

10.3 Credit for Amounts on Deposit. In the event of prepayment of the principal components of the Lease Payments in full under this Article X, such that the Trust Agreement shall be discharged by its terms as a result of such prepayment, remaining amounts on deposit in the Lease Payment Fund shall be credited towards the amounts then required to be so prepaid.

**ARTICLE XI**  
**MISCELLANEOUS**

11.1 Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed to have been received 48 hours after deposit in the United States mail in first-class form with postage fully prepaid:

If to the Authority:	DUARTE COMMUNITY FACILITIES FINANCING AUTHORITY 1600 Huntington Drive Duarte, CA 91010
If to the City:	CITY OF DUARTE 1600 Huntington Drive Duarte, CA 91010
If to the Trustee:	U.S. BANK NATIONAL ASSOCIATION 633 W. Fifth Street, 24 <sup>th</sup> Floor LM-CA-T24T Los Angeles, CA 90071

The Authority, the City and the Trustee, by notice given hereunder, may designate different addresses to which subsequent notices, certificates or other communications will be sent.

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

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

11.4 Net-net-net Lease. This Lease Agreement shall be deemed and construed to be a “net-net-net lease” and the City hereby agrees that the Lease Payments shall be an absolute net return to the Authority, free and clear of any expenses, charges or set-offs whatsoever.

11.5 Annual Financial Information. Within 270 days following the end of each Fiscal Year of the City during the Term of this Lease Agreement, the City will provide the Authority, the Owner and the Trustee with a copy of its audited financial statements for such Fiscal Year. Such audited financial statements shall include such information as is required by applicable Government Accounting Standards Board pronouncements and applicable State law. Within 30 days of the end of each fiscal year, the City will provide the Authority, the Owner and the Trustee with a copy of its annual budget and any interim updates or modifications to such

budget. The City hereby agrees to provide the Bank with such other information as may be reasonably requested by the Bank.

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

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

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

11.9 Authority and City Representatives. Whenever under the provisions of this Lease Agreement the approval of the Authority or the City is required, or the Authority or the City is required to take some action at the request of the other, such approval or such request shall be given for the Authority by a Authority Representative and for the City by a City Representative, and each party hereto shall be authorized to rely upon any such approval or request.

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

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

DUARTE COMMUNITY FACILITIES  
FINANCING AUTHORITY

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

CITY OF DUARTE

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

**EXHIBIT A**

**DESCRIPTION OF THE SITE**

All that certain real property situated in the County of Los Angeles, California, described as follows:

**EXHIBIT B**  
**DESCRIPTION OF THE FACILITY**

**EXHIBIT C**  
**SCHEDULE OF LEASE PAYMENTS**

**TRUST AGREEMENT**

**Dated as of March 1, 2013**

**by and among**

**U.S. BANK NATIONAL ASSOCIATION, as Trustee,**

**the**

**DUARTE COMMUNITY FACILITIES FINANCING AUTHORITY**

**and the**

**CITY OF DUARTE**

**\$ \_\_\_\_\_**  
**2013 CERTIFICATES OF PARTICIPATION**  
**(2001 Refunding)**

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## TRUST AGREEMENT

THIS TRUST AGREEMENT, dated as of March 1, 2013, by and among U.S. BANK NATIONAL ASSOCIATION, a national banking association organized and existing under the laws of the United States of America, as trustee (the "Trustee"), the DUARTE COMMUNITY FACILITIES FINANCING AUTHORITY, a joint powers authority organized and existing under the laws of the State of California (the "Authority"), and the CITY OF DUARTE, a municipal corporation, organized and existing under the laws of the State of California (the "City");

### WITNESSETH:

WHEREAS, the City and the Duarte Public Financing Authority have heretofore entered into a Lease Agreement, dated as of April 1, 2001 (the "2001 Lease Agreement"), pursuant to which the Duarte Public Financing Authority agreed to lease to the City certain real property and improvements located thereon; and

WHEREAS, the City has previously caused to be executed and delivered its City of Duarte 2001 Variable Rate Refunding Certificates of Participation, Series A (the "2001 Series A Certificates") and \$3,910,000 Series B (the "2001 Series B Certificates"), which 2001 Series A Certificates and 2001 Series B Certificates were secured by base rental payments under and pursuant to the terms the 2001 Lease Agreement; and

WHEREAS, the City has previously prepaid a portion of the base rental payments sufficient for the Duarte Public Financing Authority to prepay the 2001 Series B Certificates; and

WHEREAS, the City and the Authority desire to defease and refinance the 2001 Series A Certificates (the "Project"); and

WHEREAS, for the purpose of refinancing the 2001 Lease Agreement and the 2001 Series A Certificates, the City and the Authority desire to enter into a Lease Agreement, dated as of March 1, 2013 (the "Lease Agreement"), whereby the City has agreed to lease certain real property and improvements located thereon (collectively, the "Property"), defined below, from the Authority; and

WHEREAS, the City and the Authority have authorized the sale of the \$ \_\_\_\_\_ City of Duarte 2013 Certificates of Participation, (2001 Refunding) (the "Certificates"), each evidencing fractional interests in the Lease Payments and Prepayments made by the City under the Lease, in order to refinance the Project; and

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

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

**ARTICLE I**  
**DEFINITIONS**

1.1 Definitions. The terms defined in Exhibit A attached hereto and by this reference incorporated herein, as used and capitalized herein, shall, for all purposes of this Trust Agreement, have the meanings ascribed to them in said Exhibit A unless the context clearly requires some other meaning.

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

1.3 Exhibits. The following exhibits are attached to, and by reference made a part of, this Trust Agreement:

EXHIBIT A: DEFINITIONS

EXHIBIT B: FORM OF THE CERTIFICATES

EXHIBIT C: INVESTOR LETTER

**ARTICLE II**  
**THE CERTIFICATES OF PARTICIPATION**

2.1 Authorization. The Trustee is hereby authorized and directed upon written request from the Authority to execute and deliver, to the Original Purchaser identified in such written request, Certificates in an aggregate principal amount of \_\_\_\_\_ Million \_\_\_\_\_ Hundred \_\_\_\_\_ Thousand Dollars (\$ \_\_\_\_\_) evidencing direct, undivided fractional interests of the Owners thereof in the Lease Payments.

2.2 Date; Payment of Interest. The Certificates shall be dated as of the Closing Date. Interest with respect thereto shall be payable from the Interest Payment Date next preceding the date of execution thereof, unless: (i) it is executed as of an Interest Payment Date, in which event interest with respect thereto shall be payable from such Interest Payment Date; or (ii) it is executed after a Regular Record Date and before the following Interest Payment Date, in which event interest with respect thereto shall be payable from such Interest Payment Date; or (iii) it is executed on or before July 15, 2013, in which event interest with respect thereto shall be payable from the Closing Date; provided, however, that if, as of the date of execution of any Certificate, interest is in default with respect to any Outstanding Certificates, interest represented by such Certificate shall be payable from the Interest Payment Date to which interest has previously been paid or made available for payment with respect to the Outstanding Certificates. Payment of defaulted interest shall be paid by check mailed to the Owners as of a special record date to be fixed by the Trustee in its sole discretion, notice of which shall be given to the Owners not less than ten (10) days prior to such special record date.

2.3 Maturity; Interest Rates; Percentages.

(a) Maturity; Interest Rates. The Certificate shall be dated the Delivery Date and shall mature on August 1, 2022 and shall bear interest (calculated on the basis of a 360-day year of twelve 30-day months) at the rate of \_\_\_\_\_%.

(b) Payments With Respect to Certificates Equal to Total Lease Payments. The total principal and interest due with respect to all Certificates shall not exceed the total Lease Payments due under the Lease Agreement.

2.4 Interest. Interest represented by the Certificates shall be payable on each Interest Payment Date to and including the date of maturity or redemption, whichever is earlier, as provided in Section 2.10 hereof. Said interest shall represent the portion of Lease Payments designated as interest and coming due during the six-month period preceding each Interest Payment Date. The portion of Lease Payments designated as interest with respect to any Certificate shall be computed by multiplying the portion of Lease Payments designated as principal with respect to such Certificate by the rate of interest applicable to such Certificate (on the basis of a 360-day year of twelve 30-day months).

2.5 Forms. The Certificates shall be delivered in the form of fully registered Certificates without coupons in the denomination of \$5,000 or any integral multiple thereof. The Certificates shall be numbered consecutively, beginning with R-1. The Certificates shall be substantially in the form set forth in Exhibit B attached hereto and by this reference incorporated herein.

2.6 Execution. The Certificates shall be executed by and in the name of the Trustee by the manual signature of an authorized officer or signatory of the Trustee. If any officer or signatory whose signature appears on any Certificate ceases to be such officer or signatory before the date of delivery of said Certificate, such signature shall nevertheless be as effective as if the officer or signatory had remained in office until such date.

2.7 Application of Proceeds and Other Moneys.

(a) The proceeds received by the Trustee from the sale of the Certificates in the aggregate amount of \$\_\_\_\_\_, shall be deposited by the Trustee in the following respective funds:

(i) The Trustee shall deposit in the Delivery Costs Fund an amount equal to \$\_\_\_\_\_; and

(ii) The Trustee shall deposit an amount equal to \$\_\_\_\_\_ in the Escrow Fund.

(b) The Trustee may establish a temporary fund or account in its records to facilitate such deposits and transfers.

## 2.8 Transfer and Exchange.

(a) Transfer of Certificates. The registration of any Certificate may, in accordance with its terms, be transferred upon the Registration Books by the person in whose name it is registered, in person or by his attorney duly authorized in writing upon surrender of such Certificate for cancellation at the Principal Corporate Trust Office, accompanied by delivery of a written instrument of transfer in a form approved by the Trustee, duly executed. Whenever any Certificate or Certificates shall be surrendered for registration of transfer, the Trustee shall execute and deliver a new Certificate or Certificates for like aggregate principal amount in authorized denominations. The City shall pay any costs of the Trustee incurred in connection with such transfer, except that the Trustee may require the payment by the Certificate Owner requesting such transfer of any tax or other governmental charge required to be paid with respect to such transfer. The Trustee shall not be required to transfer (i) any Certificates or portion thereof during the period between the date fifteen (15) days prior to the date of selection of Certificates for redemption and such date of selection, or (ii) any Certificates selected for redemption.

(b) Exchange of Certificates. Certificates may be exchanged, upon surrender thereof, at the Principal Corporate Trust Office for a like aggregate principal amount of Certificates of other authorized denominations of the same maturity. Whenever any Certificate or Certificates shall be surrendered for exchange, the Trustee shall execute and deliver a new Certificate or Certificates for like aggregate principal amount in authorized denominations. The City shall pay any costs of the Trustee incurred in connection with such exchange, except that the Trustee may require the payment by the Certificate Owner requesting such exchange of any tax or other governmental charge required to be paid with respect to such exchange. The Trustee shall not be required to exchange (i) any Certificate or any portion thereof during the period between the date fifteen (15) days prior to the date of selection of Certificates for redemption and such date of selection, or (ii) any Certificate selected for redemption.

2.9 Certificates Mutilated, Lost, Destroyed or Stolen. If any Certificate shall become mutilated, the Trustee, at the expense of the Owner of said Certificate, shall execute and deliver a new Certificate of like tenor, maturity and amount in exchange and substitution for the Certificate so mutilated, but only upon surrender to the Trustee of the Certificate so mutilated. Every mutilated Certificate so surrendered to the Trustee shall be canceled by it and destroyed with a certificate of destruction furnished to the City. If any Certificate shall be lost, destroyed or stolen, evidence of such loss, destruction or theft shall be submitted to the Trustee, and, if such evidence is satisfactory to the Trustee and if an indemnity satisfactory to the Trustee shall be given, the Trustee, at the expense of the Certificate Owner, shall execute and deliver a new Certificate of like tenor, maturity and amount and numbered as the Trustee shall determine in lieu of and in substitution for the Certificate so lost, destroyed or stolen. The Trustee may require payment by the City of the expenses which may be incurred by the Trustee in carrying out the duties under this Section 2.9. Any Certificate executed and delivered under the provisions of this Section 2.9 in lieu of any Certificate alleged to be lost, destroyed or stolen shall be equally and fractionally entitled to the benefits of this Trust Agreement with all other Certificates secured by this Trust Agreement. The Trustee shall not be required to treat both the original Certificate and any replacement Certificate as being Outstanding for the purpose of determining the principal amount of Certificates which may be executed and delivered hereunder or for the purpose of

determining any percentage of Certificates Outstanding hereunder, but both the original and replacement Certificate shall be treated as one and the same. Notwithstanding any other provision of this Section 2.9, in lieu of delivering a new Certificate to replace a Certificate which has been mutilated, lost, destroyed or stolen, and which has matured or has been called for redemption or is about to be called for redemption, the Trustee may make payment with respect to such Certificate upon receipt of the aforementioned indemnity.

2.10 Payment. Payment of interest due with respect to any Certificate on any Interest Payment Date shall be made to the person appearing on the Registration Books as the Owner thereof as of the Regular Record Date immediately preceding such Interest Payment Date, such interest to be paid by check mailed on the Interest Payment Date by first class mail to such Owner at his address as it appears on the Registration Books as of such Regular Record Date or, upon written request filed with the Trustee prior to the Regular Record Date by an Owner of at least \$1,000,000 in aggregate principal amount of Certificates, by wire transfer in immediately available funds to an account in the United States designated by such Owner in such written request. Any such written request shall remain in effect until rescinded in writing by the Owner. The principal and redemption price with respect to the Certificates at maturity or upon prior redemption shall be payable by check denominated in lawful money of the United States of America upon surrender of the Certificates at the Principal Corporate Trust Office.

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

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

(b) The fact of the ownership of Certificates by any person and the amount, the maturity and the numbers of such Certificates and the date of his holding the same shall be proved by the Registration Books.

Any request or consent of the Owner of any Certificate shall bind every future Owner of the same Certificate in respect of anything done or suffered to be done by the Trustee pursuant to such request or consent.

2.12 Registration Books. The Trustee shall keep or cause to be kept, at its Principal Corporate Trust Office, sufficient records for the registration and registration of transfer of the Certificates, which shall at all reasonable times be open to inspection by the City and the Authority during regular business hours on any Business Day with reasonable prior notice; and, upon presentation for such purpose, the Trustee shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on the Registration Books, Certificates as hereinbefore provided.

2.13 Book Entry. The Certificates shall initially be delivered as registered Certificates in the name of the Owner and shall not be delivered as book-entry certificates. The City, at its sole option, may require the Owner to surrender its Certificates in order to include in the Depository's book-entry system.

