinking account payments will be reduced by the aggregate

principal amount of the Certificates so prepaid as nearly as practicable in a pro rata basis in integral multiples of \$5,000. In addition, in lieu of prepayment thereof, the Certificates may be purchased by the City and tendered to the Trustee pursuant to the provisions of the Trust Agreement.

<i>Prepayment Date</i>	<i>Principal Amount</i>
<i>April 1</i>	
2013	\$
2014	
2015	
2016	
2017	
2018	
2019	
2020	
2021	
2022	
2023*	

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\* Final Maturity.

As provided in the Trust Agreement, notice of prepayment shall be mailed by first class mail, postage prepaid, not less than 30 nor more than 60 days before the prepayment date, to the Registered Owner of this Certificate, but neither failure to receive such notice nor any defect in the notice so mailed shall affect the sufficiency of the proceedings for prepayment. If this Certificate is called for prepayment and payment is duly provided therefor as specified in the Trust Agreement, interest shall cease to accrue with respect hereto from and after the date fixed for prepayment.

The City has certified that all acts, conditions and things required by the statutes of the State of California and the Trust Agreement to exist, to have happened and to have been performed precedent to and in connection with the execution and delivery of this Certificate do exist, have happened and have been performed in regular and due time, form and manner as required by law, and that the Trustee is duly authorized to execute and deliver this Certificate, and that the amount of this Certificate, together with all other Certificates executed and delivered under the Trust Agreement, is not in excess of the amount of Certificates authorized to be executed and delivered thereunder.

Terms used herein which are not otherwise defined shall have the respective meanings assigned thereto in the Trust Agreement.

The Trustee has no obligation or liability to the Registered Owners to make payments of principal or interest with respect to this Certificate except from Lease Payments and Prepayments paid to the Trustee and from the various funds and accounts established under the Trust Agreement. The Trust Agreement provides that the recitals of facts, covenants and agreements in this Certificate shall be taken as statements, covenants and agreements of the City, and the Trustee assumes no responsibility for the correctness of the same. The Trustee has executed this Certificate solely in its capacity as Trustee under the Trust Agreement and not in its individual or personal capacity.

IN WITNESS WHEREOF, this Certificate has been executed and delivered by The Bank of New York Mellon Trust Company, N.A., as Trustee, acting pursuant to the Trust Agreement.

Date of Execution: \_\_\_\_\_

THE BANK OF NEW YORK MELLON TRUST  
COMPANY, N.A., as Trustee

By: \_\_\_\_\_  
Its: Authorized Officer

[FORM OF ASSIGNMENT]

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto

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(print or typewrite name, address, including postal zip code, and social security  
or other identifying number of Transferee)

the within Certificate and all rights thereunder, and hereby irrevocably constitutes and appoints

---

attorney to transfer the within Certificate on the books kept for registration thereof by the Trustee,  
with full power of substitution in the premises.

Dated: \_\_\_\_\_

Signature Guaranteed

---

NOTICE: Signature(s) must be guaranteed by  
an eligible guarantor institution.

---

NOTICE: The signature to this assignment must  
correspond with the name as it appears upon the  
face of the within Certificate in every particular,  
without alteration or enlargement or any change  
whatsoever.

**EXHIBIT B**

**CITY OF OCEANSIDE  
2013 CERTIFICATES OF PARTICIPATION  
(2003 REFUNDING)**

**INVESTOR LETTER**

February \_\_, 2013

City of Oceanside  
Oceanside, California

Oceanside Public Financing Authority  
Oceanside, California

The Bank of New York Mellon Trust Company, N.A.  
Los Angeles, California

Stradling Yocca Carlson & Rauth, a Professional Corporation  
Newport Beach, California

Re: \$ \_\_\_\_\_ 2013 Certificates of Participation (2003 Refunding)

Ladies and Gentlemen:

The undersigned (the "Investor") hereby acknowledges receipt of \$ \_\_\_\_\_ in aggregate principal amount of the above-referenced certificates (the "Certificates"), dated February \_\_\_\_, 2013 in fully registered form and bearing interest from the date thereof.

1. We are a "bank" as defined in Section 3(a)(2) of the Securities Act of 1933 (the "1933 Act").

2. We have sufficient knowledge and experience in financial and business matters, including purchase and ownership of municipal and other tax-exempt obligations of a nature similar to the Certificates to be able to evaluate the risks and merits of the investment represented by the purchase of the Certificates.

3. We are acquiring the Certificates for our own account or for the account of institutions which meet the representations set forth herein, and not with a view to, or for sale in connection with, any distribution of the Certificates or any part thereof. We have not offered to sell, solicited offers to buy, or agreed to sell the Certificates or any part thereof, and we have no present intention of reselling or otherwise disposing of the Certificates.

4. As a sophisticated investor, we have made our own credit inquiry and analysis with respect to the City of Oceanside ( the "Issuer") and the Certificates, and have made an independent credit decision based upon such inquiry and analysis. The Issuer has furnished to us all the information which we as a reasonable investor have requested of the Issuer as a result of our having attached significance thereto in making our investment decision with respect to the Certificates, and

we have had the opportunity to ask questions of and receive answers from knowledgeable individuals concerning the Issuer and the Certificates. We are able and willing to bear the economic risk of the purchase and ownership of the Certificates.

5. We understand that the Certificates have not been registered with any federal or state securities agency or commission.

6. We acknowledge that the Certificates are transferable only by notation on the registration books maintained by the bond registrar and are freely transferable provided that the Certificates are transferable in whole and not in part and that:

(i) the transferring holder thereof shall first have complied with all applicable state and federal securities laws and regulations;

(ii) the transferring holder thereof can transfer the Certificates only to a transferee who executes and delivers to the Issuer a letter of the transferee substantially to the effect of this letter and who qualifies as an:

(1) a qualified institutional buyer pursuant to Rule 144A of the 1933 Securities Act; or

(2) an "accredited investor" within the meaning of Section 2(15) of the 1933 Securities Act; or

(3) a securitization Special Purpose Vehicle ("SPV") the interests in which SPV are sold to institutional investors only; and

(iii) the transferring holder thereof will not prepare or furnish, or cause to be prepared or furnished, any disclosure regarding the Issuer's finances without the prior review and written consent of the Issuer, in the Issuer's sole discretion.

7. Notwithstanding anything herein to the contrary, our obligation to purchase the Certificates shall be subject to the condition precedent that from the date hereof to the date of delivery of the Certificates, there shall not have occurred any:

(i) material adverse change in the financial condition or general affairs of the Issuer;

(ii) event, court decision, proposed law or rule which may have the effect of changing the federal income tax incidents of the Issuer or of the ownership of the Certificates or the interest thereon or the transactions contemplated herein; or

(iii) international or national crisis, suspension of stock exchange trading or banking moratorium materially affecting, in our opinion, the market value of the Certificates.

COMPASS BANK, an Alabama Corporation

By: \_\_\_\_\_

Its: \_\_\_\_\_

**ATTACHMENT 4**

*Stradling Yocca Carlson & Rauth  
Draft of 1/15/13*

**DOCUMENT NO.** \_\_\_\_\_  
**DOCUMENT NO.** \_\_\_\_\_

**RECORDING REQUESTED BY:**  
CITY OF OCEANSIDE

**WHEN RECORDED MAIL TO:**  
Stradling Yocca Carlson & Rauth  
660 Newport Center Drive, Suite 1600  
Newport Beach, CA 92660  
Attn: Brian P. Forbath

---

[Space above for Recorder's use.]

This document is recorded for the benefit of the City of Oceanside and recording is fee-exempt under § 27383 of the Government Code.

**LEASE/PURCHASE AGREEMENT**

**by and between the**

**OCEANSIDE PUBLIC FINANCING AUTHORITY, as Lessor**

**and the**

**CITY OF OCEANSIDE, as Lessee**

**Dated as of February 1, 2013**

**Relating to**

**§ \_\_\_\_\_  
CITY OF OCEANSIDE  
2013 CERTIFICATES OF PARTICIPATION  
(2003 REFUNDING)**

# TABLE OF CONTENTS

Page

## ARTICLE I

### DEFINITIONS AND EXHIBITS

Section 1.1.	Definitions and Rules of Construction.....	2
Section 1.2.	Exhibits .....	3

## ARTICLE II

### REPRESENTATIONS, COVENANTS AND WARRANTIES

Section 2.1.	Representations, Covenants and Warranties of the City.....	3
Section 2.2.	Representations, Covenants and Warranties of the Authority .....	5

## ARTICLE III

### APPLICATION OF PROCEEDS

Section 3.1.	Deposit of Certificate Proceeds.....	7
Section 3.2.	Defeasance of 2003 Certificates .....	7
Section 3.3.	Payment of Costs of Issuance .....	7
Section 3.4.	Further Assurances and Corrective Instruments .....	7

## ARTICLE IV

### AGREEMENT TO LEASE; TERM OF LEASE; LEASE PAYMENTS

Section 4.1.	Lease .....	8
Section 4.2.	Term.....	8
Section 4.3.	Extension of Lease Term .....	8
Section 4.4.	Lease Payments.....	8
Section 4.5.	No Withholding .....	9
Section 4.6.	Fair Rental Value .....	9
Section 4.7.	Budget and Appropriation.....	9
Section 4.8.	Assignment of Lease Payments .....	10
Section 4.9.	Use and Possession .....	10
Section 4.10.	Abatement of Lease Payments and Additional Payments.....	10
Section 4.11.	Additional Payments.....	11
Section 4.12.	Net-Net-Net Lease .....	11
Section 4.13.	Annual Financial Information.....	11

**TABLE OF CONTENTS**  
(continued)

Page

ARTICLE V

INSURANCE

Section 5.1.	Public Liability and Property Damage.....	12
Section 5.2.	Workers' Compensation .....	12
Section 5.3.	Casualty and Theft Insurance.....	12
Section 5.4.	Rental Interruption Insurance.....	13
Section 5.5.	Title Insurance.....	13
Section 5.6.	General Insurance Provisions.....	14
Section 5.7.	Cooperation.....	15

ARTICLE VI

DAMAGE, DESTRUCTION AND EMINENT DOMAIN; USE OF NET PROCEEDS

Section 6.1.	Application of Net Proceeds .....	15
--------------	-----------------------------------	----

ARTICLE VII

COVENANTS WITH RESPECT TO THE PROPERTY

Section 7.1.	Use of the Property .....	16
Section 7.2.	Interest in the Property and the Lease.....	16
Section 7.3.	Option to Purchase.....	17
Section 7.4.	Quiet Enjoyment .....	17
Section 7.5.	Installation of the City's Personal Property .....	17
Section 7.6.	Access to the Property.....	17
Section 7.7.	Maintenance, Utilities, Taxes and Assessments .....	18
Section 7.8.	Modification of the Property.....	18
Section 7.9.	Encumbrances; Alternative Financing Methods .....	19
Section 7.10.	Authority's Disclaimer of Warranties.....	20
Section 7.11.	The City's Right to Enforce Warranties of Vendors or Contractors.....	20
Section 7.12.	Substitution or Release of the Property.....	20
Section 7.13.	Compliance with Law, Regulations, Etc.....	21
Section 7.14.	Environmental Compliance.....	22
Section 7.15.	Condemnation of Property.....	23

ARTICLE VIII

ASSIGNMENT, SUBLEASING AND AMENDMENT

Section 8.1.	Assignment by the Authority .....	23
Section 8.2.	Assignment and Subleasing by the City .....	23

**TABLE OF CONTENTS**  
(continued)

	<u>Page</u>
Section 8.3. Amendments and Modifications .....	24

ARTICLE IX

EVENTS OF DEFAULT AND REMEDIES

Section 9.1. Events of Default Defined.....	24
Section 9.2. Remedies on Default.....	25
Section 9.3. No Remedy Exclusive.....	26
Section 9.4. Agreement to Pay Attorneys' Fees and Expenses .....	27
Section 9.5. No Additional Waiver Implied by One Waiver .....	27
Section 9.6. Application of the Proceeds from the Re-Lease of the Property .....	27
Section 9.7. Trustee and Owners to Exercise Rights .....	27

ARTICLE X

PREPAYMENT OF LEASE PAYMENTS

Section 10.1. Security Deposit.....	27
Section 10.2. Extraordinary Prepayment .....	27
Section 10.3. Optional Prepayment.....	28

ARTICLE XI

MISCELLANEOUS

Section 11.1. Notices .....	28
Section 11.2. Binding Effect.....	28
Section 11.3. Severability .....	28
Section 11.4. Execution in Counterparts.....	28
Section 11.5. Applicable Law .....	28
Section 11.6. Owner as Third-Party Beneficiary .....	28
Signatures .....	S-1
EXHIBIT A SCHEDULE OF LEASE PAYMENTS.....	A-1
EXHIBIT B PROPERTY .....	B-1
EXHIBIT C LEASE SUPPLEMENT FORM.....	C-1

## LEASE/PURCHASE AGREEMENT

THIS LEASE/PURCHASE AGREEMENT, dated as of February 1, 2013, by and between the OCEANSIDE PUBLIC FINANCING AUTHORITY, a joint exercise of powers authority duly organized and existing under the laws of the State of California, as lessor (the "Authority"), and the CITY OF OCEANSIDE, a municipal corporation and a chartered city duly organized and existing under the Constitution and laws of said State, as lessee (the "City");

### WITNESSETH:

WHEREAS, the City may enter into leases and agreements relating to real property and buildings to be used by the City; and

WHEREAS, the City and the Authority have heretofore entered into a Lease/Purchase Agreement, dated as of January 1, 2003 (the "2003 Lease Agreement"), pursuant to which the Authority agreed to lease to the City certain real property and improvements located thereon; and

WHEREAS, the City has previously executed and delivered its \$25,185,000 City of Oceanside 2003 Certificates of Participation (1993 Series A Refunding) (the "2003 Certificates"), which 2003 Certificates were secured by lease payments under and pursuant to the terms the 2003 Lease Agreement; and

WHEREAS, the City and the Authority desire to prepay the 2003 Lease Agreement and to defease and refinance the 2003 Certificates by entering into this Lease/Purchase Agreement (the "Lease") and authorizing and directing the execution and delivery of the City of Oceanside 2013 Certificates of Participation, (2003 Refunding) (the "Certificates"), evidencing fractional interests in Lease Payments (as defined in the Trust Agreement) to be made by the City under this Lease (the "Project"); and

WHEREAS, the City has entered into a Site Lease of even date herewith (the "Site Lease") with the Authority under which the City has agreed to lease the property described in Exhibit B hereto (the "Property") to the Authority, and which Site Lease provides that at the expiration of the Site Lease (as provided in Section 8 thereof) the title to the Property shall vest in the City; and

WHEREAS, in consideration of the Lease Payments to be paid by the City to the Authority hereunder, the Authority will sublease to the City the Property and will cause the defeasance and refinancing of the 2003 Certificates;

WHEREAS, the Authority is authorized pursuant to the laws of the State of California and its formation documents to provide financial assistance to the City by acquiring, constructing and financing or refinancing various public facilities, land and equipment and the leasing of facilities, land and equipment or refinancing for the use, benefit and enjoyment of the public;

WHEREAS, all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution and entering into of the Lease do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the parties hereto are now duly authorized to execute and enter into the Lease;

NOW, THEREFORE, in consideration of the above premises and of the mutual covenants hereinafter contained and for other good and valuable consideration, the parties hereto agree as follows:

## ARTICLE I

### DEFINITIONS AND EXHIBITS

Section 1.1. Definitions and Rules of Construction. Unless the context otherwise requires, the capitalized terms used herein shall, for all purposes of this Lease, have the meanings specified in the Trust Agreement related to the Certificates (the "Trust Agreement"), dated as of the date hereof, by and among The Bank of New York Mellon Trust Company, N.A., as Trustee thereunder, the Authority, and the City, together with any amendments thereof or supplements thereto permitted to be made thereunder; and the additional terms defined in this Section shall, for all purposes of this Lease, have the meanings herein specified. Unless the context otherwise indicates, words importing the singular number shall include the plural number and vice versa. The terms "hereby," "hereof," "hereto," "herein," "hereunder" and any similar terms, as used in this Lease, refer to this Lease as a whole.

"Environmental Regulations" shall mean all Laws and Regulations, now or hereafter in effect, with respect to Hazardous Materials, including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. Section 9601, et seq.) (together with the regulations promulgated thereunder, "CERCLA"), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Section 6901, et seq.) (together with the regulations promulgated thereunder, "RCRA"), the Emergency Planning and Community Right-to-Know Act, as amended (42 U.S.C. Section 11001, et seq.) (together with the regulations promulgated thereunder, "Title III"), the Clean Water Act, as amended (33 U.S.C. Section 1321 et seq.) (together with the regulations promulgated thereunder, "CWA"), the Clean Air Act, as amended (42 U.S.C. Section 7401, et seq.) (together with the regulations promulgated thereunder, "CAA") and the Toxic Substances Control Act, as amended (15 U.S.C. Section 2601 et seq.) (together with the regulations promulgated thereunder, "TSCA"), and any state or local similar laws and regulations and any so-called local, state or federal "superfund" or "superlien" law.

"Hazardous Materials" means any material amount of flammable explosives, polychlorinated biphenyl compounds, heavy metals, chlorinated solvents, cyanide, radon, petroleum products, asbestos, methane, radioactive materials, pollutants, hazardous materials, hazardous wastes, hazardous, toxic, or regulated substances or related materials, as defined in CERCLA, RCRA, CWA, CAA, TSCA and Title III, and the regulations promulgated pursuant thereto, and in all other Environmental Regulations applicable to the City, the Property or the business operations conducted by the City thereon.

"Permitted Encumbrances" means, as of any particular time: (i) liens for general ad valorem taxes and assessments, if any, not then delinquent, or which the City may, pursuant to provisions of Section 7.7 hereof, permit to remain unpaid; (ii) the Assignment Agreement; (iii) this Lease; (iv) the Site Lease; (v) any contested right or claim of any mechanic, laborer, materialman, supplier or vendor filed or perfected in the manner prescribed by law to the extent permitted under Section 7.8(b) hereof; (vi) easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions, liens or restrictions which exist of record as of the Closing Date and which the City hereby certifies will not materially impair the use of the Property by the City;

and (vii) easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions established following the date of recordation of this Lease and to which the Owner, the Authority, the City and the Trustee consent in writing.

“Property” means the real property described in Exhibit B hereto being leased to the City by the Authority. The phrases “to purchase the Property” or “to sell the Property” shall refer to the transfer of fee title to the Property unless a different meaning is plainly evident from the context.

Section 1.2. Exhibits. The following Exhibits are attached to, and by reference made a part of, this Lease:

Exhibit A: Schedule of Lease Payments to be paid by the City to the Authority, showing the Lease Payment Date and amount of each Lease Payment.

Exhibit B: Legal Description of the Property.

Exhibit C: Lease Supplement Form.

## ARTICLE II

### REPRESENTATIONS, COVENANTS AND WARRANTIES

Section 2.1. Representations, Covenants and Warranties of the City. The City represents, covenants and warrants to the Authority as follows:

(a) Due Organization and Existence. The City is a municipal corporation and a chartered city duly organized and existing under the Constitution and laws of the State.

(b) Authorization; Enforceability. The Constitution and laws of the State authorize the City to enter into this Lease, the Site Lease, the Trust Agreement, and the Continuing Disclosure Agreement, and to enter into the transactions contemplated by and to carry out its obligations under all of the aforesaid leases and agreements; the City has duly authorized and executed all of the aforesaid leases and agreements. This Lease, the Site Lease, the Trust Agreement, and the Continuing Disclosure Agreement constitute the legal, valid and binding obligations of the City enforceable in accordance with their respective terms, except to the extent limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws or equitable principles affecting the rights of creditors generally.

(c) No Conflicts or Default; No Liens or Encumbrances. Neither the execution and delivery of this Lease, the Site Lease, the Continuing Disclosure Agreement, or the Trust Agreement, nor the fulfillment of or compliance with the terms and conditions hereof or thereof, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the City is now a party or by which the City is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of the City, or upon the Property except for Permitted Encumbrances and the pledges contained in the Trust Agreement.

(d) Execution and Delivery. The City has duly authorized and executed this Lease in accordance with the Constitution and laws of the State.

(e) Indemnification of Authority. The City covenants to defend, indemnify and hold harmless the Authority and its directors, officers, employees and assigns (collectively, the "Indemnified Party") against any and all losses, claims, damages or liabilities, joint or several, including fees and expenses incurred in connection therewith, to which such Indemnified Party may become subject under any statute or at law or in equity or otherwise in connection with the transactions contemplated by this Lease, and shall reimburse any such Indemnified Party for any legal or other expenses incurred by it in connection with investigating any claims against it and defending any actions, insofar as such losses, claims, damages, liabilities or actions arise out of the transactions contemplated by this Lease. In particular, without limitation, the City shall and hereby agrees to indemnify and save the Indemnified Party harmless from and against all claims, losses and damages, including legal fees and expenses, arising out of (i) the use, maintenance, condition or management of, or from any work or thing done on the Property by the City, (ii) any breach or default on the part of the City in the performance of any of its obligations under this Lease, (iii) any act of negligence of the City or of any of its agents, contractors, servants, employees or licensees with respect to the Property, or (iv) any act of negligence of any assignee or sublessee of the City with respect to the Property. No indemnification is made under this Section or elsewhere in this Lease for claims, losses or damages, including legal fees and expenses arising out of the willful misconduct or negligence under this Lease by the Authority, its officers, agents, employees, successors or assigns.

(f) General Tax and Arbitrage Covenant. The City hereby covenants that, notwithstanding any other provision of this Lease, it shall not take any action, or fail to take any action, if any such action or failure to take action would adversely affect the exclusion from gross income of interest with respect to the Certificates under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"). The City shall not, directly or indirectly, use or permit the use of proceeds of the Certificates or the Property, or any portion thereof, by any person other than a governmental unit (as such term is used in Section 141 of the Code), in such manner or to such extent as would result in the loss of exclusion from gross income for federal income tax purposes of interest with respect to the Certificates.

