

NOTE PURCHASE AGREEMENT

between

CITY OF SAN JOSE

and

U.S. BANK, N. A.

Dated July 2, 2012

Council Agenda: 6/19/12

Item No.: 3.5 (b)

DRAFT--Contact the Office of the City Clerk at (408)535-1260 or CityClerk@sanjoseca.gov for final document.

DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

This NOTE PURCHASE AGREEMENT, dated July 2, 2012, is entered into by and between the CITY OF SAN JOSE, a municipal corporation duly organized and existing under and by virtue of the laws of the State of California and its charter (the “City”), and U.S. BANK, N.A., a national banking association (“U.S. Bank”).

W I T N E S S E T H:

WHEREAS, the City desires to sell its City of San José 2012 Tax and Revenue Anticipation Notes (the “Notes”) in anticipation of its receipt of Property Tax Revenues (as defined herein) and Sales Tax Revenues (as defined herein) in order to support its cash flow needs; and

WHEREAS, U.S. Bank is willing, on the terms and conditions contained herein, to purchase the Notes as further described herein from the City.

NOW, THEREFORE, in consideration of the respective agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE I
DEFINITIONS

Section 1.01 Definitions. The following terms have the meanings indicated below or in the referenced Section of this Agreement, unless the context shall clearly indicate otherwise:

“Additional Revenues” means all legally available taxes, income, revenue, cash receipts, and other moneys of the City attributable to the City’s 2012-2013 Fiscal Year and chargeable to the City’s General Fund and excluding moneys which, when received by the City, will be encumbered for a special purpose.

“Agreement” means this Note Purchase Agreement, as amended, modified and supplemented from time to time.

“Applicable Lending Office” means the office of U.S. Bank at which the Notes are carried on the books and records of U.S. Bank as set forth in Section 7.09 herein.

“Applicable Margin” means, with respect to any Floating Rate Note Portion, .25% per annum.

“Assistant Director of Finance” means the individual who from time to time occupies the office of the Assistant Director of Finance of the City.

“Authorized Representative” means any of the following officers of the City: the City Manager, the Director of Finance, the Assistant Director of Finance, the Treasury Division Manager, the Debt Administrator and any individual designated in writing to U.S. Bank as an Authorized Representative by the City Manager or the Director of Finance.

“Authorizing Law” means California Government Code Sections 53850 to 53858 (inclusive).

“Business Day” means any day that is not a Saturday, Sunday or other day on which commercial banks in New York, New York or San José, California are authorized or required by law to remain closed; provided that the term “Business Day” shall also exclude any day on which banks are not open for dealings in dollar deposits in the London interbank market.

“Cash Flow Projections” has the meaning assigned to that term in Section 3.01(b)(viii) hereof.

“City” has the meaning assigned to that term in the introductory paragraph of this Agreement.

“Commitment Termination Date” means December 31, 2012, unless terminated earlier as provided herein.

“Debt Administrator” means the individual who from time to time occupies the office of the Debt Administrator of the City.

“Default” means the occurrence of any event or the existence of any circumstances that, with the passage of time, the giving of notice, or both, would become an Event of Default.

“Default Rate” has the meaning assigned to that term in Section 2.05(b) hereof.

“Determination Date” means, with respect to any Interest Period after the Purchase Date, the third Business Day prior to the commencement of that Interest Period.

“Director of Finance” means the individual who from time to time occupies the office of the Director of Finance of the City.

“Dollars” and “\$” means the lawful currency of the United States of America.

“Effective Date” means July 2, 2012.

“Event of Default” has the meaning assigned to that term in Section 6.01 hereof.

“Excess Interest” has the meaning assigned to that term in Section 2.05(d) hereof.

“Federal Funds Effective Rate” means, for any day, an interest rate per annum equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published for such day (or, if such day is not a Business Day, for the immediately preceding Business Day) by the Federal Reserve Bank of New York, or, if such rate is not so published for any day which is a Business Day, the average of the quotations at approximately 10:00 a.m. on such day on such transactions received by U.S. Bank from three Federal funds brokers of recognized standing selected by U.S. Bank in its sole discretion.

“Fiscal Year” means each twelve-month period commencing on July 1 and ending on June 30.

“Floating Rate Note” means the Note bearing interest at a floating rate as provided in Section 2.04(b) which shall be the type of Note committed to be purchased hereunder by U.S. Bank as part of the Unutilized Commitment.

“Floating Rate Note Portion” means an undivided beneficial interest in a Floating Rate Note.

“General Fund Indebtedness” has the meaning assigned to that term in Section 6.01(d) hereof.

“GO Indebtedness” has the meaning assigned to that term in Section 6.01(d) hereof.

“Governmental Authority” means the government of the United States of America, or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

“Indebtedness” means, without duplication, (a) all indebtedness (including principal and interest) of the City for borrowed money or for the deferred purchase price of property or services; (b) all liabilities secured by any Lien on any property owned by the City, whether or not such liabilities have been assumed by the City; (c) the aggregate amount required to be capitalized under leases under which the City is the lessee; and (d) all Contingent Obligations of the City. As used in this definition, the term “Contingent Obligation” means, as to the City, any obligation of the City guaranteeing or intended to guarantee any Indebtedness, leases, dividends or other obligations (“primary obligations”) of any other Person (the “primary obligor”) in any manner, whether directly or indirectly including, without limitation, any obligation of the City, whether or not contingent, (i) to purchase any such primary obligation or any property constituting direct or indirect security therefor, (ii) to advance or supply funds (x) for the purchase or payment of any such primary obligation or (y) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, (iii) to purchase property, securities or services primarily for the purpose of assuring the holder of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation or (iv) otherwise to assure or hold harmless the holder of such primary obligation against loss in respect thereof; provided, however, that the term Contingent Obligation shall not include endorsements of instruments for deposit or collection in the ordinary course of business. The amount of any Contingent Obligation shall be deemed to be an amount equal to the stated or determinable amount of the primary obligation in respect of which such Contingent Obligation is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof (assuming the City is required to perform thereunder) as determined by the City in good faith.

“Indemnatee” has the meaning assigned to that term in Section 7.07(a) hereof.

“Interest Invoice” has the meaning assigned to that term in Section 2.05(c) hereof.

“Initial Note” means the \$100,000,000 Note purchased on the Effective Date as described in Section 2.01(a) hereof.

“Interest Payment Date” means the first Business Day of each month and will be calculated and invoiced as set forth in Section 2.05(c) hereof.

“Interest Period” means, with respect to the Initial Note, the period from the date of issue of the Initial Note through the Maturity Date of the Initial Note and with respect to any Floating Rate Note Portion, the period commencing on the date of such purchase of such Floating Rate Note Portion and ending on the numerically corresponding day in the calendar month that is a one month, two month, three month or six month period thereafter, as the City may elect pursuant to the terms hereof; provided that (a) if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day and (b) any Interest Period that commences on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period) shall end on the last Business Day of the last calendar month of such Interest Period.

“LIBOR Rate” means, with respect to the Initial Note and any Floating Rate Note Portion for any Interest Period, the rate appearing on Reuters Screen LIBOR01 (or on any successor or substitute page of such Service, or any successor to or substitute for such service, providing rate quotations comparable to those currently provided on such page of such Service, as determined by U.S. Bank from time to time for purposes of providing quotations of interest rates applicable to dollar deposits in the London interbank market) at approximately 11:00 a.m., London time, two (2) Business Days prior to the commencement of such Interest Period, as the rate for dollar deposits with a maturity comparable to such Interest Period and such rate shall be rounded to the fifth decimal place. In the event that such rate is not available at such time for any reason, then the “LIBOR Rate” with respect to such Interest Period shall be the rate at which dollar deposits in the approximate amount of principal outstanding on such date and for a maturity comparable to such Interest Period are offered by the principal London office of U.S. Bank in immediately available funds in the London interbank market at approximately 11:00 a.m., London time, two (2) Business Days prior to the commencement of such Interest Period.

“Lien” means any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), preference, priority or other security agreement of any kind or nature whatsoever (including, without limitation, any conditional sale or other title retention agreement).

“Margin Stock” has the meaning provided in Regulation U of the Board of Governors of the Federal Reserve System.

“Maturity Date” means, with respect to the Initial Note, February 14, 2013, and with respect to any Floating Rate Note and Floating Rate Note Portions shall be June 28, 2013, unless such date occurs earlier as provided herein.

“Maximum Rate” means ten percent (10%) per annum.

“Notes” means the Initial Note and any Floating Rate Note issued and as further described in Section 2.04 hereof.

“Notice” or “notice” means any form of written communication or a communication by means of electronic mail, facsimile device, telegraph or cable and confirmed telephonically.

“Notice Office” means the office of U.S. Bank as set forth in Section 7.09 herein, or such other office or mail code as U.S. Bank may hereafter designate in writing as such to the City. Any Notice of a change in the Notice Office shall become effective on the fifth calendar day after the delivery of Notice thereof to the City.

“Obligations” means all amounts owing to U.S. Bank pursuant to the terms of this Agreement and the Notes.

“Payment Office” means the office of U.S. Bank as set forth in Section 7.09 herein, or such other office or account as U.S. Bank may hereafter designate in writing as such to the City. Any Notice of a change in the Payment Office shall become effective on the fifth calendar day after the delivery of Notice thereof to the City.

“Person” means an individual, a corporation, a partnership, a limited liability company, an association, a trust or any other entity or organization, including a government or a political subdivision or an agency or instrumentality thereof.

“Pledged Property” has the meaning assigned to that term in Section 2.11(b) hereof.

“Prime Rate” means the rate of interest per annum announced from time to time by U.S. Bank as its prime rate. The Prime Rate is a variable rate and each change in the Prime Rate is effective from and including the date the change is announced as being effective. THE PRIME RATE IS A REFERENCE RATE AND MAY NOT BE U.S. BANK’S LOWEST RATE.

“Property Tax Revenues” means all secured ad valorem property tax payments that the City receives from the County of Santa Clara, California during Fiscal Year 2012-2013 (but not including property taxes levied for general obligation bonds as provided under Section 1(b) of Article XIII A of the California Constitution).

“Purchase Date” means, (a) with respect to the Initial Note, the Effective Date, and (b) with respect to future Floating Rate Note Portions, if any, the date, which shall be the first Business Day of a month (unless otherwise agreed to by the parties hereto), on which U.S. Bank is required to purchase such Floating Rate Note Portions as set forth in the applicable Purchase Notice.

