

Attachment 2

FISCAL AGENT AGREEMENT

by and between the

CITY OF BEVERLY HILLS

and

**U.S. BANK NATIONAL ASSOCIATION
as Fiscal Agent**

Dated as of January 1, 2013

Relating to:

**\$ _____
Community Facilities District No. 2002-A
(Business Triangle)
of the City of Beverly Hills
2013 Special Tax Refunding Bonds**

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FISCAL AGENT AGREEMENT

THIS FISCAL AGENT AGREEMENT (the "Agreement") is made, entered into and dated as of January 1, 2013, by and between the CITY OF BEVERLY HILLS, a general law city organized and existing under and by virtue of the Constitution and laws of the State of California (the "City") for and on behalf of the Community Facilities District No. 2002-A (Business Triangle) of the City of Beverly Hills (the "CFD"), and U.S. BANK NATIONAL ASSOCIATION, a national banking association duly organized and existing under the laws of the United States of America with a corporate trust office located in Los Angeles, California, as fiscal agent (the "Fiscal Agent").

WITNESSETH:

WHEREAS, the City has formed the CFD under the provisions of the Mello-Roos Community Facilities Act of 1982, as amended (section 53311 *et seq.* of the California Government Code) (the "Act"); and

WHEREAS, the City Council of the City (the "City Council"), acting as the legislative body of the CFD, is authorized under the Act to levy special taxes to pay for the costs of facilities within the CFD and to authorize the issuance of bonds secured by those special taxes under the Act.

WHEREAS, under the Act, the City, on behalf of the CFD, previously issued its special tax bonds captioned "Community Facilities District No. 2002-A (Business Triangle) of the City of Beverly Hills Special Tax Bonds, Series 2002" in the aggregate original principal amount of \$16,215,000 (the "Prior Bonds") under a Fiscal Agent Agreement dated as of December 1, 2002 (the "2002 Fiscal Agent Agreement"), between the City and the Fiscal Agent, then known as U.S. Bank, N.A., as fiscal agent.

WHEREAS, the City wishes to refinance the outstanding principal amount of the Prior Bonds and proposes to issue its Community Facilities District No. 2002-A (Business Triangle) of the City of Beverly Hills 2013 Special Tax Refunding Bonds (the "Bonds").

WHEREAS, on _____, 2012, the City Council adopted a resolution (the "Resolution of Issuance") authorizing the issuance of the Bonds on behalf of the CFD.

WHEREAS, it is in the public interest and for the benefit of the City, the CFD and the persons responsible for the payment of special taxes that the City enter into this Agreement to provide for the issuance of the Bonds hereunder to refinance the Prior Bonds and to provide for the disbursement of proceeds of the Bonds, the disposition of the special taxes securing the Bonds and the administration and payment of the Bonds.

WHEREAS, the City has determined that all things necessary to cause the Bonds, when authenticated by the Fiscal Agent and issued as provided in the Act, the Resolution of Issuance and this Agreement, to be legal, valid, binding and limited obligations in accordance with their terms, and all things necessary to cause the creation, authorization, execution and delivery of this Agreement and the creation, authorization, execution and issuance of the Bonds, subject to the terms hereof, have in all respects been duly authorized.

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

ARTICLE I

AUTHORITY AND DEFINITIONS

Section 1.01. Authority for this Agreement. This Agreement is entered into pursuant to the Act (as herein defined) and the Resolution of Issuance.

Section 1.02. Agreement for Benefit of Owners of the Bonds. The provisions, covenants and agreements herein set forth to be performed by or on behalf of the City shall be for the equal benefit, protection and security of the Owners of the Bonds. All of the Bonds, without regard to the time or times of their issuance or maturity, shall be of equal rank without preference, priority or distinction of any of the Bonds over any other thereof, except as expressly provided in or permitted by this Agreement.

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

"Act" means the Mello-Roos Community Facilities Act of 1982, as amended, being sections 53311 *et seq.* of the California Government Code.

"Administrative Expenses" means costs directly related to the administration of the CFD consisting of: the actual costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by a City employee or consultant or both) and the actual costs of collecting the Special Taxes (whether by the County or otherwise); the actual costs of remitting the Special Taxes to the Fiscal Agent; actual costs of the Fiscal Agent (including its legal counsel) in the discharge of its duties under this Agreement; the actual costs of the City or its designee of complying with the disclosure provisions of the Act and this Agreement, including those related to public inquiries regarding the Special Tax and disclosures to Owners of the Bonds and the Original Purchaser; the actual costs of the City or its designee related to an appeal of the Special Tax; any amounts required to be rebated to the federal government; an allocable share of the salaries of the City staff directly related to the foregoing and a proportionate amount of City general administrative overhead related thereto. Administrative Expenses shall also include amounts advanced by the City for any administrative purpose of the CFD, including costs related to prepayments of Special Taxes, recordings related to such prepayments and satisfaction of Special Taxes, amounts advanced to ensure maintenance of tax exemption, and the costs of prosecuting foreclosure of delinquent Special Taxes, which amounts advanced are subject to reimbursement from other sources, including proceeds of foreclosure.

"Administrative Expense Deposit" means, for Fiscal Year 2012-13, \$36,569.83, and thereafter shall escalate by 2% each Fiscal Year.

"Administrative Expense Fund" means the fund established and administered under Section 4.06.

“Agreement” means this Fiscal Agent Agreement, as it may be amended or supplemented from time to time by any Supplemental Agreement adopted pursuant to the provisions hereof.

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

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

“Authorized Officer” means the City Manager, Director of Administrative Services and Chief Financial Officer, or any other officer or employee authorized by the City Council or by an Authorized Officer to undertake the action referenced in this Agreement as required to be undertaken by an Authorized Officer.

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

“Bond or Bonds” means the special tax refunding bonds captions “Community Facilities District No. 2002-A (Business Triangle) of the City of Beverly Hills 2013 Special Tax Refunding Bonds” authorized to be issued hereunder in the principal amount of \$_____.

“Bond Fund” means the fund established and administered under Section 4.04.

“Bond Year” means the one-year period beginning on September 2nd in each year and ending on September 1 in the following year, except that the first Bond Year shall begin on the Closing Date and shall end on September 1, 2013.

“Business Day” means any day other than (i) a Saturday or a Sunday or (ii) a day on which banking institutions in the state in which the Fiscal Agent has its Principal Office are authorized or obligated by law or executive order to be closed.

“CDIAC” means the California Debt and Investment Advisory Commission of the Office of the State Treasurer, or any successor agency, board or commission.

“CFD” means the Community Facilities District No. 2002-A (Business Triangle) of the City of Beverly Hills formed under the Resolution of Formation.

“City” means the City of Beverly Hills.

“City Attorney” means any attorney or firm of attorneys employed by the City in the capacity of City attorney.

“City Council” means the City Council of the City, as its legislative body and as legislative body of the CFD.

“Closing Date” means _____, 2013, the date upon which there is a physical delivery of the Bonds in exchange for the amount representing the purchase price of the Bonds by the Original Purchaser.

“Continuing Disclosure Certificate” means that certain Continuing Disclosure Certificate executed by the City and dated the date of issuance and delivery of the Bonds, as originally executed and as it may be amended from time to time in accordance with the terms thereof.

“Costs of Issuance” means items of expense payable or reimbursable directly or indirectly by the City and related to the authorization, sale, delivery and issuance of the Bonds, which shall include, without limitation: printing costs; costs of reproducing and binding documents; charges for execution, authentication, transportation and safekeeping of the Bonds; closing costs; filing and recording fees; fees and expenses of bond counsel, disclosure counsel, the City Attorney, and any other counsel engaged by the City in connection with the issuance of the Bonds; fees and expenses of any special tax consultant, district administrator, financial advisor, market or absorption consultant, appraiser, or any other consultant engaged by the City in connection with the issuance of the Bonds; fees and expenses of the Escrow Agent (including its legal fees and charges); initial fees and charges of the Fiscal Agent, including its first annual administration fees and its legal fees and charges (including the allocated costs of in-house attorneys); underwriter’s discount or compensation; fees of rating agencies; and any other expenses incurred by the City in connection with the issuance of the Bonds.

“Costs of Issuance Fund” means the fund established and administered under Section 4.02.

“County” means the County of Los Angeles, California.

“Debt Service” means the scheduled amount of interest and amortization of principal payable on the Bonds under Sections 2.02 and 2.03 during the period of computation, in each case excluding amounts scheduled during such period which relate to principal which has been retired before the beginning of such period.

“Depository” means (a) initially, DTC, and (b) any other Securities Depository acting as Depository for book-entry under Section 2.10.

“Director of Administrative Services” means the City Director of Administrative Services and Chief Financial Officer, or such official’s designee, who acts in the capacity as the chief financial officer of the City.

“DTC” means The Depository Trust Company, New York, New York, and its successors and assigns.

“Escrow Agent” means U.S. Bank National Association.

“Escrow Fund” means the fund established and administered under Section 4.07 and the Irrevocable Refunding Instructions.

“Fair Market Value” means with respect to the Bonds the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm’s length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of section

1273 of the Tax Code) and, otherwise, the term "Fair Market Value" means the acquisition price in a bona fide arm's length transaction (as referenced above) if (i) the investment is a certificate of deposit that is acquired in accordance with applicable regulations under the Tax Code, (ii) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with applicable regulations under the Tax Code, (iii) the investment is a United States Treasury Security—State and Local Government Series that is acquired in accordance with applicable regulations of the United States Bureau of Public Debt, or (iv) any commingled investment fund in which the City and related parties do not own more than a 10% beneficial interest if the return paid by such fund is without regard to the source of the investment.

"Federal Securities" means: (a) any direct general obligations of the United States of America (including obligations issued or held in book entry form on the books of the Department of the Treasury of the United States of America), the payment of principal of and interest on which are unconditionally and fully guaranteed by the United States of America; and (b) any obligations the principal of and interest on which are unconditionally guaranteed by the United States of America.

"Fiscal Agent" means U.S. Bank National Association, the Fiscal Agent appointed by the City and acting as an independent fiscal agent with the duties and powers herein provided, its successors and assigns, and any other corporation or association which may at any time be substituted in its place, as provided in Section 7.01.

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

"Independent Financial Consultant" means any consultant or firm of consultants appointed by the City and who, or each of whom: (i) is judged by the Director of Administrative Services to have experience in matters relating to the issuance and/or administration of bonds under the Act; (ii) is in fact independent and not under the domination of the City; (iii) does not have any substantial interest, direct or indirect, with or in the City, or any owner of real property in the CFD, or any real property in the CFD; and (iv) is not connected with the City as an officer or employee of the City, but who may be regularly retained to make reports to the City.

"Interest Payment Date" means each March 1 and September 1 of every calendar year, commencing with September 1, 2013.

"Irrevocable Refunding Instructions" means the Irrevocable Refunding Instructions dated as of January 1, 2013, given by the City to the Escrow Agent.

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

"Moody's" means Moody's Investors Service, Inc., and its successors.

"Officer's Certificate" means a written certificate of the City signed by an Authorized Officer of the City.

“Ordinance” means any ordinance or resolution of the City Council levying the Special Taxes, including without limitation Ordinance No. 2993 adopted by the City Council on February 19, 2002.

“Original Purchaser” means Stifel, Nicolaus & Company, Incorporated, dba Stone & Youngberg, a Division of Stifel Nicolaus, the first purchaser of the Bonds from the City.

“Outstanding,” when used as of any particular time with reference to Bonds, means (subject to the provisions of Section 8.04) all Bonds except (i) Bonds theretofore canceled by the Fiscal Agent or surrendered to the Fiscal Agent for cancellation; (ii) Bonds paid or deemed to have been paid within the meaning of Section 9.03; and (iii) Bonds in lieu of or in substitution for which other Bonds shall have been authorized, executed, issued and delivered by the City under this Agreement or any Supplemental Agreement.

“Owner” or “Bondowner” means any person who is the registered owner of any Outstanding Bond.

“Participating Underwriter” has the meaning given in the Continuing Disclosure Certificate.

“Permitted Investments” means the following, but only to the extent that the same are acquired at Fair Market Value:

(a) Federal Securities.

(b) any of the following direct or indirect obligations of the following agencies of the United States of America:

(i) direct obligations of the Export-Import Bank;

(ii) certificates of beneficial ownership issued by the Farmers Home Administration;

(iii) participation certificates issued by the General Services Administration;

(iv) mortgage-backed bonds or pass-through obligations issued and guaranteed by the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation or the Federal Housing Administration;

(v) project notes issued by the United States Department of Housing and Urban Development; and

(vi) public housing notes and bonds guaranteed by the United States of America;

(c) interest-bearing demand or time deposits (including certificates of deposit) or deposit accounts in federal or state chartered savings and loan associations or in federal or State of California banks (including the Fiscal Agent, its parent, if any, and affiliates), provided that (i) the unsecured short-term obligations of such commercial bank or

savings and loan association shall be rated in the highest short-term rating category by any Rating Agency, or (ii) such demand or time deposits shall be fully insured by the Federal Deposit Insurance Corporation;

(d) commercial paper rated in the highest short-term rating category by any Rating Agency, issued by corporations which are organized and operating within the United States of America, and which matures not more than 180 days following the date of investment therein;

(e) bankers acceptances, consisting of bills of exchange or time drafts drawn on and accepted by a commercial bank, including its parent (if any), affiliates and subsidiaries, whose short-term obligations are rated in the highest short-term rating category by any Rating Agency, or whose long-term obligations are rated A or better by any Rating Agency, which mature not more than 270 days following the date of investment therein;

(f) obligations the interest on which is excludable from gross income pursuant to Section 103 of the Tax Code and which are either (a) rated A or better by any Rating Agency, or (b) fully secured as to the payment of principal and interest by Federal Securities;

(g) money market funds (including money market funds for which the Fiscal Agent, its affiliates or subsidiaries provide investment advisory or other management services) which invest in Federal Securities or which are rated in the highest short-term rating category by any Rating Agency; and

(h) any investment agreement representing general unsecured obligations of a financial institution rated A or better by any Rating Agency, by the terms of which the Fiscal Agent is permitted to withdraw all amounts invested therein in the event any such rating falls below A.

(i) the Local Agency Investment Fund established pursuant to Section 16429.1 of the Government Code of the State of California, *provided, however*, that the Fiscal Agent shall be permitted to make investments and withdrawals in its own name and the Fiscal Agent may restrict investments in the such fund if necessary to keep moneys available for the purposes of this Fiscal Agent Agreement.

(j) the California Asset Management Program.

"Principal Office" means such corporate trust office of the Fiscal Agent as may be designated from time to time by written notice from the Fiscal Agent to the City, initially being at the address set forth in Section 9.06, or such other office designated by the Fiscal Agent from time to time; except that with respect to presentation of Bonds for payment or for registration of transfer and exchange such term shall mean the office or agency of the Fiscal Agent at which, at any particular time, its corporate trust agency business shall be conducted.

"Prior Bonds" means the bonds captioned "\$16,215,000 Community Facilities District No. 2002-A (Business Triangle) of the City of Beverly Hills Special Tax Bonds, Series 2002."

"Prior Bonds Fiscal Agent" means U.S. Bank National Association, also known as U.S. Bank, N.A.

"Prior Bonds Fiscal Agent Agreement" means that Fiscal Agent Agreement, dated as of December 1, 2002, between the City and the Prior Bonds Fiscal Agent.

"Rate and Method" means the Rate and Method of Apportionment of the Special Taxes for the CFD approved under the Resolution of Formation.

"Record Date" means the 15th day of the month next preceding the applicable Interest Payment Date, whether or not such day is a Business Day.

"Refunding Bonds" means bonds issued by the City for the CFD, the net proceeds of which are used to refund all or a portion of the then-Outstanding Bonds; provided that the net interest cost to maturity of the Refunding Bonds is less than the net interest cost to maturity of the Bonds being refunded and the final maturity of the Refunding Bonds is not later than the final maturity of the Bonds being refunded.

"Regulations" means temporary and permanent regulations promulgated under the Tax Code.

"Reserve Fund" means the fund established and administered under Section 4.03.

"Reserve Requirement" means, as of the date of any calculation, an amount equal to [_____] [the least of (i) Maximum Annual Debt Service on the Outstanding Bonds, (ii) 125% of average Annual Debt Service on the Outstanding Bonds and (iii) 10% of the original principal amount of the Bonds].

"Resolution of Formation" means Resolution No. 02-R-11127 adopted by the City Council on July 18, 2002, forming the CFD.

"Resolution of Intention" means Resolution No. 02-R-11080, adopted by the City Council on June 18, 2002, indicating the intention of the City to form the CFD.