If the City shall elect to deliver any Certificates in book-entry, then the City shall cause the delivery of a separate single fully registered Certificate (which may be typewritten) for each maturity date of such Certificates in an authorized denomination corresponding to that total principal amount of the Certificates designated to mature on such date. Upon such delivery, the ownership of each such Certificate shall be registered in the Certificate register in the name of the Nominee, as nominee of the Depository, and ownership of the Certificates, or any portion thereof, may not thereafter be transferred except:

(i) to any successor of The Depository Trust Company or its nominee, or of any substitute depository designated pursuant to paragraph (ii) of this subsection (a) ("substitute depository"); provided that any successor of The Depository Trust Company or substitute depository shall be qualified under any applicable laws to provide the service proposed to be provided by it;

(ii) to any substitute depository designated in a written request of the City, upon (A) the resignation of The Depository Trust Company or its successor (or any substitute depository or its successor) from its functions as depository or (B) a determination by the City that The Depository Trust Company or its successor is no longer able to carry out its functions as depository; provided that any such substitute depository shall be qualified under any applicable laws to provide the services proposed to be provided by it; or

(iii) to any person as provided below, upon (A) the resignation of The Depository Trust Company or its successor (or any substitute depository or its successor) from its functions as depository or (B) a determination by the City that The Depository Trust Company or its successor is no longer able to carry out its functions as depository; provided that no substitute depository which is not objected to by the City and the Trustee can be obtained.

(b) In the case of any transfer pursuant to paragraph (i) or paragraph (ii) of subsection (a) of this Section 2.13, upon receipt of all Outstanding Certificates by the Trustee, together with a written request of a City Representative to the Trustee, a single new Certificate shall be executed and delivered for each maturity of such Certificate then outstanding, registered in the name of such successor or such substitute depository or their nominees, as the

case may be, all as specified in such written request of a City Representative. In the case of any transfer pursuant to paragraph (iii) of subsection (a) of this Section 2.13, upon receipt of all Outstanding Certificates by the Trustee together with a written request of a City Representative, new Certificates shall be executed and delivered in such denominations and registered in the names of such persons as are requested in a written request of the City provided the Trustee shall not be required to deliver such new Certificates within a period less than sixty (60) days from the date of receipt of such a written request of a City Representative.

(c) In the case of partial redemption or an advance refunding of any Certificates evidencing all of the principal maturing in a particular year, The Depository Trust Company shall, at the City's expense, deliver the Certificates to the Trustee for cancellation and re-registration to reflect the amounts of such reduction in principal.

(d) The City and the Trustee shall be entitled to treat the person in whose name any Certificate is registered as the absolute Owner thereof for all purposes of this Trust Agreement and any applicable laws, notwithstanding any notice to the contrary received by the Trustee or the City and the City and the Trustee shall have no responsibility for the accuracy of any records maintained by DTC or any participant in DTC or transmitting payments to, communication with, notifying or otherwise dealing with any beneficial owners of the Certificates. Neither the City nor the Trustee will have any responsibility or obligations, legal or otherwise, to the beneficial owners or to any other party including The Depository Trust Company or its successor (or substitute depository or its successor), except for the registered owner of any Certificate.

(e) So long as all outstanding Certificates are registered in the name of Cede & Co. or its registered assign, the City and the Trustee shall reasonably cooperate with Cede & Co., as sole registered Owner, or its registered assign in effecting payment of the principal and interest due with respect to the Certificates by arranging for payment in such manner that funds for such payments are properly identified and are made immediately available on the date they are due, in accordance with the Letter of Representations between DTC and the Trustee.

(f) So long as all Outstanding Certificates are registered in the name of Cede & Co. or its registered assigns (hereinafter, for purposes of this paragraph (f), the "Owner"):

(i) All notices and payments addressed to the Owners shall contain the Certificates' CUSIP number.

(ii) Notices to the Owner shall be forwarded in the manner set forth in the form of DTC's standard form blanket issuer letter of representations executed by the City and received and accepted by DTC.

### **ARTICLE III** **ESCROW FUND; DELIVERY COSTS FUND**

3.1 Escrow Fund. The Trustee shall establish a special fund designated as the "Escrow Fund;" shall keep such fund separate and apart from all other funds and moneys held by it; and shall administer such fund as provided herein. There shall be deposited in the Escrow Fund from the proceeds of the Certificates the amount required to be deposited therein pursuant

to Section 2.7(a)(iii) hereof, together with any other amounts from time to time deposited with the Trustee for such purpose as may be identified in writing to the Trustee.

3.2 Delivery Costs Fund. The Trustee shall establish a special fund designated as the "Delivery Costs Fund;" shall keep such fund separate and apart from all other funds and moneys held by it; and shall administer such fund as provided herein. There shall be deposited in the Delivery Costs Fund the proceeds of sale of the Certificates required to be deposited therein pursuant to Section 2.7(a)(i) hereof and any other funds from time to time deposited with the Trustee for such purpose and identified in writing to the Trustee.

3.3 Payment of Delivery Costs. The moneys in the Delivery Costs Fund shall be disbursed by the Trustee to pay the Delivery Costs.

(a) The Trustee shall disburse moneys in the Delivery Costs Fund only upon a receipt of a sequentially numbered requisition, signed by a City Representative, setting forth the amounts to be disbursed for payment or reimbursement of Delivery Costs and the name and address of the person or persons to whom said amounts are to be disbursed, stating that the amounts to be disbursed are for Delivery Costs properly chargeable to the Delivery Costs Fund.

(b) The Trustee shall be responsible for the safekeeping and investment (in accordance with Section 8.2 hereof) of the moneys held in the Delivery Costs Fund and the payment thereof in accordance with this Section 3.4, but the Trustee shall not be responsible for the truth or accuracy of such requisitions, may rely conclusively thereon and shall be under no duty to investigate or verify any statements made therein.

(c) Upon written notice from a City Representative that all Delivery Costs have been paid, but in no event later than December 1, 2011, the Trustee shall transfer any moneys then remaining in the Delivery Costs Fund to the Lease Payment Fund and applied for the purposes of such fund, the Delivery Costs Fund shall be closed, the Trustee shall no longer be obligated to make payments for Delivery Costs and all further Delivery Costs shall be paid by the City.

3.4 Transfers of Unexpended Proceeds. The Trustee is hereby directed that all unexpended moneys remaining in the Escrow Fund on April 25, 2013 be transferred to the Lease Payment Fund and applied to pay the Lease Payments as the same become due and payable and the Escrow Fund shall be closed.

#### **ARTICLE IV** **REDEMPTION OF CERTIFICATES**

4.1 Redemption.

(a) *Redemption From Net Proceeds of Insurance, Title Insurance, Condemnation or Eminent Domain Award.* The Certificates are subject to mandatory redemption in whole or in part on any date from the Net Proceeds of an insurance, title insurance, condemnation, or eminent domain award to the extent credited towards the prepayment of the Lease Payments by the City pursuant to Section 10.2 of the Lease

Agreement, at a redemption price equal to the principal amount thereof to be redeemed, together with accrued interest to the date fixed for redemption, without premium.

(b) *Mandatory Redemption.* The Certificates are subject to mandatory redemption in part on August 1 and February 1, in each year beginning August 1, 2013, from the principal components of scheduled Lease Payments required to be paid by the City pursuant to the Lease Agreement with respect to such redemption date, at a redemption price equal to the principal amount thereof to be redeemed, together with accrued interest to the date fixed for redemption, without premium, as follows:

<u>Date</u>	<u>Principal Amount of Certificates to be Redeemed</u>
	\$

\*

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\* Maturity.

In the event that the Trustee shall redeem Certificates in part but not in whole pursuant to subsections (a) of this Section 4.1, the amount of the Certificates to be redeemed in each subsequent year pursuant to this subsection (b) shall be reduced to correspond to the principal components of the Lease Payments prevailing following such redemption as determined pursuant to Section 4.4(b) of the Lease Agreement. The City shall provide the Trustee with a revised schedule.

4.2 Selection of Certificates for Redemption. Whenever provision is made in this Trust Agreement for the redemption of Certificates and less than all Outstanding Certificates are to be redeemed, the Trustee shall select Certificates for redemption from the Outstanding Certificates not previously called for redemption in such order of maturity as shall be designated by the City (and, in lieu of such designation, *pro rata* among maturities) and by lot within a maturity. The Trustee shall select Certificates for redemption within a maturity by lot in any manner which the Trustee shall, in its sole discretion, deem appropriate and fair. For the purposes of such selection, Certificates shall be deemed to be composed of \$5,000 portions and any such portion may be separately redeemed. The Trustee shall promptly notify the City and the Corporation in writing of the Certificates so selected for redemption. Selection by the Trustee of Certificates for redemption shall be final and conclusive.

4.3 Notice of Redemption. Unless waived in writing by any Owner of a Certificate to be redeemed, notice of any such redemption shall be given by the Trustee on behalf and at the expense of the City, by mailing a copy of a redemption notice by first class mail, postage prepaid, at least thirty (30) days and not more than sixty (60) days prior to the date fixed for redemption to such Owner of the Certificate or Certificates to be redeemed at the address shown on the Certificate Registration Books maintained by the Trustee or at such other address as is

furnished in writing by such Owner to the Trustee; provided, however, that neither the failure to receive such notice nor any defect in any notice shall affect the sufficiency of the proceedings for the redemption of the Certificates.

All notices of redemption shall be dated and shall state: (i) the redemption date; (ii) the redemption price; (iii) if less than all Outstanding Certificates of a maturity are to be redeemed, the Certificate numbers (and, in the case of partial redemption, the respective principal amounts) of the Certificates to be redeemed; (iv) that on the redemption date the redemption price will become due and payable upon each such Certificate or portion thereof called for redemption and that interest with respect thereto shall cease to accrue from and after said date; (v) the place where such Certificates are to be surrendered for payment of the redemption price, which place of payment shall be the Principal Corporate Trust Office; (vi) the CUSIP numbers of all Certificates being redeemed; (vii) the original date of execution and delivery of the Certificates; (viii) the rate of interest payable with respect to each maturity of Certificates being redeemed; (ix) the maturity date of each Certificate being redeemed; and (x) any other descriptive information needed to identify accurately the Certificates being redeemed.

Prior to any redemption date, the City shall deposit, or cause to be deposited, with the Trustee an amount of money in immediately available funds sufficient to pay the redemption price of all the Certificates or portions of Certificates which are to be redeemed on that date.

Notice of redemption having been given as aforesaid and the deposit of the redemption price having been made by the City, the Certificates or portions of Certificates so to be redeemed shall, on the redemption date, become due and payable at the redemption price therein specified, and from and after such date interest with respect to such Certificates or portions of Certificates shall cease to be payable. Upon surrender of such Certificates for redemption in accordance with said notice, such Certificates shall be paid by the Trustee at the redemption price. Upon the payment of the redemption price of Certificates being redeemed, each check or other transfer of funds issued for such purpose shall bear the CUSIP number identifying, by issue and maturity, the Certificates being redeemed with the proceeds of such check or other transfer, to the extent possible. Installments of interest due on or prior to the redemption date shall be payable as herein provided for payment of interest. All Certificates which have been redeemed shall be canceled by the Trustee, shall not be redelivered and shall be destroyed pursuant to Section 14.8.

In addition to the foregoing notice to the Owners, notice shall also be given by the Trustee, by telecopy, registered, certified or overnight mail, to all Securities Depositories and to an Information Service which shall state the information set forth above, but no defect in said notice nor any failure to give all or any portion of such further notice shall in any manner defeat the effectiveness of a call for redemption.

The Trustee shall have no responsibility for a defect in the CUSIP number that appears on any Certificate or in the redemption notice. The redemption notice may provide that the CUSIP numbers have been assigned by an independent service and are included in the notice solely for the convenience of Certificate Owners and that the Trustee and the City shall not be liable in any way for inaccuracies in said numbers.

4.4 Partial Redemption of Certificate. Upon surrender of any Certificate redeemed in part only, the Trustee shall execute and deliver to the Owner thereof a new Certificate or Certificates of authorized denominations equal in aggregate principal amount to the unredeemed portion of the Certificate surrendered and of the same interest rate and the same maturity.

4.5 Purchase of Certificates. In lieu of redemption of Certificates as provided in this Article IV, amounts held by the Trustee for such redemption may also be used on any Interest Payment Date, upon receipt by the Trustee at least ninety (90) days prior to the next scheduled Interest Payment Date of the written request of a City Representative, for the purchase of Certificates at public or private sale as and when and at such prices (including brokerage, accrued interest and other charges) as the City may in its discretion direct. Such purchases may be effected through the investment department of the Trustee or of an affiliate of the Trustee. The aggregate principal amount of Certificates of the same maturity purchased in lieu of redemption pursuant to this Section 4.6 shall not exceed the aggregate principal amount of Certificates of such maturity which would otherwise be subject to such redemption. Remaining moneys, if any, shall be deposited in the Lease Payment Fund.

## **ARTICLE V**

### **LEASE PAYMENTS; LEASE PAYMENT FUND**

5.1 Assignment of Rights in Lease Agreement. The Authority has, in the Assignment Agreement, transferred, assigned and set over to the Trustee certain of its rights but none of its obligations set forth in the Lease Agreement, including but not limited to all of the Authority's rights to receive and collect Lease Payments and all other amounts required to be deposited in the Lease Payment Fund pursuant to the Lease Agreement or pursuant hereto. All Lease Payments and such other amounts to which the Authority may at any time be entitled shall be paid directly to the Trustee and all of the Lease Payments collected or received by the Authority shall be deemed to be held and to have been collected or received by the Authority as the agent of the Trustee, and if received by the Authority at any time shall be deposited by the Authority with the Trustee within one Business Day after the receipt thereof, and all such Lease Payments and such other amounts shall be forthwith deposited by the Trustee upon the receipt thereof in the Lease Payment Fund (except as provided in Section 6.4 hereof).

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

5.3 Deposits. There shall be deposited in the Lease Payment Fund all Lease Payments received by the Trustee (except as provided in Section 6.4 hereof), including any moneys received by the Trustee for deposit therein pursuant to Sections 4.1, 5.1 or Article VII hereof, or Article X of the Lease Agreement, and any other moneys required to be deposited therein pursuant to the Lease Agreement or pursuant to this Trust Agreement.

5.4 Application of Moneys. All amounts in the Lease Payment Fund shall be used and withdrawn by the Trustee solely for the purpose of paying the principal and interest with respect to the Certificates as the same shall become due and payable in accordance with the provisions of Article II and Article IV hereof.

5.5 Surplus. Any surplus remaining in the Lease Payment Fund after redemption and/or payment of all Certificates, including accrued interest (if any) and payment of any applicable fees and expenses to the Trustee, or provision for such redemption or payment having been made to the satisfaction of the Trustee, shall be withdrawn by the Trustee and remitted to the City.

