

**TOWN OF FAIRFAX  
STAFF REPORT**

**To: Mayor, Members of the Town Council**

**From: Michael Rock, Town Manager**  
**Michael Vivrette, Finance Director** 

**Date: February 1, 2012**

**Subject: Adoption of a Resolution of the Town Council of the Town of Fairfax authorizing the issuance of its 2012 General Obligation Refunding Bonds**

**RECOMMENDATION**

Staff recommends the Town Council:

- (1) Adopt the resolution to Adopt a Resolution with the attached Exhibits A & C-J representing the entire set of documents necessary to refund the 2002 General Obligation bond issue
- (2) Acting as the Fairfax Financing Authority, adopt the resolution, Exhibit B, authorizing the issuance and sale of 2012 General Obligation Revenue Bonds.

**DISCUSSION**

The Town has been working with Mark Pressman, of Wulff, Hansen & Co, on the refunding the 2002 series of General Obligation Bonds. The Council previously approved a scenario where the Refunding of the bonds at a lower interest rate will (1) provide additional funds to the Town for use on Measure K street projects (2) reduce the debt service payments by Fairfax property tax payers and (3) retain the longevity of the present bond issue. Subsequent revisions of the projections for funds the Town can pull out of the refinancing for Capital Projects have been reduced from \$220,500 to \$185,590 to include related discount and issuance costs.

Staff has received the necessary documents from the Bond Council, Dennis Quint, and is proceeding to the next step. Adoption of these resolutions (in addition to the holding of a public hearing) by the Town Council and the Board of Directors of the Fairfax Financing Authority are the only actions required of the Council/Authority.

Staff anticipates with the adoption of this resolution, the schedule will be:

- February 15<sup>th</sup> – Competitive Sale
- March 1 – Close
- March 16<sup>th</sup> – Refund outstanding Bonds

**Convene as the Fairfax Financing Authority**

Resolution 12-\_\_\_, Acting as the Fairfax Financing Authority, The Town Council of the Town of Fairfax authorizing the issuance and sale of 2012 General Obligation Revenue Bonds.

**Re-convene as the Town Council**

Resolution 12-\_\_\_ Acting as the Town Council, The Town of Fairfax authorizing the issuance and sale of its 2012 General Obligation Refunding Bonds.

## **FISCAL IMPACT**

Refunding the General Obligation Refunding Bonds at a lower interest rate will result in an additional \$185,590 of funds for the use by the Town of Measure K projects and a reduction in debt service costs to property owners of approximately \$20,000 (total is for all properties) per year.

## **ATTACHMENTS**

- Exhibit A – Town Resolution authorizing the issuance of the 2012 General Obligation Refunding Bonds
- Exhibit B – Fairfax Financing Authority Resolution authorizing the issuance and Sale of Revenue Bonds for the purpose of Financing the Town of Fairfax General Obligation Refunding Bonds

Also attached are the following documents which are approved by the resolutions:

- Exhibit C – Notice of Intention (to be published advising the prospective bidders of the planned bond sale);
- Exhibit D – Notice of Sale;
- Exhibit E – Indenture (relating to the Authority Bonds);
- Exhibit F – Bond Purchase Agreement (pursuant to which the Authority will purchase the Town's general obligation refunding bonds);
- Exhibit G – Paying Agent Agreement (relating to the Town Bonds);
- Exhibit H – Escrow Agreement (relating to the refunding of the Town's 2002 Bonds);
- Exhibit I – Continuing Disclosure Certificate; and
- Exhibit J – Preliminary Official Statement.

Mark Pressman has given up updated estimates of the costs and proceeds of the Refunding:

- Exhibit K – Refunding Revenue Bonds – Sources & Uses of Funds
- Exhibit L – Refunding General Obligation Bonds – Sources & Uses of Funds
- Exhibit M – Debt Service Schedule and Net Savings Calculations

# EXHIBIT # A

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RESOLUTION 12- \_\_\_\_\_

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF  
FAIRFAX AUTHORIZING THE ISSUANCE AND SALE OF ITS 2012  
GENERAL OBLIGATION REFUNDING BONDS**

Adopted February 1, 2012

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**RESOLUTION 12- \_\_\_\_\_**

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX  
AUTHORIZING THE ISSUANCE AND SALE OF ITS 2012 GENERAL  
OBLIGATION REFUNDING BONDS**

WHEREAS, the Town has heretofore issued its Town of Fairfax (Marin California, California) General Obligation Bonds, Series 2002, dated June 1, 2002, in the principal amount of \$3,000,000, of which \$2,670,000 is currently outstanding (the "Prior Bonds");

WHEREAS, pursuant to Article 9 of Chapter 3 (commencing with section 53550) of Division 2 of Title 5 of the California Government Code (the "Act"), the Town is empowered to issue general obligation refunding bonds;

WHEREAS, the Town intends to issue general obligation refunding bonds pursuant to this resolution and in conformity with the Act to refund all or a portion of the Prior Bonds;

WHEREAS, such refunding bonds shall be issued only if the refunding transaction produces a present value benefit to the Town as compared to the par amount of the Prior Bonds being refunded; and

WHEREAS, this Council now desires to authorize the issuance of such general obligation refunding bonds;

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Council of the Town of Fairfax, as follows:

## ARTICLE I

### DEFINITIONS; AUTHORITY

Section 1.01. Definitions. The terms defined in this Section 1.01, as used and capitalized herein, shall, for all purposes of this Resolution, have the meanings ascribed to them below, unless the context clearly requires some other meaning.

*"Act"* means Article 9 of Chapter 3 (commencing with section 53550) of Division 2 of Title 5 of the California Government Code, as is in effect on the date of adoption hereof and as amended hereafter.

*"Articles," "Sections"* and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Resolution, and the words *"herein," "hereof," "hereunder"* and other words of similar import refer to this Resolution as a whole and not to any particular Article, Section or subdivision hereof.

*"Authority"* means the Fairfax Financing Authority, purchaser of the Bonds on the Closing Date.

*"Authority Bonds"* means the Fairfax Financing Authority (Marin County, California) Revenue Bonds, Series 2012 (Town of Fairfax General Obligation Bond Refinancing Program), to be secured by the Authority's purchase of the Bonds.

*"Authorized Investments"* means any investments permitted by law to be made with moneys belonging to, or in the custody of, the Town, but only to the extent that the same are acquired at Fair Market Value.

*"Bond Counsel"* means any attorney or firm of attorneys nationally recognized for expertise in rendering opinions as to the legality and tax exempt status of securities issued by public entities.

*"Bond Payment Date"* means February 1 and/or August 1, of each year commencing on February 1 or August 1 in such year as shall be set forth in the Bond Purchase Agreement.

*"Bond Purchase Agreement"* means the agreement of that name, dated the date of sale of the Bonds, by and between the Town and the Authority.

*"Bonds"* means the Town of Fairfax (Marin County, California) 2012 General Obligation Refunding Bonds at any time Outstanding pursuant to this Resolution, bearing interest at the rate set forth in the Bond Purchase Agreement.

*"Closing Date"* means the date upon which there is an exchange of Bonds for the proceeds representing the purchase price of the Bonds by the Authority.

*"Code"* means the Internal Revenue Code of 1986 as in effect on the date of issuance of the Bonds or (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the date of issuance of the Bonds, together with applicable temporary and

final regulations promulgated, and applicable official public guidance published, under the Code.

*"Continuing Disclosure Certificate"* shall mean that certain Continuing Disclosure Certificate executed by the Town and dated the date of issuance and delivery of the Authority Bonds, as originally executed and as it may be amended from time to time in accordance with the terms thereof.

*"Council"* means the Town Council of the Town.

*"Debt Service"* means the scheduled amount of interest and amortization of principal payable on the Bonds during the period of computation, excluding amounts scheduled during such period which relate to principal which has been retired before the beginning of such period.

*"Town Representative"* means the Mayor, the Town Manager, the Finance Director, or any other person authorized by resolution of the Council to act on behalf of the Town with respect to this Resolution and the Bonds.

*"Escrow Account"* is the account of that name established and held under the Escrow Deposit and Trust Agreement.

*"Escrow Deposit and Trust Agreement"* means the agreement of that name, dated the Closing Date, by and between the Town and U.S. Bank National Association, as escrow holder.

*"Fair Market Value"* means the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm's length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of section 1273 of the Code) and, otherwise, the term "Fair Market Value" means the acquisition price in a bona fide arm's length transaction (as referenced above) if (i) the investment is a certificate of deposit that is acquired in accordance with applicable regulations under the Code, (ii) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with applicable regulations under the Code, (iii) the investment is a United States Treasury Security – State and Local Government Series that is acquired in accordance with applicable regulations of the United States Bureau of Public Debt, or (iv) any commingled investment fund in which the Town and related parties do not own more than a ten percent (10%) beneficial interest therein if the return paid by the fund is without regard to the source of the investment.