"Resolution of Issuance" means Resolution No. _____ adopted by the City Council on _____, 2012, authorizing the issuance of the Bonds.

"S&P" means Standard & Poor's Ratings Service, a division of McGraw-Hill, and its successors and assigns.

"Securities Depositories" means DTC and, in accordance with then current guidelines of the Securities and Exchange Commission, such other securities depositories as the City may designate in an Officer's Certificate delivered to the Fiscal Agent.

"Special Tax Fund" means the fund established and administered under Section 4.05.

"Special Tax Prepayments" means the proceeds of any Special Tax prepayments received by the City, as calculated pursuant to the Rate and Method, less any administrative fees or penalties collected as part of any such prepayment.

"Special Tax Prepayments Account" means the account by that name established within the Bond Fund by Section 4.04(A) hereof.

“Special Tax Revenues” means the proceeds of the Special Taxes received by the City, including any scheduled payments thereof and any Special Tax Prepayments, interest thereon and proceeds of the redemption or sale of property sold as a result of foreclosure of the lien of the Special Taxes to the amount of said lien and interest thereon, but shall not include any interest in excess of the interest due on the Bonds or any penalties collected in connection with any such foreclosure.

“Special Taxes” means the special taxes levied within the CFD under the Act, the Ordinance and this Agreement.

“State” means the State of California.

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

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

“Term Bonds” means the Bonds maturing on September 1, 20____, and September 1, 20____.

ARTICLE II
THE BONDS

Section 2.01. Principal Amount; Designation. The Bonds in the aggregate initial principal amount of \$_____ are hereby authorized to be issued by the City for the CFD under and subject to the terms of the Act, the Resolution of Issuance, this Agreement and other applicable laws of the State of California. The Bonds shall be designated as the "Community Facilities District No. 2002-A (Business Triangle) of the City of Beverly Hills 2013 Special Tax Refunding Bonds."

Section 2.02. Terms of the Bonds.

(A) Form; Denominations. The Bonds shall be issued as fully registered Bonds without coupons. The Bonds shall be lettered and numbered in a customary manner as determined by the Fiscal Agent. The Bonds shall be issued in the denominations of \$5,000 or any integral multiple of \$5,000.

(B) Date of Bonds. The Bonds shall be dated the Closing Date.

(C) CUSIP Identification Numbers. "CUSIP" identification numbers may, at the election of the Original Purchaser of the Bonds, be imprinted on the Bonds, but such numbers shall not constitute a part of the contract evidenced by the Bonds and any error or omission with respect thereto shall not constitute cause for refusal of any purchaser to accept delivery of and pay for the Bonds. In addition, failure on the part of the City or the Fiscal Agent to use such CUSIP numbers in any notice to Owners shall not constitute an event of default or any violation of the City's contract with such Owners and shall not impair the effectiveness of any such notice.

(D) Maturities; Interest Rates. The Bonds shall mature and become payable on each September 1, and shall bear interest at the rates per annum indicated in the below table.

<u>Maturity Date</u> <u>(September 1)</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>
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* Term Bond.

(E) Interest. The Bonds shall bear interest at the rates set forth above payable on the Interest Payment Dates in each year. Interest on all Bonds shall be calculated on the basis of a 360-day year composed of twelve 30-day months.

Each Bond shall bear interest from the Interest Payment Date next preceding the date of authentication thereof unless

(i) it is authenticated on an Interest Payment Date, in which event it shall bear interest from such date of authentication, or

(ii) it is authenticated prior to an Interest Payment Date and after the close of business on the Record Date preceding such Interest Payment Date, in which event it shall bear interest from such Interest Payment Date, or

(iii) it is authenticated on or before the Record Date preceding the first Interest Payment Date, in which event it shall bear interest from the Closing Date;

provided, however, that if at the time of authentication of a Bond, interest is in default thereon, such Bond shall bear interest from the Interest Payment Date to which interest has previously been paid or made available for payment thereon.

(F) Method of Payment. Interest on the Bonds (including the final interest payment upon maturity or earlier redemption), is payable on the applicable Interest Payment Date by check of the Fiscal Agent mailed by first class mail to the registered Owner thereof at such registered Owner's address as it appears on the registration books maintained by the Fiscal Agent at the close of business on the Record Date preceding the Interest Payment Date, or by wire transfer made on such Interest Payment Date upon written instructions of any Owner of \$1,000,000 or more in aggregate principal amount of Bonds delivered to the Fiscal Agent prior

to the applicable Record Date, which instructions shall continue in effect until revoked in writing, or until such Bonds are transferred to a new Owner.

The principal of the Bonds and any premium on the Bonds are payable in lawful money of the United States of America upon surrender of the Bonds at the Principal Office of the Fiscal Agent.

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

Section 2.03. Redemption.

(A) Redemption Provisions.

(i) **Optional Redemption.** The Bonds maturing on September 1, 20__ and thereafter are subject to redemption prior to their stated maturities, on any Interest Payment Date on and after September 1, 20__, in whole or in part, at a redemption price equal to the principal amount of the Bonds to be redeemed together with accrued interest thereon to the date fixed for redemption, without premium.

(ii) **Redemption from Special Tax Prepayments.** Special Tax Prepayments and any corresponding transfers from the Reserve Fund pursuant to Section 4.03(F) shall be used to redeem Bonds on the next Interest Payment Date for which notice of redemption can timely be given under Section 2.03(D), among maturities so as to maintain substantially the same debt service profile for the Bonds as in effect prior to such redemption and by lot within a maturity, at a redemption price (expressed as a percentage of the principal amount of the Bonds to be redeemed), as set forth below, together with accrued interest to the date fixed for redemption:

<u>Redemption Date</u>	<u>Redemption Price</u>
Any Interest Payment Date through March 1, 20__	103%
September 1, 20__ and any Interest Payment Date thereafter	100

(iii) **Mandatory Sinking Fund Redemption.** The Term Bonds are also subject to redemption, in part by lot, on September 1 in each of the years as set forth in the following table, from deposits made for such purpose pursuant to Section 4.04, at a redemption price equal to the principal amount thereof to be redeemed together with accrued interest thereon to the redemption date, without premium, in the aggregate respective principal amounts and on the respective dates as set forth in the following table. However, if some but not all of the Term Bonds of a given maturity have been redeemed pursuant to subsections (i) or (ii) above, the total amount of all future sinking fund payments relating to such maturity of such Term Bonds shall be reduced by the aggregate principal amount of such Term Bonds of such maturity so redeemed, to be allocated among such payments on a pro-rata basis in integral multiples of \$5,000 as determined by the City (written notice of which determination shall be given by the City to the Fiscal Agent).

Term Bonds Maturing September 1, 20__

Sinking Fund
Redemption Date
(September 1)

Principal
Amount To Be
Redeemed

(Maturity)

Term Bonds Maturing September 1, 20__

Sinking Fund
Redemption Date
(September 1)

Principal
Amount To Be
Redeemed

(Maturity)

(B) Notice to Fiscal Agent. The City shall give the Fiscal Agent written notice of its intention to redeem Bonds under subsection (A)(i) and (A)(ii) not less than 45 days prior to the applicable redemption date or such lesser number of days as may be acceptable to the Fiscal Agent in the sole determination of the Fiscal Agent.

(C) Purchase of Bonds in Lieu of Redemption. In lieu of redemption under Section 2.03(A), moneys in the Bond Fund or other funds provided by the City may be used and withdrawn by the Fiscal Agent for purchase of Outstanding Bonds, upon the filing with the Fiscal Agent of an Officer's Certificate requesting such purchase, at public or private sale as and when, and at such prices (including brokerage and other charges) as such Officer's Certificate may provide, but in no event may Bonds be purchased at a price in excess of the principal amount thereof, plus interest accrued to the date of purchase and any premium which would otherwise be due if such Bonds were to be redeemed in accordance with this Agreement. Any Bonds purchased pursuant to this Section 2.03(C) shall be treated as outstanding Bonds under this Fiscal Agent Agreement, except to the extent otherwise directed by the Director of Administrative Services.

(D) Redemption Procedure by Fiscal Agent.

(i) **Notices.** The Fiscal Agent shall mail notice of redemption of the Bonds by first-class mail, postage prepaid, not less than 30 nor more than 60 days before any redemption date, to the respective Owners of any Bonds designated for redemption at their addresses appearing on the Registration Books, and the Securities Depositories. In addition, the Fiscal Agent shall mail a copy of the notice of redemption to the Securities Depositories, shall electronically file a copy of the notice of redemption with the Municipal Securities Rulemaking Board through its Electronic Municipal Market Access (EMMA) system, or such other services providing information with respect to called bonds in accordance with then-current guidelines of the Securities and Exchange

Commission, and shall file the notice of redemption with any other such services the City may designate in writing to the Fiscal Agent. Notwithstanding the foregoing, the mailing or filing of any redemption notice shall not be a condition precedent to such redemption and failure to mail or to receive any such notice, or any defect therein, shall not affect the validity of the proceedings for the redemption of such Bonds.

(ii) **Conditional Redemption Notice and Rescission of Redemption.** Any notice of redemption under Section 2.03(A)(i) or (A)(ii) may specify that redemption on the specified date will be subject to receipt by the City of moneys sufficient to cause such redemption (and will specify the proposed source of such moneys), and neither the City nor the Fiscal Agent will have any liability to the Owners or any other party as a result of its failure to redeem the Bonds as a result of insufficient moneys. The City will have the right to rescind any such redemption by written notice to the Fiscal Agent on or prior to the date fixed for redemption.

Any notice of redemption under Section 2.03(A)(i) or (A)(ii) will be cancelled and annulled if for any reason funds are not available on the date fixed for redemption for the payment in full of the Bonds then called for redemption, and such cancellation will not constitute a default under this Agreement.

The Fiscal Agent will mail notice of rescission of redemption in the same manner that notice of redemption was originally provided.

(iii) **Contents of Notices.** Each notice of redemption shall state:

(a) the date of the notice,

(b) the redemption date,

(c) the place or places of redemption,

(d) whether less than all of the Bonds (or all Bonds of a single maturity) are to be redeemed,

(e) the CUSIP numbers and (in the event that not all Bonds within a maturity are called for redemption) Bond numbers of the Bonds to be redeemed and the maturity or maturities of the Bonds to be redeemed,

(f) in the case of Bonds to be redeemed in part only, the respective portions of the principal amount thereof to be redeemed, and

(g) if so directed by the City, that redemption on the specified date will be subject to receipt by the City of moneys sufficient to cause such redemption (and will specify the proposed source of such moneys).

Each such notice shall also state that on the redemption date there will become due and payable the redemption price of each Bond called for redemption, and that from and after such redemption date interest thereon shall cease to accrue, and shall require that such Bonds be then surrendered to the Fiscal Agent. Such redemption notices may state that no representation is made as to the accuracy or correctness of the CUSIP numbers printed therein or on the Bonds.

Neither the failure to receive any notice nor any defect therein shall affect the sufficiency of the proceedings for such redemption or the cessation of accrual of interest from and after the redemption date. Notice of redemption of Bonds shall be given by the Fiscal Agent, at the expense of the City, for and on behalf of the City.

(iv) **Selection of Bonds for Redemption.** Whenever provision is made in this Fiscal Agent Agreement for the redemption of less than all of the Bonds, the City shall direct the Fiscal Agent regarding the Bonds to be redeemed, and if not so directed, the Fiscal Agent shall select the Bonds to be redeemed pro rata among maturities and by lot within a single maturity, and in the case of mandatory sinking fund redemption pursuant to Section 2.03(A)(iii) above, by lot within the maturity being called for redemption.

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

(E) **Effect of Redemption.** From and after the date fixed for redemption, if funds available for the payment of the principal of, and interest and any premium on, the Bonds so called for redemption shall have been deposited in the Bond Fund, such Bonds so called shall cease to be entitled to any benefit under this Agreement other than the right to receive payment of the redemption price, and no interest shall accrue thereon from and after the redemption date specified in the notice of redemption. All Bonds redeemed and purchased by the Fiscal Agent under this Section 2.03 shall be canceled by the Fiscal Agent. The Fiscal Agent shall destroy the canceled Bonds in accordance with the Fiscal Agent's retention policy then in effect.

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

Section 2.05. Execution and Authentication of Bonds.

(A) **Execution.** The Bonds shall be executed on behalf of the City by the manual or facsimile signatures of its Mayor and its Clerk who are in office on the date of execution of this Agreement or at any time thereafter, and the seal of the City shall be impressed, imprinted or reproduced by facsimile thereon.

If any officer whose signature appears on any Bond ceases to be such officer before delivery of the Bonds to the Owner, such signature shall nevertheless be as effective as if the officer had remained in office until the delivery of the Bonds to the Owner. Any Bond may be signed and attested on behalf of the City by such persons as at the actual date of the execution of such Bond are the proper officers of the City although at the nominal date of such Bond any such person may not have been such officer of the City.

(B) **Authentication.** Only such Bonds as bear thereon a certificate of authentication in substantially the form set forth in Exhibit A, executed and dated by the Fiscal Agent, shall be

valid or obligatory for any purpose or entitled to the benefits of this Agreement, and such certificate of authentication of the Fiscal Agent shall be conclusive evidence that the Bonds registered hereunder have been duly authenticated, registered and delivered hereunder and are entitled to the benefits of this Agreement.

Section 2.06. Transfer or Exchange of Bonds. Any Bond may, in accordance with its terms, be transferred, upon the books required to be kept under Section 2.07 by the person in whose name it is registered, in person or by such person's duly authorized attorney, upon surrender of such Bond for cancellation, accompanied by delivery of a duly written instrument of transfer in a form acceptable to the Fiscal Agent.

Bonds may be exchanged at the Principal Office of the Fiscal Agent solely for a like aggregate principal amount of Bonds of authorized denominations and of the same maturity.

The cost for any services rendered or any expenses incurred by the Fiscal Agent in connection with any such transfer or exchange shall be paid by the City. The Fiscal Agent shall collect from the Owner requesting such transfer or exchange any tax or other governmental charge required to be paid with respect to such transfer or exchange.

Whenever any Bond or Bonds is surrendered for transfer or exchange, the City shall execute and the Fiscal Agent shall authenticate and deliver a new Bond or Bonds, for a like aggregate principal amount.

No transfers or exchanges of Bonds shall be required to be made (i) 15 days prior to the date established by the Fiscal Agent for selection of Bonds for redemption or (ii) with respect to a Bond after such Bond has been selected for redemption; or (iii) between a Record Date and the succeeding Interest Payment Date.

Section 2.07. Bond Register. The Fiscal Agent will keep, or cause to be kept, at its Principal Office, sufficient books for the registration and transfer of the Bonds, which shall show the series number, date, amount, rate of interest and registered owner of each Bond and shall at all times be open to inspection by the City during regular business hours upon reasonable notice; and, upon presentation for such purpose, the Fiscal Agent shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on said books, the ownership of the Bonds as hereinbefore provided.

The City and the Fiscal Agent will treat the Owner of any Bond whose name appears on the Bond register as the absolute Owner of such Bond for any and all purposes, and the City and the Fiscal Agent shall not be affected by any notice to the contrary. The City and the Fiscal Agent may rely on the address of the Owner as it appears in the Bond register for any and all purposes.

Section 2.08. Temporary Bonds. The Bonds may be initially issued in temporary form exchangeable for definitive Bonds when ready for delivery. The temporary Bonds may be printed, lithographed or typewritten, shall be of such authorized denominations as may be determined by the City, and may contain such reference to any of the provisions of this Agreement as may be appropriate. Every temporary Bond shall be executed by the City upon the same conditions and in substantially the same manner as the definitive Bonds.

If the City issues temporary Bonds, it will execute and furnish definitive Bonds without delay and thereupon the temporary Bonds shall be surrendered, for cancellation, in exchange

for the definitive Bonds at the Principal Office of the Fiscal Agent or at such other location as the Fiscal Agent designates, and the Fiscal Agent shall authenticate and deliver in exchange for such temporary Bonds an equal aggregate principal amount of definitive Bonds of authorized denominations. Until so exchanged, the temporary Bonds shall be entitled to the same benefits under this Agreement as definitive Bonds authenticated and delivered hereunder.

Section 2.09. Bonds Mutilated, Lost, Destroyed or Stolen.

(A) Mutilated. If any Bond becomes mutilated, at the expense of the Owner of such Bond, the City shall execute and the Fiscal Agent shall authenticate and deliver a replacement Bond of like tenor and principal amount in exchange and substitution for the Bond so mutilated, but only upon surrender to the Fiscal Agent of the Bond so mutilated. Every mutilated Bond so surrendered to the Fiscal Agent shall be canceled by it and destroyed by the Fiscal Agent, in accordance with the Fiscal Agent's retention policy then in effect.