The City shall not take any action, or fail to take any action, if any such action or failure to take action would cause the Certificates to be "private activity bonds" within the meaning of Section 141 of the Code, and in furtherance thereof, shall not make any use of the proceeds of the Certificates or the Property, or any portion thereof, or any other funds of the City, that would cause the Certificates to be "private activity bonds" within the meaning of Section 141 of the Code. To that end, so long as any Certificates are outstanding, the City, with respect to such proceeds and the Property and such other funds, will comply with applicable requirements of the Code and all regulations of the United States Department of the Treasury issued thereunder and under Section 103 of the Code, to the extent such requirements are, at the time, applicable and in effect.

The City shall not, directly or indirectly, use or permit the use of any proceeds of any Certificates, or of the Property, or other funds of the City, or take or omit to take any action, that would cause the Certificates to be "arbitrage bonds" within the meaning of Section 148 of the Code. To that end, the City shall comply with all requirements of Section 148 of the Code and all regulations of the United States Department of the Treasury issued thereunder to the extent such requirements are, at the time, in effect and applicable to the Certificates.

The City shall not make any use of the proceeds of the Certificates or any other funds of the City, or take or omit to take any other action, that would cause the Certificates to be “federally guaranteed” within the meaning of Section 149(b) of the Code.

(g) Floodplain. The City hereby represents that the Property is not in a 100 year floodplain.

(h) Essentiality of Property. The City hereby represents that the Property is essential for the City’s performance of its governmental functions.

(i) Zoning Environmental and Safety Ordinance Compliance. The City hereby represents that the Property complies in all respects with applicable zoning, environmental and safety ordinances.

(j) Title Insurance. The City hereby represents that the Property is the same property which is the subject of the ALTA title insurance policy (with western regional exceptions) issued by Fidelity National Title Company pursuant to Section 5.5 hereof.

(k) Small Issuer Exemption from Bank Nondeductibility Restriction. Based on the following representations of the City, the City hereby designates this Lease Agreement and the interest components of the Lease Payments hereunder as “qualified tax-exempt obligations” within the meaning of Section 265(b)(3) of the Code: (i) this Lease Agreement and the Lease Payments hereunder are not private activity bonds within the meaning of Section 141 of the Code; (ii) the City reasonably anticipates that it, together with all “aggregated issuers,” will not issue during the current calendar year obligations (other than those obligations described in clause (iii) below) the interest on which is excluded from gross income for federal income tax purposes under Section 103 of the code which, when aggregated with all obligations described in clause (ii) above, will exceed an aggregate principal amount of \$10,000,000; (iii) and notwithstanding clause (ii) above, the City and its aggregated issuers may have issued in the current calendar year and may continue to issue during the remainder of the current calendar year private activity bonds other than qualified 501(c)(3) bonds as defined in Section 145 of the Code. For purposes of this subsection, “aggregated issuer” means any entity which (a) issues obligations on behalf of the City, (b) derives its issuing authority from the City, or (c) is subject to substantial control by the City. The City hereby certifies and represents that it has not created, does not intend to create and does not expect to benefit from any entity formed or availed of to avoid the purposes of Section 265(b)(3)(C) or (D) of the Code.

(l) No Adverse Litigation. There are no legal or governmental proceedings or litigation pending, or to the best knowledge of the City threatened or contemplated (or any basis therefore) wherein an unfavorable decision, ruling, or finding might adversely affect the transactions contemplated in or the validity of this Lease, Assignment Agreement, Site Lease, or Trust Agreement.

(m) No Defaults. The City has never non-appropriated or defaulted under any of its payment or performance obligations or covenants, either under any municipal lease of the same general nature as this Lease Agreement, or under any of its bonds, notes, or other obligations of indebtedness for which its revenues or general credit are pledged.

Section 2.2. Representations, Covenants and Warranties of the Authority. The Authority represents, covenants and warrants to the City as follows:

(a) Due Organization and Existence; Enforceability. The Authority is a joint powers authority duly organized, existing and in good standing under and by virtue of the laws of the State, has the power to enter into this Lease, the Assignment Agreement, the Site Lease, and the Trust Agreement; is possessed of full power to own and hold real and personal property, and to lease and sell the same; and has duly authorized the execution and delivery of all of the aforesaid leases and agreements. This Lease, the Assignment Agreement, the Site Lease, and the Trust Agreement constitute the legal, valid and binding obligations of the Authority, enforceable in accordance with their respective terms, except to the extent limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws or equitable principles affecting the rights of creditors generally.

(b) No Conflicts or Defaults; No Liens or Encumbrances. Neither the execution and delivery of this Lease, the Assignment Agreement, the Site Lease, or the Trust Agreement, nor the fulfillment of or compliance with the terms and conditions hereof or thereof, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of the terms, conditions or provisions of the joint powers agreement of the Authority or any restriction or any agreement or instrument to which the Authority is now a party or by which the Authority is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of the Authority, or upon the Property except by Permitted Encumbrances and by the pledge contained in the Trust Agreement.

(c) Execution and Delivery. The Authority has duly authorized and executed this Lease in accordance with the laws of the State.

(d) Maintenance of Existence. To the extent permitted by law, the Authority agrees that during the term hereof it will maintain its existence as a joint powers authority, will not become a general or limited partner in any partnership and will not combine or consolidate with or merge into any other entity or permit one or more other entities to consolidate with or merge into it.

(e) General Tax and Arbitrage Covenant. The Authority covenants that, notwithstanding any other provision of this Lease, it shall not take any action if any such action would adversely affect the exclusion from gross income of interest with respect to the Certificates under Section 103 of the Code. To the extent that the Authority may control the Property or the proceeds of the Certificates, the Authority shall not, directly or indirectly, use or permit the use of proceeds of the Certificates or the Property, or any portion thereof, by any person other than a governmental unit (as such term is used in Section 141 of the Code), in such manner or to such extent as would result in the loss of exclusion from gross income for federal income tax purposes of interest with respect to the Certificates.

The Authority shall not take any action if any such action would cause the Certificates to be “private activity bonds” within the meaning of Section 141 of the Code, and in furtherance thereof, to the extent that the Authority may control the Property or the proceeds of the Certificates, shall not make any use of the proceeds of the Certificates or the Property, or any portion thereof, or any other funds of the City, that would cause the Certificates to be “private activity bonds” within the meaning of Section 141 of the Code. To that end, so long as any Certificates are outstanding, to the extent that the Authority may control the Property or the proceeds of the Certificates, the Authority, with respect to such proceeds and the Project and such other funds, will comply with applicable requirements of the Code and all regulations of the United States Department of the Treasury issued thereunder and

under Section 103 of the Code, to the extent such requirements are, at the time, applicable and in effect.

To the extent that the Authority may control the Property or the proceeds of the Certificates, the Authority shall not, directly or indirectly, use or permit the use of any proceeds of any Certificates, or of the Property, or other funds of the City, or take or omit to take any action, that would cause the Certificates to be "arbitrage bonds" within the meaning of Section 148 of the Code. To that end, to the extent that the Authority may control the Property or the proceeds of the Certificates, the Authority shall comply with all requirements of Section 148 of the Code and all regulations of the United States Department of the Treasury issued thereunder to the extent such requirements are, at the time, in effect and applicable to the Certificates.

To the extent that the Authority may control the proceeds of the Certificates, the Authority shall not make any use of the proceeds of the Certificates or any other of its funds, or take or omit to take any other action, that would cause the Certificates to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

### ARTICLE III

#### APPLICATION OF PROCEEDS

Section 3.1. Deposit of Certificate Proceeds. On the Closing Date for the Certificates and on the Closing Date for any Additional Certificates, the Authority agrees to pay or cause to be paid to the Trustee the proceeds of the sale of the Certificates and Additional Certificates, which moneys, in the case of the Certificates, shall be deposited with the Trustee as provided in Section 2.05 of the Trust Agreement, or in the case of Additional Certificates as provided in any Supplemental Trust Agreement which relates to such Additional Certificates.

Section 3.2. Defeasance of 2003 Certificates. The Authority's lease payment for the Property in the amount of the net proceeds of the Certificates, as provided in the Site Lease, shall be deposited in the Escrow Fund as provided in the Trust Agreement, which moneys shall be disbursed for purpose of defeasing the 2003 Certificates in accordance with Section 3.02 of the Indenture. Such amount shall be delivered by the City on the Closing Date to the Trustee.

Section 3.3. Payment of Costs of Issuance. Payment of the Costs of Issuance shall be made from the moneys deposited with the Trustee in the Costs of Issuance Fund as provided in Section 3.1 hereof and Section 2.05 of the Trust Agreement, which shall be disbursed in accordance and upon compliance with Article III of the Trust Agreement.

Section 3.4. Further Assurances and Corrective Instruments. The Authority and the City agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Property hereby leased or intended so to be or for carrying out the expressed intention of this Lease.

## ARTICLE IV

### AGREEMENT TO LEASE; TERM OF LEASE; LEASE PAYMENTS

Section 4.1. Lease. The Authority hereby leases the Property to the City, and the City hereby leases the Property from the Authority, upon the terms and conditions set forth herein. This Lease shall not operate as a merger of the City's leasehold estate in the Property pursuant to this Lease and its fee estate in the Property and shall not cause the extinguishment of the leasehold interest granted to the Authority under the Site Lease.

Section 4.2. Term. The Term of this Lease shall commence on the date of execution hereof and shall end on April 1, 2023, unless extended pursuant to Section 4.3 hereof, or unless terminated prior thereto upon the earliest of any of the following events:

(a) Default and Termination. A default by the City and the Authority's election to terminate this Lease under Section 9.2(b) hereof;

(b) Payment of All Lease Payments. The payment by the City of all Lease Payments required under Section 4.4 hereof and any Additional Payments required under Section 4.11 hereof; or

(c) Prepayment. The deposit of funds or Government Obligations with the Trustee in amounts sufficient to pay all Lease Payments as the same shall become due, as provided in Section 10.1 hereof and in Section 14.01 of the Trust Agreement.

(d) Purchase. Upon the exercise by the City of its option to purchase all of the Authority's interest in the Property as provided in Section 7.3 hereof; provided, however, that upon exercise by the City of its option to purchase the Authority's interest in a portion of the Property, as provided in Section 7.3, the Lease shall be terminated only with respect to the portion of the Property purchased.

Section 4.3. Extension of Lease Term. The Term of this Lease may be extended up to April 1, 2033 in connection with the execution and delivery of any Additional Certificates. If on the final maturity date of the Certificates or any Additional Certificates all interest components and principal components represented thereby shall not be fully paid by the City, or if the Lease Payments or Additional Payments hereunder shall have been abated at any time as permitted by the terms hereof, then the Term shall be extended until all Certificates and Additional Certificates shall be fully paid, except that the Term shall in no event be extended beyond April 1, 2033.

Section 4.4. Lease Payments.

(a) Time and Amount. Subject to the provisions of Section 4.10 (regarding abatement in event of loss of use of any portion of the Property), Section 7.3 (regarding option to purchase) and Article X (regarding prepayment of Lease Payments), the City agrees to pay to the Authority, its successors and assigns, as annual rental for the use and possession of the Property, the Lease Payments (denominated into components of principal and interest, the interest component being paid semiannually) in the amounts specified in Exhibit A, to be due and payable in arrears on the fifteenth (15th) day of each month specified in Exhibit A (or if such day is not a Business Day, the next succeeding Business Day) (the "Lease Payment Date") which are sufficient in both time and

amount to pay when due the annual principal and interest represented by the Certificates. In the event that any Additional Certificates are executed and delivered pursuant to the Trust Agreement, the City and the Trustee shall execute an amendment to Exhibit A to state the Lease Payments due hereunder as a result of the execution and delivery of such Additional Certificates.

The obligation of the City to pay Lease Payments shall commence on the Closing Date for the Certificates. In the event the City does not pay a Lease Payment due on the respective Lease Payment Date, the Trustee shall provide prompt written notice to the City of such failure to pay; provided, however, that failure to give such notice shall not excuse any event of default under Section 9.1 hereof.

(b) Credits. Any amount held in the Lease Payment Fund on any Lease Payment Date (other than capitalized interest, which shall be credited in accordance with Section 5.03 of the Trust Agreement, and other than amounts resulting from the prepayment of the Lease Payments in part but not in whole pursuant to Section 10.2 hereof and other amounts required for payment of principal with respect to any Certificates or Additional Certificates that have matured or been called for payment and have not been presented for payment or interest) shall be credited towards the Lease Payment then due and payable. No Lease Payment shall be made on any Lease Payment Date if the amounts then held in the Lease Payment Fund (other than those amounts excluded under the prior sentence) are at least equal to the Lease Payment then required to be paid.

(c) Rate on Overdue Payments. In the event the City should fail to make any of the Lease Payments required in this Section, the Lease Payment in default shall continue as an obligation of the City until the amount in default shall have been fully paid, and the City agrees to pay the same with interest thereon, to the extent permitted by law, from the date such amount was originally payable at the rate equal to the original interest rate payable with respect to each Certificate or Additional Certificate, as applicable, represented by such delinquent Lease Payment.

Section 4.5. No Withholding. Notwithstanding any dispute between the Authority and the City, including a dispute as to the failure of any portion of the Property in use by or possession of the City to perform the task for which it is leased, the City shall make all Lease Payments and Additional Payments when due and shall not withhold any Lease Payments pending the final resolution of such dispute.

Section 4.6. Fair Rental Value. The Lease Payments and Additional Payments shall be paid by the City in consideration of the right of possession of, and the continued quiet use and enjoyment of, the Property during each such period for which said Lease Payments are to be paid. The parties hereto have agreed and determined that such total rental represents the fair rental value of the Property. In making such determination, consideration has been given to the fair market value and replacement cost of the Property, other obligations of the parties under this Lease (including but not limited to costs of maintenance, taxes and insurance), the uses and purposes which may be served by the Property and the benefits therefrom which will accrue to the City and the general public, and the transfer of the Authority's leasehold interest in the Property at the end of the Term.

Section 4.7. Budget and Appropriation. The City covenants to take such action as may be necessary to include all Lease Payments and Additional Payments (to the extent the amounts of such Additional Payments are known to the City at the time its annual budget is proposed), due hereunder in its annual budget and to make the necessary annual appropriations therefor, and to maintain such items to the extent unpaid for that Fiscal Year in its budget throughout such Fiscal Year. To the

extent the amount of such payments becomes known after the adoption of the annual budget, such amounts shall be included and maintained in such budget as amended. During the Term, the City will furnish annually, on or before August 1 of each year, to the Trustee a certificate of the City Representative stating that all Lease Payments and Additional Payments due hereunder for the applicable Fiscal Year have been included in its annual budget and the amount so included. The covenants on the part of the City herein contained shall be deemed to be and shall be construed to be duties imposed by law and it shall be the ministerial duty of each and every public official of the City to take such action and do such things as are required by law in the performance of the official duty of such officials to enable the City to carry out and perform the covenants and agreements in this Lease agreed to be carried out and performed by the City.

The obligation of the City to pay Lease Payments and Additional Payments hereunder shall constitute a current expense of the City, shall be payable from any source of legally available funds and shall not in any way be construed to be a debt of the City, or the State, or any political subdivision thereof, in contravention of any applicable constitutional or statutory limitation or requirements concerning the creation of indebtedness by the City, the State, or any political subdivision thereof, nor shall anything contained herein constitute a pledge of general revenues, funds or moneys of the City beyond the Fiscal Year for which the City has appropriated funds to pay Lease Payments and Additional Payments hereunder or an obligation of the City for which the City is obligated to levy or pledge any form of taxation or for which the City has levied or pledged any form of taxation.

Section 4.8. Assignment of Lease Payments. Certain of the Authority's rights under this Lease, including the right to receive and enforce payment of the Lease Payments and Additional Payments, Prepayments, to be made by the City hereunder, have been assigned absolutely to the Trustee, subject to certain exceptions, pursuant to the Assignment Agreement, to which assignment the City hereby consents. The Authority hereby directs the City, and the City hereby agrees, to pay to the Trustee at the Trustee's corporate trust office in Los Angeles, California, or to the Trustee at such other place as the Trustee shall direct in writing, all Lease Payments, or Prepayments thereof payable by the City hereunder. The Authority will not assign or pledge the Lease Payments or other amounts derived from the Property and from its other rights under this Lease except as provided under the terms of this Lease, the Assignment Agreement and the Trust Agreement, or its duties and obligations except as provided under this Lease.

Section 4.9. Use and Possession. The total Lease Payments due in any Fiscal Year shall be for the City's right to use and possession of the Property for such Fiscal Year. During the Term of this Lease, the City shall be entitled to the exclusive use and possession of the Property, subject only to the Permitted Encumbrances.

Section 4.10. Abatement of Lease Payments and Additional Payments.

(a) In the Event of Damage, Destruction, Condemnation or Title Defect. Except to the extent that proceeds of the type described in the following paragraph are available, the amount of Lease Payments and Additional Payments shall be abated during any period in which by reason of damage, destruction or taking by eminent domain or condemnation of the Property or defects in the title with respect to the Property there is substantial interference with the use and possession of all or a portion of the Property by the City. The amount of such abatement shall be such that the resulting Lease Payments, exclusive of the amounts described in the following paragraph, do not exceed the fair rental value (as determined by an independent real estate appraiser selected by the City, who is

not an employee of the City) for the use and possession of the portion of the Property not damaged, destroyed, interfered with or taken. Such abatement shall continue for the period commencing with such damage, destruction, interference or taking and ending with the substantial completion of the replacement or work of repair or the removal of the title defect causing such interference with use. Except as provided herein, in the event of any such damage, destruction, interference or taking, this Lease shall continue in full force and effect and the City waives any right to terminate this Lease by virtue of any such damage, destruction, interference or taking.

Notwithstanding a substantial interference with the use and possession of all or a portion of the Property, the City shall remain obligated to make Lease Payments which would otherwise be abated (i) to the extent that moneys derived from any person as a result of any delay in the reconstruction, replacement or repair of the Property, or any portion thereof, are available to pay the amount which would otherwise be abated; and (ii) to the extent that moneys are available in the Reserve Fund or the Lease Payment Fund to pay the amount which would otherwise be abated. The Lease Payments shall be payable from such amounts paid under (i) and (ii) above as an obligation of the City payable from a special fund.

(b) Repair or Replacement. In the event of such abatement, unless the abatement will be avoided as a result of a prepayment of Lease Payments from Net Proceeds pursuant to Section 6.1(c), the City will use its best efforts to repair or replace the damaged or destroyed or taken portion of the Property, as the case may be, from Net Proceeds or special funds of the City or other moneys the application of which would, in the opinion of Special Counsel addressed to the Trustee, the City and the Authority, not result in the obligations of the City hereunder constituting indebtedness of the City in contravention of the Constitution and laws of the State.

Section 4.11. Additional Payments. In addition to the Lease Payments, the City shall also pay such amounts (“Additional Payments”) as shall be required for the payment of all administrative costs of the Authority relating to the Property, the Certificates and any Additional Certificates, including without limitation all expenses, compensation and indemnification of the Trustee payable by the City under the Trust Agreement, taxes of any sort whatsoever payable by the Authority as a result of its interest in the Property or undertaking of the transactions contemplated herein or in the Trust Agreement, fees of auditors, accountants, attorneys or engineers and any and all other amounts due to the Owner and all other necessary administrative costs of the Authority or charges required to be paid by it in order to comply with the terms of the Certificates and any Additional Certificates or of the Trust Agreement including premiums or insurance maintained pursuant to Article V hereof or to indemnify the Authority and its employees, officers and directors and the Trustee. All such Additional Payments to be paid hereunder shall be paid when due directly by the City to the respective parties to whom such Additional Payments are owing.

Section 4.12. Net-Net-Net Lease. This Lease shall be deemed and construed to be a “net-net-net lease” and the City hereby agrees that the Lease Payments shall be an absolute net return to the Authority, free and clear of any expenses, taxes, fees, insurance premiums, rebate payments, reserve deposits, costs associated with the Project, charges or set-offs whatsoever, except as expressly provided herein.

Section 4.13. Annual Financial Information. During the Term of this Lease Agreement, the City covenants and agrees to provide the Authority and the Trustee, upon request, as soon as practicable when they are available: (i) a copy of the City’s final annual budget for each fiscal year;

(ii) a copy of the City's most recent financial statements; and (iii) any other financial reports the Authority or the Trustee may request.

## ARTICLE V

### INSURANCE

#### Section 5.1. Public Liability and Property Damage.

(a) Coverage. The City shall maintain or cause to be maintained, throughout the Term hereof, a standard comprehensive general public liability and property damage insurance policy or policies in protection of the City, its officers, agents and employees. Said policy or policies shall provide for indemnification of said parties against direct or contingent loss or liability for damages for bodily and personal injury, death or property damage occasioned by reason of the use or operation of any City property or portion thereof.

(b) Limits. Said policy or policies shall provide coverage in the minimum liability limits of \$1,000,000 for personal injury or death of each person and \$3,000,000 for personal injury or deaths of two or more persons in each accident or event, and in a minimum amount of \$500,000 for damage to property resulting from each accident or event (in each case subject to a deductible clause of not to exceed \$250,000 or such higher amount as is consented to by the Owner). Such public liability and property damage insurance may, however, be in the form of a single limit policy covering all such risks in an amount equal to the liability limits set forth herein.

(c) Joint or Self-Insurance. Such liability insurance, including the deductible, may be maintained as part of or in conjunction with any other insurance coverage carried by the City, and, subject to compliance with Section 5.6(e) hereof, may be maintained in the form of self-insurance by the City.

