

CONTINUING COVENANT AGREEMENT

dated as of January 15, 2013,

among

PASADENA PUBLIC FINANCING AUTHORITY,

CITY OF PASADENA

and

UNION BANK, N.A.

Relating to

PASADENA PUBLIC FINANCING AUTHORITY  
LEASE REVENUE BONDS  
(ROSE BOWL RENOVATION PROJECT)  
SERIES 2013A AND SERIES 2013B

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## CONTINUING COVENANT AGREEMENT

This CONTINUING COVENANT AGREEMENT, dated as of January 15, 2013 (as amended, supplemented or otherwise modified from time to time, this "*Agreement*"), is made by and among the PASADENA PUBLIC FINANCING AUTHORITY, a joint exercise of powers authority duly created by and existing under the laws of the State of California (the "*Authority*"), the CITY OF PASADENA, a municipal corporation duly organized and existing under its Charter and the Constitution of the State of California (the "*City*") and UNION BANK, N.A., a national banking association ("*Bank*").

### RECITALS

WHEREAS, the Authority, is issuing a series of bonds designated as the Pasadena Public Financing Lease Revenue Bonds (Rose Bowl Renovation Project), Series 2013A (the "*2013A Bonds*") and Pasadena Public Financing Authority Lease Revenue Bonds (Rose Bowl Renovation Project) Series 2013B (the "*2013B Bonds*" and together with the 2013A Bonds, collectively referred to herein as the "*Bonds*") pursuant to a Bond Indenture dated as of January 15, 2013 (as amended, supplemented and otherwise modified from time to time in accordance with the terms hereof and thereof, the "*Indenture*"), between the Authority and Deutsche Bank National Trust Company, as trustee (in such capacity, the "*Trustee*");

WHEREAS, pursuant to the term of the hereinafter defined Lease, the City has leased to the Authority the Leased Property (as hereinafter defined);

WHEREAS, pursuant to the terms of the hereinafter defined Sublease, the Authority has subleased to the City the Leased Property;

WHEREAS, the principal of and interest on the Bonds will be payable from the Base Rental Payments (as hereinafter defined) made by the City to the Authority pursuant to the terms of the Sublease and the Authority has assigned its rights to receive such Base Rental Payments to the Trustee;

WHEREAS, the Bank has agreed to purchase the Bonds on January 15, 2013, and as a condition to such purchase, the Bank has required the Authority and the City to enter into this Agreement.

NOW, THEREFORE, to induce the Bank to purchase the Bonds, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the Authority, the City and the Bank hereby agree as follows:

## ARTICLE I

### DEFINITIONS

*Section 1.01. Certain Defined Terms.* In addition to the terms defined in the recitals and elsewhere in this Agreement, the Indenture, the Lease and the Sublease, the following terms shall have the following meanings:

“*1933 Act*” has the meaning set forth in Section 9.13(b) hereof.

“*Additional Rental*” has the meaning set forth in the Sublease.

“*Affiliate*” means, with respect to any Person, any Person that directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such first Person. A Person shall be deemed to control another Person for the purposes of this definition if such first Person possesses, directly or indirectly, the power to direct, or cause the direction of, the management and policies of the second Person, whether through the ownership of voting securities, common directors, trustees or officers, by contract or otherwise.

“*Agreement*” has the meaning set forth in the introductory paragraph hereof.

“*Amortization End Date*” means the earlier to occur of (a) the fourth (4th) anniversary of the Mandatory Tender Date, (b) the date on which the interest rate on all the 2013A Bonds has been converted to an interest rate other than the initial Bank Index Interest Rate and the interest rate on all of the 2013B Bonds has been converted to an interest rate other than the initial Bank Term Rate, as applicable, and (c) the date on which all of the Bonds are redeemed, repaid, prepaid or cancelled in accordance with the terms of the Indenture.

“*Amortization Payment Date*” means (a) the Initial Amortization Payment Date and the first Business Day of each third (3rd) calendar month occurring thereafter which occurs prior to the related Amortization End Date and (b) the related Amortization End Date.

“*Amortization Payments*” has the meaning set forth in Section 3.01(b) hereof.

“*Amortization Period*” has the meaning set forth in Section 3.01(b) hereof.

“*Applicable Spread*” has the meaning set forth in the Indenture.

“*Authority*” has the meaning set forth in the introductory paragraph hereof.

“*Authorized Representative*” has the meaning set forth in the Indenture.

“*Bank*” means, initially, Union Bank, N.A., a national banking association, and its successors and assigns, and upon the receipt from time to time by the Trustee, the City and the Authority of a notice described in Section 9.13(a) from time to time means the Person designated in such notice as Bank, as more fully provided in Section 9.13(a) hereof.

*“Bank Affiliate”* means the Bank and any Affiliate of the Bank.

*“Bank Agreement”* means any credit agreement, standby bond purchase agreement, continuing covenant agreement, reimbursement agreement or other agreement or instrument or any amendment or supplement thereto whereby the credit party thereto extends credit, makes loans or provides liquidity or credit support to bonds or notes of the City or the Authority payable and secured pursuant to an abatement lease or any direct purchase agreement pursuant to which any such credit party purchase bonds or notes of the City or the Authority payable and secured pursuant to an abatement lease.

*“Bankruptcy Law”* shall mean Title 11, U.S. Code, as amended or supplemented, any successor statute thereto, or any similar Federal, state, or foreign law for the relief of debtors.

*“Bank Term Rate”* has the meaning set forth in the Indenture.

*“Bank Index Interest Rate”* has the meaning set forth in the Indenture.

*“Bank Index Interest Rate Period”* has the meaning set forth in the Indenture.

*“Bank Transferee”* has the meaning set forth in Section 9.13(b) hereof.

*“Bank Purchase Date”* has the meaning set forth in the Indenture.

*“Base Rate”* means, for any date, a fluctuating rate of interest per annum equal to the greater of (i) the sum of the Reference Rate in effect on such day plus two percent (2.0%) and (ii) seven and one-half percent (7.5%).

*“Base Rental Payments”* has the meaning set forth in the Sublease.

*“Beneficial Owner”* has the meaning set forth in the Indenture.

*“Bond Counsel”* has the meaning set forth in the Indenture.

*“Bondholder”* or *“Holder”* when used with respect to a physical Bond, means the Person in whose name such Bond is registered and when used with respect to Book-Entry Bonds, means the Beneficial Owner of such Bond.

*“Bonds”* has the meaning set forth in the recitals hereof.

*“Bond Purchase Price”* has the meaning set forth in Section 2.01(a) hereof.

*“Business Day”* has the meaning set forth in the Indenture.

*“Calculation Agent”* has the meaning set forth in the Indenture.

“*Change in Law*” means the occurrence, after the Closing Date, of any of the following: (a) the adoption or taking effect of any Law, including, without limitation, any Risk-Based Capital Guidelines, (b) any change in any Law or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, ruling, guideline, regulation or directive (whether or not having the force of law) by any Governmental Authority; *provided* that notwithstanding anything herein to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, ruling, guidelines, regulations or directives thereunder or issued in connection therewith and (ii) all requests, rules, rulings, guidelines, regulations or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a “Change in Law,” regardless of the date enacted, adopted or issued.