(B) Destroyed or Stolen. If any Bond is lost, destroyed or stolen, the City shall execute and the Fiscal Agent shall authenticate and deliver a replacement Bond of like tenor and principal amount in lieu of and in substitution for the Bond so lost, destroyed or stolen, at the expense of the Owner, but only following provision by the Owner to the Fiscal Agent of indemnity for the City and the Fiscal Agent satisfactory to the Fiscal Agent. The City may require payment of a sum not exceeding the actual cost of preparing each a replacement Bond delivered under this Section and the City and the Fiscal Agent may require payment of the expenses which may be incurred by the City and the Fiscal Agent for the preparation, execution, authentication and delivery thereof.

Any Bond delivered hereunder in lieu of any Bond alleged to be lost, destroyed or stolen shall constitute an original additional contractual obligation on the part of the City whether or not the Bond so alleged to be lost, destroyed or stolen is at any time enforceable by anyone, and shall be equally and proportionately entitled to the benefits of this Agreement with all other Bonds issued under this Agreement.

Section 2.10. Book-Entry Only System. DTC shall act as the initial Depository for the Bonds. One Bond for each maturity of the Bonds shall be initially executed, authenticated, and delivered as set forth herein with a separate fully registered certificate (in print or typewritten form). Upon initial execution, authentication, and delivery, the ownership of the Bonds shall be registered in the Bond register kept by the Fiscal Agent for the Bonds in the name of Cede & Co., as nominee of DTC or such nominee as DTC shall appoint in writing.

The Authorized Officers of the City and the Fiscal Agent are hereby authorized to take any and all actions as may be necessary and not inconsistent with this Agreement to qualify the Bonds for the Depository's book-entry system, including the execution of the Depository's required representation letter.

With respect to Bonds registered in the Bond register in the name of Cede & Co., as nominee of DTC, neither the City nor the Fiscal Agent shall have any responsibility or obligation to any broker-dealer, bank, or other financial institution for which DTC holds Bonds as Depository from time to time (the "DTC Participants") or to any person for which a DTC Participant acquires an interest in the Bonds (the "Beneficial Owners"). Without limiting the immediately preceding sentence, neither the City nor the Fiscal Agent shall have any responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co., or any DTC Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any

DTC Participant, any Beneficial Owner, or any other person, other than DTC, of any notice with respect to the Bonds, including any Bonds to be redeemed in the event the City elects to redeem the Bonds, in part, (iii) the selection by the Depository of the beneficial interests in the Bonds to be redeemed in the event the City elects to redeem the Bonds in part, (iv) the payments to any DTC Participant, any Beneficial Owner, or any person, other than DTC, of any amount with respect to the principal of or interest or premium on the Bonds, or (v) any consent given or other action taken by the Depository as Owner of the Bonds.

Except as set forth above, the City and the Fiscal Agent may treat as and deem DTC to be the absolute Owner of each Bond, for which DTC is acting as Depository for the purpose of payment of the principal of and premium and interest on such Bonds, for the purpose of giving notices of redemption and other matters with respect to such Bonds, for the purpose of registering transfers with respect to such Bonds, and for all purposes whatsoever. The Fiscal Agent on behalf of the City shall pay all principal of and premium and interest on the Bonds only to or upon the order of the Owners as shown on the Bond register, and all such payments shall be valid and effective to fully satisfy and discharge all obligations with respect to the principal of and premium and interest on the Bonds to the extent of the sums or sums so paid.

No person other than an Owner, as shown on the Bond register, shall receive a physical Bond. Upon delivery by DTC to the City and the Fiscal Agent of written notice to the effect the DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the transfer provisions in Section 2.06 hereof, references to "Cede & Co." in this Section 2.10 shall refer to such new nominee of DTC.

DTC may determine to discontinue providing its services with respect to the Bonds at any time by giving written notice to the City and to the Fiscal Agent during any time that the Bonds are Outstanding, and discharging its responsibilities with respect thereto under applicable law. The City may terminate the services of DTC with respect to the Bonds if it determines that DTC is unable to discharge its responsibilities with respect to the Bonds or that continuation of the system of book-entry transfer through DTC is not in the best interest of the Beneficial Owners, and the City shall mail notice of such termination to the Fiscal Agent.

Upon termination of the services of DTC as provided in the previous paragraph, and if no substitute Depository willing to undertake the functions hereunder can be found which is willing to undertake such functions upon reasonable or customary terms, or if the City determines that it is in the best interest of the Beneficial Owners of the Bonds that they be able to obtain certified Bonds, the Bonds shall no longer be restricted to being registered in the Bond register of the Fiscal Agent in the name of Cede & Co., as nominee of DTC, but may be registered in whatever name or names the Owners designate at that time, in accordance with Section 2.06.

To the extent that the Beneficial Owners are designated as the transferee by the Owners, in accordance with Section 2.06, the Bonds will be delivered to such Beneficial Owners.

ARTICLE III

ISSUANCE OF BONDS

Section 3.01. Issuance and Delivery of Bonds. At any time after the execution of this Agreement, the City may issue the Bonds for the CFD in the aggregate principal amount set forth in Section 2.01 and deliver the Bonds to the Fiscal Agent for authentication and delivery to the Original Purchaser. The Authorized Officers of the City are hereby authorized and directed to execute and deliver any and all documents and instruments necessary to cause the issuance of the Bonds in accordance with the provisions of the Act, the Resolution of Issuance and this Agreement, to authorize the payment of Costs of Issuance, to authorize the deposit of moneys into the Escrow Fund for the purpose of defeasing and refunding the Prior Bonds on _____, 2013, and to do and cause to be done any and all acts and things necessary or convenient for the timely delivery of the Bonds to the Original Purchaser.

The Fiscal Agent is hereby authorized and directed to authenticate the Bonds and deliver them to the Original Purchaser, upon receipt of the purchase price for the Bonds.

Section 3.02. Pledge of Special Tax Revenues. The Bonds shall be secured by a first pledge (which pledge shall be effected in the manner and to the extent herein provided) of and lien on all of the Special Tax Revenues and all moneys deposited in the Bond Fund (including the Special Tax Prepayments Account) and the Reserve Fund, and, until disbursed as provided herein, in the Special Tax Fund. The Special Tax Revenues and all moneys deposited into such funds (except as otherwise provided herein) are hereby dedicated to the payment of the principal of, and interest and any premium on, the Bonds as provided herein and in the Act until all of the Bonds have been paid and retired or until moneys or Federal Securities have been set aside irrevocably for that purpose under Section 9.03.

Amounts in the Costs of Issuance Fund and the Administrative Expense Fund are not pledged to the repayment of the Bonds.

Section 3.03. Limited Obligation. All obligations of the City under this Agreement and the Bonds shall not be general obligations of the City, but shall be limited obligations, payable solely from the Special Tax Revenues and the funds pledged therefore hereunder. Neither the faith and credit nor the taxing power of the City (except to the limited extent set forth herein) or of the State of California or any political subdivision thereof is pledged to the payment of the Bonds.

Section 3.04. No Acceleration. The principal of the Bonds shall not be subject to acceleration hereunder. Nothing in this Section shall in any way prohibit the redemption of Bonds under Section 2.03, or the defeasance of the Bonds and discharge of this Agreement under Section 9.03.

ARTICLE IV

PROCEEDS, FUNDS AND ACCOUNTS

Section 4.01. Application of Bond Proceeds and Moneys Relating to the Prior Bonds.

(A) Proceeds of the Bonds. The net proceeds of the Bonds received from the Original Purchaser in the amount of \$_____ (calculated as the initial principal amount of the bonds of \$_____, plus net original issue premium of \$_____, less an underwriter's discount of \$_____) shall be paid to the Fiscal Agent, which shall deposit the proceeds on the Closing Date as follows:

- (i) deposit \$_____ into the Costs of Issuance Fund;
- (ii) deposit \$_____ into the Reserve Fund equaling the initial Reserve Requirement;
- (iii) transfer \$_____ to the Escrow Agent for deposit into the Escrow Fund.

The Fiscal Agent may, in its discretion, establish a temporary fund or account to facilitate the foregoing deposits and transfer.

(B) Moneys Relating to the Prior Bonds. In addition to the foregoing deposits of Bond proceeds, the Director of Administrative Services and the Fiscal Agent shall cause the amounts held in the funds with respect to the Prior Bonds to be transferred and deposited to the Escrow Fund in accordance with and as set forth in the Irrevocable Refunding Instructions. In addition, the City shall transfer a portion of the amounts on deposit in the surplus fund established under the 2002 Fiscal Agent Agreement to the Fiscal Agent for deposit in the Surplus Fund under Section 4.09 hereof, in the amount set forth in the Irrevocable Refunding Instructions.

Section 4.02. Costs of Issuance Fund.

(A) Establishment of Costs of Issuance Fund. The Costs of Issuance Fund is hereby established as a separate fund to be held by the Fiscal Agent, to the credit of which a deposit shall be made as required by Section 4.01. Moneys in the Costs of Issuance Fund shall be held by the Fiscal Agent for the benefit of the City and shall be disbursed as provided in subsection (B) of this Section for the payment or reimbursement of Costs of Issuance.

(B) Disbursement. Amounts in the Costs of Issuance Fund shall be disbursed from time to time to pay Costs of Issuance, as set forth in a requisition substantially in the form of Exhibit B hereto, executed by the Director of Administrative Services, containing respective amounts to be paid to the designated payees and delivered to the Fiscal Agent. Each such requisition shall be sufficient evidence to the Fiscal Agent of the facts stated therein and the Fiscal Agent shall have no duty to confirm the accuracy of such facts.

(C) Investment. Moneys in the Costs of Issuance Fund shall be invested and deposited by the Fiscal Agent under Section 6.01. Interest earnings and profits resulting from such investment shall be retained by the Fiscal Agent in the Costs of Issuance Fund to be used for the purposes of such fund.

(D) Closing of Fund. The Fiscal Agent shall maintain the Costs of Issuance Fund for a period of 90 days from the Closing Date and then the Fiscal Agent shall transfer any moneys remaining therein, including any investment earnings thereon, to the Bond Fund to pay interest on the Bonds on the next Interest Payment Date and the Costs of Issuance Fund shall be closed.

Section 4.03. Reserve Fund.

(A) Establishment of Fund. The Reserve Fund is hereby established as a separate fund to be held by the Fiscal Agent to the credit of which a deposit shall be made as required by Section 4.01, which deposit, as of the Closing Date, is equal to the initial Reserve Requirement with respect to the Bonds. Thereafter, deposits may be made to the Reserve Fund from time to time as provided in Section 4.05(B). Moneys in the Reserve Fund shall be held in trust by the Fiscal Agent for the benefit of the Owners of the Bonds as a reserve for the payment of the principal of, and interest and any premium on, the Bonds and shall be subject to a lien in favor of the Owners of the Bonds.

(B) Use of Reserve Fund. Except as otherwise provided in this Section, all amounts deposited in the Reserve Fund shall be used and withdrawn by the Fiscal Agent solely for the purpose of making transfers to the Bond Fund in the event of any deficiency at any time in the Bond Fund of the amount then required for payment of the principal of, and interest and any premium on, the Bonds or, in accordance with the provisions of this Section, for the purpose of redeeming Bonds from the Bond Fund. Whenever a transfer is made from the Reserve Fund to the Bond Fund due to a deficiency in the Bond Fund, the Fiscal Agent shall provide written notice thereof to the Director of Administrative Services specifying the amount withdrawn.

(C) Transfer of Excess of Reserve Requirement. Whenever, on or before any Interest Payment Date, or on any other date at the request of the Director of Administrative Services the amount in the Reserve Fund exceeds the Reserve Requirement, the Fiscal Agent shall provide written notice to the Director of Administrative Services of the amount of the excess and shall transfer an amount equal to the excess from the Reserve Fund to the Bond Fund, to be used to pay interest on the Bonds on the next Interest Payment Date.

(D) Transfer for Rebate Purposes. Amounts in the Reserve Fund shall be withdrawn for purposes of making payment to the federal government to comply with Section 5.11, upon receipt by the Fiscal Agent of an Officer's Certificate specifying the amount to be withdrawn and to the effect that such amount is needed for rebate purposes; *provided, however*, that no amounts in the Reserve Fund shall be used for rebate unless the amount in the Reserve Fund following such withdrawal equals the Reserve Requirement.

(E) Transfer When Balance Exceeds Outstanding Bonds. Whenever the balance in the Reserve Fund exceeds the amount required to redeem or pay the Outstanding Bonds, including interest accrued to the date of payment or redemption and premium, if any, due upon redemption, the Fiscal Agent shall, upon the written request of the Director of Administrative Services, transfer any cash or Permitted Investments in the Reserve Fund to the Bond Fund to be applied, on the redemption date to the payment and redemption, in accordance with Section 4.04 or 2.03, as applicable, of all of the Outstanding Bonds. In the event that the amount so transferred from the Reserve Fund to the Bond Fund exceeds the amount required to pay and redeem the Outstanding Bonds, the balance in the Reserve Fund shall be transferred to the City to be used by the City for any lawful purpose under the Act.

Notwithstanding the provisions of the first paragraph of this Section 4.03(E), no amounts shall be transferred from the Reserve Fund under this Section 4.03(E) until after: (i) the calculation of any amounts due to the federal government under Section 5.11 and withdrawal of any such amount under Section 4.03(D) for purposes of making such payment to the federal government; and (ii) payment of any fees and expenses due to the Fiscal Agent.

(F) Transfer Upon Special Tax Prepayment. Whenever Special Taxes are prepaid and Bonds are to be redeemed with the proceeds of such prepayment pursuant to Section 2.03(A)(ii), a proportionate amount in the Reserve Fund (determined on the basis of the principal of Bonds to be redeemed and the original principal of the Bonds, but in any event not in excess of the amount that will leave the balance in the Reserve Fund following the proposed redemption equal to the Reserve Requirement) shall be transferred on the Business Day prior to the redemption date by the Fiscal Agent to the Bond Fund to be applied to the redemption of the Bonds pursuant to Section 2.03(A)(ii). The Director of Administrative Services shall deliver to the Fiscal Agent an Officer's Certificate specifying any amount to be so transferred, and the Fiscal Agent may rely on any such Officer's Certificate.

(G) Investment. Moneys in the Reserve Fund shall be invested under Section 6.01.

Section 4.04. Bond Fund.

(A) Establishment of Bond Fund. The Bond Fund is hereby established as a separate fund to be held by the Fiscal Agent to the credit of which deposits shall be made as required by Section 4.01 and Section 4.03 and as otherwise set forth in this Agreement and, to the extent applicable, by the Irrevocable Refunding Instructions. Moneys in the Bond Fund shall be held by the Fiscal Agent for the benefit of the City and the Owners of the Bonds, and shall be disbursed for the payment of the principal of, and interest and any premium on, the Bonds as provided below.

There is also hereby created in the Bond Fund a separate account to be held by the Fiscal Agent, designated the "Special Tax Prepayments Account," to the credit of which deposits shall be made as provided in clause (iii) of the second paragraph of Section 4.05(A).

(B) Disbursements. At least 10 Business Days before each Interest Payment Date, the Fiscal Agent shall notify the Director of Administrative Services in

writing as to the principal and premium, if any, and interest due on the Bonds on the next Interest Payment Date (whether as a result of scheduled principal of and interest on the Bonds, or any redemption of the Bonds under Section 2.03). On each Interest Payment Date, the Fiscal Agent shall withdraw from the Bond Fund and pay to the Owners of the Bonds the principal of, and interest and any premium, due and payable on such Interest Payment Date on the Bonds.

At least 5 Business Days prior to each Interest Payment Date, the Fiscal Agent shall determine if the amounts then on deposit in the Bond Fund are sufficient to pay the Debt Service due on the Bonds on the next Interest Payment Date. If amounts in the Bond Fund are insufficient for such purpose, the Fiscal Agent promptly shall notify the Director of Administrative Services by telephone (and confirm in writing) of the amount of the insufficiency.

If amounts in the Bond Fund are insufficient for the purpose set forth in the preceding paragraph with respect to any Interest Payment Date, the Fiscal Agent shall withdraw from the Reserve Fund, in accordance with the provisions of Section 4.03, to the extent of any funds or Permitted Investments therein, amounts to cover the amount of such Bond Fund insufficiency. Amounts so withdrawn from the Reserve Fund shall be deposited in the Bond Fund.

If, after the foregoing transfers, there are insufficient funds in the Bond Fund to make the payments provided for in the second sentence of the first paragraph of this Section 4.04(B), the Fiscal Agent shall apply the available funds first to the payment of interest on the Bonds, then to the payment of principal due on the Bonds other than by reason of sinking payments, if any, and then to payment of principal due on the Bonds by reason of sinking payments.