“Purchase Notice” has the meaning assigned to that term in Section 2.02 hereof.

“Related Documents” means the Notes and the Resolution.

“Repayment Account” has the meaning assigned to that term in Section 2.11(a) hereof.

“Resolution” means Resolution No. _____ adopted by the City Council of the City on June 19, 2012, as amended, modified and supplemented from time to time.

“Revenues” means, collectively, the Property Tax Revenues and the Sales Tax Revenues.

“Risk-Based Capital Guidelines” means (i) the risk-based capital guidelines in effect in the United States on the date of this Agreement, including transition rules, and (ii) the corresponding capital regulations promulgated by regulatory authorities outside the United States including transition rules, and any amendments to such regulations adopted prior to the date of this Agreement.

“Sales Tax Revenues” means all sales and use tax revenues that the City receives from the State Board of Equalization during Fiscal Year 2012-2013 pursuant to Part 1.5, Division 2, of the California Revenue and Taxation Code, otherwise known as the Bradley-Burns Uniform Local Sales and Use Tax Law.

“Section 5.05 Documents” means the documents required by Section 5.05 hereof.

“State” means the State of California.

“Taxes” has the meaning assigned to that term in Section 2.13 hereof.

“Treasury Division Manager” means the individual who from time to time occupies the office of the Treasury Division Manager of the City.

“Unutilized Commitment” means, on the Effective Date, \$25,000,000, and, thereafter at any time, means \$25,000,000 less the aggregate principal amount of all Floating Rate Note Portions purchased by U.S. Bank after the Initial Note.

“U.S. Bank” has the meaning assigned to that term in the introductory paragraph of this Agreement.

“Usury Rate” has the meaning assigned to that term in Section 2.05(d) hereof.

Section 1.02 Construction. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. The word “will” shall be construed to have the same meaning and effect as the word “shall”. Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein), (b) any reference herein to any Person shall be construed to include such Person’s successors and assigns, (c) the words “herein”, “hereof” and “hereunder”, and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof and (d) all references herein to Articles, Sections and Exhibits shall be construed to refer to Articles and Sections of, and Exhibits to, this Agreement.

ARTICLE II
NOTES

Section 2.01 Initial Note; Commitment to Purchase Floating Rate Note Portions.

(a) On the basis of the representations, warranties and covenants contained herein, but subject to the terms and conditions herein set forth, U.S. Bank hereby agrees to purchase from the City, and the City hereby agrees to sell to U.S. Bank, up to \$125,000,000 in principal amount of the Notes at a purchase price of 100% of the principal amount thereof. The initial Note (the "Initial Note") purchased by U.S. Bank hereunder is \$100,000,000. The interest rate on the Initial Note is fixed and the Interest Period for the Initial Note is the period from issuance to the Maturity Date thereof at the rate of ____% (which such interest rate was determined by reference to the eight month LIBOR rate plus .10%), and the first Interest Payment Date due hereunder is August 1, 2012. The wiring instructions for the City's payment of the Notes are as follows:

U.S. Bank
ABA #123000220
c/o Commercial Loan Service - West
Account #00340012160600
Reference: City of San Jose TRANS
Attention: Marcy Marlow
[BANK TO CONFIRM]

(b) Subject to and upon the terms and conditions set forth herein, including but not limited to, the provisions of Section 2.11(a) hereof, U.S. Bank agrees, at any time and from time to time prior to the Commitment Termination Date at the written request of the City, to purchase additional Floating Rate Note Portions issued by the City in an aggregate principal amount not to exceed the Unutilized Commitment at such time.

(c) The aggregate principal amount of each Floating Rate Note Portion purchased hereunder shall be not less than \$5,000,000 and integral multiples of \$1,000,000 in excess thereof.

Section 2.02 Purchase Notice. (a) There is no obligation hereunder for the City to provide a purchase notice with respect to the Initial Note. (b) Whenever the City desires for U.S. Bank to purchase a Floating Rate Note Portion hereunder, it shall give U.S. Bank at its Notice Office prior written notice of such purchase no later than five (5) Business Days preceding the applicable Purchase Date. Each such notice (each a "Purchase Notice") shall be in the form of Exhibit A attached hereto, appropriately completed to specify the aggregate principal amount of the Floating Rate Note Portion to be purchased, the applicable Purchase Date (which shall be the first Business Day of a calendar month unless otherwise agreed to by the parties hereto) and the initial Interest Period to be applicable thereto. Notwithstanding any provisions of the Resolution or this Agreement to the contrary, the City may not deliver more than one Purchase Notice per week.

Section 2.03 Disbursement of Proceeds. No later than 3:00 p.m. California time on the applicable Purchase Date, so long as the conditions precedent to such purchase as set forth in Section 3.02 are satisfied at such time on such date, U.S. Bank will make available to the order of the City the principal amount of the Floating Rate Note Portion in Dollars and in immediately available funds.

Section 2.04 Notes. (a) *Initial Note*. The City's obligation to pay the principal of, and interest on, the Initial Note purchased by U.S. Bank shall be evidenced by a City of San José 2012 Tax and Revenue Anticipation Note in the form of a note duly executed and delivered by the City substantially in the form attached to the Resolution appropriately completed in conformity herewith (as the same may be amended from time to time, the "Initial Note"). The Initial Note shall (i) be registered in the name of U.S. Bank and be dated the Effective Date; (ii) be in a principal amount equal to \$100,000,000; (iii) mature on February 14, 2013; (iv) bear interest at a rate of ____% (which such interest rate was determined by reference to the eight month LIBOR rate plus .10%) and (v) be entitled to the benefits of this Agreement and the Resolution.

(b) *Floating Rate Note*. The City's obligation to pay the principal of, and interest on, the Floating Rate Note Portions purchased by U.S. Bank shall be evidenced by a City of San José 2012 Tax and Revenue Anticipation Note in the form of a note duly executed and delivered by the City substantially in the form attached to the Resolution appropriately completed in conformity herewith (as the same may be amended from time to time, the "Floating Rate Note"). The Floating Rate Note shall (i) be registered in the name of U.S. Bank and be dated the initial Purchase Date; (ii) be in a principal amount or amounts equal to, in the aggregate, an amount not to exceed \$25,000,000 and be payable in the principal amount of the Floating Rate Note Portions evidenced thereby; (iii) mature, with respect to each Floating Rate Note Portion evidenced thereby, on June 28, 2013; (iv) bear interest for the Interest Periods provided herein at the LIBOR Rate in effect for such Interest Period plus the Applicable Margin; and (v) be entitled to the benefits of this Agreement and the Resolution. U.S. Bank will note on the principal log attached to the Note the amount of each Floating Rate Note Portion purchased by U.S. Bank and each principal payment in respect thereof. Failure to make any such notation shall not affect the City's obligations in respect of the Floating Rate Note Portions.

Section 2.05 Interest. The City agrees to pay interest in respect of the unpaid principal amount of the Notes as follows:

(a) The City agrees to pay interest in respect of the unpaid principal amount of the Initial Note and each Floating Rate Note Portion from the date the proceeds thereof are made available to the City until the earliest of (i) the date the Initial Note or such Floating Rate Note Portion is paid in full, or (ii) the Maturity Date, in each case, at a rate per annum which shall, during each Interest Period applicable thereto, be equal, subject to Section 2.05(d) below, to (i) ____% with respect to the Initial Note and (ii) the sum of the LIBOR Rate in effect for such Interest Period plus the Applicable Margin with respect to a Floating Rate Note Portion.

(b) Overdue principal and, to the extent permitted by law, overdue interest in respect of the Initial Note or each Floating Rate Note Portion shall, subject to Section 2.05(d) below, bear interest at a rate per annum equal to 3.00% per annum in excess of the applicable

rate for the Initial Note or such Floating Rate Note Portion during the Interest Period. Any other overdue amount payable by the City hereunder and from and after the termination of the Interest Period in which the City failed to pay principal and interest shall bear interest at a rate per annum equal, subject to Section 2.05(d) below, to the highest of (a)(i) the Federal Funds Effective Rate plus 2.00%, (ii) the Prime Rate plus 1.00%, or (iii) 7.5% (the “Default Rate”).

(c) Interest shall be payable: (i) on each Interest Payment Date for the interest accrued on the Notes from and including the preceding Interest Payment Date to but excluding such Interest Payment Date as set forth in an invoice of U.S. Bank (each an “Interest Invoice”) delivered to the City no later than ten (10) Business Days prior to such Interest Payment Date; provided that failure of delivery of an Interest Invoice shall not affect the City’s obligations in respect of such interest; provided further that to the extent that the interest set forth in an Interest Invoice is either below or above the actual interest amount, the difference shall be either credited or debited in the next succeeding Interest Invoice and, in the case of a deficiency, as long as the City pays such interest pursuant to the provisions of the following paragraph, such interest shall not be considered overdue as set forth in Section 2.05(b) above; and (ii) in respect of Initial Note or each Floating Rate Note Portion, on any prepayment (on the amount prepaid), on the Maturity Date and, after the Maturity Date, on demand. The Interest Invoice shall set forth in reasonable detail the Interest Periods, LIBOR Rates and interest rates applicable to the Initial Note and each Floating Rate Note Portion from time to time.

(d) If the rate of interest payable hereunder, including amounts payable under Sections 2.07 and 2.13 hereof, shall exceed the Maximum Rate or, if less, any maximum interest rate payable by law for any period for which interest is payable (the “Usury Rate”), then (i) interest at such Maximum Rate or the Usury Rate, as the case may be, shall be due and payable with respect to such Interest Period and (ii) interest at the rate equal to the difference between (A) the rate of interest calculated in accordance with the terms hereof and (B) such Maximum Rate or the Usury Rate, as the case may be (the “Excess Interest”), shall be deferred until such date as the rate of interest calculated in accordance with the terms hereof ceases to exceed such Maximum Rate or the Usury Rate, as the case may be, at which time the City shall pay or cause to be paid to U.S. Bank, with respect to amounts then payable to U.S. Bank that are required to accrue interest hereunder, such portion of the deferred Excess Interest as will cause the rate of interest then paid to U.S. Bank to equal such Maximum Rate or the Usury Rate, as the case may be, which payments of deferred Excess Interest shall continue to apply to such unpaid amounts hereunder until the earlier of (x) the date all deferred Excess Interest is fully paid to U.S. Bank or (y) the Maturity Date.