*"Federal Securities"* means United States Treasury notes, bonds, bills or certificates of indebtedness or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

*"Net Proceeds,"* when used with reference to the Bonds, means the face amount of the Bonds, plus accrued interest and premium, if any, less original issue discount and Authority's discount, if any.

*"Outstanding,"* when used as of any particular time with reference to Bonds, means all Bonds except:

(a) Bonds theretofore canceled by the Paying Agent or surrendered to the Paying Agent for cancellation;

(b) Bonds paid or deemed to have been paid within the meaning of Section 9.02 hereof; and

(c) Bonds in lieu of or in substitution for which other Bonds shall have been authorized, executed, issued and delivered by the Town pursuant to the Resolution.

*"Owner"* or *"Bondowner"* mean any person who shall be the registered owner of any Outstanding Bond.

*"Participating Underwriter"* shall have the meaning ascribed thereto in the Continuing Disclosure Certificate.

*"Paying Agent"* means U.S. Bank National Association, as paying agent, registrar and authenticating agent for the Bonds, its successors and assigns, and any other corporation or association which may at any time be substituted in its place, as provided in Section 6.01 hereof.

*"Principal Office"* means the principal corporate trust office of the Paying Agent in San Francisco, California.

*"Prior Bonds"* means the Town of Fairfax (Marin County, California) General Obligation Bonds, Series 2002, dated June 1, 2002, in the principal amount of \$3,000,000, of which \$2,670,000 is currently outstanding.

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

*"Resolution"* means this Resolution.

*"Supplemental Resolution"* means any resolution supplemental to or amendatory of this Resolution, adopted by the Town in accordance with Article VIII hereof.

*"Written Request of the Town"* means an instrument in writing signed by the Town Representative or by any other officer of the Town duly authorized by the Town and listed on a Written Request of the Town for that purpose.

Section 1.02. Authority for this Resolution. This Resolution is entered into pursuant to the provisions of the Act.

## ARTICLE II

### THE BONDS

Section 2.01. Authorization. Bonds in the aggregate principal amount of not to exceed three million one hundred thousand dollars (\$3,100,000) are hereby authorized to be issued by the Town under and subject to the terms of the Act and this Resolution. This Resolution constitutes a continuing agreement with the Owners of all of the Bonds issued or to be issued hereunder and then Outstanding to secure the full and final payment of all Bonds which may from time to time be executed and delivered hereunder, subject to the covenants, agreements, provisions and conditions herein contained. The Bonds shall be designated the "Town of Fairfax (Marin County, California) 2012 General Obligation Refunding Bonds."

#### Section 2.02. Terms of Bonds.

(a) *Form; Numbering*. The Bonds shall be issued as fully registered Bonds, without coupons, in the denomination of \$5,000 each, or any integral multiple thereof (except that the first numbered Bond may be issued in a denomination such that the principal amount of such Bond shall not be in an integral multiple of \$5,000).. Bonds shall be lettered and numbered as the Paying Agent shall prescribe.

(b) *Date of Bonds*. The Bonds shall be shall be dated, and shall accrue interest from, their date of initial issuance.

(c) *Maturities; Interest*. The Bonds shall mature on the dates and shall be issued in the aggregate principal amount and shall accrue interest at the rates set forth in the Bond Purchase Agreement.

(d) *Payment*. The principal of the Bonds is payable in lawful money of the United States of America at the Principal Office of the Paying Agent.

#### Section 2.03. Redemption of Bonds.

(a) *Optional Redemption*. The Bonds shall be subject to optional redemption on such dates and at such redemption prices as shall be determined by the Town Manager prior to the date of sale of the Bonds.

The Town shall be required to give the Paying Agent written notice of its intention to redeem Bonds under this subsection (a), and shall deposit all amounts required for such redemption at least forty-five (45) days prior to the date fixed for such redemption.

(b) *Notice of Redemption*. The Paying Agent on behalf and at the expense of the Town shall mail (by first class mail) notice of any redemption to the respective Owners of any Bonds designated for redemption, at least thirty (30) but not more than sixty (60) days prior to the redemption date, at their respective addresses appearing on the Registration Books, , at least thirty (30) but not more than sixty (60) days prior to the redemption; *provided, however*, that neither failure to receive any such notice so mailed nor any defect therein shall affect the validity of the proceedings for the redemption of such Bonds or the cessation of the accrual of

interest thereon. Such notice shall state the date of the notice, the redemption date, the redemption place and the redemption price and shall designate the CUSIP numbers, the bond numbers and the maturity or maturities (in the event of redemption of all of the Bonds of such maturity or maturities in whole) of the Bonds to be redeemed, and shall require that such Bonds be then surrendered at the Office of the Paying Agent for redemption at the redemption price, giving notice also that further interest on such Bonds will not accrue from and after the redemption date.

(c) *Selection of Bonds for Redemption.* Whenever provision is made for the redemption of Bonds of more than one maturity, the Bonds to be redeemed shall be selected by the Town evidenced by a Written Request filed with the Paying Agent or, absent such selection by the Town, on a *pro rata* basis among the maturities subject to redemption; and in each case, the Paying Agent shall select the Bonds to be redeemed within any maturity by lot in any manner which the Paying Agent in its sole discretion shall deem appropriate and fair. For purposes of such selection, all Bonds shall be deemed to be comprised of separate \$5,000 portions and such portions shall be treated as separate Bonds which may be separately redeemed.

(d) *Partial Redemption of Bonds.* In the event only a portion of any Bond is called for redemption, then upon surrender of such Bond the Town shall execute and the Paying Agent shall authenticate and deliver to the Owner thereof, at the expense of the Town, a new Bond or Bonds of the same series and maturity date, of authorized denominations in aggregate principal amount of the unredeemed portion of the Bond to be redeemed.

(e) *Effect of Redemption.* From and after the date fixed for redemption, if funds available for the payment of the principal of and interest on the Bonds so called for redemption shall have been duly provided, such Bonds so called shall cease to be entitled to any benefit under this Indenture other than the right to receive payment of the redemption price, and no interest shall accrue thereon from and after the redemption date specified in such notice. All Bonds redeemed pursuant to this Section 2.03 shall be canceled and shall be destroyed by the Paying Agent.

Section 2.04. Form of Bonds. The Bonds, the form of the Paying Agent's certificate of authentication and registration and the form of assignment to appear thereon shall be substantially in the forms, respectively, with necessary or appropriate variations, omissions and insertions, as permitted or required by this Resolution, as are set forth in Exhibit 1 attached hereto.

Section 2.05. Execution of Bonds. The Bonds shall be executed on behalf of the Town by the facsimile signatures of the Mayor, the Town Manager or the Finance Director and the Town Clerk who are in office on the date of adoption of this Resolution or at any time thereafter. If any officer whose signature appears on any Bond ceases to be such officer before delivery of the Bonds to the purchaser, such signature shall nevertheless be as effective as if the officer had remained in office until the delivery of the Bonds to the purchaser. Any Bond may be signed and attested on behalf of the Town by such persons as at the actual date of the execution of such Bond shall be the proper officers of the Town although at the nominal date of such Bond any such person shall not have been such officer of the Town.

Only such Bonds as shall bear thereon a certificate of authentication and registration in the form set forth in Exhibit 1 attached hereto, executed and dated by the Paying Agent, shall

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

Section 2.06. Transfer of Bonds. Any Bond may, in accordance with its terms, be transferred, upon the books required to be kept pursuant to the provisions of Section 2.08 hereof, by the person in whose name it is registered, in person or by his duly authorized attorney, upon surrender of such Bond for cancellation at the Principal Office at the Paying Agent, accompanied by delivery of a written instrument of transfer in a form approved by the Paying Agent, duly executed. The Paying Agent shall require the payment by the Owner requesting such transfer of any tax or other governmental charge required to be paid with respect to such transfer.

Whenever any Bond or Bonds shall be surrendered for transfer, the Town shall execute and the Paying Agent shall authenticate and deliver a new Bond or Bonds, for like aggregate principal amount.

No transfers of Bonds shall be required to be made (a) fifteen days prior to the date established by the Paying Agent for selection of Bonds for redemption or (b) with respect to a Bond after such Bond has been selected for redemption.

Section 2.07. Exchange of Bonds. Bonds may be exchanged at the Principal Office of the Paying Agent for a like aggregate principal amount of Bonds of authorized denominations and of the same maturity. The Paying Agent shall require the payment by the Owner requesting such exchange of any tax or other governmental charge required to be paid with respect to such exchange.

No exchanges of Bonds shall be required to be made (a) fifteen days prior to the date established by the Paying Agent for selection of Bonds for redemption or (b) with respect to a Bond after such Bond has been selected for redemption.