**ARTICLE VI**  
**[RESERVED]**

6.1

**ARTICLE VII**  
**INSURANCE AND CONDEMNATION FUND;**  
**INSURANCE; EMINENT DOMAIN; TITLE INSURANCE**

7.1 Establishment of Insurance and Condemnation Fund; Application of Net Proceeds of Insurance Award.

(a) Any Net Proceeds of insurance against damage to or destruction of any part of the Property collected by the City in the event of any such damage or destruction shall be paid to the Trustee by the City pursuant to Section 6.2(a) of the Lease Agreement and deposited by the Trustee promptly upon receipt thereof in a special fund designated as the "Insurance and Condemnation Fund" to be established by the Trustee when deposits are required to be made therein.

(b) Within ninety (90) days following the date of such deposit, the City shall determine and notify the Trustee in writing of its determination either (i) that the replacement, repair, restoration, modification or improvement of the Property is not economically feasible or in the best interest of the City, or (ii) that all or a portion of such Net Proceeds are to be applied to the prompt replacement, repair, restoration, modification or improvement of the damaged or destroyed portions of the Property.

(c) In the event the City's determination is as set forth in clause (i) of paragraph (b) above, such Net Proceeds shall be promptly transferred by the Trustee to the Lease Payment Fund, applied to the prepayment of Lease Payments pursuant to Section 10.3 of the Lease Agreement and applied to the redemption of Certificates as provided in Section 4.1(b) hereof; provided, however, that in the event of damage or destruction of the Property in full, such Net Proceeds may be transferred to the Lease Payment Fund only if sufficient, together with other moneys available therefor, to cause the prepayment of the principal components of all unpaid Lease Payments pursuant to Section 10.3 of the Lease Agreement, otherwise such Net Proceeds shall be applied to the replacement, repair, restoration, modification or improvement of the Property; provided further, however, that in the event of damage or destruction of the Property in part, such Net Proceeds may be transferred to the

Lease Payment Fund and applied to the prepayment of Lease Payments only if the resulting Lease Payments represent fair consideration for the remaining portions of the Property, evidenced by a certificate signed by a City Representative and a Authority Representative.

(d) In the event the City's determination is as set forth in clause (ii) of paragraph (b) above, Net Proceeds deposited in the Insurance and Condemnation Fund shall be applied to the prompt replacement, repair, restoration, modification or improvement of the damaged or destroyed portions of the Property by the City, and disbursed by the Trustee upon receipt of requisitions signed by a City Representative stating with respect to each payment to be made (i) the requisition number, (ii) the name and address of the person, firm or corporation to whom payment is due, (iii) the amount to be paid and (iv) that each obligation mentioned therein has been properly incurred, is a proper charge against the Insurance and Condemnation Fund, has not been the basis of any previous withdrawal, and specifying in reasonable detail the nature of the obligation, accompanied by a bill or a statement of account for such obligation. The Trustee shall not be responsible for the representations made in such requisitions and may conclusively rely thereon and shall be under no duty to investigate or verify any statements made therein. Any balance of the Net Proceeds remaining after such work has been completed shall be paid to the City.

7.2 Application of Net Proceeds of Eminent Domain Award. If all or any part of the Property shall be taken by eminent domain proceedings (or sold to a government threatening to exercise the power of eminent domain), the Net Proceeds therefrom shall be deposited with the Trustee in the Insurance and Condemnation Fund pursuant to Section 6.2(b) of the Lease Agreement and shall be applied and disbursed by the Trustee as follows:

(a) If the City has given written notice to the Trustee of its determination that (i) such eminent domain proceedings have not materially affected the operation of the Property or the ability of the City to meet any of its obligations with respect to the Property under the Lease Agreement, and (ii) such proceeds are not needed for repair or rehabilitation of the Property, the City shall so certify to the Trustee and the Trustee, at the City's written request, shall transfer such proceeds to the Lease Payment Fund to be credited towards the prepayment of the Lease Payments pursuant to Section 10.3 of the Lease Agreement and applied to the redemption of Certificates in the manner provided in Section 4.1(b) hereof.

(b) If the City has given written notice to the Trustee of its determination that (i) such eminent domain proceedings have not materially affected the operation of the Property or the ability of the City to meet any of its obligations with respect to the Property under the Lease Agreement, and (ii) such proceeds are needed for repair, rehabilitation or replacement of the Property, the City shall so certify to the Trustee and the Trustee, at the City's written request, shall pay to the City, or to its order, from said proceeds such amounts as the City may expend for such repair or rehabilitation, upon the filing with the Trustee of requisitions of the City Representative in the form and containing the provisions set forth in Section 7.1. The Trustee shall not be responsible for the representations made in such requisitions and may conclusively rely thereon and shall be under no duty to investigate or verify any statements made therein.

(c) If (i) less than all of the Property shall have been taken in such eminent domain proceedings or sold to a government threatening the use of eminent domain powers, and if the City has given written notice to the Trustee of its determination that such eminent domain proceedings have materially affected the operation of the Property or the ability of the City to meet any of its obligations with respect to the Property under the Lease Agreement or (ii) all of the Property shall have been taken in such eminent domain proceedings, then the Trustee shall transfer such proceeds to the Lease Payment Fund to be credited toward the prepayment of the Lease Payments pursuant to Section 10.2 of the Lease Agreement and applied to the redemption of Certificates in the manner provided in 4.1(a) hereof.

(d) In making any determination under this Section 7.2, the City may, but shall not be required to, obtain at its expense, the report of an independent engineer or other independent professional consultant, a copy of which shall be filed with the Trustee. Any such determination by the City shall be final.

7.3 Application of Net Proceeds of Title Insurance Award. The Net Proceeds from a title insurance award shall be deposited with the Trustee in the Insurance and Condemnation Fund pursuant to Section 6.2(c) of the Lease Agreement and shall be transferred to the Lease Payment Fund to be credited towards the prepayment of Lease Payments required to be paid pursuant to Section 10.2 of the Lease Agreement and applied to the redemption of Certificates in the manner provided in Section 4.1(a).

7.4 Cooperation. The Authority and the Trustee shall cooperate fully with the City, at the expense of the City, in filing any proof of loss with respect to any insurance policy maintained pursuant to Article V of the Lease Agreement and in the prosecution or defense of any prospective or pending condemnation proceeding with respect to the Property or any portion thereof. Neither the Trustee nor the Authority shall be obligated to join in such action if it believes it will be exposed to liability or has not been indemnified to its satisfaction from any loss, liability or expense including, but not limited to, attorneys fees.

## **ARTICLE VIII**

### **MONEYS IN FUNDS; INVESTMENT**

8.1 Held in Trust. The moneys and investments held by the Trustee under this Trust Agreement are irrevocably held in trust for the benefit of the Owners of the Certificates and for the purposes herein specified and such moneys, and any income or interest earned thereon, shall be expended only as provided in this Trust Agreement and shall not (except as set forth in Section 9.3 hereof) be subject to levy, attachment or lien by or for the benefit of any creditor of the Authority, the Trustee, the City or any Owner of Certificates.

8.2 Investments Authorized. Moneys held by the Trustee hereunder shall, upon written order of a City Representative, be invested and reinvested by the Trustee in Permitted Investments. The Trustee may deem all investments directed by a City Representative as Permitted Investments without independent investigation thereof. If a City Representative shall fail to so direct investments, the Trustee shall invest the affected moneys in Permitted Investments described in paragraph (h) of the definition thereof; provided, however, that any such investment shall be made by the Trustee only if, prior to the date on which such investment

is to be made, the Trustee shall have received a written direction of a City Representative specifying a specific money market fund that satisfies the requirements of said paragraph in which such investment is to be made and, if no such direction of City Representative is so received, the Trustee shall hold such moneys uninvested. Such investments, if registrable, shall be registered in the name of and held by the Trustee or its nominee. The Trustee may purchase or sell to itself or any affiliate, as principal or agent, investments authorized by this Section 8.2. Such investments and reinvestments shall be made giving full consideration to the time at which funds are required to be available. The Trustee may act as principal or agent in the making or disposing of any investment and make or dispose of any investment through its investment department or that of an affiliate and shall be entitled to its customary fees therefor. The Trustee is hereby authorized, in making or disposing of any investment permitted by this Section 8.2, to deal with itself (in its individual capacity) or with one or more of its affiliates, whether it or such affiliate is acting as an agent of the Trustee or for any third person or dealing as principal for its own account.

8.3 Accounting. The Trustee shall furnish to the City, at least monthly, an accounting which may be in the form of its customary accounting statements of all investments made by the Trustee; provided that the Trustee shall not be obligated to deliver an accounting for any fund or account that (a) has a balance of \$0.00 and (b) has not had any activity since the last reporting date. The Trustee shall not be responsible or liable for any loss suffered in connection with any investment of funds made by it in accordance with Section 8.2 hereof. The City acknowledges that to the extent that regulations of the Comptroller of the Currency or other applicable regulatory agency grant the City the right to receive brokerage confirmations of security transactions, the City waives receipt of such confirmations. The Trustee shall furnish to the City periodic statements of account which shall include detail of all investment transactions made by the Trustee.

8.4 Allocation of Earnings. Unless and until otherwise directed by the City to the Trustee in writing, all interest or income received by the Trustee on investment of the Lease Payment Fund shall be retained in the Lease Payment Fund. Amounts retained or deposited in the Lease Payment Fund pursuant to this Section 8.4 shall be applied as a credit against the Lease Payment due by the City pursuant to the Lease Agreement on the Lease Payment Date following the date of deposit. All interest or income in the Delivery Costs Fund shall be retained in the Delivery Costs Fund until the Delivery Costs Fund is closed pursuant to Section 3.2 hereof.

8.5 Acquisition, Disposition and Valuation of Investments. The City covenants that all investments of amounts deposited in any fund or account created by or pursuant to this Trust Agreement, or otherwise containing gross proceeds of the Certificates (within the meaning of section 148 of the Code) shall be acquired, disposed of, and valued at their market value.

## **ARTICLE IX** **THE TRUSTEE**

9.1 Appointment of Trustee. The U.S. Bank National Association, a national banking association organized and existing under the laws of the United States of America with a Principal Corporate Trust Office in Los Angeles, California, is hereby appointed Trustee, registrar and paying agent by the Authority and the City for the purpose of receiving all moneys

required to be deposited with the Trustee hereunder and to allocate, use and apply the same as provided in this Trust Agreement. The Authority and the City agree that they will maintain a Trustee which shall be a corporation or association organized under the laws of any state, the United States of America, or the District of Columbia, authorized under such laws to exercise corporate trust powers, which shall have (or, in the case of a bank or trust company included in a bank holding company system, the related bank holding company shall have) a combined capital and surplus of at least fifty million dollars (\$50,000,000), subject to supervision or examination by federal or State authority, so long as any Certificates are Outstanding. If such corporation or association publishes a report of condition at least annually pursuant to law or to the requirements of any supervising or examining authority above referred to then for the purpose of this Section 9.1, the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. In case at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section 9.1, the Trustee shall resign immediately in the manner and with the effect specified in Section 9.7.

The Trustee is hereby authorized to pay the Certificates when duly presented for payment at maturity, or on redemption, or on purchase by the Trustee prior to maturity in accordance with Section 4.5 hereof, and to cancel all Certificates upon payment thereof. The Trustee shall keep records in accordance with corporate trust industry standards of all funds administered by it and of all Certificates paid and discharged.

9.2 Acceptance of Trusts. The Trustee hereby accepts the trusts imposed upon it by this Trust Agreement and agrees to perform said trusts, but only upon and subject to the following express terms and conditions:

(a) The Trustee, prior to the occurrence of an Event of Default and after the curing or waiver of all Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Trust Agreement and no implied duties or obligations shall be read into this Trust Agreement against the Trustee. In case an Event of Default has occurred (which has not been cured or waived) the Trustee may exercise such of the rights and powers vested in it by this Trust Agreement and shall use the same degree of care and skill in their exercise as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

(b) No provision in this Trust Agreement shall require the Trustee 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, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(c) The Trustee may execute any of the trusts or powers hereof and perform the duties required of it hereunder either directly or by or through attorneys, receivers or agents and shall be entitled to advice of counsel concerning all matters of trust and its duty hereunder and shall be absolutely protected in relying thereon. The Trustee shall not be responsible for the misconduct of such persons selected by it with reasonable care.

(d) The Trustee shall not be responsible for any recital herein, in the Assignment Agreement or in the Certificates, or for any of the supplements thereto or instruments of further assurance, or for the sufficiency of the security for the Certificates delivered hereunder or intended to be secured hereby and the Trustee shall not be bound to ascertain or inquire as to the observance or performance of any covenants, conditions or agreements on the part of the Authority or the City under the Lease Agreement.

(e) The Trustee shall not be accountable for the use of any Certificates delivered hereunder or the proceeds thereof. The Trustee, in its individual or any other capacity, may become the Owner or pledgee of Certificates secured hereby with the same rights which it would have if it were not the Trustee; may acquire and dispose of other bonds or evidence of indebtedness of the City with the same rights it would have if it were not the Trustee; and may act as a depository for and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Owners of Certificates, whether or not such committee shall represent the Owners of the majority in principal amount of the Certificates then Outstanding.

(f) In the absence of bad faith on its part, the Trustee shall be protected in acting or refraining from acting upon any notice, request, consent, requisition, certificate, order, affidavit, facsimile, letter, telegram or other paper or document believed by it to be genuine and to have been signed or sent by the proper person or persons. Any action taken or omitted to be taken by the Trustee in good faith pursuant to this Trust Agreement upon the request or authority or consent of any person who at the time of making such request or giving such authority or consent is the Owner of any Certificate, shall be conclusive and binding upon all future Owners of the same Certificate and upon Certificates executed and delivered in exchange therefor or in place thereof. The Trustee shall not be bound to recognize any person as an Owner of any Certificate or to take any action at his request unless such person is the registered owner as shown on the Registration Books.

(g) As to the existence or non-existence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, the Trustee shall be entitled to rely upon a certificate signed by a Authority Representative or a City Representative as sufficient evidence of the facts therein contained and prior to the occurrence of an Event of Default of which the Trustee has been given notice or is deemed to have notice, shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient. The Trustee may accept a certificate of a Authority Representative or a City Representative to the effect that an authorization in the form therein set forth has been adopted by the Authority or the City, as the case may be, as conclusive evidence that such authorization has been duly adopted, and is in full force and effect.