(e) All computations of interest (other than interest that is determined by reference to the Prime Rate as set forth in Section 2.05(b) hereof) shall be made on the basis of a 30/360 day basis.

Section 2.06 Interest Periods. At the time it gives any Purchase Notice in respect of the making of a new Floating Rate Note Portion (in the case of the initial Interest Period applicable thereto) and on each Determination Date thereafter with respect to such Floating Rate Note Portion, the City shall have the right to elect, by giving Notice to U.S. Bank at its Notice Office thereof, the Interest Period applicable to such Floating Rate Note Portion, which Interest Period shall, at the option of the City, be a one month, two month, three month, or six month period;

provided that if the City does not provide U.S. Bank with notice of the Interest Period on a Determination Date, the next succeeding Interest Period shall be a one month period; provided further that no Interest Period shall extend beyond the Maturity Date.

Section 2.07 Increased Costs. (a) If, on or after the Effective Date, the adoption of any law or any governmental or quasi-governmental rule, regulation, policy, guideline or directive (whether or not having the force of law), or any change in the interpretation, promulgation, implementation or administration thereof by any governmental or quasi-governmental authority, central bank or comparable agency charged with the interpretation or administration thereof including, notwithstanding the foregoing, all requests, rules, guidelines or directives in connection with Dodd-Frank Wall Street Reform and Consumer Protection Act, or promulgated by the Bank for International Settlements, the Basel Committee on Banking Regulations and Supervisory Practices (or any successor or similar authority) or the United States financial regulatory authorities, regardless of the date enacted, adopted or issued, or compliance by U.S. Bank with any request or directive (whether or not having the force of law) of any such authority, central bank or comparable agency:

(i) subjects U.S. Bank to any Taxes, or changes the basis of taxation of payments (except for taxes on the overall net income of U.S. Bank) to U.S. Bank hereunder, or

(ii) imposes, modifies or increases or deems applicable any reserve, assessment, insurance charge, special deposit or similar requirement against assets of, deposits with or for the account of, or credit extended by, U.S. Bank, or

(iii) imposes on U.S. Bank or the London interbank market any other condition the result of which is to increase the cost to U.S. Bank for purchasing the Initial Note or Floating Rate Note Portions (or of maintaining the Initial Note or Floating Rate Note Portions) or any security therefor, or reduces any sum received or receivable by U.S. Bank (whether of principal, interest or otherwise) by U.S. Bank for purchasing the Initial Note or Floating Rate Note Portions (or of maintaining the Initial Note or Floating Rate Note Portions) or any security therefor, or requires U.S. Bank to make any payment calculated by reference to any amount received by it with respect to purchasing the Initial Note or Floating Rate Note Portions (or of maintaining the Initial Note or Floating Rate Note Portions), and the result of any of the foregoing is to increase the cost to U.S. Bank for purchasing the Initial Note or Floating Rate Note Portions (or of maintaining the Initial Note or Floating Rate Note Portions) or participating the same or to reduce the return received by U.S. Bank in connection with the same, then, within thirty (30) days of written demand by U.S. Bank, the City shall pay U.S. Bank such additional amount or amounts that will compensate U.S. Bank for such increased cost or reduction.

Notwithstanding the foregoing, U.S. Bank shall use its best efforts to provide the City reasonable prior written notice of the expected occurrence of any event referred to in clause (i), (ii) or (iii) above for which it has actual knowledge, setting forth in reasonable detail the anticipated additional amount or amounts that it expects to demand from the City as additional compensation for such increased cost or reduction in returns related to any event referred to in clause (i), (ii) or (iii) above and the anticipated date upon which U.S. Bank would make such demand upon the City pursuant to Section 2.07(c); *provided* that a failure by U.S. Bank to

provide such notice shall in no event relieve the obligation of the City of any obligation under this Section 2.07(a).

(b) If U.S. Bank determines that the amount of capital required or expected to be maintained by U.S. Bank is increased as a result of a Change (as hereinafter defined), then, within thirty (30) days of written demand by U.S. Bank, the City shall, to the extent permitted by law, pay U.S. Bank the amount necessary to compensate for any shortfall in the rate of return on the portion of such increased capital which U.S. Bank determines is attributable to purchasing Floating Rate Note Portions (or of maintaining Floating Rate Note Portions), as the case may be, hereunder (after taking into account such U.S. Bank's policies as to capital adequacy). "Change" means (i) any change after the Effective Date in the Risk-Based Capital Guidelines or (ii) any adoption of or change in any other law, governmental or quasi-governmental rule, regulation, policy, guideline, interpretation, or directive (whether or not having the force of law) or in the interpretation, promulgation, implementation or administration thereof after the Effective Date which affects the amount of capital required or expected to be maintained by U.S. Bank. Notwithstanding the foregoing, for purposes of this Agreement, all requests, rules, guidelines or directives in connection with the Dodd-Frank Wall Street Reform and Consumer Protection Act shall be deemed to be a Change regardless of the date enacted, adopted or issued and all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Regulations and Supervisory Practices (or any successor or similar authority) or the United States financial regulatory authorities shall be deemed to be a Change regardless of the date adopted, issued, promulgated or implemented.

(c) A certificate of U.S. Bank setting forth the amount or amounts necessary to compensate U.S. Bank as specified in paragraph (a) or (b) of this Section shall be delivered to the City and shall be conclusive absent manifest error. The City shall pay U.S. Bank the amount shown as due on any such certificate within thirty (30) days after receipt thereof.

(d) Failure or delay on the part of U.S. Bank to demand compensation pursuant to this Section shall not constitute a waiver of U.S. Bank's right to demand such compensation; provided that the City shall not be required to compensate U.S. Bank pursuant to this Section for any increased costs or reductions incurred more than two hundred seventy (270) days prior to the date that U.S. Bank notifies the City of the Change in Law giving rise to such increased costs or reductions and of U.S. Bank's intention to claim compensation therefor; provided further that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the 270-day period referred to above shall be extended to include the period of retroactive effect thereof.

Section 2.08 Compensation; Breakage Fees. (a) The City shall compensate U.S. Bank, upon its written request (which request shall set forth the basis for requesting such compensation and shall, absent manifest error, be final and conclusive and binding on all the parties hereto), for all reasonable losses, expenses and liabilities (including, without limitation, any loss, expense or liability incurred by reason of the liquidation or reemployment of deposits or other funds required by U.S. Bank to fund the Initial Note or a Floating Rate Note Portions) which U.S. Bank may sustain: (i) if for any reason (other than a default by U.S. Bank) a purchase of a Floating Rate Note Portion does not occur on a date specified therefor in a Purchase Notice (whether or not withdrawn by the City); (ii) if any prepayment of the Initial Note or any Floating Rate Note Portion is not made on any date specified in a notice of prepayment given by the City

to U.S. Bank; or (iii) as a consequence of any other default by the City to pay the principal of and interest on the Initial Note or Floating Rate Note Portions when required by the terms of this Agreement and the Notes.

(b) In connection with any prepayment or repayment of a portion of the Initial Note or a Floating Rate Note Portion made on a day other than, with respect to the Initial Note, the Maturity Date, or, with respect to a Floating Rate Note Portion, the last day of the applicable Interest Period, whether such prepayment or repayment is voluntary, mandatory, by demand, acceleration or otherwise, the City shall pay to U.S. Bank all funding costs with respect to the Initial Note, through the Maturity Date, or, with respect to a Floating Rate Note Portion, the last day of the applicable Interest Period which may arise in connection with such prepayment or repayment, as calculated by U.S. Bank. U.S. Bank will provide a certificate setting forth the additional amount or amounts to be paid to U.S. Bank hereunder and the method by which such amounts are determined.

Section 2.09 Voluntary Termination of Unutilized Commitment. Upon at least five (5) Business Days' prior notice to U.S. Bank at its Notice Office, the City shall have the right, without premium or penalty, to terminate the Unutilized Commitment in whole or in part, in integral multiples of \$1,000,000; provided however that, upon such voluntary termination of the Unutilized Commitment, the amount thereof shall not be reinstated or available to the City.

Section 2.10 Prepayments. The City shall have the right to prepay any Floating Rate Note Portion, without premium or penalty, in whole or in part from time to time on the last day of the applicable Interest Period with respect to the a Floating Rate Note Portion; provided however, that if such date is not a Business Day, then such prepayment shall occur on the next succeeding Business Day; provided further however, that prior to any prepayment, the City shall provide notice to U.S. Bank at least five (5) Business Days prior to such prepayment date. With respect to each prepayment of the Notes pursuant to this Section 2.10: (i) the City shall designate the Floating Rate Note Portions which are to be prepaid and the specific Interest Periods applicable thereto and the amount or amounts to be prepaid; and (ii) each prepayment shall be in an aggregate principal amount of at least \$5,000,000 and integral multiples of \$1,000,000 in excess thereof; provided that no partial prepayment of the Floating Rate Note Portions shall reduce the outstanding principal amount of such Floating Rate Note Portion to an amount less than \$5,000,000 and integral multiples of \$1,000,000 in excess thereof; provided that the City shall have the right to elect to prepay the Initial Note or any Floating Rate Note Portions on a Business Day other than the last day of the Interest Period applicable thereto, if the City agrees, subject to Section 2.05(d) hereof, to pay to U.S. Bank the amounts, if any, determined in accordance with Section 2.08 hereof. The principal amount of any prepayment of the Initial Note or a Floating Rate Note Portion hereunder will not be reinstated and available to the City in connection with the issuance of any future Floating Rate Note Portions under the Resolution.

Section 2.11 Repayment Account; Security Interest.

(a) As additional security for the payment of the principal of and interest on any Floating Rate Note Portion, the City agrees and covenants to deposit in trust into a separate account in the City's General Fund to be held by the City, designated as the "2012-2013 Tax

Anticipation Note-Repayment Account” (the “Repayment Account”) in the following amounts and on the following dates:

(i) On or before February 1, 2013, the City shall deposit all Revenues in the Repayment Account in an amount equal to twenty (20%) of the outstanding principal amount of such Floating Rate Note Portion;

(ii) On or before May 1, 2013, the City shall have deposited all Revenues in the Repayment Account in a total cumulative amount equal to not less than fifty percent (50%) of the outstanding principal amount of such Floating Rate Note Portion; and

(iii) On or before June 1, 2013, the City shall have deposited all Revenues in the Repayment Account in a total cumulative amount equal to not less than one hundred percent (100%) of the principal amount of such Floating Rate Note Portion.