(C) Disbursements from the Special Tax Prepayments Account. Moneys in the Special Tax Prepayments Account shall be transferred by the Fiscal Agent to the Bond Fund on the next date for which notice of redemption of Bonds can timely be given under Section 2.03(A)(ii) and shall be used (together with any amounts transferred pursuant to Section 4.03(F)) to redeem Bonds on the redemption date selected in accordance with Section 2.03.

(D) Investment. Moneys in the Bond Fund and the Special Tax Prepayments Account shall be invested under Section 6.01. Interest earnings and profits resulting from such investment shall be retained in the Bond Fund.

(E) Deficiency. If at any time it appears to the Fiscal Agent that there is a danger of deficiency in the Bond Fund and that the Fiscal Agent may be unable to pay Debt Service on the Bonds in a timely manner, the Fiscal Agent shall report to the Director of Administrative Services such fact. The City covenants to increase the levy of the Special Taxes in the next Fiscal Year (subject to the maximum amount authorized by the Resolution of Formation) in accordance with the procedures set forth in the Act for the purpose of curing Bond Fund deficiencies.

(F) Excess. Any excess moneys remaining in the Bond Fund, following the payment of Debt Service on the Bonds on any September 1, shall be transferred to the Special Tax Fund.

Section 4.05. Special Tax Fund.

(A) Establishment of Special Tax Fund. The Special Tax Fund is hereby established as a separate fund to be held by the Fiscal Agent, to the credit of which the Fiscal Agent shall deposit amounts received from or on behalf of the City consisting of Special Tax Revenues and amounts transferred from the Administrative Expense Fund and the Bond Fund. The City shall promptly remit any Special Tax Revenues received by it to the Fiscal Agent for deposit by the Fiscal Agent to the Special Tax Fund.

Notwithstanding the foregoing,

(i) any Special Tax Revenues constituting the collection of delinquencies in payment of Special Taxes shall be separately identified by the Director of Administrative Services and shall be used by the Fiscal Agent first, for transfer to the Bond Fund to pay any past due Debt Service on the Bonds; second, for transfer to the Reserve Fund to the extent needed to increase the amount then on deposit in the Reserve Fund up to the then-current Reserve Requirement; and third, to be held in the Special Tax Fund for use as described in Section 4.05(B) below; and

(ii) any proceeds of Special Tax Prepayments shall be separately identified by the Director of Administrative Services and shall be deposited by the Fiscal Agent in the Special Tax Prepayments Account established pursuant to Section 4.04(A).

(B) Disbursements. On the fifth Business Day before each Interest Payment Date, the Fiscal Agent shall withdraw from the Special Tax Fund and transfer the following amounts in the following order of priority:

(i) the amount or portion thereof, not exceeding the Administrative Expense Deposit each Fiscal Year, which an Authorized Officer directs the Fiscal Agent in writing to deposit in the Administrative Expense Fund which, when added to the deposit therein, is sufficient to pay (A) Administrative Expenses which the City reasonably expects will become due and payable during such Fiscal Year, and (B) any Administrative Expenses that have previously been incurred and paid by the City from funds other than the Administrative Expense Fund;

(ii) to the Bond Fund an amount, taking into account any amounts then on deposit in the Bond Fund, and any expected transfers from the Reserve Fund and the Special Tax Prepayments Account to the Bond Fund, such that the amount in the Bond Fund equals the principal (including any sinking payment), premium, if any, and interest due on the Bonds on such Interest Payment Date and any past due principal or interest on the Bonds not theretofore paid;

(iii) to the Reserve Fund an amount, taking into account amounts then on deposit in the Reserve Fund, such that the amount in the Reserve Fund is equal to the Reserve Requirement; and

(iv) to the Administrative Expense Fund the amount of Administrative Expenses in excess of the amount previously transferred thereto pursuant to (i) above, as and to the extent directed in writing by an Authorized Officer.

After making the foregoing transfers, as soon as practicable after each September 1, and in any event prior to each October 1, the Fiscal Agent shall (a) transfer from the Special Tax Fund to the Surplus Fund the amount, if any, needed to bring the amount on deposit in the Surplus Fund to \$100,000, and then (b) retain in the Special Tax Fund any remaining amounts therein, to be applied for the purposes of the Special Tax Fund, and to be included as being available in calculating the amount of the levy of Special Taxes for the subsequent Fiscal Year.

(C) Investment. Moneys in the Special Tax Fund shall be invested and deposited by the Fiscal Agent under Section 6.01. Interest earnings and profits resulting from such investment and deposit shall be retained in the Special Tax Fund to be used for the purposes thereof.

Section 4.06. Administrative Expense Fund.

(A) Establishment of Administrative Expense Fund. The Administrative Expense Fund is hereby established as a separate fund to be held by the Fiscal Agent, to the credit of which deposits shall be made as required by Section 4.05(B). Moneys in the Administrative Expense Fund shall be held by the Fiscal Agent for the benefit of the City, and shall be disbursed as provided below.

(B) Disbursement. Amounts in the Administrative Expense Fund shall be withdrawn by the Fiscal Agent and paid to the City or its order upon receipt by the Fiscal Agent of an Officer's Certificate, in substantially the form of Exhibit C hereto, stating the amount to be withdrawn, that such amount is to be used to pay an Administrative Expense or a Cost of Issuance and the nature of such Administrative Expense or such Cost of Issuance. Amounts deposited to the Administrative Expense Fund pursuant to Section 4.01(B) shall be expended for purposes of the Administrative Expense Fund prior to the use of amounts transferred to the Administrative Expense Fund from the Special Tax Fund pursuant to Section 4.05(B).

Annually, on the last day of each Fiscal Year, the Fiscal Agent shall withdraw from the Administrative Expense Fund and transfer to the Special Tax Fund any amount in excess of that which is needed to pay any Administrative Expenses incurred but not yet paid, and which are not otherwise encumbered, as identified by the Director of Administrative Services in an Officer's Certificate.

(C) Investment. Moneys in the Administrative Expense Fund shall be invested by the Fiscal Agent under Section 6.01. Interest earnings and profits resulting from such investment shall be retained by the Fiscal Agent in the Administrative Expense Fund to be used for the purposes of such fund.

Section 4.07. Escrow Fund. On the Closing Date, the Escrow Fund shall be established in order to assure the timely and advance retirement of the Prior Bonds pursuant to the Irrevocable Refunding Instructions, using a portion of the proceeds of the sale of the Bonds and other funds held with respect to the Prior Bonds, as provided in the Irrevocable Refunding

Instructions, and investment earnings thereon. The Escrow Fund shall be administered in accordance with the Irrevocable Refunding Instructions.

Section 4.08. Reserved.

Section 4.09. Surplus Fund.

(A) Establishment. The Surplus Fund is hereby established as a separate fund to be held by the Fiscal Agent, to the credit of which deposits shall be made as required by Section 4.01(B) and Section 4.05(B). Moneys in the Surplus Fund shall be held by the Fiscal Agent for the benefit of the City, and shall be disbursed as provided below.

The amounts in the Surplus Fund are not pledged to the repayment of the Bonds and may be used by the City for any lawful purpose.

(B) Disbursement. The Fiscal Agent shall transfer moneys on deposit in the Surplus Fund, at the direction of an Authorized Representative of the City, for any of the following purposes: (i) to the Bond Fund to pay the principal of, including sinking fund payments, premium, if any, and interest on the Bonds when due if moneys in the Special Tax Fund and the Reserve Fund are insufficient therefor; (ii) to the Reserve Fund in order to replenish the Reserve Fund to the Reserve Requirement; (iii) to the Administrative Expense Fund to pay Administrative Expenses to the extent that the amounts on deposit in the Administrative Expense Fund are insufficient to pay Administrative Expenses; or (iv) to the City to be used by the City for any lawful purpose under the Act.

If at any time the amount on deposit in the Surplus Fund exceeds \$100,000, the Fiscal Agent shall transfer any amounts in excess of \$100,000 to the Special Tax Fund.

(C) Investment. Moneys in the Surplus Fund shall be invested by the Fiscal Agent under Section 6.01. Interest earnings and profits resulting from such investment shall be retained by the Fiscal Agent in the Surplus Fund to be used for the purposes of such fund.

If the City reasonably expects to use any portion of the moneys in the Surplus Fund to pay debt service on any Outstanding Bonds, the City will notify the Fiscal Agent in a Certificate of an Authorized Representative and the Fiscal Agent will segregate such amount into a separate subaccount and the moneys on deposit in such subaccount of the Surplus Fund shall be invested at the written direction of the City in Authorized Investments the interest on which is excludable from gross income under Section 103 of the Code (other than bonds the interest on which is a tax preference item for purposes of computing the alternative minimum tax of individuals and corporations under the Code) or in Authorized Investments at a yield not in excess of the yield on the issue of Bonds to which such amounts are to be applied, unless, in the opinion of Bond Counsel, investment at a higher yield will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Bonds which were issued on a tax-exempt basis for federal income tax purposes.

ARTICLE V

COVENANTS

Section 5.01. Collection of Special Tax Revenues. The City shall comply with all requirements of the Act so as to assure the timely collection of Special Tax Revenues, including without limitation, the enforcement of delinquent Special Taxes.

(A) Processing. On or within 5 Business Days of each June 1, the Fiscal Agent shall provide the Director of Administrative Services with a notice stating the amount then on deposit in the Bond Fund, the Reserve Fund, the Special Tax Fund and the Surplus Fund, and the City shall determine the Special Taxes that need to be levied under the Ordinance as necessary to provide for Annual Debt Service and Administrative Expenses and replenishment (if necessary) of the Reserve Fund so that the balance therein equal the Reserve Requirement. The receipt of or failure to receive such notice by the Director of Administrative Services shall in no way affect the obligations of the Director of Administrative Services under the following two paragraphs and the Fiscal Agent shall not be liable for failure to provide such notices to the Director of Administrative Services. Upon receipt of such notice, the Director of Administrative Services shall communicate with the Auditor to ascertain the relevant parcels on which the Special Taxes are to be levied, taking into account any parcel splits or combinations during the preceding and then current year.

(B) Levy. The Director of Administrative Services shall effect the levy of the Special Taxes each Fiscal Year in accordance with the Ordinance by each August 1 that the Bonds are outstanding, or otherwise such that the computation of the levy is complete before the final date on which Auditor will accept the transmission of the Special Tax amounts for the parcels within the CFD for inclusion on the next real property tax roll. Upon the completion of the computation of the amounts of the levy, the Director of Administrative Services shall prepare or cause to be prepared, and shall transmit to the Auditor, such data as the Auditor requires to include the levy of the Special Taxes on the next real property tax roll.

(C) Computation. The Director of Administrative Services shall fix and levy the amount of Special Taxes within the CFD required for the payment of principal of and interest on any outstanding Bonds of the CFD becoming due and payable during the ensuing calendar year, including any necessary replenishment or expenditure of the Reserve Fund for the Bonds and an amount estimated to be sufficient to pay the Administrative Expenses, including amounts necessary to discharge any rebate obligation, during such year, taking into account the balances in the applicable funds established under this Agreement and in the Special Tax Fund. The Special Taxes so levied shall not exceed the authorized amounts as provided in the proceedings under the Resolution of Formation.

(D) Collection. Except as set forth in the Ordinance, Special Taxes shall be payable and be collected in the same manner and at the same time and in the same installment as the general taxes on real property are payable, and have the same priority, become delinquent at the same time and in the same proportionate amounts

and bear the same proportionate penalties and interest after delinquency as do the ad valorem taxes on real property.

Section 5.02. Covenant to Foreclose. The City hereby covenants for the benefit of the Owners of the Bonds that it

(i) will commence judicial foreclosure proceedings against all parcels owned by a property owner where the aggregate delinquent Special Taxes on such parcels is greater than \$10,000 by the October 1 following the close of each Fiscal Year in which such Special Taxes were due,

(ii) will commence judicial foreclosure proceedings against all parcels with delinquent Special Taxes by the October 1 following the close of each Fiscal Year in which it receives Special Taxes in an amount which is less than 95% of the total Special Tax levied for such Fiscal Year, and

(iii) will diligently pursue such foreclosure proceedings until the delinquent Special Taxes are paid. The District may, but is not obligated to, advance funds from any source of legally available funds in order to maintain the Reserve Fund at the Reserve Requirement.

The Director of Administrative Services and the City Attorney, as applicable, are hereby authorized to employ counsel to conduct any such foreclosure proceedings. The fees and expenses of any such counsel (including a charge for City staff time) in conducting foreclosure proceedings shall be an Administrative Expense hereunder.

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

Section 5.04. Extension of Time for Payment. In order to prevent any accumulation of claims for interest after maturity, the City shall not, directly or indirectly, extend or consent to the extension of the time for the payment of any claim for interest on any of the Bonds and shall not, directly or indirectly, be a party to the approval of any such arrangement by purchasing or funding said claims for interest or in any other manner.

If any such claim for interest is extended or funded, whether or not with the consent of the City, such claim for interest so extended or funded shall not be entitled, in case of default hereunder, to the benefits of this Agreement, except subject to the prior payment in full of the principal of all of the Bonds then Outstanding and of all claims for interest which have not been so extended or funded.

Section 5.05. Against Encumbrances. The City will not encumber, pledge or place any charge or lien upon any of the Special Tax Revenues or other amounts pledged to the Bonds superior to or on a parity with the pledge and lien herein created for the benefit of the Bonds, or their Owners, except as permitted by this Agreement.

Section 5.06. Books and Records.

(A) **City.** The City will keep, or cause to be kept, proper books of record and accounts, separate from all other records and accounts of the City, in which complete and correct entries shall be made of all transactions relating to the Special Tax Revenues. Such books of record and accounts shall at all times during business hours be subject to the inspection of the Owners of not less than 10% of the principal amount of the Bonds then Outstanding, or their representatives duly authorized in writing.

(B) **Fiscal Agent.** The Fiscal Agent will keep, or cause to be kept, proper books of record and accounts, separate from all other records and accounts of the Fiscal Agent, in which complete and correct entries shall be made of all transactions made by it relating to the expenditure of amounts disbursed from the funds, and, if any, accounts in such funds held by the Fiscal Agent hereunder. Such books of record and accounts shall at all times during business hours be subject to the inspection of the City and the Owners of not less than 10% of the principal amount of the Bonds then Outstanding, or their representatives duly authorized in writing upon reasonable prior notice.

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

Section 5.08. Further Assurances. The City will adopt, make, execute and deliver any and all such further resolutions, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Agreement, and for the better assuring and confirming unto the Owners of the rights and benefits provided in this Agreement.

Section 5.09. Private Activity Bond Limitations. The City shall assure that the proceeds of the Bonds are not so used as to cause the Bonds to satisfy the private business tests of section 141(b) of the Tax Code or the private loan financing test of section 141(c) of the Code.

Section 5.10. Federal Guarantee Prohibition. The City shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Tax Code.

Section 5.11. Rebate Requirement. The City shall take any and all actions necessary to assure compliance with section 148(f) of the Tax Code, relating to the rebate of excess investment earnings, if any, to the federal government, to the extent that such section is applicable to the Bonds. The Director of Administrative Services shall take note of any investment of monies hereunder in excess of the yield on the Bonds, and shall take such actions as are necessary to ensure compliance with this Section 5.11, such as increasing the portion of the Special Tax levy for Administration Expenses as appropriate to have funds available in the Administrative Expense Fund to satisfy any rebate liability under this Section. If necessary to satisfy its obligations under this Section 5.11, the City may use:

- (A) Earnings on the Reserve Fund if the amount on deposit in the Reserve Fund, following the proposed transfer, is equal to the Reserve Requirement;

- (B) Amounts on deposit in the Administrative Expense Fund; and
- (C) Any other funds available to the CFD, including amounts advanced by the City, in its sole discretion, to be repaid by the CFD as soon as practicable from amounts described in the preceding clauses (A) and (B).

Section 5.12. No Arbitrage. The City shall not take, or permit or suffer to be taken by the Fiscal Agent or otherwise, any action with respect to the proceeds of the Bonds which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the date of issuance of the Bonds would have caused the Bonds to be “arbitrage bonds” within the meaning of section 148 of the Tax Code.

Section 5.13. Yield of the Bonds. In determining the yield of the Bonds to comply with Sections 5.11 and 5.12, the City will take into account redemption (including premium, if any) in advance of maturity based on the reasonable expectations of the City, as of the Closing Date, regarding prepayments of Special Taxes and use of prepayments for redemption of the Bonds, without regard to whether or not prepayments are received or Bonds redeemed.