(h) The permissive right of the Trustee to do things enumerated in this Trust Agreement shall not be construed as a duty and the Trustee shall not be answerable for other than its negligence or willful misconduct. The immunities and exceptions from liability of the Trustee shall extend to its officers, directors, employees, affiliates and agents.

(i) The Trustee shall not be required to take notice or be deemed to have notice of any Event of Default hereunder except failure by the City to make any of the Lease

Payments to the Trustee required to be made by the City pursuant to the Lease Agreement or failure by the Authority or the City to file with the Trustee any document required by this Trust Agreement or a Lease Agreement to be so filed subsequent to the delivery of the Certificates, unless the Trustee shall be specifically notified in writing of such default by the Authority, the City or by the Owners of at least five percent (5%) in aggregate principal amount of Certificates then Outstanding and all notices or other instruments required by this Trust Agreement to be delivered to the Trustee must, in order to be effective, be delivered at the Principal Corporate Trust Office, and in the absence of such notice so delivered the Trustee may conclusively assume there is no Event of Default except as aforesaid.

(j) The Trustee shall not be required to give any bond or surety in respect of the execution of the said trusts and powers or otherwise in respect of the premises.

(k) Notwithstanding anything elsewhere in this Trust Agreement with respect to the execution of any Certificates, the withdrawal of any cash, the release of any property, or any action whatsoever within the purview of this Trust Agreement, the Trustee shall have the right, but shall not be required, to demand any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, in addition to that by the terms hereof required as a condition of such action, deemed desirable by the Trustee for the purpose of establishing the right of the City to the withdrawal of any cash, or the taking of any other action by the Trustee.

(l) All moneys received by the Trustee shall, until used or applied or invested as herein provided, be held in trust for the purposes for which they were received but need not be segregated from other funds except to the extent required by law. The Trustee shall not be responsible or liable for any loss suffered in connection with any investment of moneys made by it in accordance with Article VIII of this Trust Agreement.

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

(n) Before taking any action under Article XIII hereof or this section 9.2 at the request or direction of the Certificate Owners, the Trustee may require payment or reimbursement of its fees and expenses, including fees and expenses of counsel and receipt of an indemnity bond satisfactory to it from the Certificate Owners to protect it against all liability, except liability which is adjudicated to have resulted from its own negligence or willful misconduct in connection with any action so taken. Before being required to take any action, the Trustee may require an opinion of Independent Counsel acceptable to the Trustee, which opinion shall be made available to the other parties hereto upon request, which counsel may be counsel to any of the parties hereto, or a verified certificate of any party hereto, or both, concerning the proposed action. If it does so in good faith, the Trustee shall be absolutely protected in relying thereon.

(o) Under no circumstances shall the Trustee be liable for the obligations evidenced by the Certificates.

(p) The Trustee shall not be accountable for the use or application by the City or the Authority or any other party of any funds which the Trustee has released in accordance with the terms of this Trust Agreement.

(q) The Trustee has no obligation or duty to insure compliance by the City with the Code.

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

(s) The Trustee makes no representations as to the validity or sufficiency of the Certificates and shall incur no responsibility in respect thereof, other than in connection with the duties or obligations herein or in the Certificates assigned to or imposed upon it. The Trustee shall not be responsible for the validity or sufficiency of the Lease Agreement or the assignment under the Assignment Agreement. The Trustee shall not be liable for the sufficiency or collection of any Lease Payments or other moneys required to be paid to it under the Lease Agreement (except as provided in this Trust Agreement), its right to receive moneys pursuant to the Lease Agreement, or the value of or title to the premises upon which the Property is located or the Property. The Trustee makes no representations and shall have no responsibility for any official statement or other offering material prepared or distributed with respect to the Certificates.

(t) In accepting the trust hereby created, the Trustee acts solely as Trustee for the Owners and not in its individual capacity and all persons, including without limitation the Owners and the City or the Authority having any claim against the Trustee arising from this Trust Agreement shall look only to the funds and accounts held by the Trustee hereunder for payment except as otherwise provided herein.

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

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

(w) The Trustee may consult with counsel, who may be counsel of the City, with regard to legal questions, and the written 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.

(x) The City agrees to accept and act upon instructions or directions pursuant to this Trust Agreement sent by unsecured e-mail, facsimile transmission or other similar unsecured electronic methods, provided, however, that, the Trustee shall have received an incumbency certificate listing persons designated to give such instructions or directions and containing specimen signatures of such designated persons, which such incumbency certificate shall be amended and replaced whenever a person is to be added or deleted from the listing. If the City elects to give the Trustee e-mail or facsimile instructions (or instructions by a similar electronic method) and the Trustee in its discretion elects to act upon such instructions, the Trustee's understanding of such instructions shall be deemed controlling. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The City agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties.

(y) The Trustee shall not be liable in connection with the performance of its duties hereunder, except for its own negligence or willful misconduct.

(z) Whenever in the administration of the trusts imposed upon it by this Trust Agreement the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively proved and established by a certificate of the City, and such certificate shall be full warrant to the Trustee for any action taken or suffered in good faith under the provisions of this Trust Agreement in reliance upon such certificate, but in its discretion the Trustee may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as it may deem reasonable.

9.3 Fees, Charges and Expenses of Trustee. The City shall pay and reimburse the Trustee for reasonable fees for its services rendered hereunder and under the Assignment Agreement and all advances and expenditures, including but not limited to, advances to and fees and expenses of independent appraisers, accountants, consultants, counsel, agents and attorneys or other experts employed by the Trustee in connection with such services and the Trustee shall, in the Event of Default, have a first and prior lien on the funds held hereunder to secure the same. The Trustee's rights hereunder, including its rights under Section 12.3 hereof, shall survive its resignation or removal and final payment of the Certificates.

9.4 Notice to Certificate Owners of Default. If an Event of Default occurs of which the Trustee has been given or is deemed to have notice pursuant to Section 9.2(i) hereof, then the Trustee shall, within ninety (90) days of the occurrence thereof, give written notice thereof at the expense of the City by first class mail, postage prepaid, to the Owner of each Certificate, unless such Event of Default shall have been cured before the giving of such notice; provided, however that unless such Event of Default consists of the failure by the City to make any Lease Payment

when due, the Trustee may elect not to give such notice if and so long as the Trustee in good faith determines that it is in the best interests of the Certificate Owners not to give such notice.

9.5 Intervention by Trustee. In any judicial proceeding to which the Authority or the City is a party which, in the opinion of the Trustee and its counsel, has a substantial bearing on the interests of Owners of the Certificates, the Trustee may intervene on behalf of the Certificate Owners and shall do so if requested in writing by the Owners of at least twenty-five percent (25%) of the aggregate principal amount of Certificates then Outstanding, provided the Trustee shall have no duty to take such action unless it has received payment or reimbursement and has been indemnified to its satisfaction as provided in Section 9.2(n) hereof against all risk or liability arising from such action.

9.6 Removal of Trustee. Upon thirty (30) days' notice, the City (so long as no Event of Default shall have occurred and be continuing) or the Owners of at least a majority of the aggregate principal amount of Certificates then Outstanding may, with the consent of the Authority, remove the Trustee initially appointed, and any successor thereto, by an instrument or concurrent instruments in writing delivered to the Trustee and the Authority, and may appoint a successor or successors thereto; provided that any such successor shall be a corporation or association meeting the requirements set forth in Section 9.1 hereof.

9.7 Resignation by Trustee. The Trustee and any successor Trustee may, at any time, resign by giving thirty (30) days' written notice by registered or certified mail to the City and the Authority.

9.8 Appointment of Successor Trustee. In the event of the removal or resignation of the Trustee pursuant to Sections 9.6 or 9.7 hereof, the City shall promptly appoint a successor Trustee. In the event the City shall, for any reason whatsoever, fail to appoint a successor Trustee within thirty (30) days following the delivery to the Trustee of the instrument described in Section 9.6 hereof or within thirty (30) days following the receipt of notice by the City pursuant to Section 9.7 hereof, the Trustee may apply to a court of competent jurisdiction at the expense of the City, for the appointment of a successor Trustee meeting the requirements of Section 9.1 hereof. Any such successor Trustee appointed by such court shall become the successor Trustee hereunder notwithstanding any action by the City purporting to appoint a successor Trustee following the expiration of such thirty (30) day period. Any resignation or removal of the Trustee and appointment of a successor Trustee shall become effective upon acceptance of appointment by the successor Trustee.

9.9 Merger or Consolidation. Any company or association into which the Trustee may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company or association to which the Trustee may sell or transfer all or substantially all of its corporate trust business, provided that such company or association shall be eligible under Section 9.1 hereof, shall be the successor to the Trustee and vested with all of the title to the trust estate and all of the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any paper or further act, anything herein to the contrary notwithstanding.

9.10 Concerning any Successor Trustee. Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its or his predecessor and also the Authority and the City an instrument in writing accepting such appointment hereunder and thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all the estates, properties, rights, powers, trusts, duties and obligations of its predecessors; but such predecessor shall, nevertheless, on the written request of the City, or of its successor, execute and deliver an instrument transferring to such successor all the estates, properties, rights, powers and trusts of such predecessor hereunder; and every predecessor Trustee shall deliver all securities and moneys held by it as the Trustee hereunder to its successor. Upon such acceptance, the City shall mail, by first class mail, postage prepaid, or cause the mailing of, notice thereof to the Certificate Owners at their respective addresses set forth on the Registration Books. Should any instrument in writing from the City be required by any successor Trustee for more fully and certainly vesting in such successor the estate, rights, powers and duties hereby vested or intended to be vested in the predecessor, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the City. The resignation of any Trustee and the instrument or instruments removing any Trustee and appointing a successor hereunder, together with all other instruments provided for in this Article IX, shall be filed or recorded by the successor Trustee in each recording office where the Assignment Agreement shall have been filed or recorded.

## **ARTICLE X**

### **MODIFICATION OR AMENDMENT OF AGREEMENTS**

10.1 Amendments Permitted. This Trust Agreement and the rights and obligations of the Owners of the Certificates, the Lease Agreement and the rights and obligations of the parties thereto, the Site and Facility Lease and the rights and obligations of the parties thereto and the Assignment Agreement and the rights and obligations of the parties thereto, may be modified or amended at any time by a supplemental agreement which shall become effective when the written consent of the Owners of at least sixty percent (60%) in aggregate principal amount of the Certificates then Outstanding, exclusive of Certificates disqualified as provided in Section 10.3 hereof, shall have been filed with the Trustee. No such modification or amendment shall (1) extend or have the effect of extending the fixed maturity of any Certificate or reducing the interest rate with respect thereto or extending the time of payment of interest, or reducing the amount of principal thereof, without the express consent of the Owner of such Certificate, or (2) reduce or have the effect of reducing the percentage of Certificates required for the affirmative vote or written consent to an amendment or modification of a Lease Agreement, or (3) modify any of the rights or obligations of the Trustee without its written assent thereto. Any such supplemental agreement shall become effective as provided in Section 10.2 hereof.

This Trust Agreement and the rights and obligations of the Owners of the Certificates and the Lease Agreement and the rights and obligations of the respective parties thereto, may be modified or amended at any time by a supplemental agreement, without the consent of any such Owners, but only to the extent permitted by law and only (1) to add to the covenants and agreements of the Authority or the City, (2) to cure, correct or supplement any ambiguous or defective provision contained herein or therein and which shall not, in the opinion of nationally recognized bond counsel, adversely affect the interests of the Owners of the Certificates, (3) in regard to questions arising hereunder or thereunder, as the parties hereto or thereto may deem

necessary or desirable and which shall not, in the opinion of nationally recognized bond counsel, materially adversely affect the interests of the Owners of the Certificates; (4) to make such additions, deletions or modifications as may be necessary or appropriate in the opinion of bond counsel to assure the exclusion from gross income for federal income tax purposes of the interest component of Lease Payments and the interest payable with respect to the Certificates, (5) to add to the rights of the Trustee, or (6) to maintain the rating or ratings assigned to the Certificates. Any such supplemental agreement shall become effective upon execution and delivery by the parties hereto or thereto, as the case may be.

This Trust Agreement and the Lease Agreement may not be modified or amended at any time by a supplemental agreement which would modify any of the rights and obligations of the Trustee without its written assent thereto.

The Trustee may request an opinion of Independent Counsel that any amendment entered into hereunder complies with the provisions of this Article X and the Trustee may rely conclusively on such opinion.

10.2 Procedure for Amendment with Written Consent of Certificate Owners. This Trust Agreement and the Lease Agreement may be amended by supplemental agreement as provided in this Section 10.2 in the event the consent of the Owners of the Certificates is required pursuant to Section 10.1 hereof. A copy of such supplemental agreement (or a summary thereof), together with a request to the Certificate Owners for their consent thereto, shall be mailed by first class mail, postage prepaid, by the Trustee at the expense of the City, to each Owner of a Certificate at his address as set forth on the Registration Books, 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 10.2 provided.

Such supplemental agreement shall not become effective unless there shall be filed with the Trustee the written consents of the Owners of at least sixty percent (60%) in aggregate principal amount of the Certificates then Outstanding (exclusive of Certificates disqualified as provided in Section 10.3 hereof) and a notice shall have been mailed as hereinafter in this Section 10.2 provided. Each such consent shall be effective only if accompanied by proof of ownership of the Certificates for which such consent is given, which proof shall be such as is permitted by Section 2.11 hereof. Any such consent shall be binding upon the Owner of the Certificate 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 Trustee prior to the date when the notice hereinafter in the following paragraph of this Section 10.2 provided for has been mailed.

After the Owners of the required percentage of Certificates shall have filed their consents to such supplemental agreement, the Trustee shall mail by first class mail, postage prepaid, a notice at the expense of the City, to the Owners of the Certificates in the manner hereinbefore provided in this Section 10.2 for the mailing of such supplemental agreement of the notice of adoption thereof, stating in substance that such supplemental agreement has been consented to by the Owners of the required percentage of Certificates and will be effective as provided in this Section 10.2 (but failure to mail copies of said notice shall not affect the validity of such

supplemental agreement or consents thereto). A record, consisting of the papers required by this Section 10.2 to be filed with the Trustee, shall be conclusive proof of the matters therein stated. Such supplemental agreement shall become effective upon the mailing of such last-mentioned notice, and such supplemental agreement shall be deemed conclusively binding upon the parties hereto and the Owners of all Certificates at the expiration of sixty (60) days after such filing, except in the event of a final decree of a court of competent jurisdiction setting aside such consent in a legal action or equitable proceeding for such purpose commenced within such sixty (60) day period.