Within two (2) Business Days after making one of the above-referenced deposits, the City shall provide U.S. Bank with a certificate, the form of which is attached as Exhibit D hereto, certifying the making of such deposits. Notwithstanding the foregoing, in lieu of making the above deposits in the Repayment Account, the City may prepay such Floating Rate Note Portion in the following amounts and on or before the following dates by following the requirements and procedures set forth in Section 2.10 hereof (other than the requirements that such prepayments be made in integral multiples of \$1,000,000):

(1) On or before February 1, 2013, the City shall prepay an amount equal to twenty percent (20%) of the outstanding principal amount of such Floating Rate Note Portion;

(2) On or before May 1, 2013, the City shall prepay an additional thirty percent (30%) of the outstanding principal amount of the Note (so that the total amount of such Floating Rate Note Portion that is prepaid on or before May 1, 2013 equals 50% of the principal amount of such Floating Rate Note Portion); and

(3) On or before June 1, 2013, the City shall prepay an additional fifty percent (50%) of the outstanding principal amount of the Note (so that the total amount of the Note that is prepaid on or before June 1, 2013 equals 100% of the principal amount of such Floating Rate Note Portion).

If such Revenues are, or thereafter become, insufficient to enable the City to make such deposits or to pay or prepay amounts owed to U.S. Bank under such Floating Rate Note Portion, the City shall thereafter transfer Additional Revenues to the Repayment Account so that the amounts in the Repayment Account are at least equal to the amounts required to pay the principal of and interest on the Floating Rate Note Portion as they become due.

(b) Pursuant to the Resolution, the City has pledged all Revenues, the Additional Revenues (if applicable), the Repayment Account and all amounts held therein

(collectively, the “Pledged Property”) to the payment of the principal of and interest on the Notes. The pledge is valid and binding in accordance with the terms of the Resolution, and the Pledged Property shall immediately be subject to the pledge, and the pledge shall constitute a lien and security interest which shall immediately attach to the Pledged Property and be effective, binding, and enforceable against the City, its successors, purchasers of the Pledged Party, creditors, and all others asserting the rights therein, to the extent set forth, and in accordance with, the Resolution irrespective of whether those parties have notice of the pledge and without the need for any physical delivery, recordation, filing, or further act. Amounts deposited in the Repayment Account may not be used for any purpose other than payment of the Notes and may be invested in legal investments which are permitted by the City’s Investment Policy and which mature not later than the maturity date of the Floating Rate Note; provided that the earnings on any such investment shall be transferred by the City to the City’s General Fund.

Section 2.12 Method and Place of Payment. All payments under this Agreement or the Notes shall be made to U.S. Bank not later than 12:00 Noon (New York time) on the date when due and shall be made in Dollars in immediately available funds at the Payment Office. Whenever any payment to be made hereunder or under the Notes shall be stated to be due on a day which is not a Business Day, the due date thereof shall be extended to the next succeeding Business Day and, with respect to payments of principal, interest shall be payable at the applicable rate during such extension.

Section 2.13 Net Payment. All payments made by the City hereunder or under the Notes will be made without setoff, counterclaim or other defense. All such payments will be made free and clear of, and without deduction or withholding for, any present or future taxes, levies, imposts, duties, fees, assessments or other charges of whatever nature now or hereafter imposed by any jurisdiction or by any political subdivision or taxing authority thereof or therein (but excluding, except as provided below, any tax imposed on or measured by the net income of U.S. Bank pursuant to the laws of the jurisdiction (or any political subdivision or taxing authority thereof or therein) in which the Applicable Lending Office of U.S. Bank is located) and all interest, penalties or similar liabilities with respect thereto (collectively, “Taxes”). Subject to Section 2.05(d) hereof, the City shall also reimburse U.S. Bank, upon the written request of U.S. Bank, for taxes imposed on or measured by the net income of U.S. Bank pursuant to the laws of the jurisdiction (or any political subdivision or taxing authority thereof or therein) in which the Applicable Lending Office of U.S. Bank is located as U.S. Bank shall determine are payable by U.S. Bank in respect of amounts paid to or on behalf of U.S. Bank pursuant to the preceding sentence. If any Taxes are so levied or imposed, the City agrees, subject to Section 2.05(d) hereof, to pay the full amount of such Taxes and such additional amounts as may be necessary so that every payment of all amounts due hereunder or under the Notes, after withholding or deduction for or on account of any Taxes, will not be less than the amount provided for herein or in the Notes. The City will furnish to U.S. Bank, within forty-five (45) days after the date the payment of any Taxes is due pursuant to applicable law, certified copies of tax receipts evidencing such payment by the City. To the extent permitted by law, the City hereby agrees, subject to Section 2.05(d) hereof, to indemnify and hold harmless U.S. Bank, and reimburse U.S. Bank upon its written request, for the amount of any Taxes so levied or imposed and paid by U.S. Bank.

Section 2.14 Transfers of the Notes. Unless the City shall otherwise consent in writing, U.S. Bank shall not transfer a Note to any Person.

Section 2.15 U.S. Bank Records. All transactions relating to the Unutilized Commitment and the Floating Rate Note Portions including, without limitation, prepayments, repayments, interest charges and reductions and terminations of the Unutilized Commitment and the Floating Rate Note Portions shall be reflected in the books and records of U.S. Bank, which records shall be conclusive and binding upon the City absent manifest error.

ARTICLE III CONDITIONS PRECEDENT

Section 3.01 Conditions to U.S. Bank's Entering Into Agreement. It shall be a condition precedent to U.S. Bank's entering into this Agreement and purchasing the Initial Note that all proceedings taken in connection with the transactions contemplated hereby and all documents incident thereto, including the Related Documents, shall be in form and substance satisfactory to U.S. Bank and that the conditions enumerated in this Section 3.01 have been fulfilled to the satisfaction of U.S. Bank. Delivery by U.S. Bank of fully executed signature pages to this Agreement shall constitute acknowledgment and acceptance by U.S. Bank that all such conditions have been met or waived.

(a) Representations. On the Effective Date, (i) there shall exist no Event of Default or Default; (ii) all representations and warranties made by the City herein or in any of the Related Documents shall be true and correct with the same effect as though such representations and warranties had been made at and as of such time; and (iii) each of the Related Documents to which the City is a party, as amended (if applicable), is in full force and effect and has not been amended, modified or changed.

(b) Documents. On or prior to the Effective Date, U.S. Bank shall have received, in form and substance satisfactory to U.S. Bank, the following:

(i) True and complete executed originals of this Agreement and the Initial Note executed by the Director of Finance;

(ii) The Resolution certified as of the Effective Date by the City Clerk;

(iii) Signature and incumbency certificates, dated the Effective Date, of the signatories of the City executing this Agreement and the Notes;

(iv) A certificate of the Director of Finance dated the Effective Date, confirming that the 2012-2013 budget has been approved by the City Council and making the representations set forth in Section 3.01(a) with respect to the City;

(v) Executed copies of (A) the legal opinion of counsel to the City addressed to U.S. Bank; and (B) the legal opinion of Hawkins, Delafield & Wood LLP, together with a reliance letter addressed to U.S. Bank, which opinions, in each case, shall be in form and substance satisfactory to U.S. Bank;

(vi) A copy of the City's comprehensive annual financial report ("CAFR") for the City's 2010-2011 Fiscal Year;

(vii) If the 2012-2013 budget is changed after June [19], 2012 and before the Effective Date, a synopsis of the meeting at which the City Council approved such changes to the annual budget for the City's 2012-2013 Fiscal Year certified by an Authorized Representative;

(viii) A copy of the City's monthly cash flow projections for the City's 2012-2013 Fiscal Year (the "Cash Flow Projections");

(ix) A copy of the agreement between the City and the State Board of Equalization with respect to the payment to the City of the Sales Tax Revenues;

(x) A purchaser letter in the form set forth in Exhibit F hereto to be executed by U.S. Bank; and

(xi) Such further documentation, certificates or opinions as U.S. Bank may reasonably request in connection with the matters arising under this Agreement and the Related Documents.

(c) Absence of Material Adverse Change. U.S. Bank shall be satisfied that, on the Effective Date, no material adverse change in or effect upon the financial condition of the City shall have occurred since June [19], 2012 or the City's ability to perform its obligation under this Agreement and the Related Documents. In addition, on or prior to the Effective Date, no change shall have occurred in any law, rule or regulation or in any interpretation thereof that, in the opinion of counsel to U.S. Bank, would make it illegal for U.S. Bank to execute and deliver this Agreement or for the City to execute, deliver and perform under the terms of this Agreement and the Notes.

(d) Payment. The City shall have made arrangements for the payment of the fees and expenses of counsel to U.S. Bank as provided in Section 7.06 hereof.

(e) Other Matters. All other legal matters pertaining to the execution and delivery of this Agreement and the Related Documents shall be satisfactory to U.S. Bank, and U.S. Bank shall have received such other statements, certificates, agreements, documents and information with respect to the City and matters contemplated by this Agreement as U.S. Bank may reasonably request.

Section 3.02 Conditions to Purchase. The obligation of U.S. Bank to purchase a Floating Rate Note Portion (other than the Initial Note) on any day is subject to the satisfaction of the following conditions on such date:

(a) Unutilized Commitment. The Unutilized Commitment shall not have expired or been terminated on or prior to such day.

(b) Purchase Notice. U.S. Bank shall have timely received the required Purchase Notice duly completed by an Authorized Representative, with respect to such Floating Rate Note Portion.

(c) No Default; Representations and Warranties. At the time such Floating Rate Note Portion is to be purchased and also after giving effect thereto:

(i) no Default or Event of Default shall have occurred and be continuing,

(ii) except as otherwise provided in clause (iii) hereinbelow, all representations and warranties contained herein shall be true, correct and complete in all material respects with the same effect as though such representations and warranties had been made on and as of such date except to the extent a representation or warranty relates specifically to an earlier date, in which case, such representation and warranty shall have been true and correct as of such earlier date, and

(iii) (1) the City certifies as of the applicable Purchase Date that a true, correct and complete copy of each of the Section 5.05 Documents provided on or prior to such Purchase Date has been furnished to U.S. Bank; (2) the City certifies that the information contained in such Section 5.05 Documents (excluding any budget materials or any projected Revenues included in the statement required by Section 5.05(d)) provided on or prior to such Purchase Date was accurate as of the respective dates of such information; and (3) the Director of Finance or the Assistant Director of Finance represents as of the Purchase Date that, to his or her actual knowledge, without any investigation, the information contained in the Section 5.05 Documents (excluding any budget materials or any projected Revenues included in the statement required by Section 5.05(d)) is complete in all material respects with respect to the Revenues.