“*City*” has the meaning set forth in the introductory paragraph hereof.

“*Closing Date*” means January 15, 2013.

“*Code*” means the Internal Revenue Code of 1986, as amended, or any successor statute thereto, and any regulations promulgated thereunder.

“*Current Long-Term Parity Ratings*” has the meaning set forth in Section 4.01(e)(ii) hereof.

“*Debt*” of any Person shall mean at any date, without duplication, (i) all obligations of such Person for borrowed money and reimbursement obligations which are not contingent, (ii) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (iii) obligations of such Person to pay the deferred purchase price of property or services which purchase price is due twelve months or more from the date of incurrence of the obligation in respect thereof, (iv) all obligations of such Person as lessee under capital leases, (v) all Debt of others Guaranteed by such Person, and (vi) all payment obligations of such Person, in addition to any obligations set forth in clauses (i) through (v) above, arising under any interest rate swap agreement, interest rate cap agreement, interest rate collar agreement, interest rate futures contract, interest rate option contract or other similar arrangement and under any foreign exchange contract, currency swap agreement, foreign exchange futures contract, foreign exchange option contract, synthetic cap or other similar agreement; *provided* that it is understood that Debt does not include contingent obligations of such Person to reimburse any other Person in respect of surety bonds or letters of credit to the extent that such surety bonds or letters of credit support Debt of such Person. For purposes of this definition, if any of the agreements or contracts set forth in clause (vi) above relate to any other obligation of any City which is otherwise included in this definition of Debt, such agreements and contracts shall constitute Debt only to the extent that the payment obligations of the City thereunder, less any amounts receivable by the City thereunder, exceed or are expected to exceed the interest payable on the related Debt.

“*Default*” means any event or condition which with notice, passage of time or any combination of the foregoing, would constitute an Event of Default.

“*Default Rate*” means a fluctuating interest rate per annum equal to the sum of the Base Rate from time to time in effect *plus* three percent (3.0%).

“*Determination of Taxability*” means, with respect to the 2013A Bonds, and shall be deemed to have occurred on the first to occur of the following:

(i) on that date when the Authority or the City files any statement, supplemental statement or other tax schedule, return or document which discloses that an Event of Taxability shall have in fact occurred;

(ii) on the date when the Bondholder or any former Bondholder of 2013A Bonds notifies the Authority and the City that it has received a written opinion by an attorney or firm of attorneys of nationally recognized standing on the subject of tax-exempt municipal finance to the effect that an Event of Taxability shall have occurred unless, within one hundred eighty (180) days after receipt by the Authority and the City of such notification from the Bondholder or any former Bondholder of 2013A Bonds, the Authority shall deliver to the Bondholder and any former Bondholder of 2013.

A Bonds a ruling or determination letter issued to or on behalf of the Authority and the City by the Commissioner or any District Director of the Internal Revenue Service (or any other governmental official exercising the same or a substantially similar function from time to time) to the effect that, after taking into consideration such facts as form the basis for the opinion that an Event of Taxability has occurred, an Event of Taxability shall not have occurred;

(iii) on the date when the Authority or the City shall be advised in writing by the Commissioner or any District Director of the Internal Revenue Service (or any other government official or agent exercising the same or a substantially similar function from time to time) that, based upon filings of the Authority or the City, or upon any review or audit of the Authority or the City or upon any other ground whatsoever, an Event of Taxability shall have occurred; or

(iv) on that date when the Authority or the City shall receive notice from the Bondholder or any former Bondholder of 2013A Bonds that the Internal Revenue Service (or any other government official or agency exercising the same or a substantially similar function from time to time) has assessed as includable in the gross income of such Bondholder or such former Bondholder of 2013A Bonds the interest on the Bonds due to the occurrence of an Event of Taxability;

*provided, however*, no Determination of Taxability shall occur under subparagraph (iii) or (iv) above unless the Authority or the City has been afforded the opportunity, at its expense, to contest any such assessment, and, further, no Determination of Taxability shall occur until such contest, if made, has been finally determined; *provided further, however*, that upon demand from



the Bondholder or former Bondholder of 2013A Bonds, the Authority or the City shall, subject to the terms of Section 5.01(b)(viii) of the Sublease, promptly reimburse, as Additional Rental, such Bondholder or former Bondholder of 2013A Bonds for any payments, including any taxes, interest, penalties or other charges, such Bondholder (or former Bondholder) of 2013A Bonds shall be obligated to make as a result of the Determination of Taxability.

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

“*Environmental Laws*” shall mean any and all federal, state and local laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or other governmental restrictions relating to the environment or to emissions, discharges or releases of pollutants, contaminants, petroleum or petroleum products, chemicals or industrial, toxic or hazardous substances or wastes into the environment including, without limitation, ambient air, surface water, ground water, or land, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials.

“*ERISA*” means the Employee Retirement Income Security Act of 1974, as amended, and any successor statute of similar import, and regulations thereunder, in each case as in effect from time to time. References to Sections of ERISA shall be construed also to refer to any successor Sections.

“*Event of Default*” with respect to this Agreement has the meaning ascribed to that term in Section 7.01 of this Agreement and, with respect to any Related Document, has the meaning assigned therein.

“*Event of Taxability*” means a change in law or fact or the interpretation thereof, or the occurrence or existence of any fact, event or circumstance (including, without limitation, the taking of any action by the Authority or the City, or the failure to take any action by the Authority or the City, or the making by the Authority or the City of any misrepresentation herein or in any certificate required to be given in connection with the issuance, sale or delivery of the Bonds) which has the effect of causing interest paid or payable on the 2013A Bonds to become included, in whole or in part, in the gross income of the Bondholder or any former Bondholder of any 2013A Bonds for federal income tax purposes.

“*Excess Amount*” has the meaning set forth in the Sublease.

“*Excess Interest Amount*” has the meaning ascribed to that term in Section 3.02(d)(ii) of this Agreement.

“*Excluded Taxes*” means, with respect to a Bondholder, taxes imposed on or measured by its overall net income (however denominated), and franchise taxes imposed on it (in lieu of net income taxes), by the jurisdiction (or any political subdivision thereof) under the Laws of which such recipient is organized or in which its principal office is located.

“*Fitch*” means Fitch Ratings, a corporation organized and existing under the laws of the State of New York, its successors and assigns, or, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, any other nationally recognized securities rating agency designated by the City by notice to the Authority, the Bank and the Trustee.

“*Fiscal Year*” means the twelve month period from July 1 through the following June 30.

“*FRB*” means the Board of Governors of the Federal Reserve System of the United States, together with any successors thereof.

“*Generally Accepted Accounting Principles*” or “*GAAP*” means generally accepted accounting principles in the United States of America from time to time as set forth in (i) the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and (ii) statements and pronouncements of the Financial Accounting Standards Board or the Governmental Accounting Standards Board, as modified by the opinions, statements and pronouncements of any similar accounting body of comparable standing having authority over accounting by governmental entities.