10.3 Disqualified Certificates. Certificates owned or held by or for the account of the City or by any person directly or indirectly controlled or controlled by, or under direct or indirect common control with the City (except any Certificates held in any pension or retirement fund) shall not be deemed Outstanding for the purpose of any vote, consent, waiver or other action or any calculation of Outstanding Certificates provided for in this Trust Agreement, and shall not be entitled to vote upon, consent to, or take any other action provided for in this Trust Agreement; provided, however, that the Trustee shall not be liable for determining whether Certificates are owned or held by the City or any such other person unless such Certificates are registered in the name of the City or such other person on the Registration Books.

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

10.5 Endorsement or Replacement of Certificates Delivered After Amendments. The City may determine that Certificates delivered after the effective date of any action taken as provided in this Article X shall bear a notation, by endorsement or otherwise, in form approved by the Trustee, as to such action. In that case, upon demand of the Owner of any Certificate Outstanding at such effective date and presentation of his Certificate for such purpose at the Principal Corporate Trust Office, a suitable notation shall be made on such Certificate. The City may determine that the delivery of substitute Certificates, so modified as in the opinion of the City is necessary to conform to such Certificate Owners' action, is necessary and such substitute Certificates shall thereupon be prepared, executed and delivered. In that case, upon demand of the Owner of any Certificate then Outstanding, such substitute Certificate shall be exchanged at the Principal Corporate Trust Office, at the expense of the City, for a Certificate of the same character then Outstanding, upon surrender of such Outstanding Certificate.

10.6 Amendatory Endorsement of Certificates. The provisions of this Article X shall not prevent any Certificate Owner from accepting any amendment as to the particular Certificates held by him, provided that proper notation thereof is made on such Certificates.

## ARTICLE XI COVENANTS

11.1 Compliance With and Enforcement of Lease Agreement. The City covenants and agrees with the Owners of the Certificates to perform all obligations and duties imposed on it under the Lease Agreement. The Authority covenants and agrees with the Owners of the Certificates to perform all obligations and duties imposed on it under the Lease Agreement.

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

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

11.3 Prosecution and Defense of Suits. The City shall promptly, upon request of the Trustee or any Certificate Owner, from time to time take such action as may be necessary or proper to remedy or cure any defect in or cloud upon the title to the Property, whether now existing or hereafter developing and shall prosecute all such suits, actions and other proceedings as may be appropriate for such purpose and shall indemnify and save the Trustee and every Certificate Owner harmless from all loss, cost, damage and expense, including attorneys' fees, which they or any of them may incur by reason of any such defect, cloud, suit, action or proceeding.

11.4 Recordation and Filing. The City shall record and file, or cause to be recorded and filed, the Site and Facility Lease, the Lease Agreement (or a memorandum thereof), the Assignment Agreement and all such documents as may be required by law (and shall take all further actions which may be necessary or be reasonably required by the Trustee), all in such manner, at such times and in such places as may be required by law in order fully to preserve, protect and perfect the security of the Trustee and the Certificate Owners.

11.5 Budgets. The City shall supply to the Trustee as soon as practicable, but not later than July 15 in each year, a written determination by a City Representative that the City has made adequate provision in its annual budget for the payment of Lease Payments due under the Lease Agreement in the Fiscal Year covered by such budget. The determination given by the City to the Trustee shall be that the amounts so budgeted are fully adequate for the payment of

all Lease Payments and Additional Payments due under the Lease Agreement in the annual period covered by such budget.

11.6 Further Assurances. The Authority and the City will make, execute and deliver any and all such further resolutions, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Trust Agreement and the Lease Agreement, or as may be requested by the Trustee and for the better assuring and confirming unto the Owners of the Certificates and the Trustee the rights and benefits provided herein.

11.7 Satisfaction of Conditions Precedent. The City hereby certifies, recites and declares that all acts, conditions and things required by the constitution and statutes of the State, the Lease Agreement and this Trust Agreement to exist, to have happened and to have been performed precedent to and in the delivery of the Certificates, do exist, have happened and have been performed in due time, form and manner as required by law.

## **ARTICLE XII**

### **LIMITATION OF LIABILITY**

12.1 Limited Liability of City. Except for the payment of Lease Payments when due in accordance with the Lease Agreement and the performance of the other covenants and agreements of the City contained in the Lease Agreement and this Trust Agreement, the City shall have no pecuniary obligation or liability to any of the other parties or to the Owners of the Certificates with respect to this Trust Agreement or the terms, execution, delivery or transfer of the Certificates, or the distribution of Lease Payments to the Owners by the Trustee, except as expressly set forth herein.

12.2 No Liability of City or Authority for Trustee Performance. Neither the City nor the Authority shall have any obligation or liability to any of the other parties or to the Owners of the Certificates with respect to the performance by the Trustee of any duty imposed upon it under this Trust Agreement.

12.3 Indemnification of Trustee. The City shall to the extent permitted by law indemnify and save the Trustee, its officers, employees, directors, affiliates and agents harmless from and against all claims, losses, costs, expenses, liability and damages, including legal fees and expenses (including allocated costs of internal counsel), arising out of (i) the use, maintenance, condition or management of, or from any work or thing done on, the Property by the Authority or the City, (ii) any breach or default on the part of the Authority or the City the performance of any of their respective obligations under the Lease Agreement, the Assignment Agreement, this Trust Agreement and any other agreement made and entered into for purposes of the Property, (iii) any act of the Authority or the City or of any of their respective agents, contractors, servants, employees, licensees with respect to the Property, (iv) any act of any assignee of, or purchaser from the Authority or the City or of any of its or their respective agents, contractors, servants, employees or licensees with respect to the Property, (v) the authorization of payment of Delivery Costs, (vi) the actions of any other party, including but not limited to the ownership, operation or use of the Property by the Authority or the City including, without limitation, the use, storage, presence, disposal or release of any Hazardous Substances on or

about the Property, (vii) the Trustee's exercise and performance of its powers and duties hereunder or as assigned to it under the Assignment Agreement, (viii) the offering and sale of the Certificates; or (ix) the presence under or about or release from the Property, or any portion thereof, of any substance, material or waste which is or becomes regulated or classified as hazardous or toxic under State, local or federal law, or the violation of any such law by the City. Such indemnification shall include the costs and expenses of defending against any claim or liability arising under this Trust Agreement. No indemnification will be made under this Section 12.3 or elsewhere in this Trust Agreement for willful misconduct or negligence under this Trust Agreement by the Trustee, its officers, affiliates or employees. The City's obligations hereunder shall remain valid and binding notwithstanding maturity and payment of the Certificates or resignation or removal of the Trustee.

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

### **ARTICLE XIII**

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

13.1 Assignment of Rights. Pursuant to the Assignment Agreement, the Authority has transferred, assigned and set over to the Trustee all of the Authority's rights in and to the Lease Agreement (excepting only the Authority's rights under Sections 5.8, 7.3 and 9.4 and the obligations under Section 4.7 thereof), including without limitation all of the Authority's rights to exercise such rights and remedies conferred on the Authority pursuant to the Lease Agreement as may be necessary or convenient (i) to enforce payment of the Lease Payments and any other amounts required to be deposited in the Lease Payment Fund or the Insurance and Condemnation Fund, and (ii) otherwise to exercise the Authority's rights and take any action to protect the interests of the Trustee or the Certificate Owners in an Event of Default.

13.2 Remedies. If an Event of Default shall happen, then and in each and every such case during the continuance of such Event of Default, the Trustee may, and shall upon request of the Owners of a majority in aggregate principal amount of the Certificates then Outstanding, and upon payment of its fees and expenses, including counsel fees, and being indemnified to its satisfaction therefor shall, exercise any and all remedies available pursuant to law or granted pursuant to the Lease Agreement; provided, however, that notwithstanding anything herein or in the Lease Agreement to the contrary, there shall be no right under any circumstances to accelerate the maturities of the Certificates or otherwise to declare any Lease Payment not then in default to be immediately due and payable.

13.3 Application of Funds. All moneys held by the Trustee in the funds and accounts held hereunder and all moneys received by the Trustee pursuant to any right given or action taken under the provisions of this Article XIII or Article IX of the Lease Agreement shall be applied by the Trustee in the following order upon presentation of the several Certificates:

First, to the payment of the fees, costs and expenses of the Trustee in declaring such Event of Default, and collecting moneys owed hereunder, including reasonable compensation to its or their agents, attorneys and counsel (including allocated costs of internal counsel), including all fees and expenses past due and then payment of the costs and expenses of the Owners in declaring such Event of Default, and collecting moneys owed hereunder, including reasonable compensation to its agents, attorneys and counsel; and

Second, to the payment of the whole amount then owing and unpaid with respect to the Certificates for principal and interest, with interest on the overdue principal and installments of interest at the rate per annum payable with respect to the Certificates plus 5.00% (but such interest on overdue installments of interest shall be paid only to the extent funds are available therefor following payment of principal and interest and interest on overdue principal, as aforesaid), and in case such moneys shall be insufficient to pay in full the whole amount so owing and unpaid with respect to the Certificates, then to the payment of such principal and interest without preference or priority of principal over interest, or of interest over principal, or of any installment of interest over any other installment of interest, ratably to the aggregate of such principal and interest.

13.4 Institution of Legal Proceedings. If one or more Events of Default shall happen and be continuing, or if there shall be nonpayment of principal or interest with respect to the Certificates, the Trustee in its discretion may and shall, upon the written request of the Owners of a majority in principal amount of the Certificates then Outstanding, and upon payment of its fees and expenses, including counsel fees, and being indemnified to its satisfaction therefor, shall, proceed to protect or enforce its rights or the rights of the Owners of Certificates by a suit in equity or action at law, either for the specific performance of any covenant or agreement contained herein, or in aid of the execution of any power herein granted, or by mandamus or other appropriate proceeding for the enforcement of any other legal or equitable remedy as the Trustee shall deem most effectual in support of any of its rights or duties hereunder. If one or more Events of Default shall occur and be continuing, the Trustee shall be entitled as a matter of right to the appointment of a receiver or receivers for the Property and for any property securing the Certificates and the revenues, income, produce, and profits thereon. In the case of any receivership, insolvency, bankruptcy, reorganization, or other judicial proceedings affecting the City or the Property, the Trustee shall be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have the claims of the Trustee and Owners allowed in such proceedings for the entire amount due and payable under this Trust Agreement at the time of the institution of such proceedings, and also for any additional amount which may become due and payable thereafter, without prejudice to the right of any Owner to file a claim on his or her own behalf. The Trustee shall not be obligated to take any such action unless offered compensation, indemnity for its potential liability, and reimbursement for its legal fees and expenses in accordance with this Section 13.4.

13.5 Non-waiver. Nothing in this Article XIII or in any other provision of this Trust Agreement or in the Certificates, shall affect or impair the obligation of the City to pay or prepay the Lease Payments as provided in the Lease Agreement, or affect or impair the right of action, which is absolute and unconditional, of the Certificate Owners to institute suit to enforce and collect such payment. No delay or omission of the Trustee or of any Owner of any of the Certificates to exercise any right or power arising upon the happening of any Event of Default

shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or an acquiescence therein, and every power and remedy given by this Article XIII to the Trustee or to the Owners of Certificates may be exercised from time to time and as often as shall be deemed expedient by the Trustee or the Certificate Owners.

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

13.7 Power of Trustee to Control Proceedings. In the event that the Trustee, upon the happening of an Event of Default, shall have taken any action, by judicial proceedings or otherwise, pursuant to its duties hereunder, whether upon its own discretion or upon the request of the Owners of a majority in principal amount of the Certificates then Outstanding, it shall have full power, in the exercise of its discretion for the best interests of the Owners of the Certificates, with respect to the continuance, discontinuance, withdrawal, compromise, settlement or other disposal of such action; provided, however, that the Trustee shall not discontinue, withdraw, compromise or settle, or otherwise dispose of any litigation pending at law or in equity, without the consent of a majority in aggregate principal amount of the Certificates Outstanding.

13.8 Limitation on Certificate Owners' Right to Sue. No Owner of any Certificate executed and delivered hereunder shall have the right to institute any suit, action or proceeding at law or in equity, for any remedy under or upon this Trust Agreement, unless (a) such Owner shall have previously given to the Trustee written notice of the occurrence of an Event of Default hereunder; (b) the Owners of at least twenty-five percent (25%) in aggregate principal amount of all the Certificates then Outstanding shall have made written request upon the Trustee to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name; (c) said Owners shall have tendered to the Trustee reasonable indemnity against the costs, expenses and liabilities to be incurred in compliance with such request; and (d) the Trustee shall have refused or omitted to comply with such request for a period of sixty (60) days after such written request shall have been received by, and said tender of indemnity shall have been made to, the Trustee.

Such notification, request, tender of indemnity and refusal or omission are hereby declared, in every case, to be conditions precedent to the exercise by any Owner of Certificates of any remedy hereunder; it being understood and intended that no one or more Owners of Certificates shall have any right in any manner whatever by his or their action to enforce any right under this Trust Agreement, except in the manner herein provided, and that all proceedings at law or in equity with respect to an Event of Default shall be instituted, had and maintained in the manner herein provided and for the equal benefit of all Owners of the Outstanding Certificates.

The right of any Owner of any Certificate to receive payment of said Owner's fractional interest in the Lease Payments as the same become due, or to institute suit for the enforcement of such payment, shall not be impaired or affected without the consent of such Owner, notwithstanding the foregoing provisions of this Section 13.8 or any other provision of this Trust Agreement.

13.9 Parties Interested Herein. Nothing in this Trust Agreement expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the City, the Authority, the Trustee, their officers, employees and agents, and the Owners any right, remedy or claim under or by reason of this Trust Agreement, or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Trust Agreement contained by and on behalf of the City shall be for the sole and exclusive benefit of the City, the Authority, the Trustee, their officers, employees and agents, and the Owners.

#### **ARTICLE XIV** **MISCELLANEOUS**

14.1 Defeasance. If and when all or a portion of the Outstanding Certificates shall be paid and discharged and all other amounts due and owing hereunder have been paid (as set forth below) then, notwithstanding that any Certificates shall not have been surrendered for payment, all obligations of the Authority, the Trustee and the City with respect to all Outstanding Certificates shall cease and terminate, except only the obligation of the City to pay or cause to be paid, from Lease Payments paid by or on behalf of the City from funds deposited pursuant to paragraph (b) of this Section 14.1, to the Owners of the Certificates not so surrendered and paid all sums due with respect thereto, and in the event of deposits pursuant to paragraph (b), the Certificates shall continue to represent direct and fractional interests of the Owners thereof in Lease Payments under the Lease Agreement.

Such payment and discharge may be accomplished in either of the following ways:

(a) by well and truly paying or causing to be paid the principal, and interest with respect to all or a portion of the Certificates Outstanding, as and when the same become due and payable; or

(b) by irrevocably depositing with the Trustee or an escrow holder security for the payment of Lease Payments as more particularly described in Section 10.1 of the Lease Agreement, to be applied to pay the Lease Payments as the same become due and payable.