ARTICLE IV REPRESENTATIONS OF THE CITY

The City makes the following representations and warranties to U.S. Bank as of the date hereof, the Effective Date and as of each Purchase Date:

Section 4.01 Valid Existence. The City is a municipal corporation duly organized and existing under and by virtue of the laws of the State and its Charter and has the necessary power and authority to execute and deliver this Agreement and the Related Documents, to perform its obligations hereunder and thereunder.

Section 4.02 Authorization and Validity. The execution, delivery and performance by the City of this Agreement, the Notes and the other Related Documents have been duly authorized by proper proceedings of the City, and no further approval, authorization or consents are required by law or otherwise. This Agreement, the Notes and the Resolution constitute the legal, valid and binding obligations of the City enforceable in accordance with their respective terms, subject to bankruptcy, insolvency, moratorium and other laws affecting creditors' rights generally and principles of equity and public policy.

Section 4.03 Compliance with Laws and Contracts. Neither the execution and delivery by the City of this Agreement, the Notes and the Resolution, nor the consummation of the transactions herein and therein contemplated, nor compliance with the provisions hereof or thereof will (a) violate any provision of its Charter, (b) violate any law, rule, regulation, order, writ, judgment, injunction, decree or award binding on the City, (c) result in any breach of, or default under the provisions of any material indenture, resolution, instrument or agreement to which the City is a party or is subject, or by which it or its property is bound, or (d) conflict with or result in the creation or imposition of any Lien pursuant to the terms of any such indenture, instrument or agreement.

Section 4.04 Litigation. Other than has been previously disclosed in writing to U.S. Bank, there is no action, suit, proceeding, inquiry or investigation at law or in equity or before or by any court, public board or body pending with service of process accomplished or, to the knowledge of the City's Director of Finance, threatened against or affecting the City (a) wherein an unfavorable decision, ruling or finding would materially adversely affect (i) the transactions contemplated by or the validity of this Agreement, the Notes or any of the other Related Documents, or (ii) the City's ability to perform its obligations hereunder or under the Notes, or the other Related Documents; or (b) which in any way contests the existence, organization or powers of the City or the titles of the officers of the City to their respective offices.

Section 4.05 No Event of Default. No Event of Default or Default has occurred and is continuing.

Section 4.06 Projections and Budget Material. The City represents that (a) the Cash Flow Projections, and (b) the proposed budget for Fiscal Year 2012-13 in the form considered by the City Council at its meeting on June [19], 2012 were prepared on the basis of information and estimates that the City believed on the Effective Date to be reasonable.

Section 4.07 Accurate and Complete Disclosure. The City certifies as of the Effective Date that a true, correct and complete copy of the documents listed in Exhibit B has been made available to U.S. Bank. The City also certifies that the information contained in the documents listed in Exhibit B was accurate as of the respective dates of such information. The Director of Finance certifies that he or she has not failed to disclose any material information relating to the Revenues of which he or she has actual knowledge, without any investigation, where such omission would reasonably be expected to impact U.S. Bank's decision to enter into the Note Purchase Agreement.

Section 4.08 Regulatory Approvals. Each authorization, consent, approval, license or formal exemption from or filing, declaration or registration with, any court, governmental agency or regulatory authority (federal, state or local), required to be obtained by the City in connection with the City's execution and delivery of, and performance under this Agreement, the Notes and the other Related Documents has been obtained or made and is in full force and effect.

Section 4.09 Prospective Change in Law. To the knowledge of the City's Director of Finance, there is no amendment, or proposed amendment certified for placement on a ballot, to the City Charter or the Constitution of the State or any published administrative interpretation of the Constitution of the State or any State law, or any legislation which has passed either house of

the State legislature or is under consideration by any conference or similar committee, or any published judicial decision interpreting any of the foregoing, the effect of which is to invalidate, eliminate or materially reduce the Revenues.

Section 4.10 Sovereign Immunity. Under California law and subject to Section 7.03(d) hereto, the City cannot assert sovereign immunity as a defense to the enforcement of its obligations under this Agreement and the Notes.

Section 4.11 Priority of Pledge. The Resolution provides U.S. Bank with a valid pledge of the Pledged Property, the priority of which is set forth in the Resolution, and U.S. Bank is required to take no further action to perfect or maintain this pledge.

Section 4.12 Resolution. The Resolution is in full force and effect. The Resolution has not been amended or supplemented except by such amendments or supplements as have previously been delivered to U.S. Bank.

Section 4.13 City Charter. The City Charter is in full force and effect and has not been amended or supplemented except by such amendments or supplements as have previously been delivered to U.S. Bank.

Section 4.14 Notes. The Notes will be duly and validly issued under the Resolution and is entitled to the benefits thereof.

Section 4.15 Usury. The terms of this Agreement, the Notes and the other Related Documents regarding the calculation and payment of interest and fees do not violate any applicable usury laws.

Section 4.16 Financial Statements. The City's CAFR ended June 30, 2011, including the balance sheet as of such date of said period, all examined and reported on by the City's independent public accountants, as heretofore delivered to the Bank correctly and fairly present the financial condition of the City as of said date, and have been prepared in accordance with generally accepted accounting principles consistently applied except as stated in the notes thereto; and, other than as previously disclosed to U.S. Bank, there has been no material adverse change to the financial condition of the City since June 30, 2011.

ARTICLE V COVENANTS OF THE CITY

During the term of this Agreement, and until the Obligations are paid in full, including full payment of the Notes, unless U.S. Bank shall otherwise consent in writing, the City covenants and agrees as follows:

Section 5.01 Notice of Default. As soon as practicable but in any event not more than three (3) Business Days after an Authorized Representative of the City shall have obtained knowledge of the occurrence of an Event of Default or Default provide to U.S. Bank the written statement of an Authorized Representative setting forth the details of each such Event of Default or Default and, to the extent the City has made any determination with respect thereto, the action which the City proposes to take with respect thereto.

Section 5.02 Compliance With Laws. The City shall comply with all laws, rules and regulations, and with all final orders, writs, judgments, injunctions, decrees or awards to which it may be subject; provided, however, that the City may contest the validity or application thereof and appeal or otherwise seek relief therefrom, and exercise any and all of the rights and remedies which it may have with regard thereto, so long as such acts do not affect the City's power and authority to execute and deliver this Agreement, to perform its obligations and pay all amounts payable by it hereunder or under the Notes, or to execute and deliver the other Related Documents and to perform its obligations thereunder.

Section 5.03 Resolution. The City agrees that it will perform and comply with each and every covenant and agreement required to be performed or observed by it in the Resolution, each of which covenants and agreements is, by this reference, incorporated into this Agreement in its entirety together with all defined terms and construction provisions necessary for a correct understanding thereof. The City shall not amend, modify, terminate or grant, or permit the amendment, modification, termination or grant of, any waiver under, or consent to, or permit or suffer to occur any action or omission which results in, or is equivalent to, an amendment, termination, modification, or grant of a waiver under the Resolution which would materially impair the ability of the City to perform its obligations under this Agreement without the prior written consent of U.S. Bank.

Section 5.04 No Impairment. The City will not take any action that would materially impair the City's ability to perform its obligations under this Agreement, the Notes and the other Related Documents.

Section 5.05 Budgets; Financial Statements; Reports, Certificates and Other Information. The City shall provide or cause to be provided to U.S. Bank copies of:

(a) As soon as available, a copy of the City's annual budget for the City's 2012-2013 Fiscal Year, as said budget shall have been adopted by the City Council;

(b) As soon as available, the CAFR for Fiscal Year 2011-2012 together with an opinion of the independent accountants who conducted the audit of the financial statements of the City contained in the CAFR, which opinion shall contain no qualifications other than qualifications relating to the implementation of rules issued by the Government Accounting Standards Board (the failure to comply with which would not, in the opinion of U.S. Bank in its sole discretion, individually or in the aggregate, have a material impact on any financial statement line item);

(c) Concurrently with the furnishing of the financial statements described under Section 5.05(b) hereof, a certificate signed by an Authorized Representative stating that (i) the City has complied with all of the terms, provisions and conditions of this Agreement and the other Related Documents, (ii) to the best of his/her knowledge, the City has kept, observed, performed and fulfilled each and every covenant, provision and condition of this Agreement and the other Related Documents on the City's part to be performed and (iii) no Default or Event of Default has occurred or, if such Default or Event of Default has occurred, specifying the nature of such Default or Event of Default, the period of its existence, the nature and status thereof and any remedial steps taken or proposed to correct such Default or Event of Default;

(d) As soon as available and, in any event, within fifteen (15) days of the end of each calendar month until the Notes are repaid with the first such report due on or before December 15, 2012 for the month ended November 30, 2012, a statement setting forth the Property Tax Revenues actually received by the City during such calendar month and the Property Tax Revenues projected by the City for such calendar month;

(e) As soon as available and, in any event, within ten (10) Business Days after adoption by the City Council any changes to the 2012-2013 annual budget for the City, including, but not limited to, all interim budget reports, if any, but only to the extent that such changes relate to Revenues;

(f) As soon as available and, in any event, within fifteen (15) days after the end of each month until the Notes are repaid with the first such report due on or before August 15, 2012 for the month ended July 31, 2012, written reports containing information and data with respect to the amount of the Sales Tax Revenues received by the City in the previous month in the form of Exhibit E hereto;

(g) Promptly, notice of any action, suit or proceeding known to it at law or in equity or by or before any governmental instrumentality, entity or other agency which, if adversely determined, would materially impair the ability of the City to carry out its obligations under this Agreement, the Notes or any other Related Document or any other document, instrument or agreement required hereunder or thereunder, or would materially and adversely affect its assets or financial condition; and

(h) Promptly, notice of any matter or event which may result in a material adverse change in the City's financial condition or operations.

Section 5.06 Inspection Rights. At any reasonable time and from time to time the City shall permit U.S. Bank or any agents or representatives thereof to examine and make copies of the records and books of account related to the Revenues and the transactions contemplated by this Agreement, the Notes and the other Related Documents, to visit the City's properties and to discuss its affairs, finances and accounts with any of its officers and independent accountants.