“*Governmental Authority*” means any national, state or local government (whether domestic or foreign), any political subdivision thereof or any other governmental, quasi-governmental, judicial, public or statutory instrumentality, authority, body, tribunal, agency, bureau, court or entity (including the Federal Reserve Board, any central bank or any comparable authority), or any arbitrator with authority to bind a party at law.

“*Guarantee*” by any Person shall mean any obligation, contingent or otherwise, of such Person directly or indirectly guaranteeing any Debt of any other Person and, without limiting the generality of the foregoing, any obligation, direct or indirect, contingent or otherwise, of such Person (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Debt (whether arising by virtue of partnership arrangements, by agreement to keep-well, to purchase assets, goods, securities or services, to take-or-pay, or to maintain financial statement conditions or otherwise), (ii) entered into for the purpose of assuring in any other manner the obligee of such Debt of the payment thereof or to protect such obligee against loss in respect thereof (in whole or in part) or (iii) with respect to any letter of credit issued for the account of such other Person or as to which such other Person is otherwise liable for reimbursement of drawings, *provided* that the term *Guarantee* shall not include (i) endorsements for collection or deposit in the ordinary course of business, or (ii) performance or completion guarantees. The term “*Guarantee*” used as a verb has a corresponding meaning.

“*Hazardous Materials*” shall mean (a) any petroleum or petroleum products, flammable substance, explosives, radioactive materials, hazardous waste or contaminants, toxic wastes, substance or contaminants, or any other wastes, contaminants, or pollutants; (b) asbestos in any form that is or could become friable, urea formaldehyde foam insulation, transformers, or other equipment that contains dielectric fluid containing levels of polychlorinated biphenyls or radon gas; (c) any chemicals, materials, or substances defined as or included in the definition of “hazardous substances,” “hazardous materials,” “extremely hazardous wastes,” “restricted

hazardous wastes,” “toxic substances,” “toxic pollutants,” “contaminants,” or “pollutants,” or words of similar import, under any applicable Environmental Law; (d) any other chemical, material, or substance, exposure to which is prohibited, limited, or regulated by any governmental authority; and (e) any other chemical, material, or substance which may or could pose a hazard to the environment.

“*Indemnified Taxes*” means Taxes other than Excluded Taxes.

“*Indemnitee*” has the meaning set forth in Section 8.01 hereof.

“*Indenture*” has the meaning set forth in the recitals hereof.

“*Indenture Event of Default*” means an Event of Default as defined in Section 7.01 of the Indenture.

“*Interest Payment Date*” has the meaning set forth in the Indenture.

“*Initial Amortization Payment Date*” means the first Business Day of the third (3rd) full calendar month following the Mandatory Tender Date.

“*Investor Letter*” means that certain letter dated the closing date from the Bank or any successor Bondholder to the Authority and the City, substantially in the form attached to the Indenture as Exhibit A thereto.

“*Investment Policy*” means the investment policy of the City delivered to the Bank pursuant to Section 4.01(a)(iv) hereof.

“*Laws*” means federal, state and local laws, statutes, rules, ordinances, regulations, codes, licenses, authorizations, decisions, injunctions, interpretations, orders or decrees of any court or other Governmental Authority having jurisdiction as may be in effect from time to time.

“*Lease*” means the Amended and Restated Lease, dated as of May 1, 2011, as amended and supplemented to the Closing Date including, without limitation, as amended by the First Amendment to Amended Restated Sublease dated as of January 15, 2013, each by and between the City and the Authority and all future amendments and supplements thereto in accordance with the terms hereof and thereof and the Sublease.

“*Lease Payments*” has the meaning set forth in the Sublease.

“*Leased Property*” has the meaning set forth in the Sublease.

“*Liabilities*” has the meaning set forth in Section 8.01 hereof.

“*Lien*” shall mean, with respect to any asset, (i) any lien, charge, claim, mortgage, security interest, pledge or assignment of revenues of any kind in respect of such asset or (ii) the

interest of a vendor or lessor under any conditional sale agreement, capital lease or other title retention agreement relating to such asset.

*“Majority Holder”* means the Bondholders with a majority of the aggregate principal amount of Bonds from time to time. As of the Closing Date, Union Bank, N.A. shall be the Majority Holder.

*“Mandatory Tender Date”* means the date on which the Bonds are subject to mandatory tender for purchase on the Bank Purchase Date pursuant to Section 4.07(b) of the Indenture.

*“Mandatory Tender Purchase Price”* means an amount equal to 100% of the principal amount of the Bonds subject to mandatory tender for purchase on the Mandatory Tender Date.

*“Margin Stock”* has the meaning set forth in Regulation U promulgated by the FRB, as now and hereafter from time to time in effect.

*“Material Adverse Effect”* on a Person means: (a) a material impairment of the ability of such Person to perform its obligations under any Related Document to which it is a party; or (b) a material adverse effect upon the legality, validity, binding effect or enforceability against such Person of any Related Document to which it is a party.

*“Maximum Interest Rate”* means the maximum rate of interest on the relevant obligation permitted by applicable law.

*“Moody’s”* means Moody’s Investors Service, a corporation organized and existing under the laws of the State of New York, its successors and their assigns, or, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, any other nationally recognized securities rating agency designated by the City by notice to the Authority, the Bank and the Trustee.

*“Non-Bank Transferee”* has the meaning set forth in Section 9.13(c) hereof.

*“Obligations”* means all amounts payable by the Authority or the City, as applicable, and all other obligations to be performed by the Authority or the City, as applicable, pursuant to this Agreement and the other Related Documents (including any amounts to reimburse the Bank for any advances or expenditures by it under any of such documents).

*“Other Taxes”* means all present or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies arising from any payment made hereunder or under any other Related Document or from the execution, delivery or enforcement of, or otherwise with respect to, this Agreement or any other Related Document.

*“Outstanding”* has the meaning set forth in the Indenture.

“*Patriot Act*” means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Title III of Pub. L. 107-56 (signed into law October 26, 2001).

“*Permitted Encumbrances*” has the meaning set forth in the Sublease.

“*Person*” means an individual, corporation, firm, association, partnership, trust or other legal entity or group of entities, including a governmental entity or any agency or political subdivision thereof.

“*Property*” means any interest in any kind of property or asset, whether real, personal or mixed, or tangible or intangible, whether now owned or hereafter acquired.

“*Purchaser Rate*” means, for any day and with respect to any Unremarketed Bond, the rate of interest per annum equal to (i) for any day commencing on the Mandatory Tender Date up to and including the thirtieth (30th) day next succeeding the Mandatory Tender Date, the sum of the Base Rate from time to time in effect *plus* one percent (1.0%) and (ii) commencing on the thirty-first (31st) day next succeeding the Mandatory Tender Date and thereafter, the sum of the Base Rate from time to time in effect *plus* two percent (2.0%); *provided* that immediately and automatically upon the occurrence of an Event of Default (and without any notice given with respect thereto) and during the continuance of such Event of Default, “*Purchaser Rate*” shall mean the Default Rate.