Section 2.08. Bond Register. The Paying Agent shall keep or cause to be kept sufficient books for the registration and transfer of the Bonds, which shall at all times be open to inspection by the Town upon reasonable notice; and, upon presentation for such purpose, the Paying Agent shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on said books, Bonds as herein before provided.

Section 2.09. Temporary Bonds. The Bonds may be initially issued in temporary form exchangeable for definitive Bonds when ready for delivery. The temporary Bonds may be printed, lithographed or typewritten, shall be of such denominations as may be determined by the Town, and may contain such reference to any of the provisions of this Resolution as may be appropriate. Every temporary Bond shall be executed by the Town upon the same conditions and in substantially the same manner as the definitive Bonds. If the Town issues temporary Bonds it will execute and furnish definitive Bonds without delay, and thereupon the temporary Bonds may be surrendered, for cancellation, in exchange therefor at the Principal Office of the Paying Agent and the Paying Agent shall deliver in exchange for such temporary Bonds an equal aggregate principal amount of definitive Bonds of authorized denominations. Until so

exchanged, the temporary Bonds shall be entitled to the same benefits pursuant to this Resolution as definitive Bonds executed and delivered hereunder.

Section 2.10. Bonds Mutilated, Lost, Destroyed or Stolen. If any Bond shall become mutilated the Town, at the expense of the Owner of said Bond, shall execute, and the Paying Agent shall thereupon authenticate and deliver, a new Bond of like maturity and principal amount in exchange and substitution for the Bond so mutilated, but only upon surrender to the Paying Agent of the Bond so mutilated. Every mutilated Bond so surrendered to the Paying Agent shall be canceled by it and delivered to, or upon the order of, the Town. If any Bond shall be lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Town and, if such evidence be satisfactory to the Town and indemnity satisfactory to it shall be given, the Town, at the expense of the Owner, shall execute, and the Paying Agent shall thereupon authenticate and deliver, a new Bond of like maturity and principal amount in lieu of and in substitution for the Bond so lost, destroyed or stolen. The Town may require payment of a sum not exceeding the actual cost of preparing each new Bond issued under this Section and of the expenses which may be incurred by the Town and the Paying Agent in the premises. Any Bond issued under the provisions of this Section 2.10 in lieu of any Bond alleged to be lost, destroyed or stolen shall constitute an original additional contractual obligation on the part of the Town whether or not the Bond so alleged to be lost, destroyed or stolen be at any time enforceable by anyone, and shall be equally and proportionately entitled to the benefits of this Resolution with all other Bonds issued pursuant to this Resolution.

## ARTICLE III

### ISSUE OF BONDS; APPLICATION OF BOND PROCEEDS; SECURITY FOR THE BONDS

Section 3.01. Issuance, Award and Delivery of Bonds. At any time after the execution of this Resolution the Town may issue and deliver Bonds in the aggregate principal amount of not to exceed three million one hundred thousand dollars (\$3,100,000).

The Town Manager shall be, and is hereby, directed to cause the Bonds to be printed, signed and sealed, and to be delivered to the Authority on receipt of the purchase price therefor and upon performance of the conditions contained in the Bond Purchase Agreement.

The Paying Agent is hereby authorized to deliver the Bonds to the Authority, upon receipt of a Written Request of the Town.

Section 3.02. Application of Proceeds of Sale of Bonds. On the date of delivery of the Bonds (the "Closing Date"), the proceeds of sale of the Bonds shall be paid by the Authority to the Paying Agent. The Paying Agent shall transfer all of such amounts to the Escrow Bank for deposit in the Escrow Account which, together with funds then held by the Escrow bank, will total the amount needed to refund the Prior Bonds.

Section 3.03. Security for the Bonds. The Bonds shall constitute general obligations of the Town and the Town has the power, is obligated and hereby covenants to levy *ad valorem* taxes upon all property within the Town subject to taxation by the Town, without limitation of rate or amount, for the payment of the Bonds and the interest thereon, in accordance with section 43632 of the California Government Code. Amounts received from the County representing *ad valorem* taxes collected by the County on behalf of the Town shall, as received, be deposited in the Debt Service Account.

## ARTICLE IV

### SALE OF THE BONDS AND AUTHORITY BONDS, APPROVAL OF PAYING AGENT AGREEMENT, APPROVAL OF ESCROW AGREEMENT; OFFICIAL STATEMENT

#### Section 4.01. Sale of the Bonds and the Authority Bonds.

(a) The Council hereby authorizes and approves the sale of the Bonds to the Authority pursuant to and in accordance with the provisions of a bond purchase contract by and between the Town and the Authority, in the form on file with the Town Clerk (the "Bond Purchase Contract"). The Council hereby authorizes and directs the Mayor, the Town Manager or the Finance Director, or any designee thereof, to execute said form of the Bond Purchase Contract, together with any changes therein or additions thereto deemed advisable by such officer, the execution by such officer of the Bond Purchase Contract to constitute conclusive evidence of his approval of any such changes or additions. The Council hereby authorizes the deliver and performance of the Bond Purchase Contract.

(b) The Council hereby approves the competitive sale of the Authority Bonds. The Board hereby approves a notice of intention, in the form on file with the Town Clerk (the "Notice of Intention"), together with any changes therein or additions thereto deemed advisable by the Mayor, the Town Manager or the Finance Director. The Town Clerk is hereby authorized and directed to cause to be published, once at least fifteen (15) days prior to the date to receive bids, the Notice of Intention in *The Bond Buyer*, a financial publication reasonably expected to be disseminated among prospective bidders for the Authority Bonds. The Council hereby approves a notice of sale, in the form on file with the Town Clerk (the "Notice of Sale"), together with any changes therein or additions thereto deemed advisable by the Mayor, the Town Manager or the Finance Director. Wulff, Nansen & Co., financial advisor to the Authority and the Town (the Financial Advisor"), is hereby authorized to cause to be furnished to prospective bidders copies of the Notice of Sale.

The Financial Advisor is hereby authorized and directed, on behalf of the Authority, to receive the bids at the time and place specified in the Notice of Sale, to examine said bids for compliance with the Notice of Sale and to verify the bid with the lowest true interest cost as provided in the Notice of Sale. In the event two or more bids setting forth identical true interest cost are received, the Financial Advisor, on behalf of the Authority, may exercise its own discretion and judgment in making the award and may award the Authority Bonds on a *pro rata* basis in such denominations as he shall determine. The Financial Advisor, on behalf of the Authority, may, in its discretion, reject any and all bids and waive any irregularity or informality in any bid. The Financial Advisor, on behalf of the Authority, shall award the Authority Bonds or reject all bids not later than 24 hours after the expiration of the time prescribed for the receipt of bids unless such time of award is waived by the successful bidder.

Section 4.02. Approval of Paying Agent Agreement. The Paying Agent Agreement, in the form on file with the Town Clerk, together with any additions thereto or changes therein deemed necessary or advisable by the Mayor, the Town Manager or the Finance Director, or any designee thereof, is hereby approved by the Council. The Mayor, the Town Manager or the Finance Director or any designee thereof are hereby authorized and directed to execute the

Paying Agent Agreement for and in the name and on behalf of the Town. The Council hereby authorizes the delivery and performance of the Paying Agent Agreement.

Section 4.03. Approval of Escrow Agreement. The Escrow Agreement, in the form on file with the Town Clerk, together with any additions thereto or changes therein deemed necessary or advisable by the Mayor, the Town Manager, the Finance Director, or any designee thereof, is hereby approved by the Council. The President, or any designee of the Mayor, the Town Manager, the Finance Director and the Town Clerk, or any designee thereof, and the Clerk are hereby authorized and directed to execute the Escrow Agreement for and in the name and on behalf of the Town. The Council hereby authorizes the delivery and performance of the Escrow Agreement.

Section 4.04. Official Statement. The Council hereby approves the Preliminary Official Statement describing the financing, in substantially the form on file with the Town Clerk, together with any changes therein or additions thereto deemed advisable by the Mayor, the Town Manager or the Finance Director, or any designee thereof. The Council authorizes and directs the Mayor, the Town Manager or the Finance Director, or any designee thereof, on behalf of the Town, to deem "final" pursuant to Rule 15c2-12 under the Securities Exchange Act of 1934 (the "Rule") the Preliminary Official Statement prior to its distribution to prospective purchasers of the Bonds.

The Financial Advisor, on behalf of the Town, is authorized and directed to cause the Preliminary Official Statement to be distributed to such persons as may be interested in purchasing the Bonds therein offered for sale.