Section 5.07 Use of Proceeds. The City shall use the proceeds of the Notes solely for the cash flow needs of the City for the 2012-2013 Fiscal Year of the City. Without limiting the preceding sentence, the City agrees that no part of the proceeds of any Note will be used by the City to purchase or carry any Margin Stock or to extend credit to others for the purpose of purchasing or carrying any Margin Stock.

Section 5.08 Existence. The City shall maintain its legal existence and shall not merge or consolidate with or into any other Person.

Section 5.09 Indebtedness and Liens. The City shall not create or suffer to exist any Indebtedness secured by a Lien upon, or with respect to, any of the Pledged Property, except as permitted pursuant to the Resolution.

Section 5.10 Assignments. The City shall not assign, transfer or otherwise convey any interest in the Pledged Property without the prior written consent of U.S. Bank.

Section 5.11 Patriot Act; Government Regulation. The City shall not (a) be or become subject at any time to any law, regulation or list of any government agency (including, without limitation, the U.S. Office of Foreign Asset Control list) that prohibits or limits U.S. Bank from making any advance or extension of credit to the City or from otherwise conducting business with the City or (b) fail to provide documentary and other evidence of the City's legal organizational documents or other identifying documents or to comply with any applicable law or regulation including, without limitation, Section 326 of the USA Patriot Act of 2001, 31 U.S.C. Section 5318.

Section 5.12 Further Assurances. From time to time hereafter, the City will execute and deliver such additional instruments, certificates or documents, and will take all such actions as U.S. Bank may reasonably request for the purposes of implementing or effectuating the provisions of this Agreement and the Related Documents or for the purpose of more fully perfecting or renewing U.S. Bank's rights with respect to the Pledged Property.

Section 5.13 Certain Information. The City shall not include in any amendment or supplement to any offering or disclosure document with respect to any Indebtedness, whether offered publicly or private, any information concerning U.S. Bank that is not supplied in writing, or otherwise consented to, by U.S. Bank expressly for inclusion therein, other than U.S. Bank's name and a brief description of this Agreement, which may be included in such offering or other document without U.S. Bank's prior written consent.

Section 5.14 Accuracy of Information. The City agrees that it shall provide U.S. Bank with true, correct and complete copies of the Section 5.05 Documents. The City also agrees that the information contained in the Section 5.05 Documents (excluding any budget materials or any projected Revenues included in the statement required by Section 5.05(d)) will be accurate as of the respective dates of such information. The Director of Finance or the Assistant Director of Finance agrees that, to his or her actual knowledge, without any investigation, the information contained in the Section 5.05 Documents (excluding any budget materials or any projected Revenues included in the statement required by Section 5.05(d)) will be complete in all material respects with respect to the Revenues.

Section 5.15 No Immunity. The City agrees that under California law and subject to Section 7.03(d) hereto it cannot assert sovereign immunity as a defense to the enforcement of its obligations under this Agreement or the Notes.

ARTICLE VI EVENTS OF DEFAULT; REMEDIES

Section 6.01 Events of Default. Each of the following events shall constitute an "Event of Default" hereunder:

(a) Payments. The City shall (i) default in the payment when due of any principal of the Notes or shall fail to make the deposits or prepayments as set forth in Section 2.11 hereof; (ii) default, and such default shall continue unremedied for two (2) or more days, in the payment when due of any interest on the Notes or any other Obligation.

(b) Representations Untrue. Any representation, warranty, certification or statement made by the City in this Agreement or in the Resolution shall (in any such case) have been incorrect or untrue in any material respect when made or deemed to have been made.

(c) Covenant Defaults.

(i) The City shall default in the due performance on or observance of any term, covenant or agreement contained in Sections 5.01, 5.03, 5.04, 5.08, 5.09, 5.10 and 5.15 of this Agreement.

(ii) The City shall default in the due performance on or observance of any term, covenant or agreement contained in Section 5.05 of this Agreement and such default, if capable of being remedied, shall remain unremedied for ten (10) days after written notice thereof shall have been given to the City by U.S. Bank.

(iii) The City shall default in the due performance or observance of any term, covenant or agreement contained herein or incorporated herein (other than those described in other provisions of this Section 6.01) and such default, if capable of being remedied, shall remain unremedied for sixty (60) days after written notice thereof shall have been given to the City by U.S. Bank.

(d) Cross Default. The City shall (i) default in any payment of the general obligation Indebtedness described in Exhibit C hereto (collectively, the “GO Indebtedness”) or the General Fund Indebtedness described in Exhibit C hereto (collectively, the “General Fund Indebtedness”) each beyond the period of grace (not to exceed thirty (30) days), if any, provided in the instrument or agreement under which such GO Indebtedness or General Fund Indebtedness was created or (ii) default in the observance or performance of any agreement or condition relating to any GO Indebtedness (other than the Notes) or General Fund Indebtedness or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event shall occur or condition exist, the effect of which default or other event or condition is to cause, or to permit the holder or holders of such GO Indebtedness or General Fund Indebtedness (or a trustee or agent on behalf of such holder or holders) to cause (determined without regard to whether any notice is required), any such GO Indebtedness or General Fund Indebtedness to become due prior to its stated maturity.

(e) Cross Acceleration. Any GO Indebtedness or General Fund Indebtedness shall be declared to be due and payable, or required to be prepaid other than by a regularly scheduled required prepayment, prior to the stated maturity thereof.

(f) Invalidity; Repudiation.

(i) Any material provision of this Agreement, the Notes, the Authorizing Law or the Resolution is declared to be null and void by a final non-appealable judgment of court of competent jurisdiction; or

(ii) The City, pursuant to official action on the part of its City Council, shall deny that it has any or further liability or obligation under this Agreement, the Notes, the Authorizing Law or the Resolution.

(g) Insolvency, Etc. The City shall become insolvent or admit in writing its inability to pay its debts as they mature or shall declare a moratorium on the payment of its debts or apply for, consent to or acquiesce in the appointment of a trustee, custodian, liquidator or receiver for itself or any substantial part of its property, or shall take any action to authorize or effect any of the foregoing; or in the absence of any such application, consent or acquiescence, a trustee, custodian, liquidator or receiver shall be appointed for it or for a substantial part of its property or revenues and shall not be discharged within a period of ninety (90) days; or the State or any other Governmental Authority having jurisdiction over the City imposes a debt moratorium, debt restructuring, or comparable restriction on repayment when due and payable of the principal of or interest on any debt by the City; or any bankruptcy, reorganization, debt arrangement or other proceeding under any bankruptcy or insolvency law or any dissolution or liquidation proceeding shall be instituted by or against the City (or any action shall be taken to authorize or effect the institution by it of any of the foregoing) and if instituted against it, shall be consented to or acquiesced in by it, or shall not be dismissed within a period of ninety (90) days.

(h) Pledge, Etc. The pledge of the Pledged Property created by the Resolution shall fail to provide U.S. Bank, as Notes holder, with the security interest in the Pledged Property purported to be provided, or U.S. Bank, as Notes holder, shall cease to have a valid security interest in the Pledged Property.

(i) Resolution Default. The City shall default in the due performance or observance of any material term, covenant or agreement contained in the Resolution and the same shall not have been cured within any applicable cure period.

(j) Certain Unsatisfied Judgments. A judgment or court order for the payment of money in excess of \$10,000,000 shall be rendered against the City that is payable from the City's general fund, and such judgment or court order shall continue unsatisfied and in effect for a period of sixty (60) consecutive days without being vacated, discharged, satisfied, or stayed or bonded pending appeal.

(k) Ratings. (i) The long-term rating assigned by Moody's or S&P to any long-term, unenhanced GO Indebtedness of the City is reduced below "Baa1" (or its equivalent), or "BBB+-" (or its equivalent), respectively or (ii) the long-term rating assigned by Moody's, and S&P to any long-term, unenhanced GO Indebtedness of the City shall be withdrawn or suspended, in either case, due to credit-related reasons.

Section 6.02 Remedies. If any Event of Default shall have occurred and be continuing, the interest on the Initial Note and any Floating Rate Note Portion outstanding shall automatically accrue interest at the Default Rate, and U.S. Bank may by Notice to the City take any or all of the following actions, without prejudice to the rights of U.S. Bank to enforce its claims against the City (provided, that, if an Event of Default specified in Section 6.01(g) shall occur, the result which would occur upon the giving of Notice by U.S. Bank to the City as specified in clauses (i) and (ii) below shall occur automatically without the giving of any such Notice): (i) declare the Unutilized Commitment terminated, whereupon the Unutilized Commitment shall forthwith terminate immediately; (ii) declare the principal of and any accrued interest in respect of the Notes and all other Obligations owing hereunder to be, whereupon the same shall become, forthwith due and payable without presentment, demand, protest or other

notice of any kind, all of which are hereby waived by the City; and/or (iii) exercise any other rights or remedies U.S. Bank may have under the Resolution, at law or in equity.

Section 6.03 No Waiver; Cumulative Remedies. No failure or delay on the part of U.S. Bank in exercising any right, power or privilege hereunder, under the Notes or under any other Related Document and no course of dealing between the City and U.S. Bank shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder, under the Notes or under any other Related Document preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder or thereunder. The rights, powers and remedies herein, under the Notes or in any other Related Document expressly provided are cumulative and not exclusive of any rights, powers or remedies which U.S. Bank would otherwise have. No notice to or demand on the City in any case shall entitle the City to any other or further notice or demand in similar or other circumstances or constitute a waiver of the rights of U.S. Bank to any other or further action in any circumstances without notice or demand.

ARTICLE VII MISCELLANEOUS

Section 7.01 Amendments. No provision of this Agreement may be amended, modified, changed, waived, discharged or terminated orally, but only by an instrument in writing signed by the parties hereto.

Section 7.02 Assignments. (a) This Agreement shall be binding upon and inure to the benefit of the City and U.S. Bank and their respective successors, endorsees and assigns, except that neither party hereto may assign or transfer their respective rights or obligations hereunder without the prior written consent of the other party except as provided in Section 2.14 hereof. U.S. Bank may grant a participation to any financial institution in all or any part of, or any interest (undivided or divided) in, U.S. Bank's rights and benefits under this Agreement, the Notes and the other Related Documents and, to the extent of that participation, such participant shall, except as set forth in the following clause (ii), have the same rights and benefits against the City hereunder and the Notes as it would have had if such participant were a direct party hereto; provided that (i) no such participation shall affect the obligations of U.S. Bank to purchase Floating Rate Note Portions as herein provided; (ii) the City shall be required to deal only with U.S. Bank with respect to any matters under this Agreement and no such participant shall be entitled to enforce directly against the City any provision hereunder; (iii) no participant shall be entitled to recover amounts hereunder in excess of any amounts to which U.S. Bank is entitled to recover hereunder; and (iv) such participant shall not be any Person registered as an investment company under the Investment Company Act of 1940, as amended.