“*Rating Agency*” has the meaning set forth in the Indenture.

“*Rating Letters*” has the meaning set forth in Section 4.01(e)(ii) hereof.

“*Reference Rate*” means, for any day, the rate per annum equal to the rate of interest announced or otherwise established by the Bank from time to time as its prime commercial rate as in effect on such day, with any change in the Reference Rate resulting from a change in said prime commercial rate to be effective as of the date of the relevant change in said prime commercial rate (it being acknowledged and agreed that such rate may not be the Bank’s best or lowest rate).

“*Related Documents*” means this Agreement, the Bonds, the Indenture, the Lease and the Sublease.

“*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.

“*Rose Bowl Improvements*” means the additions and improvements to the Leased Property generally described in Exhibit C to the Sublease.

“*S&P*” means Standard & Poor’s, a division of The McGraw-Hill Companies, Inc., a corporation organized and existing under the laws of the State of Delaware, its successors and their assigns, or, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, any other nationally recognized securities rating agency designated by the City by notice to the Authority, the Bank and the Trustee.

“*State*” means the State of California.

“*Sublease*” means the Amended and Restated Sublease dated as of May 1, 2011, as amended and supplemented by the First Amendment to Amended and Restated Sublease dated as of January 15, 2013, each by and between the Authority and the City, and all future amendments and supplements thereto in accordance with the terms hereof and thereof and of the Indenture.

“*Swap Contract*” means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc. or any International Foreign Exchange Master Agreement, including any such obligations or liabilities thereunder.

“*Swap Termination Payment*” means, with respect to any one or more Swap Contract, after taking into account the effect of any legally enforceable netting agreement relating to such swap contracts, the termination value(s) determined in accordance with such swap contract.

“*Taxable Date*” means the date as of which interest on the 2013A Bonds is first included in gross income of the Bondholder (including, without limitation, any previous Bondholder) thereof as a result of an Event of Taxability as such a date is established pursuant to either (i) a Determination of Taxability or (ii) an opinion of Bond Counsel.

“*Taxable Period*” has the meaning set forth in Section 3.02(b) hereof.

“*Taxable Rate*” means, with respect to a Taxable Period, the product of (i) the average Bank Index Interest Rate during such period and (ii) 1.54.

“*Taxes*” means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

“*Trustee*” means Union Bank, N.A. and its successors and assigns, as Trustee hereunder as provided in Article VIII of the Indenture.

“*2006 Bonds*” means the \$\_\_\_\_\_ aggregate principal amount of the Pasadena Public Financing Authority Variable Rate Demand Lease Revenue Bonds (Rose Bowl Refinancing and Improvement Projects), Series 2006.

“*2013A Bonds*” has the meaning set forth in the recitals hereof.

“*2013B Bonds*” has the meaning set forth in the recitals hereof.

“*United States*” and “*U.S.*” mean the United States of America.

“*Unremarketed Bonds*” means Bonds with respect to which the Bank has not received payment of the Mandatory Tender Purchase Price, if any, on the Mandatory Tender Date.

“*Weekly Rate*” has the meaning set forth in the Indenture.

*Section 1.02. Computation of Time Periods.* In this Agreement, in the computation of a period of time from a specified date to a later specified date, the word “from” means “from and including” and the words “to” and “until” each mean “to but excluding.”

*Section 1.03. Construction.* Unless the context of this Agreement otherwise clearly requires, references to the plural include the singular, to the singular include the plural and to the part include the whole. The word “including” shall be deemed to mean “including but not limited to,” and “or” has the inclusive meaning represented by the phrase “and/or.” The words “hereof,” “herein,” “hereunder” and similar terms in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement. The Section headings contained in this Agreement and the table of contents preceding this Agreement are for reference purposes only and shall not control or affect the construction of this Agreement or the interpretation thereof in any respect. Section, subsection and exhibit references are to this Agreement unless otherwise specified.

*Section 1.04. Incorporation of Certain Definitions by Reference.* Any capitalized term used herein and not otherwise defined herein shall have the meaning provided therefor in the Indenture, the Lease and the Sublease.

*Section 1.05. Accounting Terms and Determinations.* Unless otherwise specified herein, all accounting terms used herein shall be interpreted, all accounting determinations hereunder shall be made, and all financial statements required to be delivered hereunder shall be prepared, in accordance with Generally Accepted Accounting Principles. In the event of changes to Generally Accepted Accounting Principles which become effective after the Closing Date, the Authority and the Bank agree to negotiate in good faith appropriate revisions of this Agreement so as to perpetuate the meaning and effect of such provisions as originally negotiated and agreed upon.

*Section 1.06. Relation to Other Documents; Acknowledgment of Different Provisions of Related Documents; Incorporation by Reference.* (a) Nothing in this Agreement shall be deemed to amend or relieve the Authority or the City of their respective obligations under any Related Documents to which it is a party. Conversely, to the extent that the provisions of any Related Document allow the Authority or the City, as applicable, to take certain actions, or not to take certain actions, with regard for example to permitted liens, incurrence of Debt, transfers of assets, maintenance of financial ratios and similar matters, the Authority or the City, as applicable, nevertheless shall be fully bound by the provisions of this Agreement.

(b) Except as provided in subsection (c) of this Section 1.06, all references to other documents shall be deemed to include all amendments, modifications and supplements thereto to the extent such amendment, modification or supplement is made in accordance with the provisions of such document and this Agreement.

(c) All provisions of this Agreement making reference to specific Sections of any Related Document shall be deemed to incorporate such Sections into this Agreement by reference as though specifically set forth herein (with such changes and modifications as may be herein provided) and shall continue in full force and effect with respect to this Agreement notwithstanding payment of all amounts due under or secured by the Related Documents, and, except as provided in the next sentence, the termination or defeasance thereof or any amendment thereto or any waiver given in connection therewith, so long as this Agreement is in effect and until all Obligations are paid in full. No amendment, modification, consent, waiver or termination with respect to any of such Sections shall be effective as to this Agreement until specifically agreed to in writing by the parties hereto with specific reference to this Agreement.

## ARTICLE II

### PURCHASE OF BONDS

*Section 2.01. Purchase of Bonds.* (a) *Purchase Price.* Upon the conditions set forth in Article IV and based on the representations, warranties and covenants of the Authority and the City set forth herein and in the Related Documents to which it is a party, the Bank hereby agrees to purchase from the Authority, and the Authority hereby agrees sell to the Bank, all, but not less than all, of the Bonds at an aggregate purchase price of \$\_\_\_\_\_ (the "*Bond Purchase Price*"). The Bonds are to be dated the date of delivery thereof, and are to mature, be subject to redemption prior to maturity and bear interest as set forth in the Indenture.