(d) Payment of Net Proceeds. The proceeds of such liability insurance shall be applied toward extinguishment or satisfaction of the liability with respect to which the insurance proceeds shall have been paid.

Section 5.2. Workers' Compensation. The City shall also maintain workers' compensation insurance issued by a responsible carrier authorized under the laws of the State to insure its employees against liability for compensation under the Workers' Compensation Insurance and Safety Act now in force in the State, or any act hereafter enacted as an amendment or supplement thereto (with provision for self-insurance).

#### Section 5.3. Casualty and Theft Insurance.

(a) Casualty and Theft Insurance; Coverage. The City shall procure and maintain, or cause to be procured and maintained, throughout the Term of this Lease, insurance against loss or damage to any portion of the Property caused by fire and lightning, with extended coverage and theft, vandalism and malicious mischief insurance. Said extended coverage insurance shall, as nearly as practicable, cover loss or damage by explosion, windstorm, riot, aircraft, vehicle damage, smoke and such other hazards as are normally covered by such insurance, excluding flood and earthquake.

(b) Amount. Such insurance shall be in an amount not less than the replacement cost of the Property, subject to a “deductible clause” not to exceed two hundred fifty thousand dollars (\$250,000) or such higher amount as is consented to by the Owner for any one loss. The term “full replacement value” as used in this Section 5.3 shall mean the actual replacement cost of the improvements constituting the Property.

(c) Joint or Self-Insurance. Such insurance may be maintained as part of or in conjunction with any other insurance carried or required to be carried by the City, and, subject to compliance with Section 5.6(e) hereof, may be maintained in the form of self-insurance by the City through a California joint powers authority.

(d) Payment of Net Proceeds. The Net Proceeds of such insurance shall be paid to the Trustee and deposited in the Net Proceeds Fund and applied as provided in Section 6.1.

Section 5.4. Rental Interruption Insurance.

(a) Coverage and Amount. Throughout the Term of this Lease, the City shall maintain or cause to be maintained rental income or use and occupancy insurance in an amount not less than the maximum remaining scheduled Lease Payments in any future 24-month period, to insure against loss of rental income from the Property caused by perils covered by the insurance required to be maintained as provided in Section 5.3 hereof. Such rental interruption insurance shall name the Trustee and the Authority as additionally insured parties.

(b) Joint Insurance. Such insurance may be maintained as part of or in conjunction with any other rental income or use and occupancy insurance carried by the City but may not be maintained in the form of self-insurance by the City.

(c) Payment of Net Proceeds. The Net Proceeds of such rental interruption insurance shall be paid to the Trustee and deposited in the Lease Payment Fund, to be credited towards the payment of the Lease Payments in the order in which such Lease Payments come due and payable.

Section 5.5. Title Insurance. The City shall obtain and, throughout the Term of this Lease, maintain or cause to be maintained title insurance on the Property, in the form of an ALTA title policy (with western regional exceptions), in an amount equal to the aggregate principal amount of the Certificates and Additional Certificates Outstanding, issued by a company of recognized standing, duly authorized to issue the same, payable to the Trustee for the benefit of the Owners, subject only to Permitted Encumbrances. Said policy or policies shall insure the City’s leasehold estate hereunder in the Property, subject only to Permitted Encumbrances. All Net Proceeds received under said policy or policies shall be deposited with the Trustee and applied as provided in Section 7.01 of the Trust Agreement. So long as any of the Certificates and Additional Certificates remain Outstanding, each policy of the title insurance obtained pursuant hereto or required hereby shall provide that all proceeds thereunder shall be payable to the Trustee for the benefit of the Certificate Owners and the owners of any Additional Certificates. Such policy of title insurance, including the endorsements thereto, shall be in form and substance acceptable to the Owner. The Net Proceeds of such insurance shall be applied as provided in Section 6.1.

Section 5.6. General Insurance Provisions.

(a) Form of Policies. All policies of insurance required to be procured and maintained pursuant to this Lease and any statements of self-insurance shall be in a form certified by an insurance agent, broker or consultant to the City to comply with the provisions hereof. All such policies shall provide that the City shall give the Trustee thirty (30) days' notice of each expiration, any intended cancellation thereof or reduction of the coverage provided thereby. Each policy of insurance required to be procured and maintained pursuant to Section 5.3 (regarding casualty and theft insurance), Section 5.4 (regarding rental interruption insurance) and Section 5.5 (regarding title insurance) shall provide that all proceeds thereunder shall be payable to the Trustee for the benefit of the Owners.

(b) Payment of Premiums. The City shall pay or cause to be paid when due the premiums for all insurance policies required by this Lease, and shall promptly furnish or cause to be furnished to the Trustee a certificate to such effect, as described in paragraph (d) below.

(c) Protection of the Trustee. The Trustee shall not be responsible for the sufficiency or adequacy of any insurance herein required and shall be fully protected in accepting payment on account of such insurance or any adjustment, compromise or settlement of any loss agreed to by the Trustee.

(d) Evidence of Insurance. The City shall cause to be delivered to the Trustee and the Owner annually on or before August 1 a certificate stating that the insurance policies required by this Lease are in full force and effect.

(e) Self-Insurance. The City may only elect to self-insure pursuant to Sections 5.1 and 5.2 hereof (the City may elect to self-insure for purposes of Section 5.3, but only to the extent of insurance provided by a California joint powers authority) if and to the extent such self-insurance method or plan of protection shall afford reasonable protection to the Authority and the Trustee, in light of all circumstances, giving consideration to cost, availability and similar plans or methods of protection adopted by other cities in the State other than the City. Insurance provided through a California joint powers authority of which the City is a member or with which the City contracts for insurance shall not be deemed to be self-insurance for purposes hereof where the insurance above the deductible limits described herein is provided by commercial carriers. Any self-insurance maintained by the City pursuant to this Article V, unless otherwise consented to by the Owner, shall comply with the following terms:

(i) The self-insurance program shall be approved in writing by the City's City Manager or Assistant City Manager in accordance with the California Labor Code and the California Government Code;

(ii) The self-insurance program shall include an actuarially sound claims reserve fund out of which each self-insured claim shall be paid; the adequacy of such fund shall be evaluated on an annual basis by the City's City Manager or Assistant City Manager; and any deficiencies in any self-insured claims reserve fund shall be remedied in accordance with the recommendation of the City's City Manager or Assistant City Manager; and

(iii) In the event the self-insurance program shall be discontinued, the actuarial soundness of its claims reserve fund, as determined by the City's City Manager or Assistant City Manager, shall be maintained.

Section 5.7. Cooperation. The Authority shall cooperate fully with the City at the expense of the City in filing any proof of loss with respect to any insurance policy maintained pursuant to this Article and in the prosecution or defense of any prospective or pending condemnation proceeding with respect to the Property or any portion thereof.

## ARTICLE VI

### DAMAGE, DESTRUCTION AND EMINENT DOMAIN; USE OF NET PROCEEDS

#### Section 6.1. Application of Net Proceeds.

(a) Deposit in Net Proceeds Fund. The City shall remit promptly to the Trustee any Net Proceeds received by the City and the Trustee as provided in Section 5.3 (regarding casualty and theft insurance) and Section 5.5 (regarding title insurance) promptly upon receipt thereof, and pursuant to Section 7.01 of the Trust Agreement, the Trustee shall deposit such Net Proceeds of insurance in the Net Proceeds Fund. The City and/or the Authority shall transfer to the Trustee any other Net Proceeds (other than Net Proceeds paid under Sections 5.1, 5.2 and 5.4 hereof which shall be applied as described in such sections) received by the City and/or Authority in the event of any accident, destruction, theft or taking by eminent domain or condemnation with respect to the Project, for deposit in the Net Proceeds Fund.

(b) Disbursement for Replacement or Repair of the Property. Upon receipt of the prior written consent of the Owner and the certification described in paragraph (i) below and the requisition described in paragraph (ii) below, the Trustee shall disburse moneys in the Net Proceeds Fund to the person, firm or corporation named in the requisition as provided in paragraph (ii) below.

(i) Certification. As a precondition to the disbursement of Net Proceeds, the City Representative must certify to the Authority and the Trustee within 45 days after the event causing the receipt of the Net Proceeds (or such later date as is consented to by the Owner) that:

(x) Sufficiency of Net Proceeds. The Net Proceeds available for such purpose, together with any other funds supplied by the City to the Trustee in a subaccount of the Net Proceeds Fund for such purpose, are expected to equal at least 110% of the projected costs of replacement or repair (or such lesser percentage as may be consented to by the Owner), as demonstrated in an attached reconstruction budget, and

(y) Timely Completion. In the event that damage, destruction or taking results or is expected to result in an abatement of Lease Payments, such replacement or repair can be fully completed within a period not in excess of the period in which rental interruption insurance proceeds, as described in Section 5.4 together with other identified available moneys, will be available to pay in full all Lease Payments coming due during such period as demonstrated in an attached reconstruction schedule.

(ii) Requisition. The City Representative must deliver to the Trustee a Requisition stating with respect to each payment to be made (1) the requisition number, (2) the name

and address of the person, firm or corporation to whom payment is due, (3) the amount to be paid and (4) that each obligation mentioned therein has been properly incurred, is a proper charge against the Net Proceeds Fund, has not been the basis of any previous withdrawal, and specifying in reasonable detail the nature of the obligation. The Trustee shall not be responsible for the representations made in such Requisitions and may conclusively rely thereon and shall be under no duty to investigate or verify any statements made therein.

Any balance of the Net Proceeds remaining after such replacement or repair has been completed and after payment or provision for payment of all Certificates as provided in Section 7.01 of the Trust Agreement shall be paid to the City after payment of amounts due the Trustee pursuant to Section 9.06 and 9.07 of the Trust Agreement.

(c) Disbursement for Prepayment. If the City Representative notifies the Trustee in writing of the City's determination that the certification provided in Section 6.1(b)(i) cannot be made or that replacement or repair of any portion of the Property is not economically feasible or in the best interest of the City, then the Trustee shall promptly transfer the Net Proceeds to the Prepayment Fund as provided in Section 7.01 of the Trust Agreement and apply them to prepayment of the Certificates as provided in Section 4.02 of the Trust Agreement and prepayment of Lease Payments as provided in Section 10.2 hereof; provided that, in the event of damage or destruction in whole of the Property and in the event such Net Proceeds, together with funds then on hand in the Lease Payment Fund, are not sufficient to prepay all the Certificates then Outstanding, then the City shall not be permitted to certify that repair, replacement or improvement of all of the Property is not economically feasible or in the best interest of the City. In such event, the City shall proceed to repair, replace or improve the Property as described herein from legally available funds in the then-current Fiscal Year and shall make the required notification to the Trustee pursuant to Section 7.01 of the Trust Agreement and the Trustee shall disburse moneys in the Net Proceeds Fund to the person, firm, or corporation named in the Requisition as provided therein.

## ARTICLE VII

### COVENANTS WITH RESPECT TO THE PROPERTY

Section 7.1. Use of the Property. The City represents and warrants that it has an immediate need for, and expects to make immediate use of, all of the Property, which need is not temporary or expected to diminish in the foreseeable future.

Section 7.2. Interest in the Property and the Lease.

(a) Authority Holds Leasehold Interest During Term. During the Term of this Lease, the Authority does and shall hold a leasehold interest in the Property pursuant to the Site Lease. The City shall take any and all actions reasonably required, including but not limited to executing and filing any and all documents reasonably required, to maintain and evidence such title and interest at all times during the Term of this Lease.

(b) Title Transferred to the City at End of Term. Upon expiration of the Term as provided in Section 4.2(b) or 4.2(c) hereof, all right, title and interest of the Authority in and to all of the Property shall be transferred to and vest in the City, without the necessity of any additional document of transfer.

Section 7.3. Option to Purchase. The City may exercise an option to purchase the Authority's interest under the Site Lease and this Lease in the Property by depositing with the Trustee cash and/or Government Obligations as provided in Section 14.01 of the Trust Agreement. In such event, all or a portion of the obligations of the City under this Lease, and the security provided by this Lease for said obligations or said portion of the obligations, shall cease and terminate as provided in Section 4.2 hereof, excepting in the case all of the Authority's interest has been purchased, only the obligation of the City to make, or cause to be made, such Lease Payments from such deposit. In the event Lease Payments and Additional Payments under this Lease have been paid in full, on the date of said deposit, the Authority's interest in the Property shall revert and transfer to the City automatically and without further action by the City or the Authority, and the Authority shall execute and deliver such further instruments and take such further action as may reasonably be requested by the City for carrying out the reversion and transfer of the Authority's interests in the Property. In the event Lease Payments under this Lease have been paid in part only, on the date of said deposit, the City shall specify a discrete portion of the Authority's interest in the Property for reversion and transfer to the City and the Authority shall execute and deliver such further instruments and take such further action as may reasonably be requested by the City for carrying out the reversion and transfer of such portion of the Authority's interest in the Property; provided, that such portion shall revert and transfer to the City only if (i) the reduction in the fair rental value of the Property resulting from such reversion and transfer at the time of such reversion and transfer (as determined by an independent appraisal acceptable to the Authority and the Owner) is proportionately less than or equal to the reduction in the maximum annual Lease Payments under this Lease resulting from such purchase and (ii) the Owner shall have provided its written consent to such reversion and transfer. Any such deposit shall be deemed to be and shall constitute a special fund for the payment of Lease Payments in accordance with Section 4.4 hereof.

Section 7.4. Quiet Enjoyment. During the Term, the Authority shall provide the City with quiet use and enjoyment of the Property, and the City shall during such Term peaceably and quietly have and hold and enjoy the Property, without suit, trouble or hindrance from the Authority, or any person or entity claiming under or through the Authority except as expressly set forth in this Lease. The Authority will, at the request of the City, join in any legal action in which the City asserts its right to such possession and enjoyment to the extent the Authority may lawfully do so. Notwithstanding the foregoing, the Authority shall have the right to inspect the Property as provided in Section 7.6 hereof.

Section 7.5. Installation of the City's Personal Property. The City may at any time and from time to time, in its sole discretion and at its own expense, install or permit to be installed other items of equipment or other property in or upon any portion of the Property. All such items shall remain the sole property of the City, regardless of the manner in which the same may be affixed to such portion of the Property, in which neither the Authority nor the Trustee shall have any interest, and may be modified or removed by the City at any time; provided that the City shall repair and restore any and all damage to such portion of the Property resulting from the installation, modification or removal of any such items of equipment. Nothing in this Lease shall prevent the City from purchasing items to be installed pursuant to this Section, provided that no lien or security interest shall attach to any part of the Property.

Section 7.6. Access to the Property. The City agrees that the Authority, any Authority Representative and the Authority's successors, assigns or designees shall have the right at all reasonable times to enter upon the Property or any portion thereof to examine and inspect the Property. The City further agrees that the Authority, any such Authority Representative, and the

Authority's successors, assigns or designees shall have such rights of access to the Property as may be reasonably necessary to cause the proper maintenance of the Property in the event of failure by the City to perform its obligations hereunder.

Section 7.7. Maintenance, Utilities, Taxes and Assessments.

(a) Maintenance; Repair and Replacement. Throughout the Term of this Lease, as part of the consideration for the rental of the Property, all repair and maintenance of the Property shall be the responsibility of the City, and the City shall pay for or otherwise arrange for the payment of the cost of the repair and replacement of the Property resulting from ordinary wear and tear or want of care on the part of the City or any sublessee thereof. In exchange for the Lease Payments herein provided, the Authority agrees to provide only the Property, as hereinbefore more specifically set forth. The City waives the benefits of subsections 1 and 2 of Section 1932 of the California Civil Code, but such waiver shall not limit any of the rights of the City under the terms of this Lease.

(b) Tax and Assessments; Utility Charges. The City shall also pay or cause to be paid all taxes and assessments, including but not limited to utility charges, of any type or nature charged to the Authority or the City or levied, assessed or charged against any portion of the Property or the respective interests or estates therein; provided that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the City shall be obligated to pay only such installments as are required to be paid during the Term of this Lease as and when the same become due.

(c) Contests. The City may, at its expense and in its name, in good faith contest any such taxes, assessments, utility and other charges and, in the event of any such contest, may permit the taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom; provided that prior to such nonpayment it shall furnish the Authority and the Trustee with the opinion of an Independent Counsel acceptable to the Authority, to the effect that, by nonpayment of any such items, the interest of the Authority in such portion of the Property will not be materially endangered and that the Property will not be subject to loss or forfeiture. Otherwise, the City shall promptly pay such taxes, assessments or charges or make provisions for the payment thereof in form satisfactory to the Authority. The Authority will cooperate fully in such contest, upon the request and at the expense of the City.

Section 7.8. Modification of the Property.

(a) Additions, Modifications and Improvements. The City shall, at its own expense, have the right to make additions, modifications, and improvements to any portion of the Property if such improvements are necessary or beneficial for the use of such portion of the Property. All such additions, modifications and improvements shall thereafter comprise part of the Property and be subject to the provisions of this Lease. Such additions, modifications and improvements shall not in any way damage any portion of the Property or cause it to be used for purposes other than those authorized under the provisions of State and federal law or in any way which would impair the State tax-exempt status or the exclusion from gross income for federal income tax purposes of the interest with respect to the Certificates; and the Property, upon completion of any additions, modifications and improvements made pursuant to this Section, shall be of a value which is not substantially less than the value of the Property immediately prior to the making of such additions, modifications and improvements.

(b) No Liens. Except for Permitted Encumbrances, the City will not permit any mechanic's or other lien to be established or remain against the Property for labor or materials furnished in connection with any additions, modifications or improvements made by the City pursuant to this Section; provided that if any such lien is established and the City shall first notify or cause to be notified the Authority of the City's intention to do so, the City may in good faith contest any lien filed or established against the Property, and in such event may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom and shall provide the Authority with full security against any loss or forfeiture which might arise from the nonpayment of any such item, in form satisfactory to the Trustee (as assignee of the Authority). The Authority will cooperate fully in any such contest, upon the request and at the expense of the City.

(c) Replacements, Redevelopment and Renovation. The City shall, at its own expense, have the right to make replacements, redevelopment or renovation of all or a portion of the Property if the following conditions precedent are satisfied:

(i) The City receives an opinion of Special Counsel, a copy of which the City shall furnish to the Authority and the Trustee, that (1) such replacement does not adversely affect the federal income tax exclusion or the State tax-exempt status of the interest with respect to the Certificates, and (2) the Lease will remain the legal, valid, binding and enforceable obligation of the City;

(ii) In the event such replacement, redevelopment or renovation would result in the temporary abatement of Lease Payments as provided in Section 4.10 hereof the City shall have notified the Owner and any rating agency then providing a rating on the Certificates and shall deposit moneys with the Trustee in advance for payment of Lease Payments from special funds of the City or other moneys, the application of which would not, in the opinion of Special Counsel (a copy of which shall have been delivered to the Trustee), result in such Lease Payments constituting indebtedness of the City in contravention of the Constitution and laws of the State;

(iii) The City shall certify to the Trustee that it has sufficient funds to complete such replacement, redevelopment or renovation; and

(iv) In the case of replacement or redevelopment, the City and the Trustee receive an independent appraisal from a California certified general appraiser that the annual fair rental value of the replacements will be at least equal to the annual fair rental value of the Property immediately prior to such replacement or redevelopment.

Section 7.9. Encumbrances; Alternative Financing Methods.

(a) Encumbrances. Except as provided in this Article VII (including without limitation Section 7.8 hereof and this Section 7.9), the City shall not, directly or indirectly, create, incur, assume or suffer to exist any mortgage, pledge, liens, charges, encumbrances or claims, as applicable, on or with respect to the Property, other than Permitted Encumbrances and other than the respective rights of the Authority and the City as herein provided. Except as expressly provided in this Article VII, the City shall promptly, at its own expense, take such action as may be necessary to duly discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim, for which it is responsible, if the same shall arise at any time; provided that the City may contest such liens if it

desires to do so. The City shall reimburse the Authority for any expense incurred by it in order to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim.

(b) Alternative Financing Methods. Notwithstanding the foregoing, the City may create or suffer to create any mortgage, pledge, liens, charges, encumbrances or claims upon the Property or any improvements thereto, provided that (1) any such mortgage, pledge, liens, charges, encumbrances or claims shall at any time while any of the Certificates remain Outstanding be and remain subordinate in all respects to the Site Lease and Lease and any security interest given to the Trustee for the benefit of the Owners and (2) the City shall have first delivered to the Trustee an opinion of Special Counsel substantially to the effect that such mortgage, pledge, liens, charges, encumbrances or claims would not result in the inclusion of the interest with respect to the Certificates in the gross income of the owners of the Certificates for purposes of federal income taxation or impair the State tax-exempt status of such payments.

Section 7.10. Authority's Disclaimer of Warranties. THE AUTHORITY MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR FITNESS FOR THE USE CONTEMPLATED BY THE CITY OF THE PROPERTY, OR ANY PORTION THEREOF. THE CITY ACKNOWLEDGES THAT THE CITY IS LEASING THE PROPERTY AS IS. In no event shall the Authority be liable for incidental, indirect, special or consequential damages, in connection with or arising out of this Lease, the Site Lease, the Assignment Agreement or the Trust Agreement for the existence, furnishing, functioning or the City's use and possession of the Property.

Section 7.11. The City's Right to Enforce Warranties of Vendors or Contractors. The Authority hereby irrevocably appoints the City, its agent and attorney-in-fact during the Term of this Lease, so long as the City shall not be in default hereunder, to assert from time to time whatever claims and rights, including without limitation, warranty claims, claims for indemnification and claims for breach of any representations, respecting the Property which the Authority may have against any vendor or contractor. The City's sole remedy for the breach of any such warranty, indemnification or representation shall be against the vendor or contractor with respect thereto, and not against the Authority, nor shall such matter have any effect whatsoever on the rights and obligations of the Authority with respect to this Lease, including the right to receive full and timely Lease Payments and all other payments due hereunder. The City shall be entitled to retain any and all amounts recovered as a result of the assertion of any such claims and rights. The Authority shall, upon the City's request and at the City's expense, do all things and take all such actions as the City may request in connection with the assertion of any such claims and rights.