Section 5.14. Maintenance of Tax-Exemption. The City shall take all actions necessary to assure the exclusion of interest on the Bonds from the gross income of the Owners of the Bonds to the same extent as such interest is permitted to be excluded from gross income under the Tax Code as in effect on the date of issuance of the Bonds.

Section 5.15. Continuing Disclosure. The City hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate. Notwithstanding any other provision of this Agreement, failure of the City to comply with the Continuing Disclosure Certificate shall not be considered an event of default for the purposes of this Agreement. However, any Owner or Beneficial Owner of the Bonds may, take such actions as may be necessary and appropriate to compel performance, including seeking mandate or specific performance by court order.

Section 5.16. Limits on Special Tax Waivers and Bond Tenders. The City covenants not to exercise its rights under the Act to waive delinquency and redemption penalties related to the Special Taxes or to declare Special Tax penalties amnesty program if to do so would materially and adversely affect the interests of the Owners of the Bonds and further covenants not to permit the tender of Bonds in payment of any Special Taxes except upon receipt of a certificate of an Independent Financial Consultant that to accept such tender will not result in the City having insufficient Special Tax Revenues to pay the principal of and interest on the Bonds remaining Outstanding following such tender.

Section 5.17. City Bid at Foreclosure Sale. The City will not bid at a foreclosure sale of property in respect of delinquent Special Taxes, unless it expressly agrees to take the property subject to the lien for Special Taxes imposed by the City and that the Special Taxes levied on the property are payable while the City owns the property.

Section 5.18. No Issuance of Future Bonds. The City shall not issue any additional bonds or other indebtedness payable from the Special Tax Revenues (other than Refunding Bonds).

Section 5.19. Amendment of Rate and Method. The City shall not initiate proceedings under the Act to modify the Rate and Method if such modification would adversely affect the

security for the Bonds. If an initiative is adopted that purports to modify the Rate and Method in a manner that would adversely affect the security for the Bonds, the City shall, to the extent permitted by law, commence and pursue reasonable legal actions to prevent the modification of the Rate and Method in a manner that would adversely affect the security for the Bonds.

ARTICLE VI

INVESTMENTS; LIABILITY OF THE CITY

Section 6.01. Deposit and Investment of Moneys in Funds.

(A) Funds Held by the Fiscal Agent. Moneys in any fund or account created or established by this Agreement and held by the Fiscal Agent shall be invested by the Fiscal Agent in Permitted Investments, which in any event by their terms mature prior to the date on which such moneys are required to be paid out hereunder, as directed pursuant to an Officer's Certificate filed with the Fiscal Agent at least two (2) Business Days in advance of the making of such investments.

In the absence of any such Officer's Certificate, the Fiscal Agent shall invest any such moneys in Permitted Investments described in paragraph (g) of the definition thereof which by their terms mature prior to the date on which such moneys are required to be paid out hereunder to the extent reasonably practicable, and if such investments can not be made shall hold such funds uninvested.

The Director of Administrative Services shall make note of any investment of funds hereunder in excess of the yield on the Bonds so that appropriate actions can be taken to assure compliance with Section 5.11.

(B) Funds Held by the City. Moneys in any fund or account created or established by this Agreement and held by the Director of Administrative Services shall be invested in any Permitted Investment or in any other lawful investment for City funds, which in any event by its terms matures prior to the date on which such moneys are required to be paid out hereunder. Obligations purchased as an investment of moneys in any fund shall be deemed to be part of such fund or account, subject, however, to the requirements of this Agreement for transfer of interest earnings and profits resulting from investment of amounts in funds and accounts. Whenever in this Agreement any moneys are required to be transferred by the City to the Fiscal Agent, such transfer may be accomplished by transferring a like amount of Permitted Investments.

(C) Actions of Officials. The Fiscal Agent and its affiliates or the Director of Administrative Services may act as sponsor, advisor, depository, principal or agent in the acquisition or disposition of any investment. Neither the Fiscal Agent nor the Director of Administrative Services shall incur any liability for losses arising from any investments made pursuant to this Section. The Fiscal Agent shall not be required to determine the legality of any investments.

(D) Valuation of Investments. Except as otherwise provided in the next sentence, all investments of amounts deposited in any fund or account created by or pursuant to this Agreement, or otherwise containing gross proceeds of the Bonds (within the meaning of section 148 of the Tax Code) shall be acquired, disposed of, and valued (as of the date that valuation is required by this Agreement or the Tax Code) at Fair Market Value. Investments in funds or accounts (or portions thereof) that are subject to a yield restriction under the applicable provisions of the Tax Code and (unless valuation is undertaken at least annually) investments in the subaccounts within the Reserve Fund shall be valued at their present value (within the

meaning of section 148 of the Tax Code). The Fiscal Agent shall not be liable for verification of the application of such sections of the Tax Code or for any determination of Fair Market Value or present value and may conclusively rely upon an Officer's Certificate as to such valuations.

(E) Commingled Money. Investments in any and all funds and accounts may be commingled in a separate fund or funds for purposes of making, holding and disposing of investments, notwithstanding provisions herein for transfer to or holding in or to the credit of particular funds or accounts of amounts received or held by the Fiscal Agent or the Director of Administrative Services hereunder, provided that the Fiscal Agent or the Director of Administrative Services, as applicable, shall at all times account for such investments strictly in accordance with the funds and accounts to which they are credited and otherwise as provided in this Agreement.

(F) Confirmations Waiver. The City acknowledges that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the City the right to receive brokerage confirmations of security transactions as they occur, the City specifically waives receipt of such confirmations to the extent permitted by law. The Fiscal Agent will furnish the City periodic cash transaction statements which shall include detail for all investment transactions made by the Fiscal Agent hereunder.

(G) Sale of Investments. The Fiscal Agent or the Director of Administrative Services, as applicable, shall sell at Fair Market Value, or present for redemption, any investment security whenever it shall be necessary to provide moneys to meet any required payment, transfer, withdrawal or disbursement from the fund or account to which such investment security is credited and neither the Fiscal Agent nor the Director of Administrative Services shall be liable or responsible for any loss resulting from the acquisition or disposition of such investment security in accordance herewith.

Section 6.02. Liability of City.

(A) General. The City shall not incur any responsibility in respect of the Bonds or this Agreement other than in connection with the duties or obligations explicitly herein or in the Bonds assigned to or imposed upon it. The City shall not be liable in connection with the performance of its duties hereunder, except for its own negligence or willful default. The City shall not be bound to ascertain or inquire as to the performance or observance of any of the terms, conditions, covenants or agreements of the Fiscal Agent herein or of any of the documents executed by the Fiscal Agent in connection with the Bonds, or as to the existence of a default or event of default thereunder.

(B) Reliance. In the absence of bad faith, the City, including the Director of Administrative Services, may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the City by the Fiscal Agent or an Independent Financial Consultant and conforming to the requirements of this Agreement. The City, including the Director of Administrative Services, shall not be liable for any error of judgment made in good faith unless it shall be proved that it was negligent in ascertaining the pertinent facts. The City may rely and shall be protected in acting or refraining from acting upon any notice, resolution, request, consent, order, certificate, report, warrant, bond or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or proper parties. The City may consult with counsel, who may be the City Attorney, with regard to legal questions, and the opinion of such counsel shall be full

and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance therewith.

(C) No General Liability. No provision of this Agreement shall require the City to expend or risk its own general funds or otherwise incur any financial liability (other than with respect to the Special Tax Revenues) in the performance of any of its obligations hereunder, or in the exercise of any of its rights or powers, if it has reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

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

Section 6.03. Employment of Agents by City. In order to perform its duties and obligations hereunder, the City may employ such persons or entities as it deems necessary or advisable. The City shall not be liable for any of the acts or omissions of such persons or entities employed by it in good faith hereunder, and shall be entitled to rely, and shall be fully protected in doing so, upon the opinions, calculations, determinations and directions of such persons or entities.

ARTICLE VII
THE FISCAL AGENT

Section 7.01. The Fiscal Agent.

(A) Appointment. The Fiscal Agent is hereby appointed as the fiscal, authentication, paying and transfer agent hereunder for the Bonds. The Fiscal Agent undertakes to perform such duties, and only such duties, as are specifically set forth in this Agreement, and no implied duties, covenants or obligations shall be read into this Agreement against the Fiscal Agent.

(B) Merger. Any company into which the Fiscal Agent may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which the Fiscal Agent may sell or transfer all or substantially all of its corporate trust business, provided such company shall be eligible under the following paragraph of this Section 7.01 shall be the successor to such Fiscal Agent without the execution or filing of any paper or any further act, anything herein to the contrary notwithstanding. The Fiscal Agent shall give the Director of Administrative Services written notice of any such succession hereunder.

(C) Removal. Upon 30 days written notice, the City may remove the Fiscal Agent initially appointed, and any successor thereto, and may appoint a successor or successors thereto, but any such successor shall be a bank or trust company having a combined capital (exclusive of borrowed capital) and surplus of at least \$_____, and subject to supervision or examination by federal or state authority. If such bank or trust company publishes a report of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the purposes of this Section 7.01, combined capital and surplus of such bank or trust company shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

(D) Resignation. The Fiscal Agent may at any time resign by giving written notice to the City by certified mail return receipt requested, and by giving to the Owners notice by mail of such resignation. Upon receiving notice of such resignation, the City shall promptly appoint a successor Fiscal Agent by an instrument in writing. Any resignation or removal of the Fiscal Agent shall become effective upon acceptance of appointment by the successor Fiscal Agent.

(E) No Successor. If no appointment of a successor Fiscal Agent shall be made pursuant to the foregoing provisions of this Section 7.01 within 45 days after the Fiscal Agent shall have given to the City written notice or after a vacancy in the office of the Fiscal Agent shall have occurred by reason of its inability to act, the Fiscal Agent, at the expense of the City, or any Owner may apply to any court of competent jurisdiction to appoint a successor Fiscal Agent. Said court may thereupon, after such notice, if any, as such court may deem proper, appoint a successor Fiscal Agent.

(F) Court Order. If, by reason of the judgment of any court, the Fiscal Agent is rendered unable to perform its duties hereunder, all such duties and all of the rights and powers of the Fiscal Agent hereunder shall be assumed by and vest in the Director of Administrative Services in trust for the benefit of the Owners. The City covenants for the direct benefit of the Owners that its Director of Administrative Services in such case shall be vested with all of the

rights and powers of the Fiscal Agent hereunder, and shall assume all of the responsibilities and perform all of the duties of the Fiscal Agent hereunder, in trust for the benefit of the Owners of the Bonds.

Section 7.02. Liability of Fiscal Agent.

(A) General. The recitals of facts, covenants and agreements herein and in the Bonds contained shall be taken as statements, covenants and agreements of the City, and the Fiscal Agent assumes no responsibility for the correctness of the same, nor makes any representations as to the validity or sufficiency of this Agreement or of the Bonds, nor shall the Fiscal Agent incur any responsibility in respect thereof, other than in connection with the duties or obligations herein or in the Bonds assigned to or imposed upon it. The Fiscal Agent shall not be liable in connection with the performance of its duties hereunder, except for its own negligence or willful misconduct. The Fiscal Agent assumes no responsibility or liability for any information, statement or recital in any offering memorandum or other disclosure material prepared or distributed with respect to the issuance of the Bonds. All indemnifications and releases from liability granted to the Fiscal Agent hereunder shall extend to the directors, officers and employees of the Fiscal Agent.

The Fiscal Agent shall not be considered in breach of or in default in its obligations hereunder or progress in respect thereto in the event of enforced delay (“unavoidable delay”) in the performance of such obligations due to unforeseeable causes beyond its control and without its fault or negligence, including, but not limited to, Acts of God or of the public enemy or terrorists, acts of a government, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, earthquakes, explosion, mob violence, riot, inability to procure or general sabotage or rationing of labor, equipment, facilities, sources of energy, material or supplies in the open market, litigation or arbitration involving a party or others relating to zoning or other governmental action or inaction pertaining to the project, malicious mischief, condemnation, and unusually severe weather or delays of suppliers or subcontractors due to such causes or any similar event and/or occurrences beyond the control of the Fiscal Agent.

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

(C) No Duty to Inquire. The Fiscal Agent shall not be bound to ascertain or inquire as to the performance or observance of any of the terms, conditions, covenants or agreements

of the City or the CFD herein or of any of the documents executed by the City or the CFD in connection with the Bonds, or as to the existence of a default or event of default thereunder.

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

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

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

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

Section 7.03. Information; Books and Accounts. The Fiscal Agent shall provide to the City such information relating to the Bonds and the funds and accounts maintained by the Fiscal Agent hereunder as the City shall reasonably request, including but not limited to monthly statements reporting funds held and transactions by the Fiscal Agent, including the value of any investments held by the Fiscal Agent. The Fiscal Agent will keep, or cause to be kept, proper books of record and accounts, separate from all other records and accounts of the Fiscal Agent, in which complete and correct entries shall be made of all transactions relating to the expenditure of amounts disbursed from the Bond Fund, the Special Tax Fund, the Reserve Fund, the Administrative Expense Fund and the Cost of Issuance Fund. Such books of record and accounts shall, upon reasonable notice, during business hours be subject to the inspection of the City and the Owners of not less than 10% of the principal amount of the Bonds then Outstanding, or their representatives duly authorized in writing.

Section 7.04. Notice to Fiscal Agent. The Fiscal Agent may rely and shall be protected in acting or refraining from acting upon any notice, resolution, request, consent, order, certificate, facsimile transmission, electronic mail, written instructions, report, warrant, bond or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or proper parties. The Fiscal Agent may consult with counsel, who may be counsel to the City, with regard to legal questions, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in accordance therewith.

The Fiscal Agent shall not be bound to recognize any person as the Owner of a Bond unless and until such Bond is submitted for inspection, if required, and his title thereto satisfactorily established, if disputed.

Whenever in the administration of its duties under this Agreement the Fiscal Agent shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of willful misconduct on the part of the Fiscal Agent, be deemed to be conclusively proved and established by an Officer's Certificate of the City, and

such certificate shall be full warrant to the Fiscal Agent for any action taken or suffered under the provisions of this Agreement or any Supplemental Agreement upon the faith thereof, but in its discretion the Fiscal Agent may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as to it may seem reasonable.

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

ARTICLE VIII

MODIFICATION OR AMENDMENT

Section 8.01. Amendments Permitted.

(A) With Consent. This Agreement and the rights and obligations of the City and of the Owners of the Bonds may be modified or amended at any time by a Supplemental Agreement pursuant to the affirmative vote at a meeting of Owners, or with the written consent without a meeting, of the Owners of at least 60% in aggregate principal amount of the Bonds then Outstanding, exclusive of Bonds disqualified as provided in Section 8.04.

No such modification or amendment shall (i) extend the maturity of any Bond or reduce the interest rate thereon, or otherwise alter or impair the obligation of the City to pay the principal of, and the interest and any premium on, any Bond, without the express consent of the Owner of such Bond, or (ii) permit the creation by the City of any pledge or lien upon the Special Taxes superior to or on a parity with the pledge and lien created for the benefit of the Bonds (except as otherwise permitted by the Act, the laws of the State of California or this Agreement), or reduce the percentage of Bonds required for the amendment hereof.

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

(i) to add to the covenants and agreements of the City herein, other covenants and agreements thereafter to be observed, or to limit or surrender any right or power herein reserved to or conferred upon the City;

(ii) to make modifications not adversely affecting any Outstanding Bonds in any material respect including, but not limited to, amending the Rate and Method, so long as the amendment does not result in coverage less than that set forth in Section 5.19;

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

(iv) to make such additions, deletions or modifications as may be necessary or desirable to assure exclusion from gross income for federal income tax purposes of interest on the Bonds.

(C) Fiscal Agent's Consent. Any amendment of this Agreement may not modify any of the rights or obligations of the Fiscal Agent without its written consent. The Fiscal Agent shall be furnished an opinion of counsel that any such Supplemental Agreement entered into by the City and the Fiscal Agent complies with the provisions of this Section 8.01 and the Fiscal Agent may conclusively rely on such opinion and shall be absolutely protected in so relying.

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

Section 8.03. Procedure for Amendment with Written Consent of Owners. The City and the Fiscal Agent may at any time execute a Supplemental Agreement amending the provisions of the Bonds or of this Agreement or any Supplemental Agreement, to the extent that such amendment is permitted by Section 8.01(A), to take effect when and as provided in this Section 8.03. A copy of such Supplemental Agreement, together with a request to Owners for their consent thereto, shall be mailed by first class mail, by the Fiscal Agent, at the expense of the City), to each Owner of Bonds Outstanding, but failure to mail copies of such Supplemental Agreement and request shall not affect the validity of the Supplemental Agreement when assented to as in this Section 8.03 provided.