The Mayor, the Town Manager or the Finance Director, or any designee thereof, is authorized and directed to cause the Preliminary Official Statement to be brought into the form of a final official statement (the "Final Official Statement") and to execute the Final Official Statement, dated as of the date of the sale of the Bonds, and a statement that the facts contained in the Final Official Statement, and any supplement or amendment thereto (which shall be deemed an original part thereof for the purpose of such statement) were, at the time of sale of the Bonds, true and correct in all material respects and that the Final Official Statement did not, on the date of sale of the Bonds, and does not, as of the date of delivery of the Bonds, contain any untrue statement of a material fact with respect to the Town or omit to state material facts with respect to the Town required to be stated where necessary to make any statement made therein not misleading in light of the circumstances under which it was made. The Mayor, the Town Manager or the Finance Director, or any designee thereof, shall take such further actions prior to the signing of the Final Official Statement as are deemed necessary or appropriate to verify the accuracy thereof. The execution of the Final Official Statement, which shall include such changes and additions thereto deemed advisable by the Mayor, the Town Manager or the Finance Director, or any designee thereof, and such information permitted to be excluded from the Preliminary Official Statement pursuant to the Rule, shall be conclusive evidence of the approval of the Final Official Statement by the Town.

The Final Official Statement, when prepared, is approved for distribution in connection with the offering and sale of the Bonds.

Section 4.05. Official Action. All actions heretofore taken by the officers and agents of the Town with respect to the sale and issuance of the Bonds are hereby approved, and the

Mayor, the Town Manager and the Finance Director, or any designee thereof, and any and all other officers of the Town are hereby authorized and directed for and in the name and on behalf of the Town, to do any and all things and take any and all actions relating to the execution and delivery of any and all certificates, requisitions, agreements and other documents, which they, or any of them, may deem necessary or advisable in order to consummate the lawful issuance and delivery of the Bonds in accordance with this resolution.

## ARTICLE V

### OTHER COVENANTS OF THE TOWN

Section 5.01. Punctual Payment. The Town will punctually pay, or cause to be paid, the principal of and interest on the Bonds, in strict conformity with the terms of the Bonds and of this Resolution, and it will faithfully observe and perform all of the conditions, covenants and requirements of this Resolution and of the Bonds. Nothing herein contained shall prevent the Town from making advances of its own moneys, howsoever derived, to any of the uses or purposes permitted by law.

Section 5.02. Extension of Time for Payment. In order to prevent any accumulation of claims for interest after maturity, the Town will not, directly or indirectly, extend or consent to the extension of the time for the payment of any claim for interest on any of the Bonds and will not, directly or indirectly, approve any such arrangement by purchasing or funding said claims for interest or in any other manner. In case any such claim for interest shall be extended or funded, whether or not with the consent of the Town, such claim for interest so extended or funded shall not be entitled, in case of default hereunder, to the benefits of this Resolution, except subject to the prior payment in full of the principal of and interest on the Bonds then Outstanding and of all claims for interest which shall not have so extended or funded.

Section 5.03. Protection of Security and Rights of Bondowners. The Town will preserve and protect the security of the Bonds and the rights of the Bondowners, and will warrant and defend their rights against all claims and demands of all persons. From and after the sale and delivery of any of the Bonds by the Town, the Bonds shall be incontestable by the Town.

Section 5.04. Further Assurances. The Town will adopt, make, execute and deliver any and all such further resolutions, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Resolution, and for the better assuring and confirming unto the Owners of the Bonds of the rights and benefits provided in this Resolution.

#### Section 5.05. Tax Covenants.

(a) *Private Activity Bond Limitation*. The Town shall assure that the proceeds of the Authority Bonds are not so used as to cause the Authority Bonds to satisfy the private business tests of section 141(b) of the Code or the private loan financing test of section 141(c) of the Code.

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

(c) *Rebate Requirement*. The Town shall take any and all actions necessary to assure compliance with section 148(f) of the Code, relating to the rebate of excess investment earnings, if any, to the federal government, to the extent that such section is applicable to the Authority Bonds.

(d) *No Arbitrage*. The Town shall not take, or permit or suffer to be taken by the Trustee or otherwise, any action with respect to the proceeds of the Authority Bonds which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the date of issuance of the Authority Bonds would have caused the Bonds to be "arbitrage bonds" within the meaning of section 148 of the Code.

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

Section 5.06. Acquisition, Disposition and Valuation of Investments.

(a) Except as otherwise provided in subsection (b) of this Section 5.06, the Town covenants that all investments of amounts deposited in any fund or account created by or pursuant to this Resolution, or otherwise containing gross proceeds of the Bonds (within the meaning of section 148 of the Code) shall be acquired, disposed of, and valued (as of the date that valuation is required by this Resolution or the Code) at Fair Market Value.

(b) Investments in funds or accounts (or portions thereof) that are subject to a yield restriction under applicable provisions of the Code shall be valued at their present value (within the meaning of section 148 of the Code).

Section 5.07. Continuing Disclosure. The Town hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate. Notwithstanding any other provision of this Resolution, failure of the Town to comply with the Continuing Disclosure Certificate shall not be considered an event of default; however, any holder or beneficial owner of the Bonds may, take such actions as may be necessary and appropriate to compel performance, including seeking mandate or specific performance by court order.

## ARTICLE VI

### THE PAYING AGENT

Section 6.01. Appointment of Paying Agent. U.S. Bank National Association is hereby appointed Paying Agent for the Bonds. The Paying Agent undertakes to perform such duties, and only such duties, as are specifically set forth in this Resolution, and, even during the continuance of an Event of Default, no implied covenants or obligations shall be read into this Resolution against the Paying Agent. The Paying Agent shall signify its acceptance of the duties and obligations imposed upon it by this Resolution by executing and delivering to the Town a certificate to that effect.

The Town may remove the Paying Agent initially appointed, and any successor thereto, and may appoint a successor or successors thereto, but any such successor shall be a bank or trust company doing business in the State of California, having a combined capital (exclusive of borrowed capital) and surplus of at least fifty million dollars (\$50,000,000), and subject to supervision or examination by federal or state authority. If such bank or trust company publishes a report of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the purposes of this Section 6.01 the combined capital and surplus of such bank or trust company shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

The Paying Agent may at any time resign by giving written notice to the Town and the Bondowners of such resignation. Upon receiving notice of such resignation, the Town shall promptly appoint a successor Paying Agent by an instrument in writing. Any resignation or removal of the Paying Agent and appointment of a successor Paying Agent shall become effective upon acceptance of appointment by the successor Paying Agent.

Section 6.02. Paying Agent May Hold Bonds. The Paying Agent may become the owner of any of the Bonds in its own or any other capacity with the same rights it would have if it were not Paying Agent.

Section 6.03. Liability of Agents. The recitals of facts, covenants and agreements herein and in the Bonds contained shall be taken as statements, covenants and agreements of the Town, and the Paying Agent assumes no responsibility for the correctness of the same, nor makes any representations as to the validity or sufficiency of this Resolution or of the Bonds, nor shall incur any responsibility in respect thereof, other than as set forth in this Resolution. The Paying Agent shall not be liable in connection with the performance of its duties hereunder, except for its own negligence or willful default.

In the absence of bad faith, the Paying Agent may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Paying Agent and conforming to the requirements of this Resolution; but in the case of any such certificates or opinions by which any provision hereof are specifically required to be furnished to the Paying Agent, the Paying Agent shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Resolution.

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

No provision of this Resolution shall require the Paying Agent to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

The Paying Agent may execute any of the powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and the Paying Agent shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder.

Section 6.04. Notice to Agents. The Paying Agent may rely and shall be protected in acting or refraining from acting upon any notice, resolution, request, consent, order, certificate, report, warrant, bond or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or proper parties. The Paying Agent may consult with counsel, who may be of counsel to the Town, with regard to legal questions, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance therewith.

Whenever in the administration of its duties under this Resolution the Paying Agent shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of bad faith on the part of the Paying Agent, be deemed to be conclusively proved and established by a certificate of the Town, and such certificate shall be full warrant to the Paying Agent for any action taken or suffered under the provisions of this Resolution upon the faith thereof, but in its discretion the Paying Agent may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as to it may seem reasonable.

Section 6.05. Compensation, Indemnification. The Town, or the County to the extent amounts required for such purpose are included in the annual tax levy, shall pay to the Paying Agent from time to time reasonable compensation for all services rendered under this Resolution, and also all reasonable expenses, charges, counsel fees and other disbursements, including those of their attorneys, agents and employees, incurred in and about the performance of their powers and duties under this Resolution. A Town Representative is hereby authorized to execute an agreement or agreements with the Paying Agent in connection with such fees and expenses. The Town further agrees to indemnify and save the Paying Agent harmless against any liabilities which it may incur in the exercise and performance of its powers and duties hereunder which are not due to its negligence or bad faith.