Section 7.12. Substitution or Release of the Property.

(a) The City shall have the right to substitute alternate real property for any portion of the Property described in Exhibit B-1 or B-2 hereto or to release a portion of the Property from the lien of this Lease by providing the Trustee with a supplement to this Lease substantially in the form attached as Exhibit C hereto and by satisfying the conditions set forth in paragraphs (i) through (viii) of this Section 7.12. All costs and expenses incurred in connection with such substitution or release shall be borne by the City. Notwithstanding any substitution pursuant to this Section, there shall be no reduction in or abatement of the Lease Payments due from the City hereunder as a result of such substitution. No substitution or release shall be permitted hereunder unless:

(i) the City provides prior written notice thereof to the Owner together with a certificate that the substituted real property or the property remaining following the release (as applicable) has a useful life that exceeds the remaining term of the Lease Payments hereunder;

(ii) an independent California Certified General or equivalent certified real estate appraiser selected by the City finds (and delivers a certificate to the City and the Trustee setting forth its findings) that the substituted real property or the property remaining following the release (as applicable) has a fair rental value greater than or equal to the Lease Payments payable by the City pursuant to the Lease;

(iii) in the case of a substitution, the City obtains or causes to be obtained a CLTA or ALTA title insurance policy (with western regional exceptions) with respect to the substituted property, with an endorsement so as to be payable to the Trustee for the benefit of the Owners, showing no prior liens thereon other than Permitted Encumbrances. Such policy shall comply with Section 5.5 hereof, shall be in a form satisfactory to the Owner and the Authority, shall be in the amount equal to the principal component of Lease Payments attributable to the substituted property, and shall insure the leasehold interest or the fee simple interest of the Authority or the City, as applicable, to the substituted property;

(iv) the City provides the Authority and the Trustee with an opinion of Special Counsel that such substitution does not cause, in and of itself, the interest evidenced and represented by the Certificates to be included in gross income for federal income tax purposes;

(v) upon the substitution or release of any real property and improvements thereon for all or a portion of the Property then existing, the City, the Authority and the Trustee shall execute and the City shall record with the office of the County Recorder, County of San Diego, California, any document necessary to reconvey to the City the portion of the Property being substituted and to include the substituted real property and/or improvements thereon as all or a portion of the Property;

(vi) in the case of a substitution, the City shall certify to the Trustee and the Owner that the substituted property is of approximately the same degree of essentiality to the City as the portion of the Property being replaced; and

(vii) the Trustee shall receive the Owner's prior written consent to such substitution or release (which consent shall not be unreasonably withheld).

#### Section 7.13. Compliance with Law, Regulations, Etc.

The City has, after due inquiry, no knowledge and has not given or received any written notice indicating that the past or present use of the Property or any practice, procedure or policy employed by it in the conduct of its business materially violates any Environmental Regulations, applicable law, regulation, code, order, rule, judgment or consent agreement, including, without limitation, those relating to zoning, building, use and occupancy, fire safety, health, sanitation, air pollution, ecological matters, environmental protection, hazardous or toxic materials, substances or wastes, conservation, parking, architectural barriers to the handicapped, or restrictive covenants or other agreements affecting title to the Property (collectively, "Laws and Regulations").

Section 7.14. Environmental Compliance.

(a) The City shall not use or permit the Property or any part thereof to be used to generate, manufacture, refine, treat, store, handle, transport or dispose of, transfer, produce or process Hazardous Materials, except, and only to the extent, if necessary to maintain the improvements on the Property, including, but not limited to, operation of the police fueling facility, including the underground storage tank related thereto, and then, only in compliance with all Environmental Regulations, and any state equivalent laws and regulations, nor shall it permit, as a result of any intentional or unintentional act or omission on its part or by any tenant, subtenant, licensee, guest, invitee, contractor, employee and agent, the storage, transportation, disposal or use of Hazardous Materials or the Release or threat of Release of Hazardous Materials on, from or beneath the Property or onto any other Property excluding, however, those Hazardous Materials in those amounts ordinarily found in the inventory of a municipal corporation, the use, storage, treatment, transportation and disposal of which shall be in compliance with all Environmental Regulations. Upon the occurrence of any Release or threat of Release of Hazardous Materials, the City shall promptly commence and perform, or cause to be commenced and performed promptly, without cost to the Trustee, all investigations, studies, sampling and testing, and all remedial, removal and other actions necessary to clean up and remove all Hazardous Materials so released, on, from or beneath the Property or other Property, in compliance with all Environmental Regulations. Notwithstanding anything to the contrary contained herein, underground storage tanks are permitted so long as they comply with subsection (d).

(b) The City shall comply with, and shall cause all tenants, subtenants, licensees, guests, invitees, contractors, employees and agents on the Property to comply with, all Environmental Regulations, and shall keep the Property free and clear of any liens imposed pursuant thereto; provided, however, that notwithstanding that a portion of this covenant is limited to the City's use of its best efforts, the City shall remain solely responsible for ensuring such compliance and such limitation shall not diminish or affect in any way the City's obligations contained in subsection (c) hereof as provided in subsection (c) hereof. Upon receipt of any notice from any person with regard to the Release of Hazardous Materials on, from or beneath the Property, the City shall give prompt written notice thereof to the Trustee prior to the expiration of any period in which to respond to such notice under any Environmental Regulation.

(c) Irrespective of whether any representation or warranty contained in Section 7.13 is not true or correct, the City shall, to the extent permitted by law, defend, indemnify and hold harmless the Trustee, the Owners, the Authority, their partners, depositors and each of their respective employees, agents, officers, directors, trustees, successors and assigns, from and against any claims, demands, penalties, fines, attorneys' fees (including, without limitation, attorneys' fees incurred to enforce the indemnification contained in this Section 7.14, consultants' fees, investigation and laboratory fees, liabilities, settlements (five Business Days' prior notice of which the Trustee shall have delivered to the City) court costs, damages, losses, costs or expenses of whatever kind or nature, known or unknown, contingent or otherwise, occurring in whole or in part, arising out of, or in any way related to, (i) the presence, disposal, Release, threat of Release, removal, discharge, storage or transportation of any Hazardous Materials on, from or beneath the Property, (ii) any personal injury (including wrongful death) or Property damage (real or personal) arising out of or related to such Hazardous Materials, (iii) any lawsuit brought or threatened, settlement reached (five Business Days' prior notice of which the Trustee shall have delivered to the City), or governmental order relating to Hazardous Materials on, from or beneath the Property, (iv) any violation of Environmental Regulations or subsection (a) or (b) hereof by it or any of its agents, tenants,

employees, contractors, licensees, guests, subtenants or invitees, and (v) the imposition of any governmental lien for the recovery of environmental cleanup or removal costs. To the extent that the City is strictly liable under any Environmental Regulation, its obligation to the Owners and the other indemnitees under the foregoing indemnification shall likewise be without regard to fault on its part with respect to the violation of any Environmental Regulation which results in liability to any indemnitee. The obligations and liabilities under this Section 7.14(c) shall survive the payment and satisfaction of all Certificates or resignation or removal of the Trustee.

(d) The City shall conform to and carry out a reasonable program of maintenance and inspection of all underground storage tanks, and shall maintain, repair, and replace such tanks only in accordance with Laws and Regulations, including but not limited to Environmental Regulations.

Section 7.15. Condemnation of Property. The City hereby covenants and agrees, to the extent it may lawfully do so, that, except as described in Section 6 of the Site Lease, so long as any of the Certificates remain outstanding and unpaid, the City will not exercise the power of condemnation with respect to the Property. The City further covenants and agrees, to the extent it may lawfully do so, that if for any reason the foregoing covenant is determined to be unenforceable or if the City shall fail or refuse to abide by such covenant and condemns the Property, then the appraised value of the Property shall not be less than the greater of: (i) if the Certificates are then subject to optional prepayment, the principal and interest components of the Certificates outstanding through the date of their prepayment, or (ii) if the Certificates are not then subject to optional prepayment, the amount necessary to defease the Certificates to the first available prepayment date in accordance with the Trust Agreement.

## ARTICLE VIII

### ASSIGNMENT, SUBLEASING AND AMENDMENT

Section 8.1. Assignment by the Authority. Except as provided herein, in the Trust Agreement and the Assignment Agreement, the Authority will not assign this Lease to any other person, firm or corporation so as to impair or violate the representations, covenants and warranties contained in Section 2.2 hereof.

Section 8.2. Assignment and Subleasing by the City.

(a) Assignment. This Lease may be assigned by the City, with the consent of the Owner (which consent shall not be unreasonably withheld), so long as such assignment does not, in the opinion of Special Counsel, adversely affect the State tax-exempt status or the exclusion from gross income for federal income tax purposes of the interest with respect to the Certificates or affect the validity of this Lease. In the event that this Lease is assigned by the City, the obligation to make Lease Payments hereunder shall remain the obligation of the City.

(b) Sublease. The City may sublease all or any portion of the Property, with the consent of the Trustee (as assignee of the Authority) and the Owner, subject to all of the following conditions:

(i) This Lease and the obligation of the City to make Lease Payments and Additional Payments hereunder shall remain obligations of the City; and

(ii) The City shall, within thirty (30) days after the delivery thereof, furnish or cause to be furnished to the Authority, the Trustee and the Owner a true and complete copy of such sublease;

(iii) No sublease by the City shall cause the Property to be used for a purpose other than a governmental or proprietary function authorized under the provisions of the laws of the State; and

(iv) The City shall furnish to the Authority, the Trustee and the Owner, an opinion of Special Counsel to the effect that the sublease will not cause the interest due with respect to the Certificates to be subject to State personal income tax or adversely affect the exclusion from gross income for federal income tax purposes of such amounts.

Section 8.3. Amendments and Modifications. This Lease may be amended or any of its terms modified with the written consent of the Owner, the City and the Trustee (as assignee of the Authority), in accordance with Article X of the Trust Agreement.

## ARTICLE IX

### EVENTS OF DEFAULT AND REMEDIES

Section 9.1. Events of Default Defined. The following shall be “events of default” under this Lease and the terms “events of default” and “default” shall mean, whenever they are used in this Lease, any one or more of the following events:

(a) Payment Default. Failure by the City to pay any Lease Payment required to be paid hereunder by the corresponding Lease Payment Date; and

(b) Covenant Default. Failure by the City to observe and perform any warranty, covenant, condition or agreement on its part to be observed or performed herein or otherwise with respect hereto or in the Trust Agreement or in the Site Lease, other than as referred to in clause (a) of this Section, for a period of 30 days after written notice specifying such failure and requesting that it be remedied has been given to the City by the Authority, the Owner, the Trustee, or the Owners of not less than twenty percent (20%) in aggregate principal amount of Certificates then Outstanding; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, the Authority, the Owner or such Owners, as the case may be, shall not unreasonably withhold their consent to an extension of such time if corrective action is instituted by the City within the applicable period and diligently pursued until the default is corrected, except that such grace period shall not exceed 60 days without the prior written consent of the Owner.

(c) Bankruptcy or Insolvency. The filing by the City of a case in bankruptcy, or the subjection of any right or interest of the City under this Lease to any execution, garnishment or attachment, or adjudication of the City as a bankrupt, or assignment by the City for the benefit of creditors, or the entry by the City into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of a petition applicable to the City in any proceedings instituted under the provisions of the federal bankruptcy code, as amended, or under any similar act which may hereafter be enacted.

Section 9.2. Remedies on Default. Whenever any event of default referred to in Section 9.1 hereof shall have happened and be continuing, it shall be lawful for the Authority to exercise any and all remedies available pursuant to law or granted pursuant to this Lease. Notwithstanding anything herein or in the Trust Agreement to the contrary, THERE SHALL BE NO RIGHT UNDER ANY CIRCUMSTANCES TO ACCELERATE THE LEASE PAYMENTS OR OTHERWISE DECLARE ANY LEASE PAYMENTS NOT THEN IN DEFAULT TO BE IMMEDIATELY DUE AND PAYABLE. After the occurrence of an event of default hereunder, the City will surrender possession of the Property to the Authority, if requested to do so by the Authority, the Trustee or the Owners, in accordance with the provisions of the Trust Agreement. The Owner, acting alone, shall have the right to direct all remedies upon an event of default.

(a) No Termination; Repossession and Re-Lease on Behalf of The City. In the event the Authority does not elect to terminate this Lease in the manner hereinafter provided for in subparagraph (b) hereof, the Authority may, with the consent of the City, which consent is hereby irrevocably given, repossess the Property and re-lease it for the account of the City, in which event the City's obligation will accrue from year to year in accordance with this Lease and the City will continue to receive the value of the use of the Property from year to year in the form of credits against its obligation to pay Lease Payments. The obligations of the City shall remain the same as prior to such default, to pay Lease Payments and Additional Payments whether the Authority re-enters or not. The City agrees to and shall remain liable for the payment of all Lease Payments and Additional Payments and the performance of all conditions contained herein and shall reimburse the Authority for any deficiency arising out of the re-leasing of the Property, or, in the event the Authority is unable to re-lease the Property, then for the full amount of all Lease Payments and Additional Payments to the end of the Term of this Lease, but said Lease Payments and Additional Payments and/or deficiency shall be payable only at the same time and in the same manner as provided above for the payment of Lease Payments and Additional Payments hereunder, notwithstanding such repossession by the Authority or any suit brought by the Authority for the purpose of effecting such repossession of the Property or the exercise of any other remedy by the Authority.

The City hereby irrevocably appoints the Authority as the agent and attorney-in-fact of the City to repossess and re-lease the Property in the event of default by the City in the performance of any covenants contained herein to be performed by the City and to remove all personal property whatsoever situated upon the Property, to place such property in storage or other suitable place in the County of San Diego, for the account of and at the expense of the City, and the City hereby exempts and agrees to save harmless the Authority from any costs, loss or damage whatsoever arising or occasioned by any such repossession and re-leasing of the Property. The City hereby waives any and all claims for damage caused or which may be caused by the Authority in repossessing the Property as provided herein and all claims for damages that may result from the destruction of or the injury to the Property and all claims for damages to or loss of any property belonging to the City that may be in or upon the Property.

The City agrees that the terms of this Lease constitute full and sufficient notice of the right of the Authority to re-lease the Property in the event of such repossession without effecting a surrender of this Lease, and further agrees that no acts of the Authority in effecting such re-leasing shall constitute a surrender or termination of this Lease irrespective of the term for which such re-leasing is made or the terms and conditions of such re-leasing, or otherwise, but that, on the contrary, in the event of such default by the City the right to terminate this Lease shall vest in the Authority to be effected in the sole and exclusive manner provided for in subparagraph (b) below.

The City shall retain the portion of rental obtained by the Trustee, as assignee of the Authority, that is in excess of the Lease Payments and Additional Payments, the fees, expenses and costs of the Trustee of re-leasing the Property, and all amounts payable by the City under this Lease and the Trust Agreement.

In the event that the liability of the City under this subsection (a) is held to constitute indebtedness or liability in any year exceeding in any year the income and revenue provided for such year, the Authority, or the Trustee or the Owners, as assignees of the Authority, shall not exercise the remedies provided in this subsection (a).

(b) Termination; Repossession and Re-Lease. In the event of the termination of this Lease by the Authority at its option and in the manner hereinafter provided on account of default by the City (and notwithstanding any repossession of the Property by the Authority in any manner whatsoever or the re-leasing of the Property), the City nevertheless agrees to pay to the Authority all costs, losses or damages howsoever arising or occurring payable at the same time and in the same manner as is provided herein in the case of payment of Lease Payments and Additional Payments. Any proceeds of the re-lease or other disposition of the Property by the Authority shall be deposited into the Lease Payment Fund and be applied in accordance with the provisions of Section 5.04 of the Trust Agreement. Any surplus received by the Trustee, as assignee of the Authority, from such re-leasing over total Lease Payments shall be remitted to the City. Additional Payments that would have been due hereunder and the fees, expenses and costs of the Trustee as assignee of the Authority on re-leasing the Property shall be remitted to the City. Neither notice to pay rent or to deliver up possession of the Property given pursuant to law nor any proceeding taken by the Authority to recover possession of the Property shall of itself operate to terminate this Lease, and no termination of this Lease on account of default by the City shall be or become effective by operation of law, or otherwise, unless and until the Authority shall have given written notice to the City of the election on the part of the Authority to terminate this Lease. The City covenants and agrees that no surrender of the Property for the remainder of the Term hereof or any termination of this Lease shall be valid in any manner or for any purpose whatsoever unless stated or accepted by the Authority by such written notice. No such termination shall be effected either by operation of law or act of the parties hereto, except only in the manner herein expressly provided.

(c) Opinion of Special Counsel. The re-leasing of the Property as provided herein shall be subject to the opinion of Special Counsel that such re-leasing will not cause the interest with respect to the Certificates to be subject to State personal income tax or adversely affect the exclusion from gross income for federal income tax purposes of such amounts.

(d) No Termination by The City. Under no circumstances may the City terminate this Lease as a remedy for a default by the Authority in the performance of any obligation of the Authority hereunder.

Section 9.3. No Remedy Exclusive. No remedy conferred herein upon or reserved to the Authority is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Authority to exercise any remedy reserved to it in this Article it shall not be necessary to give any notice, other than such notice as may be required in this Article or by law.

Section 9.4. Agreement to Pay Attorneys' Fees and Expenses. In the event either party to this Lease should default under any of the provisions hereof and the nondefaulting party should employ attorneys or incur other expenses for the collection of moneys or the enforcement of performance or observance of any obligation or agreement on the part of the defaulting party contained herein, the defaulting party agrees that it will pay on demand to the nondefaulting party the reasonable fees of such attorneys and such other expenses so incurred by the nondefaulting party.

Section 9.5. No Additional Waiver Implied by One Waiver. In the event any agreement contained in this Lease should be breached by either party and thereafter waived by the other party; such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

Section 9.6. Application of the Proceeds from the Re-Lease of the Property. All amounts received by the Authority under this Article IX shall, subject to Section 13.03 of the Trust Agreement, be deposited by the Trustee in the Lease Payment Fund and credited towards the Lease Payments in order of Lease Payment Dates.

Section 9.7. Trustee and Owners to Exercise Rights. Such rights and remedies as are given to the Authority under this Article IX have been assigned by the Authority to the Trustee under the Assignment Agreement, to which assignment the City hereby consents. Such rights and remedies shall be exercised by the Trustee and the Owners as provided in the Trust Agreement.

## ARTICLE X

### PREPAYMENT OF LEASE PAYMENTS

Section 10.1. Security Deposit. Notwithstanding any other provision of this Lease, the City may, on any date, secure the payment of Lease Payments and Additional Payments by a deposit by it with the Trustee of cash and/or Government Obligations as provided in Section 14.01 of the Trust Agreement. In such event, and provided that the City has paid any other amounts due and owing under this Lease and the Trust Agreement, all obligations of the City under this Lease, and all security provided by this Lease for said obligations, shall cease and terminate, excepting only the obligation of the City to make, or cause to be made, Lease Payments and Additional Payments from such deposit. On the date of said deposit title to the Property shall vest in the City automatically and without further action by the City or the Authority (except as provided herein). Said deposit shall be deemed to be and shall constitute a special fund for the payment of Lease Payments in accordance with the provisions of this Lease. The Authority shall execute and deliver such further instruments and take such further action as may reasonably be requested by the City for carrying out the title transfer of the Property.

Section 10.2. Extraordinary Prepayment. The City shall be obligated to prepay the Lease Payments in whole or in part on any date, from and to the extent of any Net Proceeds or other moneys theretofore deposited in the Prepayment Fund (at least 45 days prior to the date fixed for prepayment of the Certificates) pursuant to Section 4.02 of the Trust Agreement. The City and the Authority hereby agree that such Net Proceeds or other moneys shall be credited towards the City's obligations hereunder (except in the case of such Prepayment of the Lease Payments in whole) pro rata among Lease Payments so that following Prepayment, the remaining annual Lease Payments will be proportional to the initial annual Lease Payments.

Section 10.3. Optional Prepayment. Subject to the terms and conditions of this Section, the Authority hereby grants an option to the City to prepay all or a portion of the Lease Payments to the extent and on the dates at the prepayment prices set forth in Section 4.03 of the Trust Agreement. Said option shall be exercised by the City at any time by giving written notice to the Authority and the Trustee of the exercise of such option at least thirty (30) days prior to said date. The City and the Authority agree that such prepayments shall be credited toward the City's obligations hereunder corresponding to the resulting prepayment of the Certificates and Additional Certificates in accordance with Section 4.03 of the Trust Agreement on the dates and at the prepayment prices provided therein.

## ARTICLE XI

### MISCELLANEOUS

Section 11.1. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed to have been received on the earlier of the day of actual receipt or five Business Days after deposit in the United States mail in first-class or certified form, postage prepaid, to the City or the Authority, as the case may be, at the addresses indicated in Section 14.05 of the Trust Agreement. The Authority, the City, and the Trustee, by notice given hereunder, may designate different addresses to which subsequent notices, certificates or other communications will be sent.

Section 11.2. Binding Effect. This Lease shall inure to the benefit of and shall be binding upon the Authority and the City and their respective successors and assigns.

Section 11.3. Severability. In the event any provision of this Lease shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 11.4. Execution in Counterparts. This Lease may be executed in any number of counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 11.5. Applicable Law. This Lease shall be governed by and construed in accordance with the laws of the State.

Section 11.6. Owner as Third-Party Beneficiary. The Owner is a third-party beneficiary of this Lease.

*[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]*

IN WITNESS WHEREOF, the Authority has caused this Lease to be executed in its name by its duly authorized officer, and the City has caused this Lease to be executed in its name by its duly authorized officer, as of the date first above written.