(b) *Closing.* On the Closing Date, the Authority or the City, as applicable, shall deliver to the Bank at the offices of Bond Counsel or at such other place as the parties hereto may mutually agree upon, the documents described in Article IV hereof. Upon delivery of such documents, the Bank will pay the full Purchase Price for the Bonds by immediately available federal funds payable to the Trustee. One fully registered 2013A Bond and one fully registered 2013B Bond in definitive certificated form in the aggregate principal amount equal to the Bond Purchase Price shall be issued to and registered in the name of the Bank or as otherwise directed by the Bank. On the Closing Date, the Bonds shall not be assigned a separate rating by a Rating Agency and no CUSIP number shall be assigned to the Bonds.



## ARTICLE III

### THE AUTHORITY'S AND THE CITY'S OBLIGATIONS

*Section 3.01. Payment Obligations.* (a) Subject to Section 3.05 hereof, the Authority or the City, as applicable, hereby unconditionally, irrevocably and absolutely agrees to make prompt and full payment of all payment obligations owed to the Bank under the Related Documents and to pay any other Obligations owing to the Bank whether now existing or hereafter arising, irrespective of their nature, whether direct or indirect, absolute or contingent, with interest thereon at the rate or rates provided in such Related Document under such Obligations.

(b) In the event the Bank has not received the Mandatory Tender Purchase Price on the Mandatory Tender Date, the Authority shall cause the Unremarketed Bonds to be redeemed on the Mandatory Tender Date; *provided* that, if the Authority is required to redeem Unremarketed Bonds as set forth above and (i) no Default or Event of Default shall have occurred and be continuing and (ii) the representations and warranties set forth in Article V hereof shall be true and correct in all material respects on the Mandatory Tender Date, then the Authority and the City shall cause the principal amount of such Bonds to be redeemed in installments payable on each Amortization Payment Date (each such payment, an "*Amortization Payment*"), with the final installment in an amount equal to the entire then-outstanding principal amount of such Bonds to be redeemed on the Amortization End Date (the period commencing on the Mandatory Tender Date and ending on the Amortization End Date is herein referred to as the "*Amortization Period*"). Each Amortization Payment shall be that amount of principal which will result in equal (as nearly as possible) aggregate Amortization Payments over the Amortization Period. During the Amortization Period, interest on Unremarketed Bonds shall accrue at the Purchaser Rate and be payable monthly in arrears on the first Business Day of each calendar month.

(c) The City shall pay to the Bank, as Additional Rental, within thirty (30) days after demand:

(i) if an Event of Default shall have occurred, all reasonable costs and expenses of the Bank in connection with the enforcement (whether by means of legal proceedings or otherwise) of any of its rights under this Agreement, the other Related Documents and such other documents which may be delivered in connection therewith;

(ii) a fee for each amendment of any Related Document, consent by the Bank or waiver by the Bank under any Related Document, in each case in a minimum amount of \$3,000;

(iii) the reasonable fees and out-of-pocket expenses for counsel or other reasonably required consultants to the Bank in connection with advising the Bank as to its rights and responsibilities under this Agreement and the other Related Documents or in connection with responding to requests from the Authority or the City for approvals, consents and waivers;

(iv) any amounts advanced by or on behalf of Bank to the extent required to cure any Default, Event of Default or event of nonperformance hereunder or any Related Document, together with interest at the Default Rate, payable on demand; and

(v) all reasonable fees, costs and expenses of any consultants providing services to the Authority or the Bank in accordance with this Agreement.

In addition, if at any time any Governmental Authority shall require revenue or other documentary stamps or any other tax in connection with the execution or delivery of this Agreement or other Related Documents, then, if the City lawfully may pay for such stamps, taxes or fees, the City shall pay as Additional Rental, when due and payable, for all such stamps, taxes and fees, including interest and penalties thereon, and the City agrees, to the extent permitted by law, to save the Bank harmless from and against any and all liabilities with respect to or resulting from any delay of the City in paying, or omission of the City to pay, such stamps, taxes and fees hereunder.

*Section 3.02. Increased Payments.* (a) If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, liquidity ratio, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or advances, loans or other credit extended or participated in by, the Bank or any Bondholder;

(ii) subject the Bank or any Bondholder to any Tax of any kind whatsoever with respect to this Agreement or the Bond, or change the basis of taxation of payments to the Bank or such Bondholder in respect thereof (except for Indemnified Taxes or Other Taxes covered by Section 3.02(e) hereof and the imposition of, or any change in the rate of any Excluded Tax payable by the Bank or such Bondholder); or

(iii) impose on the Bank or any Bondholder any other condition, cost or expense affecting this Agreement or the Bonds;

and the result of any of the foregoing shall be to increase the cost to the Bank or such Bondholder of owning the Bonds, or to reduce the amount of any sum received or receivable by the Bank or such Bondholder hereunder or under the Bonds (whether of principal, interest or any other amount) then, upon written request of the Bank or such Bondholder as set forth in clause (C) of this Section, the City shall promptly pay to the Bank or such Bondholder as Additional Rental, as the case may be, such additional amount or amounts as will compensate the Bank or such Bondholder, as the case may be, for such additional costs incurred or reduction suffered.

(b) *Capital Requirements.* If the Bank or any Bondholder determines that any Change in Law affecting the Bank or such Bondholder or the Bank's or such Bondholder's parent or holding company, if any, regarding capital requirements, has or would have the effect of reducing the rate of return on the Bank's or such Bondholder's or the Bank's or such Bondholder's parent or holding company holding, if any, as a consequence of this Agreement, or ownership of the Bonds, to a level below that which the Bank or such Bondholder or the Bank's

or such Bondholder's parent or holding company could have achieved but for such Change in Law (taking into consideration the Bank's or such Bondholder's policies and the policies of the Bank's or such Bondholder's parent or holding company with respect to capital adequacy), then from time to time upon written request of the Bank or such Bondholder as set forth in clause (C) of this Section, the City shall promptly pay to the Bank or such Bondholder, as the case may be, as Additional Rental such additional amount or amounts as will compensate the Bank or such Bondholder or the Bank's or such Bondholder's parent or holding company for any such reduction suffered.

(c) *Certificates for Reimbursement.* A certificate of the Bank or any Bondholder setting forth the amount or amounts necessary to compensate the Bank or any such Bondholder or the Bank's or any such Bondholder's parent or holding company, as the case may be, as specified in paragraph (a) or (b) of this Section and delivered to the Borrower, shall be conclusive absent manifest error. The City shall pay the Bank or any such Bondholder, as the case may be, as Additional Rental the amount shown as due on any such certificate within thirty (30) days after receipt thereof.

(d) *Delay in Requests.* Failure or delay on the part of the Bank or any such Bondholder to demand compensation pursuant to this Section shall not constitute a waiver of the Bank's or any such Bondholder's right to demand such compensation.