## ARTICLE VII

### EVENTS OF DEFAULT AND REMEDIES OF BONDOWNERS

Section 7.01. Events of Default. The following events shall be Events Of Default hereunder:

(a) if default shall be made in the due and punctual payment of the principal of or redemption premium, if any, on any Bond when and as the same shall become due and payable, whether at maturity as therein expressed, by declaration or otherwise;

(b) if default shall be made in the due and punctual payment of any installment of interest on any Bond when and as such interest installment shall become due and payable;

(c) if default shall be made by the Town in the observance of any of the covenants, agreements or conditions on its part in this Resolution or in the Bonds contained, and such default shall have continued for a period of thirty (30) days after written notice thereof to the Town; or

(d) if the Town shall file a petition seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America, or if a court of competent jurisdiction shall approve a petition, seeking reorganization of the Town under the federal bankruptcy laws or any other applicable law of the United States of America, or if, under the provisions of any other law for the relief or aid of debtors, any court of competent jurisdiction shall assume custody or control of the Town or of the whole or any substantial part of its property.

Section 7.02. Remedies of Bondowners. Any Bondowner shall have the right, for the equal benefit and protection of all Bondowners similarly situated:

(a) by mandamus, suit, action or proceeding, to compel the Town and its members, officers, agents or employees to perform each and every term, provision and covenant contained in this Resolution and in the Bonds, and to require the carrying out of any or all such covenants and agreements of the Town and the fulfillment of all duties imposed upon it;

(b) by suit, action or proceeding in equity, to enjoin any acts or things which are unlawful, or the violation of any of the Bondowners' rights; or

(c) upon the happening of any Event of Default, by suit, action or proceeding in any court of competent jurisdiction, to require the Town and its members and employees to account as if it and they were the trustees of an express trust.

Section 7.03. Non-Waiver. Nothing in this Article VII or in any other provision of this Resolution, or in the Bonds, shall affect or impair the obligation of the Town, which is absolute and unconditional, to pay the principal of and interest on the Bonds to the respective Owners of the Bonds at the respective dates of maturity, as herein provided, or affect or impair the right of action, which is also absolute and unconditional, of such Owners to institute suit to enforce such payment by virtue of the contract embodied in the Bonds.

A waiver of any default by any Bondowner shall not affect any subsequent default or impair any rights or remedies on the subsequent default. No delay or omission of any Owner of any of the Bonds to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein, and every power and remedy conferred upon the Bondowners by this Article VI may be enforced and exercised from time to time and as often as shall be deemed expedient by the Owners of the Bonds.

If a suit, action or proceeding to enforce any right or exercise any remedy be abandoned or determined adversely to the Bondowners, the Town and the Bondowners shall be restored to their former positions, rights and remedies as if such suit, action or proceeding had not been brought or taken.

Section 7.04. Remedies Not Exclusive. No remedy herein conferred upon the Owners of Bonds shall be exclusive of any other remedy and that each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or thereafter conferred on the Bondowners.

## ARTICLE VIII

### SUPPLEMENTAL RESOLUTIONS

Section 8.01. Supplemental Resolutions Effective Without Consent of the Owners. For any one or more of the following purposes and at any time or from time to time, a Supplemental Resolution of the Town may be adopted, which, without the requirement of consent of the Owners of the Bonds, shall be fully effective in accordance with its terms:

(a) to add to the covenants and agreements of the Town in this Resolution, other covenants and agreements to be observed by the Town which are not contrary to or inconsistent with this Resolution as theretofore in effect;

(b) to add to the limitations and restrictions in this Resolution, other limitations and restrictions to be observed by the Town which are not contrary to or inconsistent with this Resolution as theretofore in effect;

(c) to confirm, as further assurance, any pledge under, and the subjection to any lien or pledge created or to be created by, this Resolution, of any moneys, securities or funds, or to establish any additional funds or accounts to be held under this Resolution;

(d) to cure any ambiguity, supply and omission, or cure or correct any defect or inconsistent provision in this Resolution; or

(e) to make such additions, deletions or modifications as may be necessary or desirable to assure exemption from federal income taxation of interest on the Bonds.

Section 8.02. Supplemental Resolutions Effective With Consent to the Owners. Any modification or amendment of this Resolution and of the rights and obligations of the Town and of the Owners of the Bonds, in any particular, may be made by a Supplemental Resolution, with the written consent of the Owners of at least two-thirds in aggregate principal amount of the Bonds Outstanding at the time such consent is given. No such modification or amendment shall permit a change in the terms of maturity of the principal of any Outstanding Bonds or of any interest payable thereon or a reduction in the principal amount thereof or in the rate of interest thereon, or shall reduce the percentage of Bonds the consent of the Owners of which is required to effect any such modification or amendment, or shall change any of the provisions in Section 7.01 hereof relating to Events of Default, or shall reduce the amount of moneys pledged for the repayment of the Bonds without the consent of all the Owners of such Bonds, or shall change or modify any of the rights or obligations of any Paying Agent without its written assent thereto.

## ARTICLE IX

### MISCELLANEOUS

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

Section 9.02. Defeasance.

(a) *Discharge of Resolution.* Bonds may be paid by the Town in any of the following ways, provided that the Town also pays or causes to be paid any other sums payable hereunder by the Town:

(i) by paying or causing to be paid the principal or redemption price of and interest on Bonds Outstanding, as and when the same become due and payable;

(ii) by depositing, in trust, at or before maturity, money or securities in the necessary amount (as provided in Section 9.02(c)) to pay or redeem Bonds Outstanding; or

(iii) by delivering to the Paying Agent, for cancellation by it, Bonds Outstanding.

If the Town shall pay all Bonds Outstanding and shall also pay or cause to be paid all other sums payable hereunder by the Town, then and in that case, at the election of the Town (evidenced by a certificate of any Town Representative, filed with the Paying Agent, signifying the intention of the Town to discharge all such indebtedness and this Resolution), and notwithstanding that any Bonds shall not have been surrendered for payment, this Resolution and other assets made under this Resolution and all covenants, agreements and other obligations of the Town under this Resolution shall cease, terminate, become void and be completely discharged and satisfied, except only as provided in Section 9.02(b). In such event, upon request of the Town, the Paying Agent shall cause an accounting for such period or periods as may be requested by the Town to be prepared and filed with the Town and shall execute and deliver to the Town all such instruments as may be necessary to evidence such discharge and satisfaction, and the Paying Agent shall pay over, transfer, assign or deliver to the Town all moneys or securities or other property held by it pursuant to this Resolution which are not required for the payment or redemption of Bonds not theretofore surrendered for such payment or redemption.

(b) *Discharge of Liability on Bonds.* Upon the deposit, in trust, at or before maturity, of money or securities in the necessary amount (as provided in Section 9.02(c) to pay or redeem any Outstanding Bond (whether upon or prior to its maturity or the redemption date of such Bond), provided that, if such Bond is to be redeemed prior to maturity, notice of such redemption shall have been given as in Section 2.03 provided or provision satisfactory to the Paying Agent shall have been made for the giving of such notice, then all liability of the Town in respect of such Bond shall cease and be completely discharged, except only that thereafter

the Owner thereof shall be entitled only to payment of the principal of and interest on such Bond by the Town, and the Town shall remain liable for such payment, but only out of such money or securities deposited with the Paying Agent as aforesaid for such payment, provided further, however, that the provisions of Section 9.02(d) shall apply in all events.

The Town may at any time surrender to the Paying Agent for cancellation by it any Bonds previously issued and delivered, which the Town may have acquired in any manner whatsoever, and such Bonds, upon such surrender and cancellation, shall be deemed to be paid and retired.

(c) *Deposit of Money or Securities with Paying Agent.* Whenever in this Resolution it is provided or permitted that there be deposited with or held in trust by the Paying Agent money or securities in the necessary amount to pay or redeem any Bonds, the money or securities so to be deposited or held may include money or securities held by the Paying Agent in the funds and accounts established pursuant to this Resolution and shall be:

(i) lawful money of the United States of America in an amount equal to the principal amount of such Bonds and all unpaid interest thereon to maturity, except that, in the case of Bonds which are to be redeemed prior to maturity and in respect of which notice of such redemption shall have been given as in Section 2.03 provided or provision satisfactory to the Paying Agent shall have been made for the giving of such notice, the amount to be deposited or held shall be the principal amount or redemption price of such Bonds and all unpaid interest thereon to the redemption date; or

(ii) Federal Securities (not callable by the issuer thereof prior to maturity) the principal of and interest on which when due, in the opinion of a certified public accountant delivered to the Town, will provide money sufficient to pay the principal or redemption price of and all unpaid interest to maturity, or to the redemption date, as the case may be, on the Bonds to be paid or redeemed, as such principal or redemption price and interest become due, provided that, in the case of Bonds which are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given as provided in Section 2.03 or provision satisfactory to the Paying Agent shall have been made for the giving of such notice;

provided, in each case, that the Paying Agent shall have been irrevocably instructed (by the terms of this Resolution or by request of the Town) to apply such money to the payment of such principal or redemption price and interest with respect to such Bonds.