(b) Notwithstanding the foregoing provisions of this Section 7.02(a), (i) U.S. Bank may assign and pledge all or any portion of the amounts owing to it with respect to the Notes to any Federal Reserve Bank or the United States Treasury as collateral security pursuant to Regulation A of the Board of Governors of the Federal Reserve System and any Operating Circular issued by such Federal Reserve Bank; and (ii) any payment in respect of such assigned amounts owed with respect to the Notes made by the City to U.S. Bank in accordance with the terms thereof shall satisfy the City's obligations thereunder in respect of such assigned obligation

to the extent of such payment. No such assignment shall release U.S. Bank from its obligations hereunder.

Section 7.03 Governing Law; Waiver of Jury Trial; Waiver of Special Damages; Sovereign Immunity.

(a) THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA WITHOUT REFERENCE TO CHOICE OF LAW DOCTRINE.

(b) WITH RESPECT TO ANY SUIT, ACTIONS OR PROCEEDINGS RELATING TO THIS AGREEMENT, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE CITY AND U.S. BANK EACH WAIVES ANY RIGHT IT MAY HAVE TO TRIAL BY JURY. THE CITY FURTHER WARRANTS AND REPRESENTS THAT SUCH WAIVER HAS BEEN INTENTIONALLY, KNOWINGLY AND VOLUNTARILY MADE, FOLLOWING CONSULTATION WITH ITS LEGAL COUNSEL. IF AND TO THE EXTENT THAT THE FOREGOING WAIVER OF THE RIGHT TO A JURY TRIAL IS UNENFORCEABLE FOR ANY REASON IN SUCH FORUM, THE CITY AND U.S. BANK HEREBY CONSENT TO THE ADJUDICATION OF ANY AND ALL CLAIMS PURSUANT TO JUDICIAL REFERENCE AS PROVIDED IN CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 638, AND THE JUDICIAL REFEREE SHALL BE EMPOWERED TO HEAR AND DETERMINE ANY AND ALL ISSUES IN SUCH REFERENCE WHETHER FACT OR LAW. THE CITY AND U.S. BANK REPRESENT THAT EACH HAS REVIEWED THIS WAIVER AND CONSENT AND EACH KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS AND CONSENTS TO JUDICIAL REFERENCE FOLLOWING THE OPPORTUNITY TO CONSULT WITH LEGAL COUNSEL OF ITS CHOICE ON SUCH MATTERS. IN THE EVENT OF LITIGATION, A COPY OF THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT OR TO JUDICIAL REFERENCE UNDER CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 638 AS PROVIDED HEREIN.

(c) THE CITY WAIVES, TO THE EXTENT NOT PROHIBITED BY LAW, ANY RIGHT THE UNDERSIGNED MAY HAVE TO CLAIM OR RECOVER FROM U.S. BANK IN ANY LEGAL ACTION OR PROCEEDING ANY SPECIAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES.

(d) U.S. BANK HEREBY RECOGNIZES THAT THE PROCEDURAL REQUIREMENTS APPLICABLE TO COMMENCING AN ACTION AGAINST THE CITY DIFFERS FROM REQUIREMENTS APPLICABLE TO NONGOVERNMENTAL ENTITIES.

Section 7.04 Severability. If any provision of this Agreement shall be held or deemed to be or shall in fact be illegal, inoperative or unenforceable the same shall not affect any other provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever.

Section 7.05 Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same instrument.

Section 7.06 Expenses. The City shall pay the reasonable fees and costs of counsel for U.S. BANK not to exceed \$20,000; provided, however, that counsel for U.S. Bank shall submit a W-9 and an invoice for payment at least five (5) Business Days prior to the Effective Date. The City shall also pay (a) all reasonable out-of-pocket expenses of U.S. Bank, including reasonable fees and expenses of counsel retained by U.S. Bank in connection with any waiver or consent hereunder or under any Related Documents or any amendment hereof or thereof and (b) if any Default or Event of Default occurs, all out-of-pocket expenses incurred by U.S. Bank, including the fees and disbursements of counsel and experts retained by U.S. Bank in connection with such Default or Event of Default and collection and other enforcement proceedings resulting therefrom.

Section 7.07 Indemnification.

(a) To the extent permitted by law, the City agrees to indemnify and hold harmless U.S. Bank and its officers, directors, employees and their agents (each, an “Indemnitee”) from and against any and all claims, damages, penalties, actions, losses, liabilities, judgments, suits and reasonable costs or expenses (including, without limitation, reasonable attorney’s fees and expenses) whatsoever which an Indemnitee may incur (or which may be claimed against an Indemnitee by any person or entity whatsoever) by reason of or in connection with any action, proceeding or investigation (whether or not U.S. Bank is a party thereto) arising from the entering into and/or performance of this Agreement or any Related Document or the use of the proceeds of the Notes or the consummation of any transactions contemplated herein or in any Related Document, including, without limitation, the reasonable fees and disbursements of counsel incurred in connection with any such action, proceeding or investigation (but excluding any such claims, damages, penalties, actions, losses, liabilities, judgments, suits and reasonable costs or expenses, to the extent incurred by reason of the gross negligence or willful misconduct of the Indemnitee).

(b) Promptly after receipt by an Indemnitee of notice of the commencement of any action, proceeding or investigation in respect of which indemnity or reimbursement may be sought as provided above (each, an “Indemnified Claim”), such Indemnitee will notify the City in writing of the receipt or commencement thereof, but the failure of an Indemnitee to notify the City with respect to a particular action, proceeding or investigation shall not relieve the City from any obligation or liability which it may have pursuant to this Section 7.07 with respect to such action, proceeding or investigation, or which it may have otherwise than pursuant to this Agreement with respect to any action, proceeding, or investigation.

(c) The City shall be entitled, at its own expense, to participate in and control the defense of any action, proceeding or investigation with counsel reasonably satisfactory to such Indemnitee. Notwithstanding the preceding sentence, an Indemnitee will be entitled to employ counsel separate from counsel for the City and from any other party in such action, proceeding or investigation and to participate in the action, proceeding, or investigation, and the City shall bear the fees and expenses of such separate counsel (and shall pay such fees and

expenses as and when incurred), only if either (i) the Indemnitee shall have reasonably concluded that there may be one or more legal defenses available to it which are different from or additional to those available to the City, or (ii) the City shall not have employed counsel reasonably satisfactory to the Indemnitee to represent the Indemnitee within a reasonable time after the City shall have notice of the institution of any such action, proceeding or investigation. Each Indemnitee shall cause its counsel to cooperate with the City in the defense of any action, proceeding or investigation to the extent consistent with its professional responsibilities. The City shall not be liable for the settlement by any Indemnitee of any action, proceeding or investigation effected without its consent, which consent will not be unreasonably or untimely withheld. The City shall not settle or compromise any action, proceeding or investigation, or permit a default or consent to the entry of any judgment with respect thereto, unless such settlement, compromise, default or consent includes, as an unconditional term thereof, the giving by the party other than the City thereto of an unconditional general release to all Indemnites from all liability in respect of such action, proceeding, or investigation.

(d) To the extent permitted by law, the City agrees to indemnify and hold U.S. Bank and its officers, directors, employees and their agents harmless (on a net after-tax basis) from any present or future claim or liability for stamp, transfer, documentary, excise or other similar tax and any penalties or interest with respect thereto, which may be assessed, levied or collected by any jurisdiction in connection with the execution, delivery and performance of, or any payment made under, this Agreement, the Notes and the other Related Documents, or any amendment thereto.

Section 7.08 Term of the Agreement. The obligation of U.S. Bank to purchase Floating Rate Note Portions under this Agreement shall terminate on the Commitment Termination Date. Except for the City's obligations to indemnify U.S. Bank and each Indemnitee, this Agreement shall terminate when all Obligations have been paid in full.

Section 7.09 Notice. Any notice, demand, direction, request or other instrument authorized or required by this Agreement to be given to or filed with the City or U.S. Bank shall be deemed or have been sufficiently given or filed for all purposes, if any, when delivered by hand or three (3) Business Days after being sent by registered mail, return receipt requested, postage prepaid, and if given electronically shall be deemed given when transmitted (receipt electronically confirmed by the recipient thereof):

If to the City:

City of San José – Finance
200 East Santa Clara Street, 13th Floor
San José, California 95113
Attention: Debt Management
Telephone: (408) 535-7010
Facsimile: (408) 292-6482
E-mail: debt.management@sanjoseca.gov

If to U.S. Bank:

For purposes of compliance documents:

Kenneth Haber
Managing Director
Government + Nonprofit Banking
U.S. Bank
15910 Ventura Blvd., Suite 1712
Encino, CA 91436
Office: (818) 817-7235
Cell: (213) 220-0626
Email: Kenneth.Haber@usbank.com

Ashley Martin
U.S. Bank - Governments & Nonprofits Division
633 W. 5th Street, 25th Floor
Los Angeles, CA 90071
Office: 213.615.6241
Cell: 310.717.5900
Fax: 213.615.6248
ashley.martin1@usbank.com

For purposes of billing and payment:

U.S. Bank National Association

555 SW Oak Street
Portland, OR 97204
Attention: Jonna Susi
Facsimile: (503) 973-6900
Telephone: (503) 275-4664
E-mail: jonna.villavicencio@usbank.com

For all other purposes:

Kenneth Haber
Managing Director
Government + Nonprofit Banking
U.S. Bank
15910 Ventura Blvd., Suite 1712
Encino, CA 91436
Office: (818) 817-7235
Cell: (213) 220-0626
Email: Kenneth.Haber@usbank.com

or to such other address, telephone number or facsimile number as one party hereto shall notify to the other party hereto.

Section 7.10 Holidays. Except as otherwise provided herein, whenever any payment or action to be made or taken hereunder shall be stated to be due on a day which is not a Business Day, such payment or action shall be made or taken on the next following Business Day, and

such extension of time shall be included in computing interest or fees, if any, in connection with such payment or action.