Any funds held by the Trustee, at the time of one of the events described in paragraphs (a) or (b) of this Section 14.1, which are not required for the payment to be made to Owners, shall, after payment of all fees and expenses of the Trustee, including attorneys fees (including allocated costs of internal counsel), be paid over to the City.

To accomplish defeasance, unless defeased with cash, the City shall cause to be delivered (i) a report of an independent firm of nationally recognized certified public accountants or such other accountant (“Accountant”) verifying the sufficiency of the escrow established to pay the Certificates in full on the maturity or redemption date (“Verification”), (ii) an escrow deposit agreement, and (iii) an opinion of nationally recognized bond counsel to the effect that the Certificates are no longer Outstanding; each Verification and defeasance opinion shall be acceptable in form and substance to the City and addressed to the City and the Trustee.

Certificates shall be deemed Outstanding under this Trust Agreement unless and until they are in fact paid and retired or the above criteria are met.

14.2 Records. The Trustee shall keep records in accordance with corporate trust industry standards of all moneys received and disbursed by it under this Trust Agreement, which shall be available for inspection by the City, the Authority and any Owner of at least five percent (5%) of the Outstanding principal amount of the Certificates, or the agent of any of them, at any time during regular business hours on any Business Day upon reasonable prior notice.

14.3 Notices. All written notices to be given under this Trust Agreement shall be given by first class mail, postage prepaid, to the party entitled thereto at its address set forth below, or at such address as the party may provide to the other party in writing from time to time. Notice shall be effective upon deposit in the United States first class mail, postage prepaid to the address set forth below:

If to the Authority:	DUARTE COMMUNITY FACILITIES FINANCING AUTHORITY 1600 Huntington Drive Duarte, CA 91010
If to the City:	CITY OF DUARTE 1600 Huntington Drive Duarte, CA 91010
If to the Trustee:	U.S. BANK NATIONAL ASSOCIATION Corporate Trust Services 633 W. Fifth Street, 24 <sup>th</sup> Floor LM-CA-T24T Los Angeles, CA 90071

14.4 Governing Law. This Trust Agreement shall be construed and governed in accordance with the internal laws of the State.

14.5 Binding Effect; Successors. This Trust Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Whenever in this Trust Agreement the Authority, the City or the Trustee 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 Trust Agreement contained by or on behalf of the Authority, the City or the Trustee shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

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

14.7 Destruction of Canceled Certificates. Whenever in this Trust Agreement provision is made for the surrender to or cancellation by the Trustee and the delivery to the City of any Certificates, the Trustee may, in lieu of such cancellation and delivery, destroy such Certificates and deliver a certificate of such destruction to the City.

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

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

14.10 Payments Due on Other than Business Day. If the date for making any payment as provided in this Trust Agreement is not a Business Day, such payment may be made on the next succeeding Business Day with the same force and effect as if done on the date provided therefore herein.

14.11 Payment of Unclaimed Moneys. Notwithstanding any provisions of this Trust Agreement and subject to the escheat laws of the State, any moneys held by the Trustee in trust for the payment of the principal or interest due with respect to any Certificates and remaining unclaimed two years from the date of deposit of such funds, or if the law shall have been changed and the City has notified the Trustee of such change or the Trustee notifies the City, then on the date thirty (30) days prior to the then applicable escheat provision of State law, shall, on such date, be repaid to the City free from the trusts created by this Trust Agreement, and all liability of the Trustee with respect to such moneys shall thereupon cease; provided, however, that before the repayment of such moneys to the City as aforesaid, the Trustee may (at the cost and request of the City) first mail to the Owners to whom such amounts have not yet been paid, at the addresses shown on the Registration Books, a notice, in such form as may be deemed appropriate by the Trustee with respect to the amounts so payable and with respect to the provisions relating to the repayment to the City of the moneys held for the payment thereof. The Trustee shall not be liable for any interest on funds held by it. The City shall not be liable for any interest on the sums paid to it pursuant to this Section 14.11 and shall not be regarded as a trustee of such money.

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

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

CITY OF DUARTE, CALIFORNIA

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

DUARTE COMMUNITY FACILITIES  
FINANCING AUTHORITY

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

U.S. BANK NATIONAL ASSOCIATION

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

## EXHIBIT A

### DEFINITIONS

“Additional Payments” means the payments so designated and required to be paid by the City pursuant to Section 4.7 of the Lease Agreement.

“Assignment Agreement” means the Assignment Agreement, dated as of March 1, 2013, by and between the Authority and the Trustee, together with any duly authorized and executed amendments thereto.

“Authority” means the Duarte Community Facilities Financing Authority, a joint powers authority organized and existing under and by virtue of the laws of the State.

“Authority Representative” means the Chairman, Vice Chairman, Executive Director, any Assistant Executive Director, Treasurer, Secretary, or the designee of any such official, or any other person authorized by resolution of the Authority delivered to the Trustee to act on behalf of the Authority under or with respect to the Site and Facility Lease, the Lease Agreement, the Assignment Agreement and the Trust Agreement.

“Bond Counsel” means (a) Rutan & Tucker, LLP, or (b) any other attorney or firm of attorneys appointed by or acceptable to the City of nationally-recognized experience in the issuance of obligations the interest on which is excludable from gross income for federal income tax purposes under the Code.

“Business Day” means a day which is not a Saturday, Sunday or legal holiday on which banking institutions in the state in which the Principal Corporate Trust Office is located or in the State are closed or are required to close or a day on which the New York Stock Exchange is closed.

“Certificates” means the \$\_\_\_\_\_ aggregate principal amount of certificates of participation to be executed and delivered pursuant to the Trust Agreement which evidence direct, undivided fractional Interests of the Owners thereof in Lease Payments.

“City” means City of Duarte, a municipal corporation, duly organized and existing under and by virtue of the laws of the State.

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

“City Representative” means the City Manager, Assistant City Manager or Director of Administrative Services, the City Clerk, or the designee of any such official, or any other person authorized by resolution delivered to the Trustee to act on behalf of the City under or with respect to the Site and Facility Lease, the Lease Agreement and the Trust Agreement.

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

“Code” means the Internal Revenue Code of 1986 as in effect on the Closing Date or (except as otherwise referenced in the Lease Agreement or the Trust Agreement) as it may be amended to apply to obligations issued on the Closing Date, together with applicable temporary and final regulations promulgated under the Code.

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

“Delivery Costs” means all items of expense directly or indirectly payable by or reimbursable to the City or the Authority relating to the execution and delivery of the Site and Facility Lease, the Lease Agreement, the Trust Agreement and the Assignment Agreement or the execution, sale and delivery of the Certificates, including but not limited to filing and recording costs, settlement costs, printing costs, reproduction and binding costs, costs for statistical data, initial fees and charges of the Trustee (including the fees and expenses of its counsel), financing discounts, legal fees and charges, insurance fees and charges (including title insurance), financial and other professional consultant fees, costs of rating agencies for credit ratings, fees for execution, transportation and safekeeping of the Certificates and charges and fees in connection with the foregoing.

“Delivery Costs Fund” means the fund by that name established and held by the Trustee pursuant to Article III of the Trust Agreement.

“Determination of Taxability” means any determination, decision or decree by the Commissioner of Internal Revenue, or any District Director of Internal Revenue, or any court of competent jurisdiction, to the effect that an Event of Taxability shall have occurred; provided, however, that the City shall have the opportunity to take such remedial action necessary to restore the tax-exempt status of the interest component of Lease Payments under this Lease Agreement. A Determination of Taxability also shall be deemed to have occurred on the date when the City files any statement, supplemental statement, or other tax schedule, return or document, which discloses that an Event of Taxability shall have occurred.

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

“Event of Taxability” means, with respect to the Lease Agreement: (a) the application of the proceeds of the advance rental payment by the Bank pursuant to the Site Lease in such manner that the Lease Agreement becomes an “arbitrage bond” within the meaning of Tax Code Sections 103(b)(2) and 148, and with the result that interest component of the Lease Payments is or becomes includable in a recipient’s gross income (as defined in Tax Code Section 61); or (b) if as the result of any act, failure to act or use of the proceeds of the advance rental payment or any misrepresentation or inaccuracy in any of the representations, warranties or covenants contained in the Lease Agreement or the Site Lease by the City the interest component of Lease Payments is or becomes includable in a recipient’s gross income (as defined in Tax Code Section

61); and (c) with respect to (a) and (b), the City does not undertake any remedial action afforded to it by the Internal Revenue Service.

“Facility” means those certain existing facilities more particularly described in Exhibit B to the Site and Facility Lease and in Exhibit B to the Lease Agreement.

“Federal Securities” means (a) Direct obligations (other than an obligation subject to variation in principal repayment) of the United States of America (“U.S. Treasury Obligations”), (b) obligations fully and unconditionally guaranteed as to timely payment of principal and interest by the United States of America, (c) obligations fully and unconditionally guaranteed as to timely payment of principal and interest by any agency or instrumentality of the United States of America when such obligations are backed by the full faith and credit of the United States of America, or (d) evidence of ownership of proportionate interests in future interest and principal payments on obligations described above held by a bank or trust company as custodian, under which the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligator and the underlying government obligations are not available to any person claiming through the custodian or to whom the custodian may be obligated.

“Fiscal Year” means the twelve-month period beginning on July 1 of any year and ending on June 30 of the next succeeding year, or any other twelve-month period selected by the City as its fiscal year.

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

“Information Services” means the Electronic Municipal Market Access website of the Municipal Securities Rulemaking Board (MSRB), or such other electronic system designated by the MSRB or the Securities and Exchange Commission, or as may be designated by the City in a certificate delivered to the Trustee.

“Insurance and Condemnation Fund” means the fund by that name established and held by the Trustee pursuant to Section 7.1 of the Trust Agreement.

“Interest Payment Date” means the first (1st) day of February and August in each year, commencing August 1, 2013, so long as any Certificates are Outstanding.

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

“Lease Agreement” means that certain agreement for the lease of the Property by the Authority to the City, dated as of March 1, 2013, together with any duly authorized and executed amendments thereto.

“Lease Payment Date” means the fifteenth (15th) day of January and July in each year during the Term of the Lease Agreement, commencing July 15, 2013.

“Lease Payment Fund” means the fund by that name established and held by the Trustee pursuant to Section 5.2 of the Trust Agreement.

“Lease Payments” means the total payments required to be paid by the City pursuant to Section 4.4 of the Lease Agreement, including any prepayment thereof pursuant to Article X of the Lease Agreement, which payments consist of an interest component and a principal component, as set forth in Exhibit C to the Lease Agreement.

“Moody’s” means Moody’s Investors Service, New York, New York, or its successors.

“Net Proceeds,” when used with respect to insurance or condemnation proceeds, means any insurance proceeds or condemnation award paid with respect to the Property, to the extent remaining after payment therefrom of all expenses incurred in the collection thereof.

“Original Purchaser” means the first purchaser of the Certificates upon their delivery by the Trustee on the Closing Date.

“Outstanding,” when used as of any particular time with respect to Certificates, means (subject to the provisions of Section 10.3 of the Trust Agreement) all Certificates theretofore executed and delivered by the Trustee under the Trust Agreement except:

(a) Certificates theretofore canceled by the Trustee or surrendered to the Trustee for cancellation;

(b) Certificates for the payment or redemption of which funds or Defeasance Obligations in the necessary amount shall have theretofore been deposited with the Trustee or an escrow holder (whether upon or prior to the maturity or redemption date of such Certificates), provided that, if such Certificates are to be redeemed prior to maturity, notice of such redemption shall have been given as provided in Section 4.3 of the Trust Agreement or provision satisfactory to the Trustee shall have been made for the giving of such notice; and

(c) Certificates in lieu of or in exchange for which other Certificates shall have been executed and delivered by the Trustee pursuant to Section 2.9 of the Trust Agreement.

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

“Permitted Encumbrances” means, as of any particular time: (a) liens for general ad valorem taxes and assessments, if any, not then delinquent, or which the City may, pursuant to provisions of Article V of the Lease Agreement, permit to remain unpaid; (b) the Site and Facility Lease; (c) the Lease Agreement; (d) the Assignment Agreement; (e) any right or claim of any mechanic, laborer, materialman, supplier or vendor not filed or perfected in the manner prescribed by law; (f) easements, rights-of-way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions which exist of record as of the Closing Date and which the City certifies in writing will not materially impair the use of the Property; and (g) easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants,

conditions or restrictions established following the date of recordation of the Lease Agreement and to which the Authority and the City agree in writing do not reduce the value of the Property.

“Permitted Investments” means any of the following:

- (a) Federal Securities;
- (b) debentures of the Federal Housing Administration to the extent such obligations are guaranteed by the full faith and credit of the United States of America;
- (c) obligations of the following agencies which are not guaranteed by the United States of America: (i) participation certificates or debt obligations of the Federal Home Loan Mortgage Corporation; (ii) consolidated system-wide bonds and notes of the Farm Credit Banks (consisting of Federal Land Banks, Federal Intermediate Credit Banks and Banks for Cooperatives); (iii) consolidated debt obligations or letter of credit-backed issues of the Federal Home Loan Banks; (iv) mortgage-backed securities (excluding stripped mortgage securities which are valued greater than par on the portion of unpaid principal) or debt obligations of the Federal National Mortgage Association; or (v) letter of credit-backed issues or debt obligations of the Student Loan Marketing Association; provided, however, that not more than ten percent (10%) of the proceeds of the Bonds may, in the aggregate, be invested in any such obligations at one time;
- (d) Federal funds, negotiable certificates of deposit, time deposits and bankers acceptances (having maturities of not more than 180 days) of banks (including the Trustee and its affiliates) the short-term obligations of which are rated in one of the two highest Rating Categories by at least one nationally recognized rating agency;
- (e) deposits (including those of the Trustee and its affiliates) which are fully insured by the Federal Deposit Insurance Corporation (“FDIC”);
- (f) debt obligations (excluding securities that do not have a fixed par value and/or whose terms do not promise a fixed dollar amount at maturity or call date) rated in one of the two highest Rating Categories by at least one nationally recognized rating agency;
- (g) commercial paper (having original maturities of not more than 270 days) rated, at the time of purchase, in one of the two highest Rating Categories by at least one nationally recognized rating agency;
- (h) money market funds rated in one of the two highest Rating Categories by at least one nationally recognized rating agency, including funds for which the Trustee, its parent, affiliates or subsidiaries provide investment advisory or other management services, in which case it is agreed that the Trustee, its parent, affiliates or subsidiaries shall have the right to be paid its customary management fees in addition to its fees as Trustee hereunder;
- (i) investment contracts or agreements issued or guaranteed by entities whose long-term debt or claims paying ability of which are rated in one of the two highest long-term rating categories of Moody’s or S&P;

(j) repurchase agreements or investment agreements issued by banks, broker/dealers or other financial institutions fully secured by obligations listed in paragraphs (a), (b) or (c) of this definition having a market value at least equal to 105% of face amount of the agreement and possession of which obligations is held or controlled by the Trustee, the City or by a third party satisfactory to the City under arrangements satisfactory to the Trustee or the City, as the case may be; and

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

“Principal Corporate Trust Office” means the corporate trust office of the Trustee located at Los Angeles, California, or such other office designated by the Trustee from time to time, except with respect to presentation of Certificates for payment or for registration of transfer and exchange such term shall mean the office or agency of the Trustee at which, at any particular time, its corporate trust agency business shall be conducted.