(d) *Payment of Bonds After Discharge of Resolution.* Notwithstanding any provisions of this Resolution, any moneys held by the Paying Agent in trust for the payment of the principal or redemption price of, or interest on, any Bonds and remaining unclaimed after the payment is due (whether at maturity or upon call for redemption as provided in this Resolution), if such moneys were so held at such date, or two years after the date of deposit of such moneys if deposited after said date when all of the Bonds became due and payable, shall be repaid to the Town free from the trusts created by this Resolution, and all liability of the Paying Agent with respect to such moneys shall thereupon cease; *provided, however,* that before the repayment of such moneys to the Town as aforesaid, the Paying Agent may (at the cost of the Town) first mail to the Owners of all Bonds which have not been paid at the addresses shown on the Bond Register a notice in such form as may be deemed appropriate by the Paying Agent, with respect

to the Bonds so payable and not presented and with respect to the provisions relating to the repayment to the Town of the moneys held for the payment thereof.

Section 9.03. Execution of Documents and Proof of Ownership by Bondowners. Any request, declaration or other instrument which this Resolution may require or permit to be executed by Bondowners may be in one or more instruments of similar tenor, and shall be executed by Bondowners in person or by their attorneys appointed in writing.

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

Except as otherwise herein expressly provided, the ownership of registered Bonds and the amount, maturity, number and date of holding the same shall be proved by the registry books.

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

Section 9.04. Waiver of Personal Liability. No boardmember, officer, agent or employee of the Town shall be individually or personally liable for the payment of the principal or interest on the Bonds; but nothing herein contained shall relieve any such boardmember, officer, agent or employee from the performance of any official duty provided by law.

Section 9.05. Destruction of Canceled Bonds. Whenever in this Resolution provision is made for the surrender to the Town of any Bonds which have been paid or canceled pursuant to the provisions of this Resolution, a certificate of destruction duly executed by the Paying Agent shall be deemed to be the equivalent of the surrender of such canceled Bonds and the Town shall be entitled to rely upon any statement of fact contained in any certificate with respect to the destruction of any such Bonds therein referred to.

Section 9.06. Partial Invalidity. If any Section, paragraph, sentence, clause or phrase of this Resolution shall for any reason be held illegal or unenforceable, such holding shall not affect the validity of the remaining portions of this Resolution. The Town hereby declares that it would have adopted this Resolution and each and every other Section, paragraph, sentence, clause or phrase hereof and authorized the issue of the Bonds pursuant thereto irrespective of the fact that any one or more Sections, paragraphs, sentences, clauses, or phrases of this Resolution may be held illegal, invalid or unenforceable. If, by reason of the judgment of any court, the Town is rendered unable to perform its duties hereunder, all such duties and all of the rights and powers of the Town hereunder shall be assumed by and vest in the Paying Agent in trust for the benefit of the Bondowners.

Section 9.07. Effective Date of Resolution. This Resolution shall take effect from and after the date of its passage and adoption.

The foregoing Resolution was duly introduced and adopted at a regular meeting of the Town Council of the Town of Fairfax held in said Town on the 1st day of February, 2012, by the following vote:

AYES:  
NOES:  
ABSENT:

Attest:

---

Pam Hartwell-Herrero, MAYOR

---

Judy Anderson, Town Clerk

**EXHIBIT 1**

**FORM OF BOND**

United States of America  
State of California  
Marin County

TOWN OF FAIRFAX  
2012 GENERAL OBLIGATION REFUNDING BOND

INTEREST RATE: _____ %	MATURITY DATE: August 1, _____	ISSUE DATE: March __, 2012	CUSIP: _____
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REGISTERED OWNER: U.S. BANK NATIONAL ASSOCIATION, as Trustee, as assignee of the Fairfax Financing Authority

PRINCIPAL SUM: \_\_\_\_\_ DOLLARS

The TOWN OF FAIRFAX, a municipal corporation and general law city duly organized and existing under and by virtue of the Constitution and laws of the State of California (the "Town"), for value received hereby promises to pay to the Registered Owner stated above, or registered assigns (the "Owner"), on the Maturity Date stated above (subject to any right of prior redemption hereinafter provided for), the Principal Sum stated above, in lawful money of the United States of America, and to pay interest thereon in like lawful money from the interest payment date next preceding the date of authentication of this Bond (unless (i) this Bond is authenticated on an interest payment date, in which event it shall bear interest from such date of authentication, or (ii) this Bond is authenticated prior to an interest payment date and after the close of business on the fifteenth day of the month preceding such interest payment date, in which event it shall bear interest from such interest payment date, or (iii) this Bond is authenticated on or prior to July 15, 2012, in which event it shall bear interest from the Issue Date stated above; provided however, that if at the time of authentication of this Bond, interest is in default on this Bond, this Bond shall bear interest from the interest payment date to which interest has previously been paid or made available for payment on this Bond) until payment of such Principal Sum in full, at the rate per annum stated above, payable on February 1 and August 1 in each year, commencing August 1, 2012, calculated on the basis of 360-day year comprised of twelve 30-day months. Principal hereof and premium, if any, upon early redemption hereof are payable at the corporate trust office of U.S. Bank National Association (the "Paying Agent"), in San Francisco, California. Interest hereon (including the final interest payment upon maturity or earlier redemption) is payable by check or draft of the Paying Agent mailed by first-class mail to the Owner at the Owner's address as it appears on the Bond register maintained by the Paying Agent as of the close of business on the fifteenth day of the month next preceding such interest payment date (the "Record Date"), or at such other address as the Owner may have filed with the Paying Agent for that purpose; provided however, that payment of interest may be by wire transfer in immediately available funds to an account in the United States of America to any Owner of Bonds in the aggregate principal amount of \$1,000,000 or more who shall furnish written wire instructions to the Paying Agent at least five (5) days before the applicable Record Date.

This Bond is one of a duly authorized issue of bonds of the Town designated as "Town of Fairfax (Marin County, California) 2012 General Obligation Refunding Bonds" (the "Bonds"), in an aggregate principal amount of \_\_\_\_\_ dollars (\$\_\_\_\_\_), all of like tenor and date (except for such

variation, if any, as may be required to designate varying numbers, maturities, interest rates or redemption and other provisions) and all issued pursuant to the provisions of Chapter 4 (commencing with section 53550) of Article 9 of Chapter 3 of Division 2 of Title 5 of the California Government Code (the "Act"), and pursuant to Resolution No. \_\_\_\_ of the Town adopted February 1, 2012 (the "Resolution"), authorizing the issuance of the Bonds. Reference is hereby made to the Resolution (copies of which are on file at the office of the Town Clerk) and the Act for a description of the terms on which the Bonds are issued and the rights thereunder of the owners of the Bonds and the rights, duties and immunities of the Paying Agent and the rights and obligations of the Town thereunder, to all of the provisions of which Resolution the Owner of this Bond, by acceptance hereof, assents and agrees.

The Bonds have been issued by the Town to refund, on a current basis, all outstanding Town of Fairfax General Obligation Bonds, Series 2002.

This Bond and the interest hereon and on all other Bonds and the interest thereon (to the extent set forth in the Resolution) are general obligations of the Town and the Town has the power and is obligated to levy *ad valorem* taxes for the payment of the Bonds and the interest thereon upon all property within the Town subject to taxation by the Town.

The Bonds maturing on or before August 1, \_\_\_\_, are non-callable. The Bonds maturing on August 1, \_\_\_\_, or any time thereafter, are callable for redemption prior to their stated maturity date at the option of the Town, as a whole, or in part on or after August 1, \_\_\_\_ (in such maturities as are designated by the Town, or, if the Town fails to designate such maturities, on a proportional basis), and may be redeemed prior to the maturity thereof by payment of all principal, plus accrued interest to date of redemption, without premium.

The Bonds are issuable as fully registered Bonds, without coupons, in denominations of \$5,000 and any integral multiple thereof. Subject to the limitations and conditions and upon payment of the charges, if any, as provided in the Resolution, Bonds may be exchanged for a like aggregate principal amount of Bonds of other authorized denominations and of the same maturity.

This Bond is transferable by the Owner hereof, in person or by his attorney duly authorized in writing, at said office of the Paying Agent in San Francisco, California, but only in the manner and subject to the limitations provided in the Resolution, and upon surrender and cancellation of this Bond. Upon registration of such transfer a new Bond or Bonds, of authorized denomination or denominations, for the same aggregate principal amount and of the same maturity will be issued to the transferee in exchange herefor.