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

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

Section 8.04. Disqualified Bonds. Bonds owned or held for the account of the City, excepting any pension or retirement fund, shall not be deemed Outstanding for the purpose of any vote, consent or other action or any calculation of Outstanding Bonds provided for in this Article VIII, and shall not be entitled to vote upon, consent to, or take any other action provided for in this Article VIII. Upon request of the Fiscal Agent, the City shall specify in a certificate to the Fiscal Agent those Bonds disqualified pursuant to this Section and the Fiscal Agent may conclusively rely on such certificate.

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

Section 8.06. Endorsement or Replacement of Bonds Issued After Amendments. The City may determine that Bonds issued and delivered after the effective date of any action taken as provided in this Article VIII shall bear a notation, by endorsement or otherwise, in form approved by the City, as to such action. In that case, upon demand of the Owner of any Bond Outstanding at such effective date and upon presentation of his Bond for that purpose at the Principal Office of the Fiscal Agent or at such other office as the City may select and designate for that purpose, a suitable notation shall be made on such Bond. The City may determine that new Bonds, so modified as in the opinion of the City is necessary to conform to such Owners' action, shall be prepared, executed and delivered. In that case, upon demand of the Owner of any Bonds then Outstanding, such new Bonds shall be exchanged at the Principal Office of the Fiscal Agent without cost to any Owner, for Bonds then Outstanding, upon surrender of such Bonds.

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

ARTICLE IX

MISCELLANEOUS

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

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

Section 9.03. Discharge of Agreement. If the City pays and discharges the entire indebtedness on all Bonds Outstanding in any one or more of the following ways:

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

(B) by depositing with the Fiscal Agent, in trust, at or before maturity, money which, together with the amounts then on deposit in the funds and accounts provided for in the Bond Fund and the Reserve Fund hereof, is fully sufficient to pay all Bonds Outstanding, including all principal, interest and redemption premiums; or

(C) by irrevocably depositing with the Fiscal Agent, in trust, cash and/or Federal Securities in such amount as the City determines, as confirmed by an independent certified public accountant, will, together with the interest to accrue thereon and moneys then on deposit in the fund and accounts provided for in the Bond Fund and the Reserve Fund (to the extent invested in Federal Securities), be fully sufficient to pay and discharge the indebtedness on all Bonds (including all principal, interest and redemption premiums) at or before their respective maturity dates;

and if such Bonds are to be redeemed prior to the maturity thereof, notice of such redemption has been given as in this Agreement provided or provision satisfactory to the Fiscal Agent has been made for the giving of such notice, then, at the election of the City, and notwithstanding that any Bonds have not been surrendered for payment, the pledge of the Special Taxes and other funds provided for in this Agreement and all other obligations of the City under this Agreement with respect to such Bonds Outstanding shall cease and terminate. Notice of such election shall be filed with the Fiscal Agent.

Notwithstanding the foregoing, the following obligations and pledges of the City shall continue in any event: (i) the obligation of the City to pay or cause to be paid to the Owners of the Bonds not so surrendered and paid all sums due thereon, (ii) the obligation of the City to pay amounts owing to the Fiscal Agent pursuant to Section 7.05, and (iii) the obligation of the City to

assure that no action is taken or failed to be taken if such action or failure adversely affects the exclusion of interest on the Bonds from gross income for federal income tax purposes.

Upon compliance by the City with the foregoing with respect to all Bonds Outstanding, any funds held by the Fiscal Agent after payment of all fees and expenses of the Fiscal Agent, which are not required for the purposes of the preceding paragraph, shall be paid over to the City and any Special Taxes thereafter received by the City shall not be remitted to the Fiscal Agent but shall be retained by the City to be used for any purpose permitted under the Act and the Resolution of Formation.

Section 9.04. Execution of Documents and Proof of Ownership by Owners. Any request, declaration, consent or other instrument which this Agreement may require or permit to be executed by Owners may be in one or more instruments of similar tenor, and shall be executed by Owners in person or by their attorneys appointed in writing.

Except as otherwise herein expressly provided, the fact and date of the execution by any Owner or his attorney of such request, declaration, consent or other instrument, or of such writing appointing such attorney, may be proved by the certificate of any notary public or other officer authorized to take acknowledgments of deeds to be recorded in the state in which he purports to act, that the person signing such request, declaration or other instrument or writing acknowledged to him the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer.

Except as otherwise herein expressly provided, the ownership of registered Bonds and the amount, maturity, number and date of holding the same shall be proved by the registration books maintained by the Fiscal Agent under Section 2.07.

Any request, declaration, consent or other instrument or writing of the Owner of any Bond shall bind all future Owners of such Bond in respect of anything done or suffered to be done by the City or the Fiscal Agent in good faith and in accordance therewith.

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

Section 9.06. Notices to and Demands on City and Fiscal Agent. Any notice or demand which by any provision of this Agreement is required or permitted to be given or served by the Fiscal Agent to or on the City may be given or served by facsimile transmission receipt of which has been confirmed or by being deposited postage prepaid in a post office letter box addressed (until another address is filed by the City with the Fiscal Agent) as follows:

City of Beverly Hills
455 North Rexford Drive
Beverly Hills, CA 90210
Fax: 310-285-2441
Attention: Director of Administrative Services

Any notice or demand which by any provision of this Agreement is required or permitted to be given or served by the City to or on the Fiscal Agent may be given or served by facsimile transmission receipt of which has been confirmed or by being deposited postage prepaid in a

post office letter box addressed (until another address is filed by the Fiscal Agent with the City) as follows:

U.S. Bank National Association
Global Corporate Trust Services
Attn: Beverly Hills CFD No. 2002-A (Business Triangle) STBs 2013
633 West Fifth Street, 24th Floor
Los Angeles, CA 90071
Fax: 213-615-6199

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

Section 9.08. Unclaimed Moneys. Anything contained herein to the contrary notwithstanding, any moneys held by the Fiscal Agent in trust for the payment and discharge of the principal of, and the interest and any premium on, the Bonds which remains unclaimed for two years after the date when the payment of such principal, interest and premium have become payable, if such moneys were held by the Fiscal Agent at such date, shall be repaid by the Fiscal Agent to the City as its absolute property free from any trust, and the Fiscal Agent shall thereupon be released and discharged with respect thereto and the Owners of such Bonds shall look only to the City for the payment of the principal of, and interest and any premium on, such Bonds. Any right of any Owner to look to the City for such payment shall survive only so long as required under applicable law.

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

Section 9.10. Conflict with Act. In the event of a conflict between any provision of this Agreement with any provision of the Act as in effect on the Closing Date, the provision of the Act shall prevail over the conflicting provision of this Agreement.

Section 9.11. Conclusive Evidence of Regularity. Bonds issued under this Agreement shall constitute conclusive evidence of the regularity of all proceedings under the Act relative to their issuance and the levy of the Special Taxes.

Section 9.12. Payment on Business Day. In any case where the date of the maturity of interest or of principal (and premium, if any) of the Bonds, or the date fixed for redemption of any Bonds, or the date any action is to be taken under this Agreement, is other than a Business Day, the payment of interest or principal (and premium, if any) or the action shall be made on the next succeeding day which is a Business Day with the same force and effect as if made on the date required and no interest shall accrue for the period from and after such date.

Section 9.13. State Reporting Requirements. In addition to Section 5.15, the following requirements shall apply to the Bonds:

(A) Annual Reporting. Not later than October 30 of each calendar year, beginning with the October 30 first succeeding the date of the Bonds, and in each calendar year thereafter until the October 30 following the final maturity of the Bonds, the Director of Administrative Services shall cause the following information to be supplied to CDIAC: (i) the principal amount of the Bonds Outstanding; (ii) the balance in the Reserve Fund and any amounts of capitalized interest in the Bond Fund; (iii) the number of parcels in the CFD which are delinquent in the payment of Special Taxes, the amount of each delinquency, the length of time delinquent and when foreclosure was commenced for each delinquent parcel; (iv) the balance in the Refunding Fund; and (v) the assessed value of all parcels in the CFD subject to the levy of the Special Taxes as shown in most recent equalized roll. The annual reporting shall be made using such form or forms as may be prescribed by CDIAC.

(B) Other Reporting. If at any time the Fiscal Agent fails to pay principal and interest due on any scheduled payment date for the Bonds, or if funds are withdrawn from the Reserve Fund to pay principal and interest on the Bonds, the Fiscal Agent shall notify the Director of Administrative Services of such failure or withdrawal in writing. The Director of Administrative Services shall notify CDIAC and the Original Purchasers of such failure or withdrawal within 10 days of such failure or withdrawal.

(C) Special Tax Reporting. The Director of Administrative Services shall file a report with the City no later than January 1, 2013, and at least once a year thereafter, which shall contain: (i) the amount of Special Taxes collected and expended with respect to the CFD, and (ii) the amount of Bond proceeds collected and expended with respect to the CFD.

It is acknowledged that the Special Tax Fund and the Special Tax Prepayments Account are the accounts into which Special Taxes collected by the City will be deposited for purposes of Section 50075.1(c) of the California Government Code, and the funds and accounts listed in Section 4.01 are the funds and accounts into which Bond proceeds will be deposited for purposes of Section 53410(c) of the California Government Code, and the annual report described in the preceding sentence is intended to satisfy the requirements of Sections 50075.1(d), 50075.3(d) and 53411 of the California Government Code.

(D) Amendment. The reporting requirements of this Section 9.13 shall be amended from time to time, without action by the City or the Fiscal Agent (i) with respect to subparagraphs (A) and (B) above, to reflect any amendments to Section 53359.5(b) or Section 53359.5(c) of the Act, and (ii) with respect to subparagraph (C) above, to reflect any amendments to Section 50075.1, 50075.3, 53410 or 53411 of the California Government Code.

Notwithstanding the foregoing, any such amendment shall not, in itself, affect the City's obligations under the Continuing Disclosure Certificate. The City shall notify the Fiscal Agent in writing of any such amendments which affect the reporting obligations of the Fiscal Agent under this Agreement.

(E) No Liability. None of the City and its officers, agents and employees, the Director of Administrative Services or the Fiscal Agent shall be liable for any inadvertent error in reporting the information required by this Section 9.13.

Section 9.14. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original.

IN WITNESS WHEREOF, the City and the Fiscal Agent have caused this Agreement to be executed as of the date first written above.

CITY OF BEVERLY HILLS,
for and on behalf of
COMMUNITY FACILITIES DISTRICT NO. 2002-A
(BUSINESS TRIANGLE)

By: _____
Director of Administrative Services
and Chief Financial Officer

U.S. BANK NATIONAL ASSOCIATION,
as Fiscal Agent

By: _____
Authorized Officer

EXHIBIT A
FORM OF BOND

No. ____

\$_____

UNITED STATES OF AMERICA
STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

COMMUNITY FACILITIES DISTRICT NO. 2002-A
(BUSINESS TRIANGLE)
OF THE CITY OF BEVERLY HILLS
2013 Special Tax Refunding Bonds

INTEREST RATE	MATURITY DATE	DATED DATE
_____%	September 1, _____	_____

REGISTERED OWNER:

PRINCIPAL AMOUNT: *****DOLLARS

The City of Beverly Hills (the "City") for and on behalf of the Community Facilities District No. 2002-A (Business Triangle) of the City of Beverly Hills (the "CFD"), for value received, hereby promises to pay solely from Special Tax Revenues (as hereinafter defined) to be collected in the CFD or amounts in certain funds and accounts held under the Agreement (as hereinafter defined), to the registered owner named above, or registered assigns, on the maturity date set forth above, unless redeemed prior thereto as hereinafter provided, the principal amount set forth above, and to pay interest on such principal amount from Dated Date set forth above, or from the most recent Interest Payment Date (as hereinafter defined) to which interest has been paid or duly provided for (unless this Bond is authenticated on or before an Interest Payment Date (as hereinafter defined) and after the close of business on the Record Date (as hereinafter defined) preceding such Interest Payment Date, in which event it shall bear interest from such Interest Payment Date, or unless this Bond is authenticated on or prior to August 15, 2013, in which event it shall bear interest from the Dated Date identified above, payable semiannually on each March 1 and September 1, commencing September 1, 2013 (each an "Interest Payment Date"), at the interest rate set forth above, until the principal amount hereof is paid or made available for payment provided, however, that if at the time of authentication of this Bond, interest is in default on this Bond, this Bond shall bear interest from the Interest Payment Date to which interest has previously been paid or made available for payment.

Principal of and interest on the Bonds (including the final interest payment upon maturity or earlier redemption), is payable on the applicable Interest Payment Date by check of the Fiscal Agent (defined below) mailed by first class mail to the registered Owner thereof at such registered Owner's address as it appears on the registration books maintained by the Fiscal Agent at the close of business on the Record Date preceding the Interest Payment Date, or by

wire transfer made on such Interest Payment Date upon written instructions of any Owner of \$1,000,000 or more in aggregate principal amount of Bonds delivered to the Fiscal Agent prior to the applicable Record Date. The principal of the Bonds and any premium on the Bonds are payable in lawful money of the United States of America upon surrender of the Bonds at the Principal Office of the Fiscal Agent or such other place as designated by the Fiscal Agent.

This Bond is one of a duly authorized issue of bonds in the aggregate principal amount of \$ _____ approved by resolution of the City Council of the City on _____, 2012 (the "Resolution"), under the Mello-Roos Community Facilities Act of 1982, as amended, sections 53311, *et seq.*, of the California Government Code (the "Act") for the purpose refinancing the outstanding special tax bond captioned "Community Facilities District No. 2002-A (Business Triangle) of the City of Beverly Hills Special Tax Bonds, Series 2002 (the "Prior Bonds"), and is one of the series of bonds designated "Community Facilities District No. 2002-A (Business Triangle) of the City of Beverly Hills 2013 Special Tax Refunding Bonds" (the "Bonds").

The issuance of the Bonds and the terms and conditions thereof are provided for by a Fiscal Agent Agreement, dated as of January 1, 2013 (the "Agreement"), between the City and U.S. Bank National Association (the "Fiscal Agent") and this reference incorporates the Agreement herein, and by acceptance hereof the owner of this Bond assents to said terms and conditions. The Agreement is authorized under, this Bond is issued under and both are to be construed in accordance with, the laws of the State of California.

Pursuant to the Act, the Resolution of Issuance and the Agreement, the principal of and interest on this Bond are payable solely from "Special Tax Revenues," as defined in the Agreement, which consist primarily of the proceeds of the annual special tax authorized under the Act to be collected within the CFD (the "Special Tax"), and certain funds held under the Agreement. Any tax for the payment hereof shall be limited to the Special Tax, except to the extent that provision for payment has been made by the City, as may be permitted by law. The Bonds do not constitute obligations of the City for which the City is obligated to levy or pledge, or has levied or pledged, general or special taxation other than described hereinabove. Neither the faith and credit nor the taxing power of the City (except to the limited extent set forth in the Agreement) or the State of California or any political subdivision thereof is pledged to the payment of the Bonds.

Optional Redemption. The Bonds maturing on September 1, 20__ and thereafter are subject to redemption prior to their stated maturities, on any Interest Payment Date on and after September 1, 20__, in whole or in part, at a redemption price equal to the principal amount of the Bonds to be redeemed together with accrued interest thereon to the date fixed for redemption, without premium.

Redemption from Special Tax Prepayments. Special Tax Prepayments and any corresponding transfers from the Reserve Fund pursuant to Section 4.03(F) of the Fiscal Agent Agreement shall be used to redeem Bonds on the next Interest Payment Date for which notice of redemption can timely be given, among maturities so as to maintain substantially the same debt service profile for the Bonds as in effect prior to such redemption and by lot within a maturity, at a redemption price (expressed as a percentage of the principal amount of the Bonds to be redeemed), as set forth below, together with accrued interest to the date fixed for redemption:

Redemption Date

Any Interest Payment Date through March 1, 20__
September 1, 20__ and any Interest Payment Date thereafter

Redemption Price

___%

The Bonds maturing September 1, 20__, are subject to mandatory sinking fund redemption in whole, or in part by lot, on September 1 in each year commencing September 1, 20__, as provided in the Fiscal Agent Agreement.

The Bonds maturing September 1, 20__, are subject to mandatory sinking fund redemption in whole, or in part by lot, on September 1 in each year commencing September 1, 20__, as provided in the Fiscal Agent Agreement.

Notice of redemption with respect to the Bonds to be redeemed shall be given to the registered owners thereof, in the manner, to the extent and subject to the provisions of the Agreement, and may specify that redemption on the specified date will be subject to receipt by the City of moneys sufficient to cause such redemption.