(e) *Determination of Taxability.* (i) In the event a Determination of Taxability occurs with respect to the 2013A Bonds, to the extent not payable to the Bank, as Bondholder of the 2013A Bonds, under the terms of the Indenture and the 2013A Bonds, the City hereby agrees to pay as Additional Rental to the Authority or the Bank, as Bondholder of the 2013A Bonds, as required pursuant to the terms of the Sublease, on demand therefor (1) an amount equal to the difference between (A) the amount of interest that would have been paid to the Bank, as Bondholder of the 2013A Bonds on the 2013A Bonds during the period for which interest on the Bonds is included in the gross income of the Bank, as Bondholder of the 2013A Bonds, if the 2013A Bonds had borne interest at the Taxable Rate, beginning on the Taxable Date (the "*Taxable Period*"), and (B) the amount of interest actually paid to the Bank, as Bondholder of the 2013A Bonds, during the Taxable Period, and (2) an amount equal to any interest, penalties or charges owed by the Bank, as Bondholder of the 2013A Bonds, as a result of interest on the 2013A Bonds becoming included in the gross income of such Bondholder of the 2013A Bonds (or, if applicable, the Bank), together with any and all attorneys' fees, court costs, or other out-of-pocket costs incurred by the Bank, as Bondholder of the 2013A Bonds, in connection therewith.

(ii) Subject to the provisions of clauses (iii) and (iv) below, the Bank, as Bondholder of the 2013A Bonds, shall afford the Authority and/or the City the opportunity, at its sole cost and expense, to contest (1) the validity of any amendment to the Code which causes the interest on the 2013A Bonds to be included in the gross income of the Bank, as Bondholder of the 2013A Bonds, or (2) any challenge to the validity of the tax exemption with respect to the interest on the 2013A Bonds, including the right to direct the necessary litigation contesting such challenge (including administrative audit appeals).

(iii) As a condition precedent to the exercise by the Authority and/or the City of its right to contest set forth in clause (ii) above, the City shall, on demand, immediately reimburse the Bank, as Bondholder of the 2013A Bonds, (as Additional Rental) for any and all expenses (including attorneys' fees for services that may be required or desirable, as determined by the Bank, as Bondholder of the 2013A Bonds, in its sole discretion) that may be incurred by the Bank in connection with any such contest, and shall, on demand, immediately reimburse the Bank for any and all penalties or other charges payable by the Bank, as Bondholder of the 2013A Bonds, for failure to include such interest in its gross income; and

(iv) The obligations of the Authority and the City under this Section 3.02(b) shall survive the termination of this Agreement, the termination of any of the other Related Documents, and the redemption or other payment in full of the of the 2013A Bonds.

(f) *Default Rate.* Upon the occurrence of an Event of Default, the Obligations shall bear interest at the Default Rate, which shall be payable by the Authority to each Bondholder (or, if applicable, the Bank) upon demand therefor.

(g) *Maximum Interest Rate.* (i) If the amount of interest payable for any period in accordance with the terms hereof or the Bonds exceeds the amount of interest that would be payable for such period had interest for such period been calculated at the Maximum Interest Rate, then interest for such period shall be payable in an amount calculated at the Maximum Interest Rate.

(ii) Any interest that would have been due and payable for any period but for the operation of the immediately preceding subclause (i) shall accrue and be payable as provided in this subclause (ii) and shall, less interest actually paid to each Bondholder for such period, constitute the "Excess Interest Amount." If there is any accrued and unpaid Excess Interest Amount as of any date, then the principal amount with respect to which interest is payable shall bear interest at the Maximum Interest Rate until payment to each Bondholder of the entire Excess Interest Amount.

(iii) Notwithstanding the foregoing, on the date on which no principal amount with respect to the Bonds remains unpaid to the Bondholders holding Bonds bearing interest at the Bank Index Interest Rate or Bank Term Rate, as applicable, the City shall pay to each Bondholder as Additional Rental a fee equal to any accrued and unpaid Excess Interest Amount.

(h) *Taxes.*

(i) *Payments Free of Taxes.* Any and all payments by or on account of any obligation of the Authority and/or the City hereunder or under the Bonds shall be made free and clear of and without reduction or withholding for any Indemnified Taxes or Other Taxes; provided that if the Authority and/ or the City shall be required by applicable Law to deduct any Indemnified Taxes (including any Other Taxes) from such

payments, then (A) the sum payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section) the Bank or such Bondholder receives an amount equal to the sum it would have received had no such deductions been made, (B) the Authority and/or the City shall make such deductions and (C) the Authority and/or the City shall timely pay the full amount deducted to the relevant Governmental Authority in accordance with applicable Law.

(ii) *Payment of Other Taxes by the Borrower.* Without limiting the provisions of paragraph (i) above, the Authority and/or the City shall timely pay any Other Taxes, as Additional Rental, to the relevant Governmental Authority in accordance with Applicable Law.

(iii) *Indemnification by the Borrower.* The Authority and/or the City shall indemnify the Bank and each other Bondholder, within thirty (30) days after demand therefor, for the full amount of any Indemnified Taxes or Other Taxes (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section) paid by the Bank or such Bondholder and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority; *provided* that the Borrower shall not be obligated to reimburse the Bank or any Bondholder for any penalties, interest or expenses relating to Indemnified Taxes and Other Taxes arising from such indemnified party's own gross negligence or willful misconduct. A certificate stating the amount of such payment or liability delivered to the City and the Authority by the Bank or such Bondholder shall be conclusive absent manifest error. In addition, the Authority and/or the City shall indemnify the Bank and the other Bondholders, within thirty (30) days after demand therefor, for any incremental Taxes that may become payable by the Bank or any Bondholder as a result of any failure of the Authority and/or the City to pay any Taxes when due to the appropriate Governmental Authority or to deliver to the Bank and the other Bondholders, pursuant to clause (d), documentation evidencing the payment of Taxes.

(iv) *Evidence of Payments.* As soon as practicable after any payment of Indemnified Taxes or Other Taxes by the Authority and/or the City to a Governmental Authority, the Authority and/or the City shall deliver to the Bank or such other Bondholder, as applicable, the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Bank or such Bondholder, as applicable.

(iv) *Treatment of Certain Refunds.* If the Bank or any other Bondholder has received a refund of any Taxes or Other Taxes as to which it has been indemnified pursuant to this Section (including additional amounts paid by the Borrower pursuant to this Section), it shall pay to the applicable indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid,

under this Section with respect to the Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses of the Bank or such Bondholder, as applicable, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); *provided* that the applicable indemnifying party, upon the request of the Bank or such Bondholder, as applicable, agrees to repay the amount paid over pursuant to this Section (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Bank or such Bondholder, as applicable, in the event the Bank or such Bondholder, as applicable, is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph (v), in no event will the Bank or such Bondholder, as applicable, be required to pay any amount to an indemnifying party pursuant to this paragraph (v) the payment of which would place the Bank or such Bondholder, as applicable, in a less favorable net after-Tax position than the Bank or such Bondholder, as applicable, would have been in if the indemnification payments or additional amounts giving rise to such refund had never been paid. This paragraph shall not be construed to require the Bank or such Bondholder, as applicable, to make available its tax returns (or any other information relating to its taxes which it deems confidential) to the Authority, the City or any other Person.

(i) *Survival.* The obligations of the Authority and the City under this Section 3.02 shall survive the termination of this Agreement and the redemption or other payment in full of the Bonds.