OCEANSIDE PUBLIC FINANCING AUTHORITY,  
as Lessor

By: \_\_\_\_\_  
Its: Executive Director

ATTEST:

\_\_\_\_\_  
Secretary

CITY OF OCEANSIDE,  
as Lessee

By: \_\_\_\_\_  
Its: City Manager

ATTEST:

\_\_\_\_\_  
City Clerk

**CERTIFICATE OF ACCEPTANCE**

This is to certify that the interest in the Property conveyed under the foregoing to the City of Oceanside, a municipal corporation and a chartered city duly organized under the laws of the State of California, is hereby accepted by the undersigned officer or agent on behalf of the City Council of the City of Oceanside, pursuant to authority conferred by resolution of the City Council adopted on January \_\_, 2013 and the grantee consents to recordation thereof by its duly authorized officer.

Dated: January \_\_, 2013

CITY OF OCEANSIDE

By: \_\_\_\_\_  
Its: City Manager

EXHIBIT A

SCHEDULE OF LEASE PAYMENTS

<i>Date</i>	<i>Principal</i>	<i>Interest</i>	<i>Payment</i>
12/01/2013	\$	\$	\$
06/01/2012			
12/01/2012			
06/01/2013			
12/01/2013			
06/01/2014			
12/01/2014			
06/01/2015			
12/01/2015			
06/01/2016			
12/01/2016			
06/01/2017			
12/01/2017			
06/01/2018			
12/01/2018			
06/01/2019			
12/01/2019			
06/01/2020			
12/01/2020			
06/01/2021			
12/01/2021			
06/01/2022			
12/01/2022			
<b>Total</b>	<u>\$</u>	<u>\$</u>	<u>\$</u>

EXHIBIT B

[TO COME]

EXHIBIT C

LEASE SUPPLEMENT FORM

There is hereby subjected to the terms of that certain Lease/Purchase Agreement, dated as of February 1, 2013, by and between the Oceanside Public Financing Authority and the City of Oceanside (the "City") the following items which shall comprise a portion of the Property, as defined therein:

Description of Substituted Property

[Insert Description]

Cost

I, the City Representative, hereby certify that:

- (1) the fair rental value (based on the attached appraisal by an independent real estate appraiser) and the useful life of the above-described portion of the Property at least equals the fair rental value and the useful life of the portion of the Property for which it was substituted;
- (2) the above-described portion of the Property will be used by the City for authorized public purposes and can be leased under the provisions of the Lease and the Government Code;
- (3) the above-described portion of the Property is currently owned by the City; and
- (4) the above-described portion of the Property is of approximately the same degree of essentiality to the City as the portion of the Property being replaced.

I, the City Representative, hereby certify that the portion of the Property being substituted is free and clear of all liens or claims of others, except for Permitted Encumbrances referred to in the Lease.

CITY OF OCEANSIDE

By: [signature]  
City Representative

STATE OF CALIFORNIA            )  
  ) ss  
COUNTY OF SAN DIEGO         )

On \_\_\_\_\_, before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal

\_\_\_\_\_  
SIGNATURE OF NOTARY PUBLIC

**ATTACHMENT 5**

*Stradling Yocca Carlson & Rauth  
Draft of 1/15/13*

**DOCUMENT NO.** \_\_\_\_\_  
**DOCUMENT NO.** \_\_\_\_\_

**RECORDING REQUESTED BY:**  
CITY OF OCEANSIDE

**WHEN RECORDED MAIL TO:**  
Stradling Yocca Carlson & Rauth  
660 Newport Center Drive, Suite 1600  
Newport Beach, CA 92660  
Attn: Brian P. Forbath

---

[Space above for Recorder's use.]

This document is recorded for the benefit of the City of Oceanside and recording is fee-exempt under § 27383 of the Government Code.

**SITE LEASE**

**by and between the**

**CITY OF OCEANSIDE**

**and the**

**OCEANSIDE PUBLIC FINANCING AUTHORITY**

**Dated as of February 1, 2013**

**Relating to**

**§ \_\_\_\_\_  
CITY OF OCEANSIDE  
2013 CERTIFICATES OF PARTICIPATION  
(2003 REFUNDING)**

Table of Contents

	<u>Page</u>
Section 1. Definitions.....	1
Section 2. The Property.....	1
Section 3. Term.....	1
Section 4. Rental.....	2
Section 5. Purpose.....	2
Section 6. Interest in Property.....	2
Section 7. Assignments and Subleases.....	2
Section 8. Termination.....	2
Section 9. Quiet Enjoyment.....	2
Section 10. Default.....	2
Section 11. Taxes.....	3
Section 12. Eminent Domain.....	3
Section 13. Partial Invalidity.....	3
Section 14. Applicable Law.....	3
Section 15. Representatives.....	3
Section 16. Captions.....	3
Section 17. Execution in Counterparts.....	3
Section 18. Amendments.....	3
Section 19. Incorporation.....	3
Section 20. Warranties of the City as to the Property.....	4

## SITE LEASE

This SITE LEASE, dated as of February 1, 2013, by and between the CITY OF OCEANSIDE, a municipal corporation duly organized and existing under and by virtue of the Constitution and laws of the State of California (the "City"), and the OCEANSIDE PUBLIC FINANCING AUTHORITY, a joint exercise of powers authority duly organized and existing under and by virtue of the laws of the State of California (the "Authority");

### WITNESSETH:

WHEREAS, the Authority has agreed to enter into this Site Lease (the "Site Lease") with the City wherein the City will lease the real property and improvements thereto described in Exhibit A hereto (the "Property") to the Authority; and

WHEREAS, the Authority intends to lease back to the City the Property pursuant to a Lease/Purchase Agreement to be executed and entered into as of the date hereof (the "Lease"); and

WHEREAS, by resolutions the City and the Authority have agreed to execute this Site Lease, and to deliver it upon performance and compliance by each party with all terms or conditions of this contract to be performed concurrently herewith, including, without limitation, the delivery of the City of Oceanside 2013 Certificates of Participation, (2003 Refunding) (the "Certificates") executed and delivered pursuant to a Trust Agreement, dated as of the date hereof (the "Trust Agreement"), by and among the City, the Authority, and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee"); and

WHEREAS, all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution and entering into of the Site Lease do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the parties hereto are now duly authorized to execute and enter into the Site Lease.

NOW, THEREFORE, IN CONSIDERATION OF THE PREMISES AND OF THE MUTUAL AGREEMENTS AND COVENANTS CONTAINED HEREIN AND FOR OTHER VALUABLE CONSIDERATION, THE PARTIES HERETO DO HEREBY AGREE AS FOLLOWS:

Section 1.     Definitions. All terms not otherwise defined herein shall have the definitions given such terms in the Trust Agreement.

Section 2.     The Property. The City hereby leases to the Authority and the Authority hereby leases from the City, on the terms and conditions hereinafter set forth, the Property; provided that the Lease is duly executed and delivered by the parties hereto simultaneously herewith.

Section 3.     Term. The term of this Site Lease shall commence as of the date of execution hereof and shall remain in effect until the later of April 1, 2023 or the Term, as defined in the Lease, expires as provided therein, unless such term is sooner terminated as hereinafter provided; provided, however, that in the event of a default by the City under the Lease and the Authority's election to terminate the Lease under Section 9.2(b) thereof, the term of this Site Lease shall not terminate until

such time as all amounts payable by the City under the Lease and the Trust Agreement have been paid in full; provided that in no event shall the term of this Site Lease extend past April 1, 2033.

Section 4. Rental. The Authority, and any assignee or successor in interest of the Authority under this Site Lease, shall pay to the City, from proceeds of sale of the Certificates, the sum of \$\_\_\_\_\_ as prepayment of rental hereunder.

Section 5. Purpose. The Authority shall use the Property solely for the purpose of leasing back such Property to the City or others pursuant to the Lease and for such purposes as may be incidental thereto; provided, that in the event of default by the City under the Lease or termination pursuant thereto, the Authority may exercise the remedies of repossession of the Property, as provided in the Lease.

Section 6. Interest in Property. The City warrants and covenants that it has sufficient interest in the Property to lease it hereunder. In the event of a title defect in the Property that impairs the right to use and occupy the Property, the City covenants that it will exercise its power, including but not limited to, its condemnation powers to the extent permitted by law, to obtain the necessary rights in the Property and to cure such defect and limitation of the right to use and occupancy.

Section 7. Assignments and Subleases. The City acknowledges and affirms the assignment by the Authority of its rights under this Site Lease to the Trustee, under the terms of the Assignment Agreement dated as of the date hereof, for the benefit of the Owners of the Certificates. This Site Lease may also be assigned and the Property subleased, as a whole or in part, by the Authority without necessity of obtaining the consent of the City, if any event of default occurs under the Lease.

Section 8. Termination. The Authority agrees, upon the termination of this Site Lease, to quit and surrender the Property in the same good order and condition as the same was in at the time of commencement of the term hereunder, reasonable wear and tear excepted, and agrees that any permanent improvements and structures existing upon the Property at the time of the termination of this Site Lease shall remain thereon and title thereto shall vest in the City.

Upon the exercise by the City of its option to purchase a portion of the Property, as set forth in Section 7.3 of the Lease and upon payment therefor, a corresponding portion of the Property may be released from this Site Lease.

Upon payment by the City of all Lease Payments and all Additional Payments, as defined in the Lease, due during the term of the Lease, as provided for in Article IV thereof, the term of this Site Lease shall terminate.

Under no circumstances may the City terminate this Site Lease as a remedy for a default by the Authority in the performance of any obligation of the Authority hereunder.

Section 9. Quiet Enjoyment. The Authority at all times during the term of this Site Lease shall peaceably and quietly have, hold and enjoy all of the Property.

Section 10. Default. In the event the Authority shall be in default in the performance of any obligation on its part to be performed under the terms of this Site Lease, which default continues for 30 days following written notice and demand for correction thereto by the City, the City may

exercise any and all remedies granted by law; provided, however, that no merger of this Site Lease and the Lease shall be deemed to occur as a result thereof and, so long as any Certificates are outstanding, the Site Lease shall not be terminated except as provided in Section 8 hereof.

Section 11. Taxes. Subject to the provisions of Section 7.7 of the Lease, the City covenants and agrees to pay any and all assessments of any kind or character and also all taxes, including possessory interest taxes, levied or assessed upon the Property.

Section 12. Eminent Domain. In the event the whole or any part of the Property is taken by eminent domain proceedings, the interest of the Authority shall be recognized and is hereby determined to be the amount of unpaid Lease Payments and all Additional Payments due the Authority under the Lease.

Section 13. Partial Invalidity. If any one or more of the terms, provisions, covenants or conditions of this Site Lease shall to any extent be declared invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, the finding or order or decree of which becomes final, none of the remaining terms, provisions, covenants and conditions of this Site Lease shall be affected thereby, and each provision of this Site Lease shall be valid and enforceable to the fullest extent permitted by law.

Section 14. Applicable Law. This Site Lease shall be governed by and construed in accordance with the laws of the State of California.

Section 15. Representatives. Whenever under the provisions of this Site Lease the approval of the Authority or the City is required, or the Authority or the City is required to take some action at the request of the other, such approval or such request shall be given for the City by the City Manager or the Director of Administrative Services, as representative, and for the Authority by its Executive Director, Secretary, Assistant Secretary or Treasurer, as representative, or his or her written designee as representative, and any party hereto shall be authorized to rely upon any such approval or request.

Section 16. Captions. The captions or headings in this Site Lease are for convenience only and in no way define, limit or describe the scope of intent of any provision or Section of this Site Lease.

Section 17. Execution in Counterparts. This Site Lease may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which shall constitute but one and the same instrument.

Section 18. Amendments. This Site Lease may be amended in writing as may be mutually agreed by the City and the Authority; provided, however, that if Certificates have been executed and delivered no such amendment which materially adversely affects the rights of the Owners of the Certificates shall be effective unless it shall have been consented to by the Trustee and the Owners of a majority in aggregate principal amount of the Certificates then Outstanding.

Section 19. Incorporation. This Site Lease is hereby made a part of the Lease and shall be subject to all the terms and conditions of the Lease.

Section 20.     Warranties of the City as to the Property. The City covenants and warrants to the Authority:

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

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

(c)     That the Property is necessary to the City in order for the City to perform its governmental functions; and

(d)     That the Property is properly zoned for its intended purposes.

*[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]*

IN WITNESS WHEREOF, the parties have caused this Site Lease to be executed by their duly authorized officers as of the date and year first above written.

CITY OF OCEANSIDE

By: \_\_\_\_\_  
Its: City Manager

ATTEST:

\_\_\_\_\_  
City Clerk

OCEANSIDE PUBLIC FINANCING AUTHORITY

By: \_\_\_\_\_  
Its: Executive Director

ATTEST:

\_\_\_\_\_  
Secretary

**CERTIFICATE OF ACCEPTANCE**

This is to certify that the interest in the Property conveyed under the foregoing to the Oceanside Public Financing Authority (the "Authority"), a joint exercise of powers authority duly organized under the laws of the State of California, is hereby accepted by the undersigned officer or agent on behalf of the Authority, pursuant to authority conferred by resolution of the Authority adopted on January \_\_, 2013 and the grantee consents to recordation thereof by its duly authorized officer.

Dated: January \_\_, 2013

OCEANSIDE PUBLIC FINANCING AUTHORITY

By: \_\_\_\_\_  
Its: Executive Director

EXHIBIT A  
LEGAL DESCRIPTION OF PROPERTY  
[TO COME]

STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

On \_\_\_\_\_, before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal

\_\_\_\_\_  
SIGNATURE OF NOTARY PUBLIC

**ATTACHMENT 6**

*Stradling Yocca Carlson & Rauth  
Draft of 1/15/13*

**DOCUMENT NO.** \_\_\_\_\_

**RECORDING REQUESTED BY:** )  
CITY OF OCEANSIDE )

**WHEN RECORDED MAIL TO:** )  
Stradling Yocca Carlson & Rauth )  
660 Newport Center Drive, Suite 1600 )  
Newport Beach, California 92660 )  
Attn: Brian P. Forbath )

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[Space above for Recorder's use.]

This document is recorded for the benefit of the City of Oceanside and recording is fee-exempt under §27383 of the Government Code.

**ASSIGNMENT AGREEMENT**

**by and between the**

**OCEANSIDE PUBLIC FINANCING AUTHORITY**

**and**

**THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.,  
as Trustee**

**Dated as of February 1, 2013**

**Relating to**

**§ \_\_\_\_\_  
CITY OF OCEANSIDE  
2013 CERTIFICATES OF PARTICIPATION  
(2003 REFUNDING)**

## ASSIGNMENT AGREEMENT

This ASSIGNMENT AGREEMENT, dated as of February 1, 2013, by the OCEANSIDE PUBLIC FINANCING AUTHORITY, a joint exercise of powers authority duly organized and existing under and by virtue of the laws of the State of California (the "Authority"), and accepted by THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., a national banking association duly organized and existing under and by virtue of the laws of the United States of America, as trustee under the Trust Agreement (defined below) (the "Trustee");

### *WITNESSETH:*

WHEREAS, the Authority and the City of Oceanside, a municipal corporation and a chartered city duly organized and existing under and by virtue of the Constitution and laws of the State of California (the "City"), have executed and entered into a Site Lease (the "Site Lease") and a Lease/Purchase Agreement (the "Lease"), each dated as of the date hereof and recorded concurrently herewith, whereby respectively, the City has agreed to lease certain real property and improvements thereon of the City described in Exhibit A to the Site Lease and in Exhibit A hereto (the "Property") to the Authority and the Authority has agreed to lease back such Property to the City, as provided therein; and

WHEREAS, under and pursuant to the Lease, the City is obligated to make Lease Payments, as defined therein, to the Authority for the lease of the Property ; and

WHEREAS, the Authority desires to assign absolutely without recourse all its rights to receive the Lease Payments scheduled to be paid by the City under and pursuant to the Lease to the Trustee and certain of its other rights, title and interest under the Lease as described herein; and

WHEREAS, the Authority desires to assign absolutely without recourse all of its rights to, under and pursuant to the Site Lease to the Trustee, and certain of its rights to, under and pursuant to the Lease to the Trustee; and

WHEREAS, in consideration of such absolute assignment and the execution and entering into of a Trust Agreement (the "Trust Agreement") to be executed and entered into as of the date hereof, by and among the Trustee, the Authority and the City, the Trustee has agreed to execute and deliver certificates of participation designated City of Oceanside 2013 Certificates of Participation (2003 Refunding) (the "Certificates") in an aggregate principal amount equal to the aggregate principal components of such Lease Payments; and

WHEREAS, each party has determined that all acts conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with its execution and entering into of this Assignment Agreement (the "Assignment Agreement") do exist, have happened and have been performed in regular and due time, form and manner as required by law and it is now duly authorized to execute and enter into the Assignment Agreement.

NOW, THEREFORE, IN CONSIDERATION OF THE PREMISES AND OF THE MUTUAL AGREEMENTS AND COVENANTS CONTAINED HEREIN AND FOR OTHER VALUABLE CONSIDERATION, THE PARTIES HERETO DO HEREBY AGREE AS FOLLOWS:

**Section 1. Assignment.**

(a) Site Lease. The Authority hereby transfers, assigns, absolutely and sets over to the Trustee, for the benefit of the Owners (as defined in the Trust Agreement) of the Certificates executed and delivered under the Trust Agreement, all of the Authority's rights, title, and interest under the Site Lease.

(b) Lease. The Authority hereby transfers, assigns, absolutely and sets over to the Trustee, for the benefit of the owners of the Certificates executed and delivered under the Trust Agreement, all of the Authority's rights, title and interest under the Lease (excepting only the Authority's rights under Sections 2.1(e), 4.11, 7.14 and 9.4 of the Lease), including, without limitation, (1) the right to receive and collect all of the Lease Payments, Prepayments and Additional Payments (except to the extent payable to the Authority) (as such terms are defined in the Trust Agreement) from the City under the Lease or the Trust Agreement, as applicable, (2) the right to receive and collect any proceeds of any insurance maintained thereunder, or any condemnation award rendered with respect to the Property, or of any lease of the Property in the event of a default by the City under the Lease, (3) the right to take all actions and give all consents under the Lease, including without limitation, Section 7.8(b) (regarding liens), 8.2(b) (regarding subleases), Section 8.3 (regarding amendments of the Lease) and Section 9.2 (regarding defaults), (4) the right to exercise such rights and remedies conferred on the Authority pursuant to the Lease as may be necessary or convenient (i) to enforce payment of the Lease Payments, Prepayments and Additional Payments and any other amounts required to be deposited in the Lease Payment Fund, the Prepayment Fund, the Reserve Fund or the Net Proceeds Fund established under the Trust Agreement, or (ii) otherwise to protect the interests of the Authority in the event of a default by the City under the Lease, and (5) the right of the Authority to receive rental in excess of Lease Payments as compensation for re-leasing the Property upon events of default under the Lease, as provided in Section 9.2(a) and (b) of the Lease.

(c) Assignment for Owners of Certificates. All rights assigned by the Authority shall be administered by the Trustee as assignee thereof according to the provisions of the Trust Agreement and for the equal and proportionate benefits of the Owners of the Certificates.

**Section 2. Acceptance.** The Trustee hereby accepts the foregoing assignment for the benefit of the Owners of the Certificates, subject to the conditions and terms of the Trust Agreement, and all such Lease Payments shall be applied and all such rights so assigned shall be exercised by the Trustee under and pursuant to the Trust Agreement.

**Section 3. Conditions.** The Assignment Agreement shall confer no rights and shall impose no obligations upon the Trustee beyond those expressly provided in the Trust Agreement. The Trustee does not warrant the accuracy of the recitals hereto. The Trustee shall not be responsible for any representations, covenants or warranties of the Authority. The assignment hereunder is to the Trustee solely in its capacity as Trustee under the Trust

Agreement and not in its individual or personal capacity. The Trustee is not responsible for any representations, warranties or covenants made by the assignor under the Lease or the Site Lease.

**Section 4. No Other Claim.** The Authority hereby represents and warrants that there are no present and outstanding claims on Lease Payments or any other moneys assigned by the Authority to the Trustee hereunder.

**Section 5. Counterparts.** This Assignment Agreement may be executed in any number of counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

*[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]*

IN WITNESS WHEREOF, the parties hereto have executed and entered into the Assignment Agreement by their officers thereunto duly authorized as of the day and year first above written.

OCEANSIDE PUBLIC FINANCING  
AUTHORITY

By: \_\_\_\_\_  
Its: Executive Director

ATTEST:

\_\_\_\_\_  
Secretary

Accepted by:

THE BANK OF NEW YORK MELLON  
TRUST COMPANY, N.A., as Trustee

By: \_\_\_\_\_  
Its: Authorized Officer

EXHIBIT A  
DESCRIPTION OF THE PROPERTY  
[TO COME]



**ATTACHMENT 7**

*Stradling Yocca Carlson & Rauth  
Draft of 1/15/13*

DOCUMENT NO. \_\_\_\_\_

DOCUMENT NO. \_\_\_\_\_

§ \_\_\_\_\_  
**CITY OF OCEANSIDE  
2013 CERTIFICATES OF PARTICIPATION  
(2003 REFUNDING)**

**CERTIFICATE PURCHASE AGREEMENT**

January \_\_, 2013

City of Oceanside  
300 North Coast Highway  
Oceanside, California 92054

Oceanside Public Financing Authority  
300 North Coast Highway  
Oceanside, California 92054

Ladies and Gentlemen:

Compass Bank, as the purchaser (the "Purchaser"), does hereby offer to enter into this Purchase Agreement (the "Agreement") with you, the City of Oceanside (the "City") and the Oceanside Financing Authority (the "Authority") for the purchase by the Purchaser of the 2013 Certificates of Participation (2003 Refunding) (the "Certificates"), specified below. All terms not defined herein shall have the meanings set forth in the Official Statement hereinafter mentioned.