“Proceeds,” when used with reference to the Certificates, means the face amount of the Certificates, less original issue discount.

“Property” means, collectively, the Site and the Facility.

“Rating Category” means, with respect to any Permitted Investment, one of the generic categories of rating by Moody’s or S&P applicable to such Permitted Investment, without regard to any refinement or graduation of such rating category by a plus or minus sign or a numeral.

“Registration Books” means the records maintained by the Trustee pursuant to Section 2.12 of the Trust Agreement for registration of the ownership and transfer of ownership of the Certificates.

“Regular Record Date” means the close of business on the fifteenth (15th) day of the month immediately preceding each Interest Payment Date, whether or not such fifteenth (15th) day is a Business Day.

“Rental Period” means each twelve-month period during the Term of the Lease Agreement commencing on August 2 in any year and ending on August 1 in the next succeeding year; provided, however, that the first Rental Period shall commence on the Closing Date and shall end on August 1, 2022.

“S&P” means Standard & Poor’s Ratings Services, a division of The McGraw-Hill Companies, Inc., New York, New York, or its successors.

“Securities Depositories” means The Depository Trust Company, 55 Water Street, 50th Floor, New York, NY 10041 Attention: Call Notification Department; or to such other addresses and/or such other registered securities depositories holding substantial amounts of obligations of types similar to the Certificates.

“Site” means that certain real property more particularly described in Exhibit A to the Site and Facility Lease and in Exhibit A to the Lease Agreement.

“Site Lease” means the Site and Facility Lease, dated as of March 1, 2013, by and between the City, as lessor, and the Authority, as lessee, together with any duly authorized and executed amendments thereto.

“State” means the State of California.

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

“Trust Agreement” means the Trust Agreement, dated as of March 1, 2013, by and among the City, the Authority and the Trustee, together with any duly authorized amendments thereto.

“Trustee” means U.S. Bank National Association, or any successor thereto, acting as Trustee pursuant to the Trust Agreement.

**EXHIBIT B**

**FORM OF THE CERTIFICATES**

**2013 Certificate of Participation  
(2001 Refunding)**

**Evidencing a Direct, Undivided Fractional Interest of the  
Owners Hereof in Lease Payments to be Made by the  
CITY OF DUARTE, CALIFORNIA  
As the Rental for Certain Property Pursuant to a Lease Agreement  
with the Duarte Community Facilities Financing Authority**

RATE OF INTEREST	MATURITY DATE	DATED DATE
%	August 1, 2022	, 2013

REGISTERED OWNER: COMPASS BANK

PRINCIPAL AMOUNT: \_\_\_\_\_ DOLLARS

THIS IS TO CERTIFY THAT the registered owner identified above, or registered assigns (the "Owner"), as the registered owner of this Certificate of Participation (the "Certificate"), is the owner of a direct, undivided, fractional interest in a portion of the lease payments (the "Lease Payments") to be paid by the City of Duarte, California, a municipal corporation, duly organized and existing under the laws of the State of California (the "City"), pursuant to that certain Lease Agreement, dated as of March 1, 2013, by and between the Duarte Community Facilities Financing Authority, a joint powers authority organized and existing under the laws of the State of California (the "Authority") and the City (the "Lease Agreement"), which Lease Payments, prepayments and certain other rights and interests under the Lease Agreement have been assigned to U.S. Bank National Association, as trustee (the "Trustee"), having a corporate trust office in Los Angeles, California, or any other such location so designated by the Trustee (the "Principal Corporate Trust Office").

The Owner is entitled to receive, subject to the terms of the Lease Agreement, on the Maturity Date identified above, the Principal Amount identified above, representing a direct, undivided fractional portion of the Lease Payments designated as principal coming due on such date, and to receive on August 1 and February 1 of each year, commencing August 1, 2013 (each, an "Interest Payment Date"), until payment in full of said Principal Amount, the Owner's direct, undivided fractional share of the Lease Payments designated as interest coming due during the six months immediately preceding each of the Interest Payment Dates; provided that interest represented hereby shall be payable from the Interest Payment Date next preceding the date of execution of this Certificate unless (i) this Certificate is executed as of an Interest Payment Date, in which event interest shall be payable from such Interest Payment Date, or (ii) this Certificate is executed after the close of business on the fifteenth (15th) day of the month immediately preceding an Interest Payment Date, and before the following Interest Payment Date, in which event interest shall be payable from such Interest Payment Date, or (iii) this

Certificate is executed on or before July 15, 2013, in which event interest shall be payable from the Dated Date stated above; provided, however, that if, as of the date of execution of any Certificate, interest is in default with respect to any Outstanding Certificates, interest represented by such Certificate shall be payable from the Interest Payment Date to which interest has previously been paid or made available for payment with respect to the Outstanding Certificates. Payment of defaulted interest shall be paid by check of the Trustee mailed to the registered owners of the Certificates as of a special record date to be fixed by the Trustee in its sole discretion, notice of which shall be given to the registered owners of the Certificates not less than ten (10) days prior to such special record date. Said direct, undivided fractional share of the portion of the Lease Payments designated as interest is the result of the multiplication of the aforesaid portion of the Lease Payments designated as principal by the Rate of Interest per annum identified above. Interest represented hereby is payable in lawful money of the United States of America by check mailed by the Trustee on each Interest Payment Date by first class mail to the Owner at his address as it appears on the registration books of the Trustee, as of the close of business on the fifteenth (15th) day of the month immediately preceding each Interest Payment Date or, upon written request filed with the Trustee prior to the fifteenth (15th) day of the month immediately preceding the Interest Payment Date by a registered owner of at least \$1,000,000 in aggregate principal amount of Certificates, by wire transfer in immediately available funds to an account in the United States designated by each registered owner in such written request. Principal represented hereby is payable in lawful money of the United States of America by check of the Trustee upon presentation and surrender hereof at the Principal Corporate Trust Office.

This Certificate has been executed and delivered by the Trustee pursuant to the terms of a Trust Agreement by and among the Trustee, the Authority and the City, dated as of March 1, 2013 (the "Trust Agreement"). The City is authorized to enter into the Lease Agreement and the Trust Agreement under the laws of the State of California. Reference is hereby made to the Lease Agreement and the Trust Agreement (copies of which are on file at the Principal Corporate Trust Office) for a description of the terms on which the Certificates are delivered, the rights thereunder of the registered owners of the Certificates, the rights, duties and immunities of the Trustee and the rights and obligations of the City under the Lease Agreement, all of the provisions of which the Owner of this Certificate, by acceptance hereof, assents and agrees.

The City is obligated under the Lease Agreement to pay Lease Payments from any source of legally available moneys and the City has covenanted in the Lease Agreement to make the necessary annual appropriations therefor. The obligation of the City to pay the Lease Payments does not constitute an obligation of the City for which the City is obligated to levy or pledge any form of taxation or for which the City has levied or pledged any form of taxation. The obligation of the City to pay Lease Payments does not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction.

To the extent and in the manner permitted by the terms of the Trust Agreement, the provisions of the Trust Agreement may be amended by the parties thereto and the registered owners of at least sixty percent (60%) in aggregate principal amount of the Certificates then outstanding and may be amended without such consent under certain circumstances; provided that no such amendment shall impair the right of any registered owner to receive, in any case, such registered owner's fractional share of any Lease Payment or prepayment thereof in

accordance with such registered owner's Certificate, without the consent of such registered owner.

This Certificate is transferable and exchangeable by the Owner, in person or by his attorney duly authorized in writing, at the Principal Corporate Trust Office, but only in the manner, subject to the limitations and upon payment of any charges provided in the Trust Agreement and upon surrender and cancellation of this Certificate. Upon such transfer, a new Certificate or Certificates of an authorized denomination or denominations for the same aggregate principal amount will be delivered to the transferee in exchange for this Certificate. The City, the Authority and the Trustee may treat the Owner as the absolute owner hereof for all purposes, whether or not the payments represented by this Certificate shall be overdue and the City, the Authority and the Trustee shall not be affected by any notice to the contrary.

The Certificates are not subject to optional redemption prior to maturity. The Certificates are subject to mandatory redemption in part on August 1 and February 1, in each year beginning August 1, 2013, from the principal components of scheduled Lease Payments required to be paid by the City pursuant to the Lease Agreement with respect to such redemption date, at a redemption price equal to the principal amount thereof to be redeemed, together with accrued interest to the date fixed for redemption, without premium, as follows:

<u>Date</u>	<u>Principal Amount of Certificates to be Redeemed</u>
-------------	--

\$

\*

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\* Maturity.

The Certificates are subject to extraordinary mandatory redemption in whole at any time, or in part on any Interest Payment Date, in such order of maturity as shall be selected by the City and by lot within a maturity, from the net proceeds of an insurance or condemnation award to the extent credited towards the prepayment of the Lease Payments by the City pursuant to the Lease Agreement, at a redemption price equal to the principal amount thereof to be redeemed, together with accrued interest to the date fixed for redemption, without premium.

Unless waived in writing by any Owner of a Certificate to be redeemed, notice of redemption is to be given by the Trustee by mailing a redemption notice by first class mail at least thirty (30) days and not more than sixty (60) days prior to the date fixed for redemption to the registered owner of the Certificate or Certificates to be redeemed at the address shown on the Certificate registration books maintained by the Trustee. Notice of redemption having been given as aforesaid, the Certificates or portions of Certificates so to be redeemed shall, on the redemption date, become due and payable at the redemption price therein specified, and from and after such date (unless the City shall default in the payment of the redemption price) interest

with respect to such Certificates or portions of Certificates shall cease to accrue and be payable. Neither the failure to receive such notice nor any defect in any notice shall affect the sufficiency of the proceedings for the redemption of Certificates.

The Trustee has no obligation or liability to the registered owners of the Certificates to make payments of principal or interest with respect to the Certificates. The Trustee's sole obligations are to administer, for the benefit of the registered owners of the Certificates, the various funds and accounts established under the Trust Agreement. The Trustee makes no representation concerning the recitals contained in the Trust Agreement or in this Certificate.

The City has certified, recited and declared that all conditions, things and acts required by the constitution and statutes of the State of California, the Lease Agreement and the Trust Agreement to exist, to have happened and to have been performed precedent to and in the delivery of this Certificate, do exist, have happened and have been performed in due time, form and manner as required by law.

IN WITNESS WHEREOF, this Certificate has been executed by U.S. Bank National Association, as trustee, acting pursuant to the Trust Agreement.

Date of Execution:

U.S. BANK NATIONAL ASSOCIATION,  
as Trustee

By \_\_\_\_\_  
Authorized Signatory

**ASSIGNMENT**

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

---

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

the within Certificate and do(es) hereby irrevocably constitute and appoint

---

attorney, to transfer the same on the registration books of the Trustee, 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 Trustee.

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

**EXHIBIT C**

**CITY OF DUARTE  
2013 CERTIFICATES OF PARTICIPATION  
(2001 REFUNDING)**

**INVESTOR LETTER**

April \_\_\_\_, 2013

City of Duarte  
1600 Huntington Drive  
Duarte, California 91010

Duarte Community Facilities Financing Authority  
1600 Huntington Drive  
Duarte, California 91010

U.S. Bank National Association  
Los Angeles, California

Rutan & Tucker LLP  
Costa Mesa, California

Re: \$\_\_\_\_\_ 2013 Certificates of Participation (2001 Refunding)

Ladies and Gentlemen:

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

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

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

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

4. As a sophisticated investor, we have made our own credit inquiry and analysis with respect to the City of Duarte ( the “Issuer”) and the Certificates, and have made an independent credit decision based upon such inquiry and analysis. The Issuer has furnished to us all the information which we as a reasonable investor have requested of the Issuer as a result of our having attached significance thereto in making our investment decision with respect to the Certificates, and we have had the opportunity to ask questions of and receive answers from knowledgeable individuals concerning the Issuer and the Certificates. We are able and willing to bear the economic risk of the purchase and ownership of the Certificates.

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

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

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

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

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

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

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

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

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

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

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

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

COMPASS BANK, an Alabama Corporation

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

AFTER RECORDATION PLEASE RETURN TO:

Rutan & Tucker, LLP  
611 Anton Boulevard, Suite 1400  
Costa Mesa, CA 92626  
Attn: Kevin Brazil, Esq.

THIS DOCUMENT IS EXEMPT FROM RECORDING FEES UNDER SECTION 27383 OF THE CALIFORNIA GOVERNMENT CODE.

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**ASSIGNMENT AGREEMENT**

**Dated as of March 1, 2013**

**by and between the**

**DUARTE COMMUNITY FACILITIES FINANCING AUTHORITY**

**and**

**U.S. BANK NATIONAL ASSOCIATION, as Trustee**

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**§ \_\_\_\_\_**  
**2013 Certificates of Participation**

(2001 Refunding)

## ASSIGNMENT AGREEMENT

THIS ASSIGNMENT AGREEMENT, dated as of March 1, 2013, by and between the DUARTE COMMUNITY FACILITIES FINANCING AUTHORITY, a joint powers authority organized and existing under the laws of the State of California (the "Authority"), and U.S. BANK NATIONAL ASSOCIATION, a national banking association organized and existing under and by virtue of the laws of the United States of America, as trustee (the "Trustee");

WITNESSETH:

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

### Section 1. Recitals.

(a) The Authority and the City of Duarte (the "City"), have entered into a lease agreement, dated as of March 1, 2013, a memorandum of which is recorded concurrently herewith (the "Lease Agreement"), whereby the Authority has agreed to lease to the City, and the City has agreed to lease from the Authority, those certain parcels of real property situated in Los Angeles County, State of California, more particularly described in Exhibit A hereto (the "Site"), and those certain improvements thereon, more particularly described in Exhibit B hereto (the "Facility" and, with the Site, the "Property"), in the manner and on the terms set forth in the Lease Agreement, which terms include, without limitation, the obligation of the City to pay lease payments (the "Lease Payments") to the Authority in consideration of the City's use and enjoyment of the Property.