*Section 3.03. Obligations Absolute.* The payment obligations of the Authority or the City, as applicable, under this Agreement shall be unconditional and irrevocable and shall be paid strictly in accordance with the terms of this Agreement under all circumstances, including without limitation the following:

(a) any lack of validity or enforceability of this Agreement, the Bonds or any of the other Related Documents;

(b) any amendment or waiver of or any consent to departure from all or any of the Related Documents;

(c) the existence of any claim, set-off, defense or other right which the Authority may have at any time against the Bank, any other Bondholder or any other person or entity, whether in connection with this Agreement, the other Related Documents, the transactions contemplated herein or therein or any unrelated transaction; or

(d) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing.

Notwithstanding this Section, the Bank acknowledges the Authority or the City, as applicable, may have the right to bring a collateral action with respect to one or more of the foregoing circumstances. The Authority's or the City's payment obligations, as applicable, shall remain in full force and effect pending the final disposition of any such action. All fees payable

pursuant to this Agreement shall be deemed to be fully earned when due and non-refundable when paid.

Notwithstanding the foregoing or any other term or payment obligation set forth herein, the City shall have no obligation to make Lease Payments under the Sublease in excess of the maximum annual fair market rental value of the Leased Property. The City hereby represents and warrants that its obligations to make Lease Payments and the obligations of the City under this Agreement are payable in accordance with the provisions of the Sublease solely as Lease Payments or Additional Rents (subject to the preceding sentence) and the amounts on deposit with the Trustee and held by the Trustee under the Bond Indenture. The City further represents and warrants that the obligations of the City under the Sublease to make the Lease Payments are payable from the General Fund of the City and any other legally available funds of the City.

*Section 3.04. Optional Redemption or Conversion Fee.* The City shall pay to the Bank as Additional Rental an optional redemption or conversion fee in connection with each optional redemption of all or any portion of the Bonds or each conversion of the interest rate on all or any portion of the Bonds from the Bank Index Interest Rate or Bank Term Rate, as applicable, prior to the first anniversary of the Closing Date, in an amount equal to (i) with respect to the 2013A Bonds, the product of (A) the Applicable Spread in effect on the date of optional redemption or conversion, as applicable, (B) the principal amount of the 2013A Bonds to be optionally redeemed or converted to an interest rate other than the initial Bank Index Interest Rate, and (C) a fraction, the numerator of which is equal to the number of days from and including the date of such optional redemption or conversion, as applicable, to and including the first anniversary of the Closing Date, and the denominator of which is 365, or (ii) with respect to the 2013B Bonds, the product of (A) the interest rate on the 2013B Bonds less the Bank's cost of funds with respect thereto, (B) the principal amount of the 2013B Bonds to be optionally redeemed or converted to an interest rate other than the initial Bank Term Rate, and (C) a fraction, the numerator of which is equal to the number of days from and including the date of such optional redemption or conversion, as applicable, to and including the first anniversary of the Closing Date, and the denominator of which is 360, in either case, payable on the date that all or any portion of the 2013A Bonds or 2013B Bonds, as applicable, are optionally redeemed or the date on which the interest rate on all or any portion of the Bonds are converted to bear interest at a rate other than the initial Bank Index Interest Rate or initial Bank Term Rate, as applicable; *provided, however*, that no redemption or conversion fee that shall be due and payable in the event that the Bank requests compensation from the City for increased costs imposed upon the Bank pursuant to Section 3.02 hereof. After the first anniversary of the Closing Date, the Authority may optionally redeem all or any portion of the Bonds or convert the interest rate on all or any portion of the Bonds from the initial Bank Index Interest Rate or initial Bank Term Rate, as applicable, to a different interest rate mode (including a subsequent Bank Index Interest Rate or a subsequent Bank Term Rate) upon giving the Bank at least thirty (30) days prior written notice.

*Section 3.05. City's Obligations Are Payable Pursuant to Terms of Sublease.* Notwithstanding anything herein to the contrary (including, without limitation, Sections 3.01, 3.02, 3.03, 3.04, 7.02 and 8.01 hereof): (a) any payment in any year with respect to the City's obligations hereunder and under the Bonds, to the extent such payments in the aggregate are in excess of the fair rental value of the Leased Property and the Excess Amount in such year, shall

be subject to appropriation by the City in such year; and (b) following an Event of Default hereunder or a default under the Sublease, rental payments payable by the City under the Sublease shall not be accelerated.

*Section 3.06. Funding Indemnity.* In the event the Bank shall incur any loss, cost, or expense (including, without limitation, any loss, cost, or expense incurred by reason of the liquidation or reemployment of deposits or other funds acquired or contracted to be acquired by the Bank to purchase or hold the Bonds or the relending or reinvesting of such deposits or other funds or amounts paid or prepaid to the Bank) as a result of any redemption of the Bonds, with respect to Bonds bearing interest at a Bank Index Interest Rate, on a date other than an Interest Payment Date or a Bank Purchase Date and with respect to Bonds bearing interest at a Bank Term Rate, on a date other than a Bank Purchase Date, for any reason, whether before or after default, and whether or not such payment is required by any provision of this Agreement or the Indenture, then upon the demand of the Bank, the City shall pay to the Bank a redemption premium in such amount as will reimburse the Bank for such loss, cost, or expense. If the Bank requests such redemption premium, it shall provide to the City a certificate setting forth the computation of the loss, cost, or expense giving rise to the request for such redemption premium in reasonable detail and such certificate shall be conclusive if reasonably determined.

#### **ARTICLE IV**

##### **CONDITIONS PRECEDENT TO PURCHASE OF BONDS**

*Section 4.01. Documentary Requirements.* The obligation of the Bank to purchase the Bonds is subject to the conditions precedent that the Bank shall have received, on or before the Closing Date, the items listed below in this Section, each dated and in form and substance as is satisfactory to the Bank. However, should the Bank purchase the Bonds prior to its receipt and approval of any of the following items, such purchase shall not be deemed to be a waiver of any documentary requirement.

- (a) The following organizational documents of the Authority and the City:
  - (i) copies of the resolutions of the Authority approving the execution and delivery of the Related Documents to which the Authority is a party, approving the form of the Related Documents to which it is not a party and the other matters contemplated hereby, certified by an Authorized Representative of the Authority as being true and complete and in full force and effect on the Closing Date;
  - (ii) copies of the resolutions of the City approving the execution and delivery of the Related Documents to which the City is a party, approving the form of the Related Documents to which it is not a party and the other matters contemplated hereby, certified by the Authorized Representative of the City as being true and complete and in full force and effect on the Closing Date;



(iii) the audited annual financial statements for the City for its Fiscal Year ended June 30, 2011;

(iv) a copy of the City's Investment Policy in effect as of the Closing Date;

(v) a certificate of an Authorized Representative of the Authority certifying the names and signatures of the persons authorized to sign, on behalf of the Authority, the Related Documents to which it is a party and the other documents to be delivered by it hereunder or thereunder; and

(vi) a certificate of an Authorized Representative of the City certifying the names and signatures of the persons authorized to sign, on behalf of the City, the Related Documents to which it is a party and the other documents to be delivered by it hereunder or thereunder.