1. Purchase and Sale.

(a) Upon the terms and conditions and upon the basis of the representations herein set forth, the Purchaser hereby agrees to purchase and the City and the Authority agree to cause the Trustee to execute and deliver to the Purchaser all (but not less than all) of the \$ \_\_\_\_\_ aggregate principal amount of the mature on April 1, 2023 and evidence interest at the rate per annum of \_\_\_\_%. The purchase price for the Certificates shall be \$ \_\_\_\_\_.

(b) Each Certificate shall evidence a fractional interest of the owner thereof in Lease Payments to be paid by the City to the Authority pursuant to a certain Lease/Purchase Agreement, dated as of February 1, 2013, (the "Lease Agreement"), by and between the City and the Authority. The Authority's right to receive the Lease Payments due under the Lease Agreement and to exercise remedies upon default under such Lease Agreement shall be assigned to the Trustee for the benefit of the Purchaser as the owner of the Certificates pursuant to an Assignment Agreement, dated as of February 1, 2013 (the "Assignment Agreement"), by and between the Authority and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee").

The Certificates shall be as described in, and shall be secured under and pursuant to a Trust Agreement, dated as of February 1, 2013, as supplemented by that (the "Trust Agreement"), by and among the City, the Authority and the Trustee, substantially in the form previously submitted to the Purchaser with only such changes therein as shall be mutually agreed upon by the Authority, the City and the Purchaser.

Proceeds of the Certificates will be used to (i) prepay the outstanding City of Oceanside 2003 Certificates of Participation (1993 Series A Refunding) currently outstanding in the aggregate principal amount of \$ \_\_\_\_\_, and (ii) pay costs of delivery of the Certificates.

(c) At [10:00 A.M.], California time, on February \_\_, 2013, or at such other time or on such earlier or later date as the City and the Purchaser mutually agree upon (the "Closing Date"), the City will cause to be delivered to the Purchaser, the Certificates in the form of a single fully registered Certificate, duly executed, together with the other documents hereinafter mentioned and, subject to the terms and conditions hereof, the Purchaser will accept such delivery and pay the purchase price of the Certificates as set forth in subparagraph (a) above by wire transfer to the order of the Trustee in an amount equal to the purchase price (such delivery and payment being herein referred to as the "Closing"). Sale, delivery and payment as aforesaid shall be made at the offices of Stradling Yocca Carlson & Rauth, a Professional Corporation, Newport Beach, California ("Special Counsel"), or at such other place as shall have been mutually agreed upon by the City and the Purchaser, except that the physical Certificates shall be delivered to the Purchaser in \_\_\_\_\_, \_\_\_\_\_ on February \_\_, 2013.

2. [Reserved]

3. Representations, Warranties and Agreements of the City. The City represents, warrants and covenants to the Purchaser that:

(a) The City is a chartered city and municipal corporation duly organized and operating pursuant to the Constitution and laws of the State of California and has all necessary power to enter into and perform its duties under the Lease Agreement, the Site Lease dated as of February 1, 2013 (the "Site Lease"), the Trust Agreement, the Escrow Agreement dated as of February 1, 2013, by and between the City and the Trustee, as escrow agent (the "Escrow Agreement") and this Purchase Agreement and, when executed and delivered by the respective parties thereto, the Lease Agreement, the Site Lease, the Trust Agreement, the Escrow Agreement and this Purchase Agreement will constitute legal, valid and binding obligations of the City enforceable in accordance with their respective terms.

(b) By official action of the City prior to or concurrently with the acceptance hereof, the City has duly authorized and approved the execution and delivery of, and the performance by the City of the obligations on its part contained in the Lease Agreement, the Site Lease, the Trust Agreement, the Escrow Agreement and this Purchase Agreement and the consummation by it of all other transactions contemplated by this Purchase Agreement.

(c) The execution and delivery of the Lease Agreement, the Site Lease, the Trust Agreement, the Escrow Agreement and this Purchase Agreement and compliance with the provisions on the City's part contained therein and herein, will not conflict, in any material respect, with or constitute a breach of or default under any law, administrative regulation, judgment, decree, loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the City is a

party or is otherwise subject, nor will any such execution, delivery, adoption or compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of the properties or assets of the City under the terms of any such law, administrative regulation, judgment, decree, loan agreement, indenture, bond, note, resolution, agreement or other instrument, except as provided by the Lease Agreement, the Site Lease, the Trust Agreement, the Escrow Agreement and this Purchase Agreement.

(d) Except as may be required under blue sky or other securities laws of any state (other than the State of California), there is no consent, approval, authorization or other order of, or filing with, or certification by, any regulatory agency having jurisdiction over the City required for the execution, delivery and sale of the Certificates or the consummation by the City of the other transactions contemplated by the Lease Agreement, the Site Lease, the Trust Agreement, the Escrow Agreement and this Purchase Agreement.

(e) The City is not in breach of or default under any applicable law or administrative regulation of the State of California or the United States or any applicable judgment or decree or any loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the City is a party or is otherwise subject, which breach or default materially adversely affects the financial condition of the City or its ability to perform its obligations under this Purchase Agreement, and no event has occurred and is continuing which, with the passage of time or the giving of notice, or both, would constitute such a default or an event of default under any such instrument.

(f) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, governmental agency, public office or body, pending or threatened against the City (i) affecting the existence of the City or the titles of its officers to their respective offices or seeking to prohibit, restrain or enjoin the execution or delivery of the Certificates or the City's covenants to make Lease Payments or in any way contesting or affecting the validity or enforceability of the Certificates, the Lease Agreement, the Site Lease, the Trust Agreement, the Escrow Agreement or this Purchase Agreement or contesting the powers of the City or its authority to enter into, adopt or perform its obligations under any of the foregoing, wherein an unfavorable decision, ruling or finding would materially adversely affect the validity or enforceability of the Certificates, the Lease Agreement, the Site Lease, the Trust Agreement, the Escrow Agreement or this Purchase Agreement, or (ii) in which a final adverse decision could materially adversely affect the operations of the City.

(g) The City will take no action and will cause no action to be taken that would cause the interest with respect to the Certificates to be includable in gross income for federal income tax purposes.

(h) The City has not been notified of any listing or proposed listing by the Internal Revenue Service to the effect that the City is an issuer whose non-arbitrage certificates may not be relied upon.

(i) The City's audited financial statements prepared by [Lance, Soll & Lunghard, LLP, Certified Public Accountants (the "Auditor") for the fiscal year ended June 30, 2012], is a fair presentation of the financial position of the City as of the dates indicated and the results of its operations and changes in its fund balances for the periods specified.

(j) Any certificate signed by any officer of the City and delivered to the Purchaser shall be deemed a representation and warranty by the City to the Purchaser as to the statements made therein.

4. Representations, Warranties and Agreements of the Authority. The Authority represents, warrants to, covenants and agrees with, the Purchaser and the City that:

(a) The Authority is a joint powers authority, organized and validly existing under the laws of the State of California, and has, and at the Closing Date will have full legal right, power and authority (i) to enter into, execute, deliver and perform its obligations under this Purchase Agreement and (ii) to carry out, give effect to and consummate the transactions on its part contemplated by this Purchase Agreement, the Trust Agreement, the Lease Agreement, the Certificates, the Site Lease and the Assignment Agreement.

(b) The Authority has complied, and will at the Closing Date be in compliance, in all respects with its obligations under the Trust Agreement, the Lease Agreement, the Site Lease, the Assignment Agreement and this Purchase Agreement to be performed on or prior to the Closing Date.

(c) The Board of Directors of the Authority has duly and validly adopted Resolution No. \_\_\_\_\_ on January \_\_, 2013 (the "Authority Resolution"), which: (i) approved and authorized the execution and delivery of the Trust Agreement, the Certificates, the Site Lease, the Assignment Agreement, this Purchase Agreement and the Lease Agreement, and (ii) authorized and approved the performance by the Authority of its obligations contained in, and the taking of any and all action on its part as may be necessary to carry out, give effect to and consummate the transactions on its part contemplated by, each of such documents.

(d) The Authority is not in breach of or in default under, any law or administrative rule or regulation of the State of California, the United States of America, or of any department, division, agency or instrumentality of either thereof, or under any applicable court or administrative decree or order, or under any loan agreement, note, resolution, indenture, contract, agreement or other instrument to which the Authority is a party or is otherwise subject or bound, and the performance by the Authority of its obligations under the Certificates, the Trust Agreement, the Site Lease, the Lease Agreement, the Assignment Agreement, this Purchase Agreement and any other instruments contemplated by any of such documents, and compliance by it with the provisions of each thereof, will not conflict with or constitute a breach of or default under any applicable law or administrative rule or regulation of the State of California, the United States of America, or of any department, division, agency or instrumentality of either thereof, or under any applicable court or administrative decree or order, or under any loan agreement, note, resolution, indenture, contract, agreement or other instrument to which the Authority is a party or is otherwise subject or bound, in any manner which would materially and adversely affect the performance by the Authority of its obligations under this Purchase Agreement, the Certificates, the Lease Agreement, the Site Lease, the Assignment Agreement or the Trust Agreement.

(e) Except as may be required under the "blue sky" or other securities laws of any jurisdiction (other than the State of California), all approvals, consents, authorizations, elections and orders of, or filings or registrations with, any governmental authority, board, agency or commission having jurisdiction which would constitute a condition precedent to, or the absence of which would materially adversely affect, the performance by the Authority of its obligations

hereunder, under the Trust Agreement, the Lease Agreement, the Site Lease, the Assignment Agreement and the Certificates, have been or will be obtained at the Closing Date and are or will be at the Closing Date in full force and effect.

(f) The execution and delivery of this Purchase Agreement by the Authority shall constitute a representation to the Purchaser that the representations and warranties contained in this Section 4 are true as of the date hereof.

5. Closing Conditions. The Purchaser has entered into this Purchase Agreement in reliance upon the representations and warranties of the City and the Authority contained herein, and in reliance upon the representations and warranties to be contained in the documents and instruments to be delivered at the Closing and upon the performance by the City of its obligations hereunder, both as of the date hereof and as of the Closing Date. Accordingly, the Purchaser's obligations under this Purchase Agreement to purchase, to accept delivery of and to pay for the Certificates shall be conditioned, at the option of the Purchaser, upon the performance by the City of its obligations to be performed hereunder and under such documents and instruments at or prior to the Closing, and shall also be subject to the following additional conditions:

(a) [Reserved]

(b) The representations and warranties of the City contained herein shall be true and correct on the date hereof and on and as of the Closing Date, as if made on the Closing Date and the statements of the officers and other officials of the City and the Authority made in any certificate or any other document furnished pursuant to the provisions hereof are accurate.

(c) At the time of Closing, the Site Lease, the Lease Agreement, the Assignment Agreement, the Escrow Agreement, the Trust Agreement and this Purchase Agreement, shall be in full force and effect as valid and binding agreements between or among the various parties thereto and the Site Lease, the Lease Agreement, the Assignment Agreement, the Escrow Agreement, the Trust Agreement and this Purchase Agreement, and there shall be in full force and effect such resolutions as, in the opinion of Special Counsel shall be necessary in connection with the transactions contemplated hereby.

(d) At or prior to the Closing, the Purchaser shall receive the following documents, in each case satisfactory in form and substance to the Purchaser:

(1) the unqualified approving opinion of Special Counsel, dated the Closing Date, as to the validity of the Lease Agreement and the tax-exempt status of interest represented by the Certificates, together with a reliance letter addressed to the Purchaser and the Trustee;

(2) an opinion of the City Attorney of the City, dated the Closing Date and addressed to the City and the Purchaser, in form and substance satisfactory to the Purchaser, to the effect that:

(i) the City is a chartered city and municipal corporation duly organized, validly existing and in good standing under the Constitution and the laws of the State of California;

(ii) Resolution No. \_\_\_\_\_ of the City approving and authorizing the execution and delivery of the Lease Agreement, the Site Lease, the Trust Agreement, the Escrow Agreement and this Purchase Agreement, was duly adopted at a meeting which was called and held

pursuant to law and with all public notice required by law and at which a quorum was present and acting throughout;

(iii) the Lease Agreement, the Site Lease, the Trust Agreement, this Purchase Agreement and the Escrow Agreement have each been validly authorized, executed and delivered by the City and, assuming due authorization, execution and delivery by the other parties thereto, constitute legal, valid and binding agreements of the City, enforceable in accordance with their respective terms, except as the enforcement thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or other laws affecting the enforcement of creditors' rights generally (including, without limitation, fraudulent conveyance laws), and by the application of equitable principles and by limitations on legal remedies against public entities in the State of California; provided, however, we express no opinion with respect to indemnification or contribution provisions contained therein;

(iv) there is no action, suit, proceeding or investigation at law or in equity before or by any court, public office or body, pending or, to the best of such counsel's knowledge, threatened against or affecting the City, which would adversely impact the City's ability to complete the transactions described herein, to restrain or enjoin the payment of Lease Payments under the Lease Agreement, or in any way contesting or affecting the validity of the Certificates, the Lease Agreement, the Site Lease, the Trust Agreement, this Purchase Agreement, the Escrow Agreement or the transactions described in and contemplated hereby wherein an unfavorable decision, ruling or finding would adversely affect the validity and enforceability of the Certificates, the Lease Agreement, the Site Lease, the Trust Agreement, the Escrow Agreement or this Purchase Agreement or in which a final adverse decision could materially adversely affect the operations of the City or the ability of the City to make Lease Payments;

(v) the execution and delivery of the Lease Agreement, the Site Lease, the Trust Agreement, the Escrow Agreement and this Purchase Agreement and compliance with the provisions thereof and hereof, under the circumstances contemplated thereby, do not and will not in any material respect conflict with or constitute on the part of the City a breach of or default under any agreement or other instrument to which the City is a party or by which it is bound or any existing law, regulation, court order or consent decree to which the City is subject;

(vi) no authorization, approval, consent, or other order of any court or governmental body is required for the valid authorization, execution and delivery of the Lease Agreement, the Site Lease, the Trust Agreement, the Escrow Agreement or this Purchase Agreement or the consummation by the City of the transactions contemplated herein, except such as have been obtained and except such as may be required under state securities or blue sky laws; and

(3) An opinion of the City Attorney as counsel to the Authority, dated the Closing Date, and addressed to the Authority and the Purchaser, in form and substance satisfactory to the Purchaser to the effect:

(i) the Authority is a joint powers authority duly organized, validly existing and in good standing under the Constitution and laws of the State of California; and

(ii) the Authority Resolution was duly adopted at a meeting which was called and held pursuant to law and with all public notice required by law and at which a quorum was present and acting throughout; and

(iii) the Authority has full power and authority to enter into the Lease Agreement, the Site Lease, the Assignment Agreement and the Trust Agreement; and

(iv) the Lease Agreement, the Site Lease, the Assignment Agreement and the Trust Agreement have each been duly authorized, executed and delivered by the Authority, and constitute legal, valid and binding agreements of the Authority and are enforceable in accordance with their respective terms, except as enforcement thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or other laws relating to or affecting generally the enforcement of creditors' rights and except as their enforcement may be subject to the application of equitable principles and the exercise of judicial discretion in appropriate cases if equitable remedies are sought;

(v) there is no action, suit, proceeding or investigation at law or in equity before or by any court, public office or body, pending or, to the best of such counsel's knowledge, threatened against or affecting the Authority, which would adversely impact the Authority's ability to complete the transactions described herein, to restrain or enjoin the payment of Lease Payments under the Lease Agreement, or in any way contesting or affecting the validity of the Certificates, the Lease Agreement, the Site Lease, the Trust Agreement, the Assignment Agreement, this Purchase Agreement or the transactions described in and contemplated hereby wherein an unfavorable decision, ruling or finding would adversely affect the validity and enforceability of the Certificates, the Lease Agreement, the Site Lease, the Trust Agreement, the Assignment Agreement or this Purchase Agreement or in which a final adverse decision could materially adversely affect the operations of the Authority;

(4) the opinion of counsel to the Trustee, dated the Closing Date and addressed to the Purchaser, to the effect that:

(i) the Trustee is a national banking association with trust powers, duly organized and lawfully existing under the laws of the United States of America;

(ii) the Trustee has duly authorized, executed and delivered the Trust Agreement, the Assignment Agreement and the Escrow Agreement, and assuming due authorization, execution and delivery by the other parties thereto, such agreements are the valid and binding agreements of the Trustee, enforceable in accordance with their respective terms, except as such enforcement may be limited by bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights and by the application of equitable principles if equitable remedies are sought; and

(iii) the Trustee has lawful authority to execute and deliver the Certificates;

(5) a certificate, dated the Closing Date, signed by a duly authorized official of the Trustee satisfactory in form and substance to the Purchaser to the effect that (i) the Trustee is authorized to carry out corporate trust powers, and has full power and authority to perform its duties under the Trust Agreement and Assignment Agreement, (ii) the Trustee is duly authorized to execute and deliver the Trust Agreement, Assignment Agreement and the Escrow Agreement, to accept its obligations thereunder, and to deliver the Certificates, (iii) to the best of such officer's knowledge, there is no action, suit, proceeding, inquiry or investigation at law or in equity, before or by any court or governmental agency, public office or body that has been served on or threatened against the Trustee (a) seeking to prohibit, restrain or enjoin the execution of the Certificates or the collection of

Lease Payments intended to pay the principal of and interest with respect to the Certificates, or (b) in any way contesting or affecting the validity or enforceability of the Certificates, the Trust Agreement or the Assignment Agreement, (iv) to the best of such officer's knowledge, there is no action that has been served on or threatened against the Trustee affecting the existence of the Trustee, or contesting the powers of the Trustee or their respective authority to enter into or perform its obligations under any of the foregoing agreements, wherein an unfavorable decision, ruling or finding would adversely affect the validity of the Certificates, the Trust Agreement or the Assignment Agreement, and (v) to the best of such officer's knowledge, no consent, approval, authorization or other action by any governmental or regulatory authority having jurisdiction over the Trustee that has not been obtained is or will be required for the execution and delivery by the Trustee of the Trust Agreement and the Assignment Agreement, as applicable;

(6) executed copies of each of the Lease Agreement, the Site Lease, the Assignment Agreement, the Trust Agreement and the Escrow Agreement;

(7) two certified copies of the general resolution of the Trustee authorizing the execution and delivery of Certificates, the Trust Agreement and the acceptance of the Assignment Agreement;

(8) certified copies of the resolution adopted by the City authorizing the execution and delivery of the Lease Agreement, the Site Lease, the Trust Agreement, the Escrow Agreement and this Purchase Agreement;

(9) certified copies of the Authority Resolution authorizing the execution and delivery of the Site Lease, the Assignment Agreement and the Trust Agreement;

(10) non-arbitrage certifications by the City in form and substance acceptable to Special Counsel;

(11) evidence of a policy of title insurance, all as required in Section 5.5 of the Lease Agreement;

6. Expenses. Whether or not the transactions contemplated by this Purchase Agreement are consummated, the Purchaser shall be under no obligation to pay, and the City shall pay from the proceeds of the Certificates or otherwise, all expenses and costs of the City and the Authority incident to the performance of their obligations in connection with the authorization, execution and delivery of the Certificates to the Purchaser including, without limitation, fees and disbursements of Special Counsel and other professional advisors employed by the City or the Authority; costs of preparation, printing, signing, transportation, delivery and safekeeping of the Certificates; Trustee fees and charges; travel by City or Authority officials; and fees of Special Counsel, the placement agent and fees of counsel to the Purchaser. The Purchaser shall pay its out-of-pocket expenses, including, but not limited to, SIFMA, MSRB and CDIAAC fees.

7. Notice. Any notice or other communication to be given to the Purchaser under this Purchase Agreement may be given by delivering the same in writing to Compass Bank, \_\_\_\_\_, Attention: \_\_\_\_\_. Any notice or communication to be given the City under this Purchase Agreement may be given by delivering the same to the City at the address indicated on the first page hereof, Attention: City Manager. Any notice or communication to be given the Authority under this Purchase Agreement may be given by delivering the same to the Authority at the address indicated on the first page hereof, Attention:

Treasurer. The approval of the Purchaser when required hereunder or the determination of satisfaction as to any document referred to herein shall be in writing signed by the Purchaser and delivered to the City.

8. Parties in Interest. This Purchase Agreement is made solely for the benefit of the City, the Authority and the Purchaser, and no other person shall acquire or have any right hereunder or by virtue hereof. All representations, warranties and agreements of the City and the Authority in this Purchase Agreement shall remain operative and in full force and effect regardless of any investigation made by or on behalf of the Purchaser and shall survive the delivery of and payment for the Certificates.

9. Effectiveness and Counterparts. This Purchase Agreement shall become effective and binding upon the respective parties hereto upon the execution of the acceptance hereof by duly authorized officers of the City and the Authority and shall be valid and enforceable as of the time of such acceptance. This Purchase Agreement may be executed by the parties hereto by facsimile transmission and in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

10. Investor Letter. Delivery by the Purchaser to the City of an investor letter substantially in the form set forth in Exhibit B to the Trust Agreement is a condition precedent to the sale of the Certificates to the Purchaser. Failure of the Purchaser to deliver such investor letter shall result in the termination of any obligation of the City or the Authority hereunder.