(b) Under and pursuant to the Lease Agreement, the City is obligated to make Lease Payments, as defined therein, to the Authority for the lease of the Property ; and

(c) The Authority desires to assign absolutely without recourse all its rights, title and interest in the Lease, including the right to receive the Lease Payments scheduled to be paid by the City under and pursuant to the Lease to the Trustee, but excluding certain rights to indemnification and payment of costs under the Lease Agreement as described herein; and

(d) The Authority desires to assign absolutely without recourse all of its rights to, under and pursuant to the Site Lease to the Trustee; and

(e) In consideration of such absolute assignment and the execution and entering into of a Trust Agreement (the "Trust Agreement") to be executed and entered into as of the date hereof, by and among the Trustee, the Authority and the City, the Trustee has agreed to execute and deliver certificates of participation designated City of Duarte 2013 Certificates of Participation (2001 Refunding) (the "Certificates") in an aggregate principal amount equal to the aggregate principal components of such Lease Payments; and

(f) Each of the parties has authority to enter into this Assignment Agreement and has taken all actions necessary to authorize its officers to execute it.

Section 2. Assignment. The Authority, for good and valuable consideration, hereby transfers, assigns and sets over to the Trustee, for the benefit of the Owners of the Certificates (as

defined in the Trust Agreement), all of the Authority's rights and interests under the Lease Agreement (excepting only the Authority's rights under Sections 5.8, 7.3 and 9.4 but none of its obligations, including, without limitation, its obligations under Section 4.7 of the Lease Agreement), including without limitation (i) the right to receive and collect all of the Lease Payments from the City, (ii) the right to receive and collect any proceeds of any insurance maintained thereunder and of any condemnation award rendered with respect to the Property, and (iii) the right to exercise such rights and remedies conferred on the Authority pursuant to the Lease Agreement as may be necessary or convenient (A) to enforce payment of the Lease Payments and any other amounts required to be deposited in the Lease Payment Fund or the Insurance and Condemnation Fund established under the Trust Agreement, or (B) otherwise to protect the interests of the Owners in the event of a default by the City under the Lease Agreement. All rights assigned by the Authority shall be administered by the Trustee in accordance with the provisions of the Trust Agreement and for the equal and fractional benefit of the Owners of the Certificates.

Section 3. Acceptance. The Trustee hereby accepts the assignments made herein for the purpose of securing, equally and fractionally, the payments due pursuant to the Lease Agreement and the Trust Agreement to, and the rights under the Lease Agreement and Trust Agreement of, the Owners of the Certificates delivered pursuant to the Trust Agreement, all subject to the provisions of the Trust Agreement.

Section 4. Conditions. This Assignment Agreement shall neither confer rights nor impose duties upon the Trustee beyond those expressly provided in the Trust Agreement. The Trustee assumes no responsibility for the accuracy of the recitals herein.

Section 5. Amendment. This Assignment Agreement may not be amended except as permitted under Section 10.1 of the Trust Agreement.

Section 6. Execution in Counterparts. This Assignment Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

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

DUARTE COMMUNITY FACILITIES  
FINANCING AUTHORITY

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

U.S. BANK NATIONAL ASSOCIATION,  
as Trustee

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

**EXHIBIT A**  
**DESCRIPTION OF THE SITE**

**EXHIBIT B**  
**DESCRIPTION OF THE FACILITY**

§ \_\_\_\_\_  
CITY OF DUARTE  
2013 CERTIFICATES OF PARTICIPATION  
(2001 REFUNDING)

CERTIFICATE PURCHASE AGREEMENT

March \_\_, 2013

City of Duarte  
1600 Huntington Drive  
Duarte, California 91010

Duarte Community Facilities Financing Authority  
1600 Huntington Drive  
Duarte, California 91010

Ladies and Gentlemen:

Compass Bank, as the purchaser (the "Purchaser"), does hereby offer to enter into this Purchase Agreement (the "Agreement") with the City of Duarte (the "City") and the Duarte Community Facilities Financing Authority (the "Authority") for the purchase by the Purchaser of the City of Duarte 2013 Certificates of Participation (2001 Refunding) (the "Certificates"). All terms not defined herein shall have the meanings set forth in the Trust Agreement and the Lease Agreement hereinafter mentioned.

1. Purchase and Sale.

(a) Upon the terms and conditions and upon the basis of the representations herein set forth, the Purchaser hereby agrees to purchase and the City and the Authority agree to cause the Trustee (identified below) to execute and deliver to the Purchaser all (but not less than all) of the \$\_\_\_\_\_ aggregate principal amount of the Certificates which mature on August 1, 2022 and evidence interest at the rate per annum of 2.01%. The purchase price for the Certificates shall be \$\_\_\_\_\_.

(b) Each Certificate shall evidence a fractional interest of the owner thereof in Lease Payments to be paid by the City to the Authority pursuant to a certain Lease Agreement, dated as of March 1, 2013, (the "Lease Agreement"), by and between the City and the Authority. The Authority's right to receive the Lease Payments due under the Lease Agreement and to exercise remedies upon default under such Lease Agreement shall be assigned to the Trustee for the benefit of the Purchaser as the owner of the Certificates pursuant to the Trust Agreement, dated as of March 1, 2013 (the "Trust Agreement"), by and among the City, the Authority and U.S. Bank National Association, as trustee (the "Trustee").

The Certificates shall be as described in, and shall be secured under and pursuant to a Trust Agreement, substantially in the form previously submitted to the Purchaser with only such changes therein as shall be mutually agreed upon by the Authority, the City and the Purchaser.

Proceeds of the Certificates will be used to (i) prepay the outstanding City of Duarte 2001 Variable Rate Refunding Certificates of Participation, Series A, currently outstanding in the aggregate principal amount of \$1,245,000, and (ii) pay costs of delivery of the Certificates.

(c) At 10:00 A.M., California time, on April 4, 2013, or at such other time or on such earlier or later date as the City and the Purchaser mutually agree upon (the "Closing Date"), the City will cause to be delivered to the Purchaser, the Certificates in the form of a single fully registered Certificate, duly executed, together with the other documents hereinafter mentioned and, subject to the terms and conditions hereof, the Purchaser will accept such delivery and pay the purchase price of the Certificates as set forth in subparagraph (a) above by wire transfer to the order of the Trustee in an amount equal to the purchase price (such delivery and payment being herein referred to as the "Closing"). Sale, delivery and payment as aforesaid shall be made at the offices of Rutan & Tucker LLP, Costa Mesa, California ("Special Counsel"), or at such other place as shall have been mutually agreed upon by the City and the Purchaser, except that the physical Certificates shall be delivered to the Purchaser in \_\_\_\_\_, \_\_\_\_\_ on April 4, 2013.

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

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

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

(c) The City Council has duly and validly adopted Resolution No. \_\_\_\_\_ on March 12, 2013 (the "City Resolution"), which: (i) approved and authorized the execution and delivery of the Trust Agreement, the Site Lease, this Purchase Agreement and the Lease Agreement, and (ii) authorized and approved the performance by the City of its obligations contained in, and the taking of any and all action on its part as may be necessary to carry out, give effect to and consummate the transactions on its part contemplated by, each of such documents.

(d) The execution and delivery of the Lease Agreement, the Site Lease, the Trust Agreement and this Purchase Agreement and compliance with the provisions on the City's part contained therein and herein, will not conflict, in any material respect, with or constitute a breach of or default under any law, administrative regulation, judgment, decree, loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the City is a party or is otherwise subject, nor will any such execution, delivery, adoption or

compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of the properties or assets of the City under the terms of any such law, administrative regulation, judgment, decree, loan agreement, indenture, bond, note, resolution, agreement or other instrument, except as provided by the Lease Agreement, the Site Lease, the Trust Agreement and this Purchase Agreement.

(e) There is no consent, approval, authorization or other order of, or filing with, or certification by, any regulatory agency having jurisdiction over the City required for the execution, delivery and sale of the Certificates or the consummation by the City of the other transactions contemplated by the Lease Agreement, the Site Lease, the Trust Agreement and this Purchase Agreement.

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

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

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

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

(j) The City's audited financial statements prepared by Lance, Soll & Lunghard, LLP, Certified Public Accountants (the "Auditor") for the fiscal year ended June 30, 2012, is a fair presentation of the financial position of the City as of the dates indicated in such financial statements and the results of its operations and changes in its fund balances for the periods specified. Since the period of such statements, there has been no (i) material adverse change affecting the City's financial statements and (ii) no material increase in the indebtedness of the City.

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

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

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

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

(c) The Board of Directors of the Authority has duly and validly adopted Resolution No. \_\_\_\_\_ on March 12, 2013 (the "Authority Resolution"), which: (i) approved and authorized the execution and delivery of the Trust Agreement, the Certificates, the Site Lease, the Assignment Agreement, this Purchase Agreement and the Lease Agreement, and (ii) authorized and approved the performance by the Authority of its obligations contained in, and the taking of any and all action on its part as may be necessary to carry out, give effect to and consummate the transactions on its part contemplated by, each of such documents.

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

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

(e) Except as may be required under the “blue sky” or other securities laws of any jurisdiction (other than the State of California), all approvals, consents, authorizations, elections and orders of, or filings or registrations with, any governmental authority, board, agency or commission having jurisdiction which would constitute a condition precedent to, or the absence of which would materially adversely affect, the performance by the Authority of its obligations hereunder, under the Trust Agreement, the Lease Agreement, the Site Lease, the Assignment Agreement and the Certificates, have been or will be obtained at the Closing Date and are or will be at the Closing Date in full force and effect.

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

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

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

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

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

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

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

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

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

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

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

(v) the execution and delivery of the Lease Agreement, the Site Lease, the Trust Agreement, the Escrow Agreement and this Purchase Agreement and compliance with the provisions thereof and hereof, under the circumstances contemplated thereby and hereby, do not and will not in any material respect conflict with or constitute on the part of the City a breach of or default under any agreement or other instrument to which

the City is a party or by which it is bound or any existing law, regulation, court order or consent decree to which the City is subject; and

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

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

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

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

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

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

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

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

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

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

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

(5) a certificate, dated the Closing Date, signed by a duly authorized official of the Trustee satisfactory in form and substance to the Purchaser to the effect that (i) the Trustee is authorized to carry out corporate trust powers, and has full power and authority to perform its duties under the Trust Agreement and Assignment Agreement, (ii) the Trustee is duly authorized to execute and deliver the Trust Agreement and the Assignment Agreement, to accept its obligations thereunder, and to deliver the Certificates, (iii) to the best of such officer's knowledge, there is no action, suit, proceeding, inquiry or investigation at law or in equity, before or by any court or governmental agency, public office or body that has been served on or threatened against the Trustee (a) seeking to prohibit, restrain or enjoin the execution of the Certificates or the collection of Lease Payments intended to pay the principal of and interest with respect to the Certificates, or (b) in any way contesting or affecting the validity or enforceability of the Certificates, the Trust Agreement or the Assignment Agreement, (iv) to the best of such officer's knowledge, there is no action that has been served on or threatened against the Trustee affecting the existence of the Trustee, or contesting the powers of the Trustee or their respective authority to enter into or perform its obligations under any of the foregoing agreements, wherein an unfavorable decision, ruling or finding would adversely affect the validity of the Certificates, the Trust Agreement or the Assignment Agreement, and (v) to the best of such officer's knowledge, no consent, approval, authorization or other action by any governmental or regulatory authority having jurisdiction over the Trustee that has not been obtained is or will be required for the execution and delivery by the Trustee of the Trust Agreement and the Assignment Agreement, as applicable;

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

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

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

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

(10) a tax certificate of the City in form and substance acceptable to Special Counsel;

(11) evidence that the federal tax information Form 8038-G has been prepared for filing; and

(12) evidence of a policy of title insurance, all as required in Section \_\_\_ of the Lease Agreement;

5. Expenses. Whether or not the transactions contemplated by this Purchase Agreement are consummated, the Purchaser shall be under no obligation to pay, and the City shall pay from the proceeds of the Certificates or otherwise, all expenses and costs of the City and the Authority incident to the performance of their obligations in connection with the authorization, execution and delivery of the Certificates to the Purchaser including, without limitation, fees and disbursements of Special Counsel and other professional advisors employed by the City or the Authority; costs of preparation, printing, signing, transportation, delivery and safekeeping of the Certificates; Trustee fees and charges; travel by City or Authority officials; and fees of Special Counsel, the financial advisor, the placement agent, fees of counsel to the Purchaser in an amount not to exceed \$\_\_\_\_\_ and CDIAAC fees.

6. Notice. Any notice or other communication to be given to the Purchaser under this Purchase Agreement may be given by delivering the same in writing to Compass Bank, \_\_\_\_\_, Attention: \_\_\_\_\_. Any notice or communication to be given the City under this Purchase Agreement may be given by delivering the same to the City at the address indicated on the first page hereof, Attention: City Manager. Any notice or communication to be given the Authority under this Purchase Agreement may be given by delivering the same to the Authority at the address indicated on the first page hereof, Attention: Treasurer. The approval of the Purchaser when required hereunder or the determination of satisfaction as to any document referred to herein shall be in writing signed by the Purchaser and delivered to the City.

7. Parties in Interest. This Purchase Agreement is made solely for the benefit of the City, the Authority and the Purchaser, and no other person shall acquire or have any right hereunder or by virtue hereof. All representations, warranties and agreements of the City and the Authority in this Purchase Agreement shall remain operative and in full force and effect regardless of any investigation made by or on behalf of the Purchaser and shall survive the delivery of and payment for the Certificates.

8. Effectiveness and Counterparts. This Purchase Agreement shall become effective and binding upon the respective parties hereto upon the execution of the acceptance hereof by duly authorized officers of the City and the Authority and shall be valid and enforceable as of the time of such acceptance. This Purchase Agreement may be executed by the parties hereto by facsimile transmission and in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

9. Investor Letter. Delivery by the Purchaser to the City of an investor letter substantially in the form set forth in Exhibit B to the Trust Agreement is a condition precedent to the sale of the Certificates to the Purchaser. Failure of the Purchaser to deliver such investor letter shall result in the termination of any obligation of the City or the Authority hereunder.

10. Governing Law. This Purchase Agreement shall be governed by and construed in accordance with the internal laws of the State of California without regard to principles of conflicts of laws.

COMPASS BANK

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

Accepted:

CITY OF DUARTE

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

DUARTE COMMUNITY FACILITIES  
FINANCING AUTHORITY

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