(b) The following financing documents:

(i) an executed original, or certified copy, as applicable, of each Related Document; and

(ii) executed originals of the 2013A Bond and 2013B Bond delivered to the Bank.

(c) The following opinions, addressed to the Bank and Trustee or on which the Bank and Trustee is otherwise expressly authorized to rely:

(i) from counsel to the Authority, as to the due execution and delivery of the Related Documents, the enforceability of each Related Document to which the Authority is a party and such other matters as the Bank may reasonably request;

(ii) from counsel to the City, as to the due execution and delivery of the Related Documents, the enforceability of each Related Document to which the City is a party and such other matters as the Bank may reasonably request; and

(iii) from Bond Counsel, in form and substance satisfactory to the Bank.

(d) The following certificates:

(i) A certificate of the Authority dated the Closing Date stating that:

(A) the representations and warranties contained in Section 5.02 of this Agreement and the other Related Documents are true and correct on and as of the Closing Date as though made on such date; and

(B) no Default or Event of Default has occurred and is continuing, or would result from the execution, delivery or performance of this Agreement or any other Related Document to which the Authority is a party.

(ii) A certificate of the City dated the Closing Date stating that:

(A) the representations and warranties contained in Section 5.01 of this Agreement and the other Related Documents are true and correct on and as of the Closing Date as though made on such date;

(B) no Default or Event of Default has occurred and is continuing, or would result from the execution, delivery or performance of this Agreement or any other Related Document to which the City is a party;

(C) there has been no event or circumstance since the date of the audited annual financial statements for the Fiscal Year ended June 30, 2011, that has had or could be reasonably expected to have, either individually or in the aggregate, a Material Adverse Effect on the City;

(D) to the best knowledge of the City, the Current Long-Term Parity Ratings have not been withdrawn, suspended or reduced since the date of the Rating Letters.

(e) The following documents and other information:

(i) a copy of all documentation relating to any Swap Contract the City is a counterparty to; and

(ii) written evidence (the "*Rating Letters*") that the long-term unenhanced indebtedness that constitutes a general fund lease obligation of the City has been assigned a long-term rating of "AA+," (or its equivalent) from S&P and "AA+" (or its equivalent) from Fitch (the "*Current Long-Term Parity Ratings*").

*Section 4.02. Credit Requirements.* Prior to the Closing Date, the Bank shall have determined, in its sole discretion, based in part upon the information and reports submitted by the Authority, that the Authority meets the Bank's credit requirements.

*Section 4.03. Litigation.* On or prior to the Closing Date, the Bank shall have received a written description of all actions, suits or proceedings pending or, to the Authority's or City's knowledge, threatened against the Authority or the City, as applicable, or any of its Affiliates in any court or before any arbitrator of any kind or before or by any governmental or non-governmental body which could reasonably be expected to result in a Material Adverse

Effect on the City or the Authority, if any, and such other statements, certificates, agreements, documents and information with respect thereto as the Bank may reasonably request.

*Section 4.04. Payment of Fees and Expenses.* On or prior to the Closing Date, the Bank shall have received reimbursement of the Bank's reasonable fees and expenses in an amount not to exceed \$20,000.

*Section 4.05. Evidence of Insurance.* The Bank shall have received evidence satisfactory to it that the insurance policies required by Section 5.01(s) hereof are in full force and effect on the Closing Date.

*Section 4.06. Other Matters.* All other legal matters pertaining to the execution and delivery of this Agreement and the Related Documents shall be satisfactory to the Bank and its counsel, and the Bank shall have received such other statements, certificates, agreements, documents and information with respect to the Authority and the other parties to the Related Documents and matters contemplated by this Agreement as the Bank may reasonably request.

## ARTICLE V

### REPRESENTATIONS AND WARRANTIES

*Section 5.01. Representations of the City.* The City hereby represents and warrants to the Bank and any other Bondholder, as follows:

(a) *Organization and Authorization.* The City is a municipal corporation duly organized and existing under a charter adopted pursuant to the Constitution and the laws of the State.

(b) *Authority to Adopt or Execute Documents.* The City had, as of the date of adoption thereof, full power and authority to adopt its resolution authorizing the execution and delivery of this Agreement and the Related Documents to which it is a party and the transactions contemplated hereby and thereby, and has, or had as of the date of execution and delivery, full power and authority to execute and deliver this Agreement and the Related Documents to which it is a party, and has full power and authority to perform its obligations under each of the foregoing.

(c) *Obligations Legal, Valid and Binding.* (i) This Agreement and the Related Documents to which the City is a party have been duly and validly authorized, executed and delivered and constitute the legal, valid and binding obligations of the City enforceable against the City in accordance with their respective terms, except insofar as enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights and remedies generally, and by general principles of equity.

(ii) The City is neither in default, nor would the execution and delivery of any Related Document to which the City is a party result in a default, (A)

hereunder or under the Related Documents to which it is a party or under any other mortgage, indenture, contract, agreement or undertaking to which it is a party, (B) any order, writ, injunction or decree of any court or governmental body, agency or other instrumentality applicable to it, (C) any law or regulation applicable to it, or (D) any of its Debts, in each case, which default could have a Material Adverse Effect on the City; and no event has occurred which with the giving of notice or the passage of time or both would constitute such a default.

(d) *No Legal Bar.* (i) The City is in compliance with and not in violation under any laws of the State which would adversely affect the City's existence or its powers and authority referred to in Section 4.1(b) hereof.

(ii) The execution, delivery and performance by the City of this Agreement and the Related Documents to which it is a party, and all other agreements and instruments relating to all the foregoing executed and delivered by the City in connection herewith and therewith (i) do not violate any provision of the laws of the State or any other applicable law, regulation, order, writ, judgment or decree of any court, arbitrator or governmental authority, and (ii) do not violate any provision of, constitute a default under, or result in the creation or imposition of any Lien on any of the assets of the City pursuant to the provisions of, any mortgage, resolution, indenture, contract, agreement or other undertaking to which the City is a party other than the Liens created hereby or by the Related Documents.

(iii) The City is not a party to, or otherwise subject to, any provision contained in any instrument evidencing Debt of the City, any agreement relating thereto or to the Leased Property or any portion thereof, or any other contract or agreement which limits the amount of, or otherwise imposes restrictions on the incurring of, obligations of the City that would adversely affect the ability of the City to perform its obligations hereunder or under any of the Related Documents to which it is a party.

(e) *Consents.* The City has obtained, or will obtain on or before the Closing Date, all consents, permits, licenses and approvals of, and has made all filings, registrations and declarations with, governmental authorities required under law, to authorize the execution, delivery and performance of this Agreement and the Related Documents to which it is a party and all other agreements delivered or to be delivered in connection with any thereof, and all such consents, permits, licenses, approvals, filings, registrations and declarations remain in full force and effect.

(f) *Litigation.* There is no action, suit, investigation or proceeding pending or, to the best of the City's knowledge after due inquiry, threatened against or affecting the City, in which an adverse determination could have a Material Adverse Effect on the City.