11. Governing Law. This Purchase Agreement shall be construed in accordance with the laws of the State of California.

COMPASS BANK

By: \_\_\_\_\_  
Its: Authorized Officer

Accepted:  
CITY OF OCEANSIDE

By: \_\_\_\_\_  
Its: City Manager

OCEANSIDE PUBLIC FINANCING AUTHORITY

By: \_\_\_\_\_  
Its: Executive Director

**ATTACHMENT 8**

**ESCROW AGREEMENT**

**by and between**

**CITY OF OCEANSIDE**

**and**

**THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.,  
as Escrow Bank**

**Dated as of February 1, 2013**

**Relating to**

**\$25,185,000  
CITY OF OCEANSIDE  
2003 CERTIFICATES OF PARTICIPATION  
(1993 SERIES A REFUNDING)**

## ESCROW AGREEMENT

THIS ESCROW AGREEMENT, dated as of February 1, 2013 (this "Agreement"), is by and between the City of Oceanside, a municipal corporation duly organized and existing under and pursuant to the Constitution and laws of the State of California (the "City") and The Bank of New York Mellon Trust Company, N.A., acting in its capacity as escrow bank (the "Escrow Bank") pursuant to this Agreement;

### *WITNESSETH:*

WHEREAS, the City and the Oceanside Public Financing Authority, a joint exercise of powers agency duly organized and existing under the laws of the State of California (the "Authority") have heretofore entered into a Lease/Purchase Agreement, dated as of January 1, 2003 (the "2003 Lease Agreement"), pursuant to which the Authority agreed to lease to the City certain real property and improvements located thereon (the "2003 Project"); and

WHEREAS, the City has previously caused to be executed and delivered its \$25,185,000 2003 Certificates of Participation (1993 Series A Refunding) (the "Prior Certificates"), which Prior Certificates were secured by lease payments under and pursuant to the terms of the 2003 Lease Agreement; and

WHEREAS, the City desires to prepay the 2003 Lease Agreement and to defease and refinance all outstanding Prior Certificates maturing on and after April 1, 2014 (the "2003 Certificates"); and

WHEREAS, the City wishes to enter into certain leases and authorize the sale of 2013 Certificates of Participation (2003 Refunding) (the "Certificates") in order to refinance the 2003 Project; and

WHEREAS, the City proposes to make the deposit of moneys referenced in the 2003 Lease Agreement, and to appoint the Escrow Bank as its agent for the purpose of applying said deposit to the payment of prior payments in accordance with the instructions provided by this Escrow Agreement and of applying said prior payments to the prepayment of the 2003 Certificates in the aggregate principal amount of \$9,625,000 in accordance with the Trust Agreement, dated as of January 1, 2003 (the "2003 Trust Agreement"), by and among the City, The Bank of New York Mellon Trust Company, N.A., as successor trustee to BNY Western Trust Company (the "Prior Trustee") and the Authority, and the Escrow Bank desires to accept said appointment; and

WHEREAS, the City wishes to make such a deposit with the Escrow Bank and to enter into this Escrow Agreement for the purpose of providing the terms and conditions for the deposit and application of amounts so deposited; and

WHEREAS, the Escrow Bank has full powers to act with respect to the irrevocable escrow and trust created herein and to perform the duties and obligations to be undertaken pursuant to this Escrow Agreement; and

WHEREAS, the City has determined that all acts, conditions and things required by the Constitution and laws of the State to exist, to have happened and to have been performed precedent to and in connection with the consummation of the financing authorized hereby do exist, have

happened and have been performed in regular and due time, form and manner as required by law, and the City is now duly authorized and empowered, pursuant to each and every requirement of law, to consummate such financing for the purpose, in the manner and upon the terms herein provided.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the City and the Escrow Bank agree as follows:

SECTION 1. Deposit of Moneys. The City hereby deposits with the Escrow Bank \$\_\_\_\_\_ representing \$\_\_\_\_\_ of the net sale proceeds of the Certificates in a fund hereby created and established and to be known as the "Escrow Fund," and to be applied solely as provided in this Agreement. Such moneys, together with \$\_\_\_\_\_ in accrued interest thereon to the prepayment date of April 1, 2013, are at least equal to an amount sufficient to prepay the 2003 Certificates on April 1, 2013.

SECTION 2. Use and Investment of Moneys. The Escrow Bank acknowledges receipt of the moneys described in Section 1 and agrees:

- (a) to hold \$\_\_\_\_\_ uninvested as cash in the Escrow Fund; and
- (b) to make the payments required under Section 3 hereof at the times set forth in Section 3 hereof.

SECTION 3. Refunding of 2003 Certificates. The City hereby directs the Escrow Bank to complete any and all actions necessary pursuant to the 2003 Trust Agreement to prepay the 2003 Certificates on April 1, 2013 and the Escrow Bank is hereby irrevocably instructed to prepay the 2003 Certificates on April 1, 2013, from amounts on deposit in the Escrow Fund and to provide the Notice of Prepayment and Notice of Defeasance in substantially the forms attached as Exhibits X and Y hereto, respectively, to the owners of the 2003 Certificates in accordance with Section 4.05 of the 2003 Trust Agreement.

SECTION 4. Performance of Duties. The Escrow Bank agrees to perform the duties set forth herein.

SECTION 5. Reinvestment. Upon written direction of the City, the Escrow Bank may reinvest any uninvested amounts held as cash under this Agreement in noncallable nonprepayable obligations which are direct obligations issued by the United States Treasury or obligations which are unconditionally guaranteed as to full and timely payment by the United States of America provided (i) the amounts of and dates on which the anticipated transfers from the Escrow Fund to the paying agent for the payment of the principal or prepayment price, and interest evidenced and represented by the 2003 Certificates will not be diminished or postponed thereby, (ii) the Escrow Bank shall receive the unqualified opinion of nationally recognized municipal bond attorneys to the effect that such reinvestment will not adversely affect the exclusion from gross income of interest with respect to the Certificates or the 2003 Certificates, (iii) the Escrow Bank shall receive from an independent certified public accountant a certification that, immediately after such reinvestment, the principal of and interest on obligations in the Escrow Fund will, together with other cash on deposit in the Escrow Fund available for such purposes, be sufficient without reinvestment to pay, when due, the principal or prepayment price and interest on all outstanding 2003 Certificates; and (iv) the Escrow Bank shall receive an opinion of nationally recognized bond counsel that such reinvestment is permissible under this Agreement. Except as provided in this Section 5, the Escrow Bank shall have

no power or duty to invest any funds held under this Agreement or to sell, transfer or otherwise dispose of the moneys or Investment Securities held hereunder. In no event shall the Escrow Bank invest or reinvest monies held under this Agreement in mutual funds or unit investment trusts.

SECTION 6. Indemnity. The City hereby assumes liability for, and hereby agrees (whether or not any of the transactions contemplated hereby are consummated) to indemnify, protect, save and keep harmless the Escrow Bank and its respective successors, assigns, directors, agents, employees and servants, from and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, suits, costs, expenses and disbursements (including reasonable legal fees and disbursements) of whatsoever kind and nature which may be imposed on, incurred by, or asserted against, the Escrow Bank at any time (whether or not also indemnified against the same by the City or any other person under any other agreement or instrument, but without double indemnity) in any way relating to or arising out of the execution, delivery and performance of this Agreement, the establishment hereunder of the Escrow Fund, the acceptance of the funds and securities deposited therein, the retention of the proceeds of Certificates and any payment, transfer or other application of moneys or securities by the Escrow Bank in accordance with the provisions of this Agreement; provided, however, that the City shall not be required to indemnify the Escrow Bank against the Escrow Bank's own negligence or willful misconduct or the negligent or willful misconduct of the Escrow Bank's respective agents and employees or the breach by the Escrow Bank of the terms of this Agreement. In no event shall the City or the Escrow Bank be liable to any person by reason of the transactions contemplated hereby other than to each other as set forth in this Section 6. The indemnities contained in this Section 6 shall survive the termination of this Agreement.

SECTION 7. Responsibilities of the Escrow Bank. The Escrow Bank and its respective successors, assigns, agents and servants shall not be held to any personal liability whatsoever, in tort, contract or otherwise, in connection with the execution and delivery of this Agreement, the establishment of the Escrow Fund, the acceptance of the moneys or securities deposited therein, the sufficiency of the moneys on deposit in the Escrow Fund to accomplish the prepayment of the 2003 Certificates or any payment, transfer or other application of moneys or obligations by the Escrow Bank in accordance with the provisions of this Agreement or by reason of any non-negligent act, non-negligent omission or non-negligent error of the Escrow Bank made in good faith in the conduct of its duties. The recitals of fact contained in the "Whereas" clauses herein shall be taken as the statements of the City and the Escrow Bank assumes no responsibility for the correctness thereof. The Escrow Bank makes no representation as to the validity of this Agreement as to the City and, except as otherwise provided herein, the Escrow Bank shall incur no liability with respect thereto. The Escrow Bank shall not be liable in connection with the performance of its duties under this Agreement except for its own negligence, willful misconduct or default, and the duties and obligations of the Escrow Bank shall be determined by the express provisions of this Agreement. The Escrow Bank may consult with counsel, who may or may not be counsel to the City, and in reliance upon the written opinion of such counsel shall have full and complete authorization and protection with respect to any action taken, suffered or omitted by it in good faith in accordance therewith. Whenever the Escrow Bank shall deem it necessary or desirable that a matter be proved or established prior to taking, suffering, or omitting any action under this Agreement, such matter may be deemed to be conclusively established by a certificate signed by an authorized officer of the City.

The Escrow Bank shall incur no liability for losses arising from any investment made pursuant to this Agreement.

The liability of the Escrow Bank to make the payments required by this Agreement shall be limited to the moneys in the Escrow Fund.

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

The Escrow Bank shall not be liable for the accuracy of any calculations provided herein.

Any company into which the Escrow Bank 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 Escrow Bank may sell or transfer all or substantially all of its corporate trust business shall be the successor to the Escrow Bank without the execution or filing of any paper or further act, anything herein to the contrary notwithstanding.

The City shall pay the Escrow Bank full compensation for its duties under this Agreement, including out-of-pocket costs such as publication costs, prepayment or prepayment expenses, legal fees and other costs and expenses relating hereto and, in addition, fees, costs and expenses relating to the purchase of any Investment Securities after the date hereof. Under no circumstances shall amounts deposited in the Escrow Fund be deemed to be available for said purposes.

SECTION 8. [Reserved].

SECTION 9. [Reserved].

SECTION 10. Amendments. This Agreement is made for the benefit of the City and the holders from time to time of the 2003 Certificates and it shall not be repealed, revoked, altered or amended without the written consent of all such holders, the Escrow Bank, the City and the Insurer, as defined in the 2003 Trust Agreement; provided, however, but only after the receipt by the Escrow Bank of an opinion of nationally recognized bond counsel that the exclusion from gross income of interest evidenced and represented by the 2003 Certificates and the Certificates will not be adversely affected for federal income tax purposes, the City and the Escrow Bank may, with the consent of the Insurer, without the consent of, or notice to, such holders, amend this Agreement or enter into such agreements supplemental to this Agreement as shall not adversely affect the rights of such holders and as shall not be inconsistent with the terms and provisions of this Agreement for any one or more of the following purposes: (i) to cure any ambiguity or formal defect or omission in this Agreement; (ii) to grant to, or confer upon, the Escrow Bank for the benefit of the holders of the 2003 Certificates any additional rights, remedies, powers or authority that may lawfully be granted to, or conferred upon, such holders or the Escrow Bank; and (iii) to include under this Agreement additional funds, securities or properties. The Escrow Bank shall be entitled to rely conclusively upon an unqualified opinion of nationally recognized bond counsel with respect to compliance with this Section 10, including the extent, if any, to which any change, modification, addition or elimination affects the rights of the holders of the 2003 Certificates or that any instrument executed hereunder complies with the conditions and provisions of this Section 10.

SECTION 11. Term. This Agreement shall commence upon its execution and delivery and shall terminate on the later to occur of either (i) the date upon which all 2003 Certificates have been paid in accordance with this Agreement, or (ii) the date upon which no unclaimed moneys remain on deposit with the Escrow Bank and all amounts owed to the Escrow Bank shall have been paid in full.

Any unclaimed money which remains in the Escrow Fund for 2 years from the date upon which all 2003 Certificates have been paid in accordance with this Agreement shall be remitted to the Trustee and deposited in the Lease Payment Fund for the Certificates.

SECTION 12. Compensation. The Escrow Bank shall receive its reasonable fees and expenses as previously agreed to; provided, however, that under no circumstances shall the Escrow Bank be entitled to any lien nor will it assert a lien whatsoever on any moneys or obligations in the Escrow Fund for the payment of fees and expenses for services rendered by the Escrow Bank under this Agreement.

SECTION 13. Resignation or Removal of Trustee as Escrow Bank.

(a) The Escrow Bank may resign by giving 30 days prior written notice in writing to the City. The Escrow Bank may be removed (1) by (i) filing with the City and the Escrow Bank of an instrument or instruments executed by the holders of at least 51% in aggregate principal amount of the 2003 Certificates then remaining unpaid, and (ii) the City delivering written notice to the Escrow Bank, or (2) by a court of competent jurisdiction for failure to act in accordance with the provisions of this Agreement upon application by the City or the holders of 5% in aggregate principal amount of the 2003 Certificates then remaining unpaid.

(b) No resignation or removal of the Escrow Bank shall become effective until a successor Escrow Bank has been appointed hereunder and until the cash and investments (if any) held under this Agreement are transferred to the new Escrow Bank. The City or the holders of a majority in principal amount of all 2003 Certificates then remaining unpaid may, by an instrument or instruments filed with the City, appoint a successor Escrow Bank who shall supersede any Escrow Bank theretofore appointed by the City. If no successor Escrow Bank is appointed by the City or the holders of such 2003 Certificates then remaining unpaid, within 45 days after notice of any such resignation or removal, the holder of any such 2003 Certificates or any retiring Escrow Bank may apply to a court of competent jurisdiction for the appointment of a successor Escrow Bank.

SECTION 14. Severability. If any one or more of the covenants or agreements provided in this Agreement on the part of the City or the Escrow Bank to be performed should be determined by a court of competent jurisdiction to be contrary to law, such covenants or agreements shall be null and void and shall be deemed separate from the remaining covenants and agreements herein contained and shall in no way affect the validity of the remaining provisions of this Agreement.

SECTION 15. Counterparts. This Agreement may be executed in several counterparts, all or any of which shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument.

SECTION 16. Governing Law. This Agreement shall be construed under the laws of the State of California.

SECTION 17. Holidays. If the date for making any payment or the last date for performance of any act or the exercising of any right, as provided in this Agreement, shall be a legal holiday or a day on which banking institutions in the city in which is located the principal office of the Escrow Bank are authorized by law to remain closed, such payment may be made or act performed or right exercised on the next succeeding day not a legal holiday or a day on which such banking institutions

are authorized by law to remain closed, with the same force and effect as if done on the nominal date provided in this Agreement, and no interest shall accrue for the period after such nominal date.

SECTION 18. Assignment. This Agreement shall not be assigned by the Escrow Bank or any successor thereto without the prior written consent of the City.

SECTION 19. Moody's and Standard & Poor's. The City agrees to provide to Moody's Investors Service, 99 Church Street, New York, New York 10007, Attention: Public Finance Rating Desk/Refunded Certificates, and Standard & Poor's Ratings Group, 25 Broadway, New York, New York 10004, prior notice of each amendment entered into pursuant to Section 9 hereof and a copy of such proposed amendment, and to forward a copy (as soon as possible) of (i) each amendment hereto entered into pursuant to Section 10 hereof, and (ii) any action relating to severability or contemplated by Section 13 hereof.

*[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]*

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers and attested as of the date and year first written above.

CITY OF OCEANSIDE, CALIFORNIA

By: \_\_\_\_\_  
Its: City Manager

ATTEST:

\_\_\_\_\_  
City Clerk

THE BANK OF NEW YORK MELLON TRUST  
COMPANY, N.A., as Escrow Bank

By: \_\_\_\_\_  
Its: Authorized Officer

**SCHEDULE A**

**[RESERVED]**

**SCHEDULE B**

**[RESERVED]**

**EXHIBIT X**

**NOTICE OF PREPAYMENT OF  
\$25,185,000 CITY OF OCEANSIDE  
2003 CERTIFICATES OF PARTICIPATION  
(1993 SERIES A REFUNDING)  
(the "2003 Certificates")**

Notice is hereby given to the holders of the outstanding 2003 Certificates that all outstanding 2003 Certificates have been called for prepayment prior to maturity on April 1, 2013 in accordance with their terms, at a prepayment price equal to 100% of the principal amount of such 2003 Certificates, together with accrued interest evidenced and represented thereby to the date of prepayment. The source of the funds to be used for such prepayment is the moneys heretofore deposited with The Bank of New York Mellon Trust Company, N.A., as Escrow Bank. The 2003 Certificates to be prepaid are as follows:

<i>Maturity</i>	<i>Principal</i>	<i>Rate</i>	<i>CUSIP</i>
-----------------	------------------	-------------	--------------

The 2003 Certificates were executed and delivered on January 27, 2003. The prepayment price and accrued interest with respect to the outstanding 2003 Certificates shall become due and payable on April 1, 2013, and, from and after April 1, 2013, interest on the 2003 Certificates shall cease to accrue and be payable.

Holders of outstanding 2003 Certificates will receive payment of the prepayment price and accrued interest with respect thereto which they are entitled upon presentation and surrender thereof at the principal corporate trust office of The Bank of New York Mellon Trust Company, N.A. at 700 S. Flower Street, 5th Floor, Los Angeles, California 90017.

Dated this 1<sup>st</sup> day of March, 2013.

**CITY OF OCEANSIDE**

**THE BANK OF NEW YORK MELLON TRUST  
COMPANY, N.A.,  
as Trustee**

**EXHIBIT Y**

**NOTICE OF DEFEASANCE OF  
\$25,185,000 CITY OF OCEANSIDE  
2003 CERTIFICATES OF PARTICIPATION  
(1993 SERIES A REFUNDING)  
(the "2003 Certificates")**

Notice is hereby given to the holders of the 2003 Certificates that (i) all outstanding 2003 Certificates maturing on and after April 1, 2014 (the "Defeased Certificates") have been prepaid and defeased; (ii) there has been deposited with The Bank of New York Mellon Trust Company, N.A., as Escrow Bank, moneys as permitted by the Trust Agreement, dated as of January 1, 2003 (the "Trust Agreement"), relating to the Defeased Certificates which are sufficient and available. Along with interest earnings thereon, to prepay on April 1, 2013, all Defeased Certificates at the applicable prepayment price contained in the Trust Agreement; and (iii) the Escrow Bank has been irrevocably instructed to prepay such Defeased Certificates on April 1, 2013.

The Trustee will mail a prepayment notice for such Defeased Certificates in accordance with the terms of the Trust Agreement.

If you have any questions regarding this notice, please contact the Account Manager, \_\_\_\_\_, at (\_\_\_\_) \_\_\_\_\_.

Dated this \_\_\_\_\_ day of February, 2013.

**CITY OF OCEANSIDE**

**THE BANK OF NEW YORK MELLON TRUST  
COMPANY, N.A., as Trustee**

**ATTACHMENT 9**

*Stradling Yocca Carlson & Rauth  
Draft of 1/15/13*

DOCUMENT NO. \_\_\_\_\_

**BOND COUNSEL AGREEMENT**

**CITY OF OCEANSIDE**

**2013 CERTIFICATES OF PARTICIPATION  
(2003 REFUNDING)**

THIS AGREEMENT, made as of this 30<sup>th</sup> day of January, 2013, by and between the CITY OF OCEANSIDE, a chartered city organized and existing under the laws of the State of California (herein "City") and STRADLING YOCCA CARLSON & RAUTH, a Professional Corporation (herein "Bond Counsel"):

***RECITALS:***

A. The City desires to cause the execution and delivery of Certificates of Participation (the "Certificates") to refinance the outstanding 2003 Certificates of Participation (1993 Series A Refunding); and

B. The City desires to retain Bond Counsel to do the necessary legal work hereinafter outlined, upon the terms and conditions hereinafter set forth, for accomplishing the issuance of the Certificates; and

C. Bond Counsel represents that it is ready, willing and able to perform said legal work;

NOW, THEREFORE, in consideration of the premises, and the mutual covenants, terms and conditions herein contained, the parties agree as follows:

1. **SCOPE OF SERVICES**

A. **BOND COUNSEL SERVICES**

The City retains Bond Counsel to provide, and Bond Counsel agrees to provide, legal services in connection with the issuance of the Certificates. Such services shall include the rendering of legal opinions (hereinafter called the "opinions") pertaining to the issuance of the Certificates to the effect that:

1. The Certificates have been properly executed and delivered and are valid and binding obligations; and
2. The essential sources of security for the Certificates have been legally provided; and
3. Interest with respect to the Certificates is exempt from California personal income taxation and is excluded from gross income for purposes of federal income taxes.

Bond Counsel's services will also include:

- i. Researching applicable laws and ordinances relating to the proposed Certificates;
- ii. Attending conferences and consulting with City staff and counsel regarding such laws, and the need for amendments thereto, or additional legislation;
- iii. Participating in meetings, conferences or discussions with any financial advisors, underwriters or other experts retained by the City with respect to the execution and delivery of the Certificates;
- iv. Supervising and preparing documentation of the steps to be taken through the issuance of the Certificates, including:
  - a. Drafting all resolutions, notices, rules and regulations and other legal documents required for the issuance of the Certificates, and all other documents relating to the security of the Certificates, in consultation with the City, the City Attorney, the City's financial advisor, underwriter and other experts;
  - b. Preparing the record of proceedings for the authorization, sale and issuance of the Certificates;
  - c. Reviewing the purchase contracts or the bidding documents relating to the sale of the Certificates and participating in the related negotiations;
  - d. Participating in meetings and other conferences scheduled by the City, the City's financial advisor or the underwriter;
  - e. Consulting with prospective purchasers and their legal counsel;
  - f. Reviewing the title policy for the leased property and preparing title instructions;
  - g. Consulting with counsel to the City concerning any legislation or litigation which may effect the Certificates, the security for the Certificates, or any other matter related to the execution and delivery of the Certificates;
  - h. Consulting with any trustee or fiscal agent for the Certificates and their counsel;
  - i. Preparing the form of the Certificates, and supervising their production or printing, signing, authentication and delivery;

- j. Rendering the final approving opinion as to the validity of the Certificates for use and distribution upon their execution and delivery; and
- k. Rendering a legal opinion to the purchaser of the Certificates as to the applicability of the registration requirements of federal securities laws.