This Bond shall be registered in the name of the owner hereof, as to both principal and interest. Each registration and transfer of registration of this Bond shall be entered by the Fiscal Agent in books kept by it for this purpose and authenticated by its manual signature upon the certificate of authentication endorsed hereon.

No transfer or exchange hereof shall be valid for any purpose unless made by the registered owner, by execution of the form of assignment endorsed hereon, and authenticated as herein provided, and the principal hereof, interest hereon and any redemption premium shall be payable only to the registered owner or to such owner's order. The Fiscal Agent shall require the registered owner requesting transfer or exchange to pay any tax or other governmental charge required to be paid with respect to such transfer or exchange. No transfer or exchange hereof shall be required to be made (i) fifteen days prior to the date established by the Fiscal Agent for selection of Bonds for redemption or (ii) with respect to a Bond after such Bond has been selected for redemption.

The Agreement and the rights and obligations of the City thereunder may be modified or amended as set forth therein. The principal of the Bonds is not subject to acceleration upon a default under the Agreement or any other document.

This Bond shall not become valid or obligatory for any purpose until the certificate of authentication and registration hereon endorsed shall have been dated and signed by the Fiscal Agent.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED by the City that all acts, conditions and things required by law to exist, happen and be performed precedent to and in the issuance of this Bond have existed, happened and been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other indebtedness of the City, does not exceed any debt limit prescribed by the laws or Constitution of the State of California.

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the Fiscal Agent for registration of transfer, exchange, or payment, and any Bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made

to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

IN WITNESS WHEREOF, City of Beverly Hills has caused this Bond to be to be signed by the facsimile signature of its Director of Administrative Services and Chief Financial Officer and countersigned by the facsimile signature of the Clerk with the seal of the City imprinted hereon.

[S E A L]

Clerk

Director of Administrative Services
and Chief Financial Officer

[FORM OF FISCAL AGENT'S CERTIFICATE OF AUTHENTICATION AND REGISTRATION]

This is one of the Bonds described in the Agreement which has been authenticated on _____, 2013.

U.S. BANK NATIONAL ASSOCIATION,
as Fiscal Agent

By: _____
Authorized Signatory

FORM OF ASSIGNMENT

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

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

the within Bond and do(es) hereby irrevocably constitute and appoint _____
_____, attorney, to transfer the same on the registration books of the Fiscal Agent, with
full power of substitution in the premises.

Dated: _____

Signature Guaranteed:

NOTICE: Signature guarantee shall be made by a guarantor institution participating in the Securities Transfer Agents Medallion Program or in such other guarantee program acceptable to the Fiscal Agent.

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

EXHIBIT B

**COMMUNITY FACILITIES DISTRICT NO. 2002-A
(BUSINESS TRIANGLE)
OF THE CITY OF BEVERLY HILLS
2013 Special Tax Refunding Bonds**

**OFFICER'S CERTIFICATE REQUESTING DISBURSEMENT
FROM COSTS OF ISSUANCE FUND**

REQUISITION NO. _____

The undersigned hereby states and certifies that:

(i) I am the duly appointed, qualified and acting Director of Administrative Services and Chief Financial Officer of the City of Beverly Hills, a general law city duly organized and existing under the laws of the State of California (the "City") and as such, am familiar with the facts herein certified and am authorized to certify the same;

(ii) I am an "Authorized Officer," as such term is defined in that certain Fiscal Agent Agreement, dated as of January 1, 2013 (the "Fiscal Agent Agreement"), by and between the City and U.S. Bank National Association, as fiscal agent (the "Fiscal Agent");

(iii) under Section 4.02(B) of the Fiscal Agent Agreement, the undersigned hereby requests and authorizes the Fiscal Agent to disburse from the Costs of Issuance Fund established under the Fiscal Agent Agreement to each payee designated on Schedule A attached hereto and by this reference incorporated herein, the amount set forth opposite such payee, for payment or reimbursement of previous payment of Costs of Issuance (as that term is defined in the Fiscal Agent Agreement) as described on attached Schedule A; and

(iv) the disbursements described on the attached Schedule A constitute Costs of Issuance, and are properly chargeable to the Costs of Issuance Fund.

Dated: _____

CITY OF BEVERLY HILLS

By: _____
Director of Administrative Services
and Chief Financial Officer

SCHEDULE A

Payee Name and Address

Purpose of Obligation

Amount

EXHIBIT C

**COMMUNITY FACILITIES DISTRICT NO. 2002-A
(BUSINESS TRIANGLE)
OF THE CITY OF BEVERLY HILLS
2013 Special Tax Refunding Bonds**

**OFFICER'S CERTIFICATE REQUESTING DISBURSEMENT
FROM ADMINISTRATIVE EXPENSE FUND**

REQUISITION NO. _____

The undersigned hereby states and certifies that:

(i) I am the duly appointed, qualified and acting Director of Administrative Services and Chief Financial Officer of the City of Beverly Hills, a general law city duly organized and existing under the laws of the State of California (the "City") and as such, am familiar with the facts herein certified and am authorized to certify the same;

(ii) I am an "Authorized Officer," as such term is defined in that certain Fiscal Agent Agreement, dated as of January 1, 2013 (the "Fiscal Agent Agreement"), by and between the City and U.S. Bank National Association, as fiscal agent (the "Fiscal Agent");

(iii) under Section 4.06(B) of the Fiscal Agent Agreement, the undersigned hereby requests and authorizes the Fiscal Agent to disburse from the Administrative Expense Fund established under the Fiscal Agent Agreement to each payee designated on Schedule A attached hereto and by this reference incorporated herein, the amount set forth opposite such payee, for payment or reimbursement of previous payment of an Administrative Expense or Costs of Issuance (as those terms are defined in the Fiscal Agent Agreement) as described on attached Schedule A; and

(iv) the disbursements described on the attached Schedule A constitute Administrative Expenses or Costs of Issuance, and are properly chargeable to the Administrative Expense Fund.

Dated: _____

CITY OF BEVERLY HILLS

By: _____
Director of Administrative Services
and Chief Financial Officer

SCHEDULE A

Payee Name and Address

Purpose of Obligation

Amount

PRELIMINARY OFFICIAL STATEMENT DATED _____, 2012

NEW ISSUE

Rating: S&P: “___”
See “RATING.”

In the opinion of Jones Hall, A Professional Law Corporation, San Francisco, California, Bond Counsel, subject, however to certain qualifications described herein, under existing law, the interest on the Bonds is excluded from gross income for federal income tax purposes and such interest is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations, although for the purpose of computing the alternative minimum tax imposed on certain corporations, such interest is taken into account in determining certain income and earnings. In the further opinion of Bond Counsel, such interest is exempt from California personal income taxes. See “LEGAL MATTERS - Tax Exemption.”

\$13,440,000*
COMMUNITY FACILITIES DISTRICT NO. 2002-A
(BUSINESS TRIANGLE)
OF THE CITY OF BEVERLY HILLS
2013 SPECIAL TAX REFUNDING BONDS

Dated: Date of Delivery

Due: September 1, as shown on inside cover.

Authority for Issuance. The bonds captioned above (the “Bonds”) are being issued by the City of Beverly Hills (the “City”) under the Mello-Roos Community Facilities Act of 1982 (the “Act”), the Resolution of Issuance (as defined in this Official Statement), and a Fiscal Agent Agreement, dated as of January 1, 2013, (the “Fiscal Agent Agreement”), by and between the City and U.S. Bank National Association, as fiscal agent (the “Fiscal Agent”). The City Council (the “City Council”) of the City, acting as legislative body of Community Facilities District No. 2002-A (Business Triangle) of the City of Beverly Hills (the “District”), has authorized the issuance of the Bonds. See “THE BONDS – Authority for Issuance.”

Security and Sources of Payment. The Bonds are payable from proceeds of Special Tax Revenues (as defined in this Official Statement) levied on property within the District according to the first amended rate and method of apportionment of special tax approved by the City Council and the eligible landowner voters in the District. The Bonds are secured by a first pledge of the revenues derived from the Special Tax Revenues and the moneys on deposit in certain funds held by the Fiscal Agent under the Fiscal Agent Agreement. See “SECURITY FOR THE BONDS.”

Use of Proceeds. The Bonds are being issued to (a) refund certain outstanding special tax bonds of the City captioned “\$16,215,000 Community Facilities District No. 2002-A (Business Triangle) of the City of Beverly Hills Special Tax Bonds, Series 2002,” which are currently outstanding in the aggregate principal amount of \$13,635,000, (b) fund a debt service reserve fund for the Bonds and (c) pay the costs of issuing the Bonds. See “REFUNDING PLAN.”

Bond Terms. Interest on the Bonds is payable on September 1, 2013, and semiannually thereafter on each March 1 and September 1. The Bonds will be issued in denominations of \$5,000 or integral multiples of \$5,000. The Bonds, when delivered, will be initially registered in the name of Cede & Co., as nominee of The Depository Trust Company (“DTC”), New York, New York. DTC will act as securities depository for the Bonds. See “THE BONDS – General Bond Terms” and “APPENDIX D – DTC and the Book-Entry Only System.”

Redemption. The Bonds are subject to optional redemption and special mandatory redemption from prepaid Special Taxes. See “THE BONDS - Redemption.”

THE BONDS, THE INTEREST THEREON, AND ANY PREMIUMS PAYABLE ON THE REDEMPTION OF ANY BONDS, DO NOT CONSTITUTE AN INDEBTEDNESS OF THE CITY, THE STATE OF CALIFORNIA (THE “STATE”) OR ANY OF ITS POLITICAL SUBDIVISIONS, AND NONE OF THE CITY (EXCEPT TO THE LIMITED EXTENT DESCRIBED IN THIS OFFICIAL STATEMENT), THE STATE OR ANY OF THEIR RESPECTIVE POLITICAL SUBDIVISIONS IS LIABLE ON THE BONDS. NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE CITY (EXCEPT TO THE LIMITED EXTENT DESCRIBED IN THIS OFFICIAL STATEMENT) OR THE STATE OR ANY OF THEIR RESPECTIVE POLITICAL SUBDIVISIONS IS PLEDGED TO THE PAYMENT OF THE BONDS. OTHER THAN THE SPECIAL TAX REVENUES, NO TAXES ARE PLEDGED TO THE PAYMENT OF THE BONDS. THE BONDS ARE LIMITED OBLIGATIONS OF THE CITY PAYABLE SOLELY FROM THE SPECIAL TAX REVENUES AS MORE FULLY DESCRIBED IN THIS OFFICIAL STATEMENT.

MATURITY SCHEDULE

(see inside cover)

This cover page contains certain information for quick reference only. It is not a summary of the issue. Potential investors should read the entire Official Statement to obtain information essential to the making of an informed investment decision. Investment in the Bonds involves risks that may not be appropriate for some investors. See “BONDOWNERS’ RISKS” for a discussion of special risk factors that should be considered in evaluating the investment quality of the Bonds.

The Bonds are offered when, as and if issued and accepted by the Underwriter, subject to approval as to their legality by Jones Hall, A Professional Law Corporation, San Francisco, California, Bond Counsel, and subject to certain other conditions. Certain legal matters have been passed upon for the City by Richards, Watson & Gershon, a Professional Corporation, Los Angeles, California. Jones Hall, A Professional Law Corporation, has served as disclosure counsel to the City. Stradling Yocca Carlson & Rauth, a Professional Corporation, Newport Beach, California, is serving as counsel to the Underwriter. It is anticipated that the Bonds, in book-entry form, will be available for delivery on or about _____, 2013.

[Stifel logo]

The date of this Official Statement is: _____, 2012.

This Preliminary Official Statement and the information contained herein are subject to completion or amendment. Under no circumstances shall this Preliminary Official Statement constitute an offer to sell or a solicitation of an offer to buy nor shall there be any sale of these securities in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of such jurisdiction.

* Preliminary; subject to change.

MATURITY SCHEDULE*

\$ _____
(Base CUSIP†: _____)

<u>Maturity</u> <u>(September 1)</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>	<u>Yield</u>	<u>CUSIP†</u>
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† Copyright 2012, American Bankers Association. CUSIP data in this Official Statement are provided by Standard & Poor's CUSIP Service Bureau, a division of The McGraw-Hill Companies, Inc., and are provided for convenience of reference only. Neither the City nor the Underwriter assumes any responsibility for the accuracy of CUSIP data.

* Preliminary; subject to change.

GENERAL INFORMATION ABOUT THIS OFFICIAL STATEMENT

No Offering May Be Made Except by this Official Statement. No dealer, broker, salesperson or other person has been authorized to give any information or to make any representations with respect to the Bonds other than as contained in this Official Statement. If given or made, such other information or representation must not be relied on as having been authorized.

No Unlawful Offers or Solicitations. This Official Statement constitutes neither an offer to sell nor the solicitation of an offer to buy in any state in which the offer or solicitation is not authorized or the person making the offer or solicitation is not qualified to do so, or to any person to whom it is unlawful to make the offer or solicitation.

Effective Date. This Official Statement speaks only as of its date, and the information and expressions of opinion it contains are subject to change without notice. Neither the delivery of this Official Statement nor any sale of the Bonds will, under any circumstances, create any implication that there has been no change in the affairs of the City, the District, any other parties described in this Official Statement, or in the condition of property within the District since the date of this Official Statement.

Use of this Official Statement. This Official Statement is submitted in connection with the sale of the Bonds and may not be reproduced or used, in whole or in part, for any other purpose. It is not a contract with the purchasers of the Bonds.

Preparation of this Official Statement. The information contained in this Official Statement has been obtained from sources that are believed to be reliable, but is not guaranteed as to accuracy or completeness.

The Underwriter has provided the following sentence for inclusion in this Official Statement: The Underwriter has reviewed the information in this Official Statement in accordance with, and as part of, its responsibilities to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Underwriter does not guarantee the accuracy or completeness of such information.

Document References and Summaries. All references to and summaries of the Fiscal Agent Agreement or other documents contained in this Official Statement are subject to the provisions, and do not purport to be complete statements, of those documents.

Stabilization of and Changes to Offering Prices. The Underwriter may overallocate or take other steps that stabilize or maintain the market price of the Bonds at a level above that which might otherwise prevail in the open market. If commenced, the Underwriter may discontinue that market stabilization at any time. The Underwriter may offer and sell the Bonds to certain dealers, dealer banks and banks acting as an agent at prices lower than the public offering prices stated on the inside cover page of this Official Statement, and those public offering prices may be changed from time to time by the Underwriter.

Bonds Exempt from Securities Laws Registration. The issuance and sale of the Bonds have not been registered under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, in reliance on exemptions for the issuance and sale of municipal securities provided under Section 3(a)(2) of the Securities Act of 1933 and Section 3(a)(12) of the Securities Exchange Act of 1934.

Estimates and Projections. Certain statements included or incorporated by reference in this Official Statement constitute "forward-looking statements" within the meaning of the United States Private Securities Litigation Reform Act of 1995, Section 21E of the United States Securities Exchange Act of 1934, as amended, and Section 27A of the United States Securities Act of 1933, as amended. The statements are generally identifiable by terminology such as "plan," "expect," "estimate," or "budget" or other similar words.

THE ACHIEVEMENT OF CERTAIN RESULTS OR OTHER EXPECTATIONS CONTAINED IN FORWARD-LOOKING STATEMENTS MADE IN THIS OFFICIAL STATEMENT INVOLVES KNOWN AND UNKNOWN RISKS, UNCERTAINTIES AND OTHER FACTORS THAT MAY CAUSE ACTUAL RESULTS, PERFORMANCE OR ACHIEVEMENTS DESCRIBED TO BE MATERIALLY DIFFERENT FROM ANY FUTURE RESULTS, PERFORMANCE OR ACHIEVEMENTS EXPRESSED OR IMPLIED BY THE STATEMENTS. THE CITY DOES NOT PLAN TO ISSUE ANY UPDATES OR REVISIONS TO THE FORWARD-LOOKING STATEMENTS IF OR WHEN ITS EXPECTATIONS, OR EVENTS, CONDITIONS OR CIRCUMSTANCES ON WHICH THE STATEMENTS ARE BASED OCCUR.

Internet Site. The City maintains an Internet website, but the information that it contains is not incorporated in this Official Statement.