The Town and the Paying Agent may treat the Owner hereof as the absolute owner hereof for all purposes, and the Town and the Paying Agent shall not be affected by any notice to the contrary.

The Resolution may be amended without the consent of the Owners of the Bonds to the extent set forth in the Resolution.

It is hereby certified that all of the things, conditions and acts required to exist, to have happened or to have been performed precedent to and in the issuance of this Bond do exist, have happened or have been performed in due and regular time and manner as required by the laws of the State of California, and that the amount of this Bond, together with all other indebtedness of the Town, does not exceed any limit prescribed by any laws of the State of California, and is not in excess of the amount of Bonds permitted to be issued under the Resolution.

This Bond shall not be entitled to any benefit under the Resolution or become valid or obligatory for any purpose until the Certificate of Authentication hereon shall have been signed manually by the Paying Agent.

Unless this certificate is presented by an authorized representative of The Depository Trust Company; a New York corporation ("DTC"), to the Town or the Paying Agent for registration of transfer, exchange, or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

IN WITNESS WHEREOF, the Town of Fairfax has caused this Bond to be executed in its name and on its behalf with the facsimile signatures of the Mayor and the Town Clerk, all as of the Issue Date stated above.

TOWN OF FAIRFAX

By \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

**CERTIFICATE OF AUTHENTICATION**

This is one of the Bonds described in the within-mentioned Resolution.

Authentication Date:

U.S. BANK NATIONAL ASSOCIATION, as  
Paying Agent

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

**ASSIGNMENT**

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

\_\_\_\_\_

\_\_\_\_\_

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

\_\_\_\_\_

\_\_\_\_\_

the within Bond and do(es) hereby irrevocably constitute(s) and appoint(s)

\_\_\_\_\_

attorney, to transfer the same on the bond register of the Paying Agent with full power of substitution in the premises.

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

Signature Guaranteed:

\_\_\_\_\_  
Notice: Signature(s) must be guaranteed by a qualified guarantor institution.

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

## **EXHIBIT # B**

### **FAIRFAX FINANCING AUTHORITY**

#### **RESOLUTION 12\_\_\_\_\_**

### **RESOLUTION OF THE BOARD OF DIRECTORS OF THE FAIRFAX FINANCING AUTHORITY AUTHORIZING THE ISSUANCE AND SALE OF REVENUE BONDS FOR THE PURPOSE OF FINANCING THE ACQUISITION OF TOWN OF FAIRFAX, CALIFORNIA, GENERAL OBLIGATION REFUNDING BONDS AND FOR OTHER PURPOSES AND APPROVING RELATED AGREEMENTS AND ACTIONS**

RESOLVED, by the Board of Directors (the "Board") of the Fairfax Financing Authority (the "Authority"), as follows:

WHEREAS, the Authority was formed by the Town of Fairfax (the "Town") and the California Municipal Financing Authority for the purpose of establishing a vehicle to reduce local borrowing costs and promote the greater use of existing and new financial instruments and mechanisms;

WHEREAS, more than two-thirds of the qualified voters in the Town, voting at a municipal election on November 2, 1999, approved the issuance of up to \$6,830,000 of general obligation bonds to finance the acquisition and construction of capital improvements to various streets and storm drains within the Town and to the Town's community facilities;

WHEREAS, pursuant to the authorization received at such election, and the authorization contained in Chapter 4 (commencing with section 43600) of Division 4 of Title 4 of the California Government Code, and Article 3.7 (commencing with section 53720) of Chapter 4 of Part 1 of Division 2 of Title 5 of the California Government Code (collectively, the "Act"), the Town has heretofore issued three series of general obligation bonds authorized as described above in an aggregate principal amount of \$6,830,000, including its General Obligation Bonds, Series 2002, issued in an initial principal of \$3,000,000 (the "2002 Bonds");

WHEREAS, the Town Council of the Town (the "Town Council") has determined to issue its Town of Fairfax 2012 General Obligation Refunding Bonds in the aggregate principal amount of not to exceed \$3,100,000 (the "Refunding Bonds") for the purpose of refunding all or a portion of the outstanding 2002 Bonds and thereby realizing financial savings to the Town and the property taxpayers of the Town;

WHEREAS, the Town Council is authorized to provide for the issuance and sale of the Refunding Bonds under the provisions of Articles 9 and 11 of Chapter 3 of Part 1 of Division 2 of Title 5 of the California Government Code (collectively, the "Refunding Law");

WHEREAS, the Authority has determined to issue its Fairfax Financing Authority Revenue Bonds, Series 2012 (Town of Fairfax General Obligation Bond Refinancing Program) (the "Authority Bonds"), under the provisions of Article 4 (commencing with section 6584) of Chapter 5 of Division 7 of Title 1 of the California Government Code (the "Bond Law"), the proceeds of which will be applied to (a) the purchase of the Refunding Bonds, and (b) the financing of capital improvements within the geographic boundaries of the Town; and

WHEREAS, the Board has duly considered such transactions and wishes at this time to approve said transactions and the documents to which the Authority is a party related thereto, in the public interests of the Authority.

**NOW, THEREFORE, BE IT RESOLVED**, by the Fairfax Financing Authority of the Town of Fairfax, as follows:

*Section 1. Findings and Determinations.* Pursuant to the Bond Law, the Board hereby finds and determines that the issuance of the Authority Bonds will result in savings in effective interest rates, bond underwriting costs and bond issuance costs and thereby result in significant public benefits to the Town within the contemplation of section 6586 of the Bond Law.

*Section 2. Issuance of Authority Bonds; Approval of Indenture.* The Board hereby authorizes the issuance of the Authority Bonds under and pursuant to the Bond Law, in the maximum principal amount of not to exceed \$3,100,000. The Authority Bonds shall be issued pursuant to an indenture of trust, by and between the Authority and U.S. Bank National Association, as trustee (the "Indenture"). The Board hereby approves the Indenture in the form on file with the Secretary. The Board hereby authorizes and directs the Executive Director or the Treasurer to execute and deliver, and the Secretary to attest and affix the seal of the Authority to, the Indenture in such form, together with any changes therein or additions thereto deemed advisable by the Executive Director or the Treasurer upon consultation with Bond Counsel, the execution by the Executive Director or the Treasurer of the Indenture to constitute conclusive evidence of his approval of any such changes or additions. The Board hereby authorizes the delivery and performance of the Indenture.

*Section 3. Purchase of Refunding Bonds.* The Board hereby authorizes and approves the purchase of the Refunding Bonds by the Authority from the Town pursuant to and in accordance with the provisions of a bond purchase contract by and between the Town and the Authority (the "Bond Purchase Contract") in the form on file with the Secretary. The Board hereby authorizes and directs the Executive Director to execute said form of the Bond Purchase Contract together with any changes therein or additions thereto deemed advisable by such officer upon consultation with Bond Counsel and legal counsel to the Authority, the execution by such officer of the Bond Purchase Contract to constitute conclusive evidence of his approval of any such changes or additions. The Board hereby authorizes the deliver and performance of the Bond Purchase Contract.

*Section 4. Sale of the Authority Bonds; Official Statement.* The Board hereby approves a notice of intention, in the form on file with the Secretary (the "Notice of Intention"), together with any changes therein or additions thereto deemed advisable by the Executive Director or

the Treasurer. The Secretary is hereby authorized and directed to cause to be published, once at least fifteen (15) days prior to the date to receive bids, the Notice of Intention in *The Bond Buyer*, a financial publication reasonably expected to be disseminated among prospective bidders for the Authority Bonds. The Board hereby approves a notice of sale, in the form on file with the Secretary (the "Notice of Sale"), together with any changes therein or additions thereto deemed advisable by the Executive Director or the Treasurer. Wulff, Nansen & Co., financial advisor to the Authority and the Town (the Financial Advisor"), is hereby authorized to cause to be furnished to prospective bidders copies of the Notice of Sale.

The Board hereby approves a preliminary official statement, in the form on file with the Secretary (the "Preliminary Official Statement"), together with any changes therein or additions thereto deemed advisable by the Executive Director or the Treasurer. The Board authorizes and directs the Executive Director or the Treasurer to deem "final" pursuant to Rule 15c2-12 under the Securities Exchange Act of 1934 (the "Rule"). The Financial Advisor is hereby authorized to cause to be furnished to prospective bidders copies of the Preliminary Official Statement.