Section 7.11 Survival. All representations, warranties, covenants and agreements of the City contained in this Agreement as amended or supplemented from time to time or made in writing in connection herewith shall survive the execution and delivery hereof shall continue in full force and effect until payment in full of the Obligations, it being understood that the agreements of the City found in Sections 2.07, 2.08, 2.13 and 7.06 hereof shall survive the termination of this Agreement and payment in full of the Obligations.

Section 7.12 USA PATRIOT ACT NOTIFICATION. The following notification is provided to the City pursuant to Section 326 of the USA Patriot Act of 2001, 31 U.S.C. Section 5318:

IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT. To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person or entity that opens an account, including any deposit account, treasury management account, loan, other extension of credit, or other financial services product. What this means for the City: When the City opens an account, if the City is an individual U.S. Bank will ask for the City's name, taxpayer identification number, residential address, date of birth, and other information that will allow U.S. Bank to identify the City, and if the City is not an individual U.S. Bank will ask for the City's name, taxpayer identification number, business address, and other information that will allow U.S. Bank to identify the City. U.S. Bank may also ask, if the City is an individual to see the City's driver's license or other identifying documents, and if the City is not an individual to see the City's legal organizational documents or other identifying documents.

Section 7.13 No Liability. The City agrees that none of U.S. Bank, its officers, directors, employees and their agents shall have any liability or responsibility for the acts or omissions of the City in respect of its use of this Agreement or any amounts made available by U.S. Bank hereunder. U.S. Bank agrees that none of the City, its officers, City Council members, employees and their agents shall have any liability or responsibility for the acts or omissions of U.S. Bank in respect of the performance of U.S. Bank's obligations under this Agreement.

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

CITY OF SAN JOSE

By: _____
Name:
Title:

Approved as to form:

By: _____
Name:
Title:

U.S. BANK, N.A.

By: _____
Name:
Title:

EXHIBIT A
[FORM OF]
PURCHASE NOTICE

[insert date]

U.S. Bank, N.A.
[insert address]

Attention: [insert contact]

Ladies and Gentlemen:

The undersigned, City of San José, California (the "City"), refers to the Note Purchase Agreement, dated July 2, 2012 (as amended from time to time, the "Agreement"; the terms defined therein being used herein as therein defined), between the undersigned and U.S. Bank, N.A. ("U.S. Bank"), and hereby gives you notice, irrevocably, pursuant to Section 2.01(b) of the Agreement, that the undersigned hereby desires to sell to U.S. Bank, and requests that U.S. Bank purchase, the Floating Rate Note Portion described below:

- (i) The Purchase Date is _____;
- (ii) The aggregate principal amount of the Floating Rate Note Portion to be purchased is *[\$insert an amount not less than \$5,000,000 and integral multiples of \$1,000,000 in excess thereof]*;
- (iii) The initial Interest Period is *[insert one of the following: one month, two months, three months, or six months]*;
- (iv) The wire instructions are as follows:

ABA# _____

Account # _____

Account Name: _____

Name and address of bank: _____

The City hereby certifies that the following statements are true on the date hereof, and will be true on the date of the Purchase Date before and after giving effect to the purchase and sale of the Floating Rate Note Portion described in this Purchase Notice:

- (A) The Unutilized Commitment has not expired or been terminated;
- (B) (i) No Default or Event of Default has occurred and is continuing, (ii) except as otherwise provided in clause (iii) hereinbelow, all representations and warranties contained in the Agreement and in the other Related Documents are true, correct and complete in all material respects with the same effect as though such representations and warranties had been made on and as of the date hereof except to the extent a representation or warranty relates specifically to an earlier date, in which case, such representation and warranty shall have been true and correct as of such earlier date, and (iii) (1) the City certifies as of the Purchase Date that a true, correct and complete copy of each of the Section 5.05 Documents provided on or prior to the Purchase Date has been furnished to U.S. Bank; (2) the City certifies that the information contained in the Section 5.05 Documents (excluding any budget materials or any projected Revenues included in the statement required by Section 5.05(d)) provided on or prior to the Purchase Date was accurate as of the respective dates of such information; and (3) the Director of Finance or the Assistant Director of Finance represents as of the Purchase Date that to his or her actual knowledge, without any investigation, that the information contained in the Section 5.05 Documents (excluding any budget materials or any projected Revenues included in the statement required by Section 5.05(d)) is complete in all material respects with respect to the Revenues.

Very truly yours,

CITY OF SAN JOSE

By: _____

Name: _____

Title: Director of Finance or the Assistant Director
of Finance

EXHIBIT B

**LIST OF INFORMATION PROVIDED BY THE CITY TO U.S. BANK, N.A.
PURSUANT TO SECTION 4.07**

1. City's CAFR for the Fiscal Year 2010-2011.
2. Letter from the San José City Attorney's Office to U.S. Bank dated June __, 2012 pursuant to Section 4.04.

EXHIBIT C

LIST OF GENERAL OBLIGATION INDEBTEDNESS OF THE CITY

1. Series 2001 (Libraries and Parks Project);
2. Series 2002 (Libraries, Parks and Public Safety Projects);
3. Series 2004 (Libraries, Parks and Public Safety Projects);
4. Series 2005 (Libraries and Public Safety Projects);
5. Series 2006 (Libraries and Parks Projects);
6. Series 2007 (Parks and Public Safety Projects);
7. Series 2008 (Libraries and Parks Projects); and
8. Series 2009 (Public Safety Projects).

LIST OF GENERAL FUND INDEBTEDNESS OF THE CITY

City of San José Financing Authority

Lease Revenue Bonds

1. Series 1993B (Community Facilities)
2. Series 1997B (Fire, Childcare, Library Land)
3. Series 2001F (Convention Center)
4. Series 2002B (Civic Center Project)
5. Series 2003A (Central Service Yard)
6. Series 2006A (Civic Center Project)
7. Series 2007A (Recreational Facilities)
8. Series 2008A (Civic Center)
9. Series 2008B-1 (Civic Center Garage)

10. Series 2008B-2 (Civic Center Garage)
11. Series 2008C (Hayes Mansion)
12. Series 2008D (Taxable) (Hayes Mansion)
13. Series 2008E-1 (Taxable) (Ice Centre)
14. Series 2008E-2 (Taxable) (Ice Centre)
15. Series 2008F (Taxable) (Land Acquisition)
16. Series 2011A (Convention Center)

Lease Revenue Commercial Paper Notes

1. Lease Revenue Commercial Paper Notes

EXHIBIT D
[FORM OF]
REPAYMENT ACCOUNT DEPOSIT CERTIFICATION

[insert date]

U.S. Bank, N.A.
[insert address]

Attention: [insert contact]

Ladies and Gentlemen:

The undersigned, City of San José, California (the "City"), refers to the Note Purchase Agreement, dated July 2, 2012 (as amended from time to time, the "Agreement"; the terms defined therein being used herein as therein defined), between the undersigned and U.S. Bank, N.A., and hereby certifies, pursuant to Section 2.11 of the Agreement, that the City has deposited the following amount of Revenues in the Repayment Account on the date set forth below:

Revenues: \$ _____
(___ % of \$ _____ of Note)

Date: _____, 20 _____

Very truly yours,

CITY OF SAN JOSE

By: _____

Name: _____

Title: Authorized Representative

EXHIBIT E

[FORM OF]
SALES TAX REVENUES CERTIFICATION

[insert date]

U.S. Bank, N.A.
[insert address]

Attention: [insert contact]

Ladies and Gentlemen:

The undersigned, City of San José, California (the "City"), refers to the Note Purchase Agreement, dated July 2, 2012 (as amended from time to time, the "Agreement"; the terms defined therein being used herein as therein defined), between the undersigned and U.S. Bank, N.A., and hereby certifies, pursuant to Section 5.05 of the Agreement, that the City has received the following amount of Sales Tax Revenues for the monthly period set forth below.

Sales Tax Revenues: \$ _____

Monthly Period: _____, 20__ -- _____, 20__

Very truly yours,

CITY OF SAN JOSE

By: _____

Name: _____

Title: Authorized Representative

Exhibit F

FORM OF PURCHASER LETTER

July 2, 2012

City of San José
200 East Santa Clara Street
San José, California 95113

City of San José 2012 Tax and Revenue Anticipation Notes

Ladies and Gentlemen:

U.S. Bank, N.A. (the "Purchaser") has agreed to purchase up to \$125,000,000 of the above-referenced debt obligations (the "Debt Obligations") issued from time to time by the City of San José, California (the "Issuer") pursuant to the Note Purchase agreement, dated as of July 2, 2012 between the Purchaser and the Issuer (the "Agreement") and the Resolution. All capitalized terms used herein, but not defined herein, shall have the respective meanings set forth in the Agreement. The undersigned, an authorized representative of the Purchaser, hereby represents to you that:

1. The Purchaser has sufficient knowledge and experience in financial and business matters, including purchase and ownership of municipal and other similar obligations, to be able to evaluate the risks and merits represented by the purchase of the Debt Obligations.
2. The Purchaser has authority to purchase the Debt Obligations and to execute this letter and any other instruments and documents required to be executed by the Purchaser in connection with the purchase of the Debt Obligations.
3. The Purchaser is a national bank organized under the laws of the United States of America and is able to bear the economic risks of purchasing the Debt Obligations.
4. The Purchaser understands that an official statement, prospectus, offering circular, or other comprehensive offering statement has not been provided with respect to the Debt Obligations. The Purchaser has made its own inquiry and analysis with respect to the Issuer and the Debt Obligations and the security therefor, and other material factors affecting the security for and payment of the Debt Obligations.
5. The Purchaser acknowledges that it has reviewed information, including financial statements and other financial information, regarding the Issuer and has had the opportunity to ask questions and receive answers from knowledgeable individuals concerning the Issuer and the

Debt Obligations and the security therefor, so that it has been able to make an informed decision to purchase the Debt Obligations; provided, however, that this letter shall not constitute a waiver of any rights or remedies the Purchaser may have with respect to any untrue information it may have received from the Issuer or any material information which the Issuer withheld from its review.

6. The Purchaser understands that the Debt Obligations: (i) are not registered under the 1933 Act and are not registered or otherwise qualified for sale under the "Blue Sky" laws and regulations of any state, and (ii) are not listed on any stock or other securities exchange, and (iii) have not been rated by any credit rating agency.

7. The Debt Obligations are being acquired by the Purchaser for its own account and not with a present view toward resale or distribution; provided, however, that the Purchaser reserves the right to sell, transfer or redistribute the Debt Obligations as permitted by the Agreement.

U.S. BANK, N.A.

By _____
Name _____
Title _____