CITY OF BEVERLY HILLS

CITY COUNCIL

William W. Brien, M.D., *Mayor*
John A. Mirisch, *Vice Mayor*
Lili Bosse, *Councilmember*
Barry Brucker, *Councilmember*
Julian A. Gold, M.D., *Councilmember*

ADMINISTRATIVE OFFICERS

Jeff Kolin, *City Manager*
Mahdi Aluzri, *Assistant City Manager*
Eliot M. Finkel, *City Treasurer*
Noel Marquis, *Acting Director of Administrative Services and Chief Financial Officer*
Byron Pope, *City Clerk*
Larry Wiener, *City Attorney*

PROFESSIONAL SERVICES

BOND COUNSEL and DISCLOSURE COUNSEL

Jones Hall, A Professional Law Corporation
San Francisco, California

SPECIAL TAX CONSULTANT

Dolinka Group, LLC
Irvine, California

VERIFICATION AGENT

Grant Thornton LLP
Minneapolis, Minnesota

FISCAL AGENT and ESCROW AGENT

U.S. Bank National Association
Los Angeles, California

[REGIONAL MAP]

[AERIAL PHOTO]

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OFFICIAL STATEMENT

\$13,440,000*
**COMMUNITY FACILITIES DISTRICT NO. 2002-
A (BUSINESS TRIANGLE)
OF THE CITY OF BEVERLY HILLS
2013 SPECIAL TAX REFUNDING BONDS**

INTRODUCTION

This Official Statement, including the cover page, inside cover and attached appendices, is provided to furnish information regarding the bonds captioned above (the “**Bonds**”) to be issued by the City of Beverly Hills (the “**City**”) on behalf of Community Facilities District No. 2002-A (Business Triangle) of the City of Beverly Hills (the “**District**”).

This introduction is not a summary of this Official Statement. It is only a brief description of and guide to, and is qualified by, more complete and detailed information contained in the entire Official Statement, including the cover page, the inside cover and attached appendices, and the documents summarized or described in this Official Statement. A full review should be made of the entire Official Statement. The offering of the Bonds to potential investors is made only by means of the entire Official Statement.

Capitalized terms used but not defined in this Official Statement have the definitions given in the Fiscal Agent Agreement (as defined below).

The City. For economic and demographic information regarding the area in and around the City, see “APPENDIX A.”

For further information about the City, see its Internet website at www.beverlyhills.org. *The information that it contains is not incorporated by reference in this Official Statement.*

The District. The District consists of 155 fully-developed parcels of property. Of the parcels, 142 currently constitute Taxable Property, and 13 have prepaid their Special Tax obligation and are exempt from the Special Tax. The District is comprised of commercial properties whose occupants include high-end retail, luxury hotels, Class A office space and a Whole Foods Market. It is an international destination for shopping and dining and is home to the flagship stores of many high-end boutiques, particularly on Rodeo Drive.

A sample of commercial tenants currently located in the District includes Cartier, Gucci, Louis Vuitton, Dolce & Gabbana, Tiffany and Prada. Hotel properties in the District include the Luxe Hotel on Rodeo Drive and the recently completed Montage Beverly Hills on North Canon Drive. See “BOND OWNERS’ RISKS – Risks Associated with Commercial Properties.”

The District was formed and established by the City Council of the City (the “**City Council**”), as legislative body of the District, under the Mello-Roos Community Facilities Act of 1982, as amended (the “**Act**”), pursuant to a resolution adopted by the City Council following a

* Preliminary; subject to change.

public hearing, and a landowner election at which the qualified electors of the District authorized the City to incur bonded indebtedness for the District and approved the levy of special taxes. See "THE DISTRICT – Formation and Background."

Authority for Issuance of the Bonds. The Bonds are issued under the Act, the Resolution of Issuance adopted on December 4, 2012 (the "**Resolution of Issuance**"), and a Fiscal Agent Agreement, dated as of January 1, 2013 (the "**Fiscal Agent Agreement**"), by and between the City and U.S. Bank National Association, as fiscal agent (the "**Fiscal Agent**"). See "THE BONDS – Authority for Issuance."

Purpose of the Bonds. The Bonds are being issued to (a) refund certain outstanding special tax bonds of the City captioned "\$16,215,000 Community Facilities District No. 2002-A (Business Triangle) of the City of Beverly Hills Special Tax Bonds, Series 2002" (the "**2002 Bonds**"), which are currently outstanding in the aggregate principal amount of \$13,635,000, (b) fund a debt service reserve fund for the Bonds and (c) pay the costs of issuing the Bonds. See "REFUNDING PLAN."

Redemption of Bonds Before Maturity. The Bonds are subject to optional redemption and special mandatory redemption from prepaid Special Taxes. See "THE BONDS – Redemption."

Security and Sources of Payment for the Bonds. The City Council annually levies special taxes on the property in the District (the "**Special Taxes**") in accordance with the First Amended Rate and Method of Apportionment for Community Facilities District No. 2002-A (Business Triangle) of the City of Beverly Hills (the "**Rate and Method**"). The Bonds are secured by and payable from a first pledge of the net proceeds of the Special Taxes (as more particularly defined in the Fiscal Agent Agreement, the "**Special Tax Revenues**"). The Bonds will also be secured by certain funds and accounts established and held under the Fiscal Agent Agreement. See "SECURITY FOR THE BONDS."

Covenant to Foreclose. The City has covenanted in the Fiscal Agent Agreement to cause foreclosure proceedings to be commenced and prosecuted against certain parcels with delinquent installments of the Special Taxes. For a more detailed description of the foreclosure covenant see "SECURITY FOR THE BONDS - Covenant to Foreclose."

Risk Factors Associated with Purchasing the Bonds. Investment in the Bonds involves risks that may not be appropriate for some investors. See "BOND OWNERS' RISKS" for a discussion of certain risk factors which should be considered, in addition to the other matters set forth in this Official Statement, in considering the investment quality of the Bonds.

REFUNDING PLAN

General

The City issued the 2002 Bonds in December 2002 in the original principal amount of \$16,215,000 for the purpose of financing City facilities. See "THE DISTRICT – Formation and Background."

The 2002 Bonds are currently outstanding in the aggregate principal amount of \$13,635,000. All the outstanding 2002 Bonds will be redeemed in full, on a current basis, on March 1, 2013 (the "**Redemption Date**"), at a redemption price equal to 101% of their aggregate principal amount, together with interest coming due and payable on the Redemption Date.

In order to accomplish the refunding plan, a portion of the net proceeds of the Bonds, together with certain other funds on hand with respect to the 2002 Bonds, will be transferred to U.S. Bank National Association, as escrow agent for the 2002 Bonds (the "**Escrow Agent**"), for deposit in an escrow fund (the "**Escrow Fund**") to be established under Irrevocable Refunding Instructions, dated as of the Bonds' delivery date, that will be given by the City to the Escrow Agent.

The Escrow Agent will invest the amounts on deposit in the Escrow Fund in United States Treasury Securities, State and Local Government Series. These funds, together with any remaining amounts held in cash by the Escrow Agent, will be sufficient to pay and redeem the 2002 Bonds in full on the Redemption Date. See "VERIFICATION OF MATHEMATICAL ACCURACY."

Amounts on deposit in the Escrow Fund are not available to pay debt service on the Bonds.

Estimated Sources and Uses of Funds

The estimated proceeds from the sale of the Bonds will be deposited into the following funds established under the Fiscal Agent Agreement:

SOURCES

Principal Amount of Bonds	\$
<i>Plus/Less: Net Original Issue Premium/Discount</i>	
<i>Plus: Funds Related to 2002 Bonds [1]</i>	
<i>Total Sources</i>	\$

USES

Deposit into Escrow Fund [2]	\$
Deposit into Reserve Fund [3]	
Deposit into Surplus Fund	
Deposit into Costs of Issuance Account [4]	
Underwriter's Discount	
<i>Total Uses</i>	\$

[1] Consists of amounts from the debt service reserve account and administrative expense account of the special tax fund, a portion of the fiscal year 2012-13 special tax collections in the special tax fund, and amounts from the surplus fund for the 2002 Bonds.

[2] Will be used to defease and refund the 2002 Bonds. See "--Refunding Plan" above.

[3] Equal to the Reserve Requirement with respect to the Bonds as of their date of delivery.

[4] Includes, among other things, the fees and expenses of Bond Counsel and Disclosure Counsel, the cost of printing the Preliminary Official Statement and Final Official Statement, fees and expenses of the Fiscal Agent and Escrow Agent, and fees of the Verification Agent, rating agency, and Special Tax Consultant.

THE BONDS

This section generally describes the terms of the Bonds contained in the Fiscal Agent Agreement, which is summarized in more detail in APPENDIX B. Capitalized terms used but not defined in this section are defined in APPENDIX B.

Authority for Issuance

The Bonds are issued under the Act, the Resolution of Issuance and the Fiscal Agent Agreement. Under the Resolution of Issuance, the Bonds may be issued in a maximum principal amount of \$14,000,000.

General Bond Terms

Dated Date, Maturity and Authorized Denominations. The Bonds will be dated their date of delivery (the “**Delivery Date**”) and will mature in the amounts and on the dates set forth on the inside cover page of this Official Statement. The Bonds will be issued in fully registered form in denominations of \$5,000 each or any integral multiple of \$5,000.

Calculation of Interest. Interest will be calculated on the basis of a 360-day year composed of twelve 30-day months. The Bonds will bear interest at the annual rates set forth on the inside cover page of this Official Statement, payable semiannually on each March 1 and September 1, commencing September 1, 2013 (each, an “**Interest Payment Date**”).

Each Bond will bear interest from the Interest Payment Date next preceding its date of authentication unless

(i) it is authenticated on an Interest Payment Date, in which event it will bear interest from such date of authentication, or

(ii) it is authenticated prior to an Interest Payment Date and after the close of business on the Record Date (as defined below) preceding such Interest Payment Date, in which event it will bear interest from such Interest Payment Date, or

(iii) it is authenticated prior to the Record Date preceding the first Interest Payment Date, in which event it will bear interest from the Bond Date;

provided, however, that if at the time of authentication of a Bond, interest is in default thereon, such Bond will bear interest from the Interest Payment Date to which interest has previously been paid or made available for payment thereon.

“**Record Date**” means the 15th day of the calendar month next preceding the applicable Interest Payment Date, whether or not such day is a Business Day.

DTC and Book-Entry Only System. DTC will act as securities depository for the Bonds. The Bonds will be issued as fully-registered securities registered initially in the name of Cede & Co. (DTC’s partnership nominee). See APPENDIX D – “DTC AND THE BOOK-ENTRY ONLY SYSTEM.”

Payments of Interest and Principal. For so long as DTC is used as depository for the Bonds, principal of, premium, if any, and interest payments on the Bonds will be made solely to DTC or its nominee, Cede & Co., as registered owner of the Bonds, for distribution to the beneficial owners of the Bonds in accordance with the procedures adopted by DTC.

Interest on the Bonds (including the final interest payment upon maturity or earlier redemption), is payable on the applicable Interest Payment Date by check of the Fiscal Agent mailed by first class mail to the registered Owner thereof at such registered Owner's address as it appears on the registration books maintained by the Fiscal Agent at the close of business on the Record Date preceding the Interest Payment Date, or by wire transfer made on such Interest Payment Date upon written instructions of any Owner of \$1,000,000 or more in aggregate principal amount of Bonds delivered to the Fiscal Agent prior to the applicable Record Date; any such instructions will continue in effect until revoked in writing, or until such Bonds are transferred to a new Owner.

The principal of the Bonds and any premium on the Bonds are payable in lawful money of the United States of America upon surrender of the Bonds at the Principal Office of the Fiscal Agent.

Redemption*

Optional Redemption. The Bonds are subject to redemption prior to their stated maturities, on any Interest Payment Date on and after September 1, 20__, in whole or in part, at a redemption price equal to the principal amount to be redeemed, together with accrued interest to the date fixed for redemption, without premium.

Redemption from Special Tax Prepayments. Special Tax Prepayments and any corresponding transfers from the Reserve Fund under the Fiscal Agent Agreement will be used to redeem Bonds on the next Interest Payment Date for which notice of redemption can timely be given, among maturities so as to maintain substantially the same debt service profile for the Bonds as in effect prior to such redemption and by lot within a maturity, at a redemption price (expressed as a percentage of the principal amount of the Bonds to be redeemed), as shown below, together with accrued interest to the date fixed for redemption:

<u>Redemption Date</u>	<u>Redemption Price</u>
Any Interest Payment Date through March 1, 20__	103%
September 1, 20__ and any Interest Payment Date thereafter	100%

Purchase in Lieu of Redemption. In lieu of redemption, moneys in the Bond Fund or other funds provided by the City may be used and withdrawn by the Fiscal Agent for purchase of Outstanding Bonds, upon the filing with the Fiscal Agent of an Officer's Certificate requesting such purchase, at public or private sale as and when, and at such prices (including brokerage and other charges) as such Officer's Certificate may provide, but in no event may Bonds be purchased at a price in excess of the principal amount thereof, plus interest accrued to the date of purchase and any premium which would otherwise be due if such Bonds were to be redeemed in accordance with the Fiscal Agent Agreement.

* Preliminary; subject to change.

Any Bonds purchased pursuant to this provision of the Fiscal Agent Agreement will be treated as outstanding Bonds under the Fiscal Agent Agreement, except to the extent otherwise directed by the City.

Selection of Bonds for Redemption. Whenever provision is made in the Fiscal Agent Agreement for the redemption of less than all the Bonds, the City will direct the Fiscal Agent regarding the Bonds to be redeemed, and if not so directed, the Fiscal Agent will select the Bonds to be redeemed pro rata among maturities and by lot within a single maturity.

Notice of Redemption. The Fiscal Agent will cause notice of any redemption to be mailed by first class mail, postage prepaid, at least 30 days but not more than 60 days prior to the date fixed for redemption, to the Securities Depositories, to the MSRB, and to the respective registered Owners of any Bonds designated for redemption, at their addresses appearing on the Bond registration books in the Principal Office of the Fiscal Agent; but such mailing will not be a condition precedent to such redemption and failure to mail or to receive any such notice, or any defect therein, will not affect the validity of the proceedings for the redemption of such Bonds.

However, while the Bonds are subject to DTC's book-entry system, the Fiscal Agent will be required to give notice of redemption only to DTC as provided in the letter of representations executed by the City and received and accepted by DTC. DTC and the Participants will have sole responsibility for providing any such notice of redemption to the beneficial owners of the Bonds to be redeemed. Any failure of DTC to notify any Participant, or any failure of Participants to notify the Beneficial Owner of any Bonds to be redeemed, of a notice of redemption or its content or effect will not affect the validity of the notice of redemption, or alter the effect of redemption set forth in the Fiscal Agent Agreement.

Conditional Redemption Notice and Rescission of Redemption. Any notice relating to optional redemption or redemption from Special Tax prepayments may specify that redemption on the specified date will be subject to receipt by the City of moneys sufficient to cause such redemption (and will specify the proposed source of such moneys), and neither the City nor the Fiscal Agent will have any liability to the Owners or any other party as a result of its failure to redeem the Bonds as a result of insufficient moneys. The City will have the right to rescind any redemption by written notice to the Fiscal Agent on or prior to the date fixed for redemption.

Any notice of redemption will be cancelled and annulled if for any reason funds are not available on the date fixed for redemption for the payment in full of the Bonds then called for redemption, and such cancellation will not constitute a default under the Fiscal Agent Agreement.

The Fiscal Agent will mail notice of rescission of redemption in the same manner that notice of redemption was originally provided.

Effect of Redemption. From and after the date fixed for redemption, if funds available for the payment of the principal of, and interest and any premium on, the Bonds so called for redemption have been deposited in the Bond Fund, such Bonds so called will cease to be entitled to any benefit under the Fiscal Agent Agreement other than the right to receive payment of the redemption price, and no interest will accrue thereon on or after the redemption date specified in the notice of redemption. All Bonds redeemed and purchased by the Fiscal Agent will be canceled by the Fiscal Agent.

No Issuance of Future Bonds

The City will covenant in the Fiscal Agent Agreement that it will not issue any additional bonds or other indebtedness payable from the Special Tax Revenues (other than refunding bonds).

Registration, Transfer and Exchange

The provisions of the Fiscal Agent Agreement regarding the exchange and transfer of the Bonds apply only during any period in which the Bonds are not subject to DTC's book-entry system. While the Bonds are subject to DTC's book-entry system, their exchange and transfer will be effected through DTC and the Participants and will be subject to the procedures, rules and requirements established by DTC. See "APPENDIX D – DTC and the Book-Entry Only System."

The Fiscal Agent will keep, or cause to be kept, at its Principal Office sufficient books for the registration and transfer of the Bonds, which will at all times be open to inspection by the City during regular business hours upon reasonable notice; and, upon presentation for such purpose, the Fiscal Agent will, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered, transferred or exchanged, on said books, the ownership of the Bonds as provided in the Fiscal Agent Agreement.

See APPENDIX B for additional details regarding the registration, transfer and exchange of the Bonds.