B. [RESERVED]

C. SPECIAL SERVICES

“Special Services” are defined for purposes of this Agreement as services in addition to the services outlined in Sections A and B above. Special Services will include, but not be limited to, any work after a bond closing related to the amendment of bond documents or agreements and special studies or analyses. Special Services must be authorized in writing by the City Manager, or his designee.

## 2. COMPENSATION

The City agrees to pay Bond Counsel the following amounts as compensation for services rendered by Bond Counsel under this Agreement:

A. For the services to be rendered under Section 1.A above, Bond Counsel will be paid a fee of \$35,000.

The fees referenced in this Section 2.A shall be paid to Bond Counsel on the closing date and shall be payable solely from Certificate proceeds.

The fees referenced in this Section 2.A assume that the Certificates will be executed and delivered within one year from the date of this Agreement. In the event the Certificates are not executed and delivered within that time, Bond Counsel reserves the right to make such modifications to the foregoing fees as the City and Bond Counsel agree, as justified by reason of increased cost to Bond Counsel and the then prevailing fees for disclosure counsel and bond counsel services for Certificates such as the Certificates.

B. In the event Bond Counsel is requested to perform Special Services as set forth in Section 1.C above, Bond Counsel will be paid fees at the hourly rates set forth in Exhibit A, or in such other manner as is mutually acceptable to the City and Bond Counsel. Such fees will be billed monthly and shall be payable within thirty (30) days following the receipt of each invoice. Bond Counsel shall not be paid fees for traveling time.

C. In addition to the fees set forth in paragraphs A and B above, Bond Counsel shall be reimbursed for the actual cost of any out-of-pocket expenses reasonably incurred by Bond Counsel in the course of its employment, such as document reproduction, telecommunications charges, printing costs, filing fees, long-distance telephone calls, messenger services, overnight delivery services, travel and similar items of expense. All expenses incurred in connection with services rendered will be billed upon the execution and delivery of the series of the Certificates to which they relate, and may include an estimate of costs to be incurred subsequent to the issuance date. Such expenses shall not exceed \$2,000.

### 3. PERSONNEL AND CONTRACT ADMINISTRATION

City agrees to accept and Bond Counsel agrees to provide the aforementioned services primarily through Brian Forbath, Reed Glyer and Carol L. Lew. If any one of the above attorneys is unable to provide such services due to death, disability or similar event, Bond Counsel reserves the right to substitute another of its attorneys, upon approval by the City Manager, the City Attorney or their respective designees, to provide such services; and such substitution shall not alter or affect in any way Bond Counsel's or the City's other obligations under this Agreement.

This Agreement will be administered by the City Attorney, or his designee.

### 4. TERMINATION

A. This Agreement may be terminated without cause by the City or Bond Counsel upon thirty (30) days' advance written notice to the other party. Such notification shall state the effective date of the termination of this Agreement.

B. Bond Counsel reserves the absolute right to withdraw from representing the City if, among other things, the City fails to honor the terms of this Agreement, the City fails to cooperate fully or follow Bond Counsel's advice on a material matter, or any fact or circumstance occurs that would, in Bond Counsel's view, render its continuing representation unlawful or unethical. If Bond Counsel elects to withdraw, the City will take all steps necessary to free Bond Counsel of any obligation to perform further services, including the execution of any documents necessary to complete such withdrawal, and Bond Counsel will be entitled to be paid at the time of withdrawal for all services rendered and costs and expenses paid or incurred on the City's behalf in accordance with the payment terms set forth in Section 2 above. If necessary in connection with litigation, Bond Counsel would request leave of court to withdraw.

C. Bond Counsel's representation of the City will be considered terminated at the earlier of (i) the City's termination of its representation, (ii) Bond Counsel's withdrawal from its representation of the City, or (iii) the substantial completion by Bond Counsel of its substantive work for the City. Unless Bond Counsel has been specifically engaged to perform Special Services related to the Certificates after their execution and delivery, Bond Counsel's representation of City shall terminate on the date of execution and delivery of the Certificates.

### 5. DISPUTE RESOLUTION

IN THE EVENT OF A DISPUTE REGARDING FEES, COSTS, OR ANY OTHER MATTER ARISING OUT OF OR RELATED IN ANY WAY WHATSOEVER TO BOND COUNSEL'S RELATIONSHIP WITH THE CITY, OR BOND COUNSEL'S OR THE CITY'S PERFORMANCE OF THIS AGREEMENT, INCLUDING THE QUALITY OF THE SERVICES WHICH BOND COUNSEL RENDERS, SUCH DISPUTE SHALL BE FIRST SUBMITTED TO MEDIATION, THE COST OF WHICH SHALL BE BORNE EQUALLY BY THE PARTIES, AND RESOLVED BY CONFIDENTIAL ARBITRATION IN THE COUNTY OF ORANGE, CALIFORNIA.

6. INDEMNIFICATION AND INSURANCE

The Firm agrees to defend, indemnify and hold the City and its officers, agents, and employees harmless from any and all claims which arise from or are directly connected with the Bond Counsel's negligence or failure to perform the work or other obligations under this Agreement, and all expenses of investigating and defending against same (including reasonable attorneys' fees in connection therewith); provided, however, that this duty to defend, indemnify, and hold harmless shall not include any claim based upon the alleged errors or omissions of Bond Counsel related to the rendering of or the failure to render professional services hereunder so long as Bond Counsel maintains in effect errors and omissions insurance as required by this paragraph, or arising from the sole negligence or willful misconduct of the City, its officers, agents or employees. Bond Counsel agrees to maintain errors and omissions insurance in an amount not less than twenty-five million dollars (\$25,000,000) per claim period throughout the term of this Agreement.

7. MISCELLANEOUS

A. Bond Counsel and the employees of Bond Counsel, in performance of the Agreement, shall act in an independent capacity and not as officers or agents of the City.

B. Without the written consent of the City, this Agreement is not assignable by Bond Counsel in whole or in part.

C. No alteration or variation of the terms of this Agreement shall be valid unless in writing and signed by the parties hereto, and no oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto.

D. In accordance with the requirements of California Business and Professions Code § 6148, Bond Counsel advises you that the firm maintains professional errors and omissions insurance coverage applicable to the services to be rendered to the City.

CITY OF OCEANSIDE

By: \_\_\_\_\_  
City Manager

APPROVED AS TO FORM:

By: \_\_\_\_\_  
City Attorney

STRADLING YOCCA CARLSON & RAUTH  
a Professional Corporation

By: \_\_\_\_\_  
Brian Forbath

**EXHIBIT A**

Shareholders	\$445
Associates	\$275
Paralegals	\$135

## ATTACHMENT 10

### PLACEMENT AGENT AGREEMENT

January 30, 2013

City of Oceanside  
Ms. Michele Lund  
Treasury Manager  
City Treasurer's Office  
300 North Coast Highway  
Oceanside, CA 92054

The undersigned, Piper Jaffray & Co. (the "Placement Agent"), offers to enter into the following agreement (this "Agreement") with the City of Oceanside (the "City"), which, upon acceptance by the City, will be binding upon the City and the Placement Agent.

The City acknowledges and agrees that (i) the placement of the Lease pursuant to this Placement Agent Agreement is an arm's-length commercial transaction between the City and the Placement Agent, (ii) in connection therewith and with the discussion, undertakings and procedures leading up to the consummation of such transaction, the Placement Agent is not acting as a fiduciary of or a financial advisor to the City, (iii) the Placement Agent has not assumed (individually or collectively) an advisory or fiduciary responsibility in favor of the City with respect to (iv) the offering of the Lease or the process leading thereto (whether or not the Placement Agent has advised or is currently advising the City on other matters) or (v) any other obligation to the City except the obligations expressly set forth in this Placement Agent Agreement, and (vi) the City has consulted with its own legal and other professional advisors to the extent it deemed appropriate in connection with the offering of the Lease.

Upon the terms and conditions and upon the basis of the representations, warranties and agreements set forth herein, the Placement Agent and City hereby agree as follows:

#### **1. Appointment of Placement Agent; Placement of the Lease.**

(a) The City hereby appoints the Placement Agent to act, and the Placement Agent hereby agrees to act, as the exclusive placement agent for the City in connection with the private sale of its 2012 Refunding Lease (the "Lease") and the Placement Agent hereby accepts such appointment. As compensation for its services hereunder, the Placement Agent shall charge a fee of 0.25% of the stated par amount of the transaction. At the closing of any such sale, the City shall pay or cause to be paid such fee to the Placement Agent by wire transfer or immediately available funds. The above fee does not include any services the Placement Agent may render in the future to the City with respect to any offering or placement of municipal securities other than the Lease.

(b) The City understands that the Placement Agent will be acting as the agent of the City in the offering and sale of the Lease and agrees that, in connection therewith, the Placement Agent will use its "best efforts" to place the Lease. This Agreement shall not give rise to any expressed or implied commitment by the Placement Agent to purchase or place any of the Lease.

**2. Covenants, Representations and Warranties of the City.** The City represents, warrants and agrees as follows:

(a) the City is, and will be at the Closing Date, a duly organized, validly existing and operating city pursuant to the laws of the State of California (the "State") with full power and authority to observe and perform the covenants and agreements set forth in this Agreement;

(b) with the acceptance hereof, an authorized representative of the City will execute and deliver this Agreement and will approve the performance of its obligations contained herein, and any payment for services provided hereunder will be contingent on a authorizing resolution of the City Council approving the Lease;

(c) the execution and delivery of this Agreement and compliance with the provisions on the City's part contained herein do not and will not conflict with or constitute a breach of or default under any law, administrative regulation, judgment, decree, statute, indenture, mortgage, deed of trust, bond, note, resolution, agreement or other instrument to which the City is a party or by which the City is bound;

(d) any certificate signed by an authorized officer of the City and delivered to the Placement Agent shall be deemed a representation and warranty by the City in connection with this Agreement to the Placement Agent as to the statements made therein for the purposes for which such statements are made;

(e) The City represents that the Lease is exempt from registration pursuant to Section 3(a)(2) of the United States Securities Act of 1933, as amended (the "Act").

(f) The City agrees promptly from time to time to take such action as the Placement Agent may reasonably request to qualify, if such qualification is necessary, the Lease for offering and sale as a private placement under the securities laws of such States as the Placement Agent may reasonably request, and the City further agrees to comply with such laws so as to permit such offers and sales. Any applicable filings will be prepared by the City's counsel, whose fees and disbursements in connection therewith shall be for the account of the City.

**3. Reliance.** The City recognizes that, in providing services under this Agreement, the Placement Agent will rely upon and assume the accuracy and completeness of the financial, accounting, tax and other information discussed with or reviewed by the Placement Agent for such purpose, and the Placement Agent does not assume responsibility for the accuracy and completeness thereof. The Placement Agent will have no obligation to conduct any independent evaluation or appraisal of the assets or the liabilities of the City or any other party or to advise or opine on related solvency issues. Nothing in this Agreement is intended to confer upon any

other person (including creditors, employees or other constituencies of the City) any rights or remedies hereunder or by reason hereof.

**4. Termination.** The Placement Agent's authorization to carry out its duties hereunder may be terminated by the City or the Placement Agent at any time with or without cause, effective upon receipt of written notice to that effect by the other party; provided that the Agreement shall be terminated on July 1, 2013.

**5. Notices.** Any notice or other communication to be given to any of the parties to this Agreement may be given by delivering the same in writing as follows: to the City 300 North Coast Highway, Oceanside, California 92054, Attention: Michele Lund, Treasury Manager and to the Placement Agent at Piper Jaffray & Co., 1100 South Coast Highway, Suite 300A, Laguna Beach, CA 92651 , attention: Katie Koster.

**6. Survival of Representations, Warranties and Agreements.** This Agreement is made solely for the benefit of the City and the Placement Agent, and no other person shall acquire or have any right hereunder or by virtue hereof. All of the representations, warranties and agreements of the City contained in this Agreement shall remain operative and in full force and effect regardless of delivery of any payment for the Lease.

**7. Counterparts.** The Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**8. Effectiveness.** This Agreement shall become effective upon the execution of the acceptance hereof by a duly authorized signatory of the City, which acceptance hereof shall be indicated on the signature page hereof, and shall be valid and enforceable as of the time of such acceptance. This Agreement may be executed by facsimile transmission and in several counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same document.

**9. Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of California.

Very truly yours,

**PIPER JAFFRAY & CO.**

By: \_\_\_\_\_  
Authorized Representative

Accepted and Agreed this 30th of January, 2012.

**CITY OF OCEANSIDE**

By: \_\_\_\_\_  
Authorized Representative

# City of Oceanside

*Office of the City Manager*

## Memorandum

To: Honorable Mayor and City Councilmembers  
From: Peter A. Weiss, City Manager *W*  
Date: November 8, 2012  
Subject: **General Fund "Surplus"**

On October 23, 2012, staff provided the Council a memorandum identifying a \$3.4 million surplus for FY 2011-2012. In accordance with Council's policies, portions of the surplus have been allocated to specific reserve funds with a unallocated balance of approximately \$2.0 million. Staff will be bringing formal recommendations to the Council in January 2013, for the use of the "one-time" revenues to further reduce long-term City debt.

Attached is a memorandum from the City Treasurer's office outlining the use of the balance to pay off the Street Lighting District Lease (\$250,00 annual savings) and \$1.5 million additional cash funding toward the refunding of the San Luis Rey River/Parking Lots and CAD bonds (\$550,000 annual savings).



**Memorandum**  
**OFFICE OF THE CITY TREASURER**

**TO:** Peter Weiss, City Manager

**FROM:** Michele Lund, Treasury Manager  
Ext. 3549

**DATE:** October 31, 2012

**SUBJECT: USE OF ONE-TIME REVENUES TO PAY DOWN GENERAL FUND DEBT SERVICE**

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Earlier this month, we discussed the use of available one-time revenues to decrease the City's debt obligations attributable to the General Fund. I spoke with the financing team (Brian Forbath, bond counsel, and Katie Koster, underwriter) whom I am currently working with to refund outstanding bond issues, to see what options may be available using the one-time revenues. We came up with a financing alternative that we believe will meet your objective of reducing the City's long-term debt using the one-time revenues.

Originally, the plan was to combine the 2003 COPs and the 2004 Street Lighting Lease which would provide a \$1.5 million savings over the life of the bonds or \$392,000 in annual cash flow savings. With the use of the \$2 million dollars in one-time revenues we propose the following:

- Use \$500,000 to directly pay off the Street Lighting Lease as you had indicated. This would unencumber the Gas Tax (221) fund of its \$250,000 annual debt obligation; with the refinancing there would have been a remaining debt service obligation until September 2014.
- Use the remaining \$1.5 million as additional cash funding toward the refunding of the 2003 Series A COPs. By using this cash and not refinancing the street lighting debt, the par value would decrease by \$2 million dollars and we would increase the annual cash flow savings to \$547,000 from \$392,000 (\$155,000 increase).

The attached table provides the relative financial information comparing the original planned refinancing to the refinancing with the use of the \$1.5 million in additional funds.

**Refinancing Alternatives for 2003 COPs and 2004 Street Lighting Lease**

<b>Original Scenario</b>
Priv Placement @ 2.5%; 2003 Ser A COPs and 2004 St Lighting

<b>Use of additional \$1.5mm</b>
Priv Placement @ 2.5%; Ser A only

Par Amount	\$ 14,154,968.00	\$ 12,158,997.00
All In TIC	2.798%	2.843%
Max Annual DS	\$ 1,999,221.49	\$ 1,674,313.49
Avg Annual DS	\$ 1,532,474.96	\$ 1,313,973.17
PV Savings (\$)	\$ 1,557,919.86	\$ 1,555,919.02
PV Savings (%)	9.891%	10.189%
<b>Avg Annual CF Savings</b>	<b>\$ 392,083.98</b>	<b>\$ 547,545.60</b>
 Increase in average annual savings with \$1.5mm with additional funds.		\$ 155,461.62

<u>Current Debt Service Funding FY 12/13</u>			<u>Estimated Annual Savings</u>
Fund 510 - SLR Wtr Course	\$ 331,132.00	15%	\$ 82,100.00
Fund 711 - Water Operating	\$ 900,000.00	41%	\$ 224,500.00
Fund 101 - General Fund	\$ 944,221.00	44%	\$ 240,900.00
Annual DS Payment	<u>\$ 2,175,353.00</u>	<u>100%</u>	<u>\$ 547,500.00</u>



## Memorandum Financial Services Department

**TO:** Honorable Mayor and City Councilmembers  
**THROUGH:** Peter Weiss, City Manager *PW*  
**FROM:** Teri Ferro, Director of Financial Services *TF*  
**DATE:** October 23, 2012  
**SUBJECT:** General Fund Budgetary Comparison Report – FY 11/12

---

Attached please find the General Fund Budgetary Comparison Report for the fourth quarter ending June 30, 2012. This data is based on audited Period 14 entries. The following table provides a quick snapshot of the year end standing of the General Fund based on the amended budget.

Description	Amended Budget	Actual @ 6/30/12	Variance	%
Revenues	\$111,835,194	\$114,036,497	\$2,201,303	102%
Expenditures	\$113,175,930	\$110,674,002	\$2,501,928	98%
Surplus		\$3,362,495		

General Fund revenues came in at 102% of the amended budget which is attributed to one-time revenue sources that were not included in budget projections.

General Fund departmental operating expenditures came in at 98% of the amended budget, as departments took an austere approach in spending for the final quarter.

Fiscal Year 11/12 ended with a surplus of \$3,362,495 which, in accordance with City Council Policy 200-13 Financial Policies, has been set aside for specific reserve usage as noted on the attached report. Staff will bring forth recommendations to City Council as part of the Mid-Year Financial Report in January 2013 for usage of remaining "one-time" and "on-going" revenues.

The General Fund Balance as of June 30, 2012 is \$36,608,726 (which includes the Healthy City, Economic Stabilization, PERLF, and all other assigned and committed reserves).

cc: City Clerk  
City Treasurer  
Department Directors

**CITY OF OCEANSIDE  
GENERAL FUND BUDGETARY COMPARISON  
Fiscal Year 2011-2012**

Description	Adopted Budget	Amended Budget	YTD Actual 6/30/2012 Period 14	YTD % of Amended Budget
Property Taxes	45,131,200	45,131,200	46,259,461	102.50%
Sales Taxes	17,307,800	18,241,800	18,923,556	103.74%
All Other Taxes	10,706,600	10,576,600	11,461,701	108.37%
Licenses & Permits	1,534,160	1,514,160	1,685,449	111.31%
Fines/Forfeitures	4,643,060	3,993,060	4,184,002	104.78%
Use of Money & Property	4,837,754	4,121,754	4,265,710	103.49%
Intergovernmental	1,013,152	769,461	812,631	105.61%
Charges for Services	17,230,524	17,287,824	15,849,122	91.68%
Other Revenue & Transfers	9,892,335	10,156,335	10,594,865	104.32%
Use of Reserves	43,000	43,000	n/a	n/a
<b>TOTAL REVENUE</b>	<b>112,339,585</b>	<b>111,835,194</b>	<b>114,036,497</b>	<b>101.97%</b>
City Council	891,586	891,586	833,067	93.44%
City Clerk	1,073,842	1,253,508	1,160,769	92.60%
City Treasurer	309,501	309,501	302,828	97.84%
City Manager	680,619	743,703	710,406	95.52%
City Attorney	1,535,860	1,525,860	1,453,773	95.28%
Financial Services	4,361,867	4,704,610	4,401,537	93.56%
Human Resources	694,834	694,834	690,122	99.32%
Non-Departmental	5,265,589	5,584,924	5,942,669	106.41%
Fire	23,512,844	23,491,661	24,103,408	102.60%
Police	47,560,302	47,062,555	45,744,727	97.20%
Public Works	10,035,047	10,560,777	9,668,301	91.55%
Development Services	6,844,115	6,748,595	6,279,690	93.05%
Neighborhood Services	4,293,502	4,194,402	4,090,213	96.94%
Library	4,381,041	4,412,041	4,322,206	97.96%
Economic Development	1,034,873	997,373	970,286	97.28%
<b>TOTAL EXPENDITURE</b>	<b>112,475,422</b>	<b>113,175,930</b>	<b>110,674,002</b>	<b>97.79%</b>
<b>SURPLUS/(SHORTFALL)</b>	<b>(135,837)</b>	<b>(1,340,736)</b>	<b>3,362,495</b>	<b>n/a</b>
Beginning Fund Balance 7/1/2011			34,864,086	
Prior Year Audit Adjustments			(1,617,855)	
FY 11/12 Year End Surplus			3,362,495	
Ending Fund Balance 6/30/2012			36,608,726	

REVENUE TYPE	AMOUNT	USAGE
One-time Closedout Trendwest CFD	408,500	Economic Stabilization Fund
One-time Residual RPTTF	1,221,000	PERLF Fund
One-time Use of Reserves	297,400	FY 11/12 Garry-Forward
One-time Sales Tax	681,700	TBD - 2 <sup>nd</sup> Quarter *
On-going revenues	753,900	TBD - 2 <sup>nd</sup> Quarter *
<b>TOTAL</b>	<b>3,362,500</b>	

*\*In accordance with City Council Policy 200-13 Financial Policies Section RE-5 "one-time revenues will be used for one-time expenditures, debt reduction or reserve enhancement"; Section OB-6 "on-going projected revenues for the General Fund ... will be budgeted 50% to enhance unassigned fund balance and 50% to reduce long-term unfunded liabilities."*

*A recommendation for these amounts, along with any revenue adjustments from FY 12/13, will be brought to City Council as part of the Mid-Year Financial Report in January 2013.*