The Executive Director or the Treasurer is authorized and directed to cause the Preliminary Official Statement to be brought into the form of a final official statement (the "Final Official Statement") and to execute said Final Official Statement, dated as of the date of the sale of the Authority Bonds, and a statement that the facts contained in the Final Official Statement, and any supplement or amendment thereto (which shall be deemed an original part thereof for the purpose of such statement) were, at the time of sale of the Authority Bonds, true and correct in all material respects and that the Final Official Statement did not, on the date of sale of the Authority Bonds, and does not, as of the date of delivery of the Authority Bonds, contain any untrue statement of a material fact with respect to the Authority or omit to state material facts with respect to the Authority required to be stated where necessary to make any statement made therein not misleading in the light of the circumstances under which it was made. The Executive Director or the Treasurer shall take such further actions prior to the signing of the Final Official Statement as are deemed necessary or appropriate to verify the accuracy thereof. The execution of the Final Official Statement, which shall include such changes and additions thereto deemed advisable by the Executive Director or the Treasurer and such information permitted to be excluded from the Preliminary Official Statement pursuant to the Rule, shall be conclusive evidence of the approval of the final Official Statement by the Authority. The Final Official Statement, when prepared, is approved for distribution in connection with the offering and sale of the Authority Bonds.

The Financial Advisor is hereby authorized and directed, on behalf of the Authority, to receive the bids at the time and place specified in the Notice of Sale, to examine said bids for compliance with the Notice of Sale and to verify the bid with the lowest true interest cost as provided in the Notice of Sale. In the event two or more bids setting forth identical true interest cost are received, the Financial Advisor, on behalf of the Authority, may exercise its own discretion and judgment in making the award and may award the Authority Bonds on a *pro rata* basis in such denominations as he shall determine. The Financial Advisor, on behalf of the Authority, may, in its discretion, reject any and all bids and waive any irregularity or informality in any bid. The Financial Advisor, on behalf of the Authority, shall award the Authority Bonds or reject all bids not later than 24 hours after the expiration of the time prescribed for the receipt of bids unless such time of award is waived by the successful bidder.

*Section 5. Official Actions.* The Executive Director, the Treasurer, the Secretary and any and all other officers of the Authority are hereby authorized and directed, for and in the name and on behalf of the Authority, to do any and all things and take any and all actions, including execution and delivery of any and all assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance, warrants and other documents, which they, or any of them, may deem necessary or advisable in order to consummate the issuance and sale of the Authority Bonds and any of the other transactions contemplated by the documents approved pursuant to this Resolution. Whenever in this Resolution any officer of the Authority is authorized to execute or countersign any document or take any action, such execution, countersigning or action may be taken on behalf of such officer by any person designated by such officer to act on his or her behalf in the case such officer shall be absent or unavailable.

*Section 6. Effective Date.* This Resolution shall take effect from and after the date of its adoption.

The foregoing Resolution was duly introduced and adopted at a regular meeting of the Town Council of the Town of Fairfax held in said Town on the 1st day of February, 2012, by the following vote:

AYES:  
NOES:  
ABSENT:

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Pam Hartwell-Herrero, CHAIRMAN  
Fairfax Financing Authority

Attest:

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Judy Anderson, SECRETARY  
Fairfax Financing Authority

**EXHIBIT # C**  
**NOTICE OF INTENTION TO SELL SECURITIES**

§ \_\_\_\_\_  
(Preliminary, subject to change)  
**FAIRFAX FINANCING AUTHORITY**  
(Marin County, California)  
**Revenue Bonds, Series 2012**  
**(Town of Fairfax General Obligation Bond Refinancing Program)**

NOTICE IS HEREBY GIVEN, pursuant to section 53692 of the California Government Code, that the Fairfax Financing Authority (the "Authority") invites bids for the purchase of \$ \_\_\_\_\_ (preliminary, subject to change) aggregate principal amount of the captioned bonds (the "Bonds"). Bids will be received on

**WEDNESDAY, FEBRUARY 15, 2012**

until 10:00 A.M., and the sale will be awarded by the Authority within 26 hours after the expiration of the time prescribed for the receipt of bids. The sale of the Bonds will be conducted upon the terms and conditions set forth in the Official Notice of Sale for the Bonds. Such Official Notice of Sale and the Preliminary Official Statement describing the Bonds will be distributed to prospective bidders by the financial advisor to the Authority and the Town of Fairfax, Wulff, Hansen & Co., 351 California Street, Suite 1000, San Francisco, CA 94104, telephone (415) 421-8900, Attention: Mr. Mark Pressman. Bids will be entertained only from bidders to whom such Official Notice of Sale and Preliminary Official Statement have been distributed.

Dated: January 31, 2012

[TO BE PUBLISHED IN THE *BOND BUYER* ON TUESDAY, JANUARY 31, 2012]

**EXHIBIT # D**

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**OFFICIAL NOTICE OF SALE**

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§ \_\_\_\_\_ \*

**FAIRFAX FINANCING AUTHORITY**  
(Marin County, California)  
**Revenue Bonds, Series 2012**  
(Town of Fairfax General Obligation Bond Refinancing Program)

NOTICE IS HEREBY GIVEN that *electronic bids* for the purchase of \$ \_\_\_\_\_ aggregate principal amount of Fairfax Financing Authority (Marin County, California) Revenue Bonds, Series 2012 (Town of Fairfax General Obligation Bond Refinancing Program) (the "Bonds"), will be received by the Fairfax Financing Authority (the "Authority") at the time and in the form below specified:

**TIME:** *Wednesday, February 15, 2012, until 10:00 A.M. (Pacific Time).*

**SUBMISSION OF BIDS:** Bids may be submitted (for receipt not later than the time set forth above) *electronically only* through the I-Deal LLC BiDCOMP/PARITY© system See "FORM OF BID" herein.

**ISSUE; BOOK ENTRY:** The Bonds will be dated as of their date of delivery and will be executed and delivered in fully registered form, without coupons, in the denomination of \$5,000 each or any whole multiple thereof, pursuant to the Indenture of Trust, dated as of March 1, 2012 (the "Trust Agreement"), by and between the Authority and U.S. Bank National Association, as trustee (the "Trustee"), as approved by a resolution of the Board of Directors of the Authority, adopted on February 15, 2012 (the "Resolution"). The Bonds will be executed and delivered in a book entry-only system with no physical distribution of the Bonds made to the public. The Depository Trust Company, New York, New York ("DTC"), will act as depository for the Bonds which will be immobilized in its custody. The Bonds will be registered in the name of Cede & Co., as nominee for DTC, on behalf of the participants in the DTC system and the subsequent beneficial owners of the Bonds. Reference is made to the Trust Agreement for further details regarding the terms and provisions of the Bonds.

**MATURITIES:** The Bonds will mature, or be subject to mandatory sinking fund redemption, on the dates, on the dates and in the amounts, as set forth in the following table. *Each bidder is required to specify in its bid whether, for any particular year, the Bonds will mature or, alternately, be subject to mandatory sinking fund redemption in such year:*

Maturity Date (August 1)	Principal Amount*	Maturity Date (August 1)	Principal Amount*
2012		2020	
2013		2021	
2014		2022	
2015		2023	
2016		2024	
2017		2025	
2018		2026	
2019		2027	

\*Preliminary, subject to change.

**ADJUSTMENT OF PRINCIPAL AMOUNTS AND OF MATURITIES:** The maturity amounts set forth above for the Bonds may be adjusted either upward or downward in order to meet tax rate considerations after award of the Bonds has been made to the successful bidder. The successful bidder will be notified of the actual principal amounts and maturity schedule relating to the Bonds within 6 hours after the expiration of the time prescribed for the receipt of proposals. Any increase or decrease will be in \$5,000 increments of principal amounts. In the event of any such adjustment, no re-bidding or recalculation of the bids submitted will be required or permitted and no successful bid may be withdrawn. The successful bidder will not be permitted to change the interest rates in its bid.

**INTEREST:** The Bonds shall bear interest, calculated on a 30/360 day basis, at a rate or rates to be fixed upon the sale thereof but not to exceed 12% per annum, payable semiannually on each February 1 and August 1, commencing August 1, 2012.

**PAYMENT:** Principal of the Bonds will be payable upon surrender to the Trustee. Interest on the Bonds will be payable by check or draft mailed by first class mail to the owner at the address listed on the registration books maintained by the Trustee for such purpose.

**REGISTRATION:** The Bonds will be issued as fully registered bonds as to both principal and interest. The Bonds will be issued in the book-entry system of The Depository Trust Company of New York ("DTC"), and the ownership of the Bonds will be registered to the nominee of DTC.

**OPTIONAL REDEMPTION:** The Bonds maturing on or before August 1, 2021, are not subject to optional redemption prior to maturity. The Bonds maturing on and after August 1, 2022, are subject to optional redemption in whole or in part on any date in such order of maturity as shall be designated by the Authority (or, if the Authority shall fail to so designate the order of redemption, in *pro rata* among maturities) and by lot within a maturity, on or after August 1, 2021, at a redemption price equal to the principal amount of the Bonds to be redeemed, together with accrued interest, without premium, to the date fixed for redemption, from the proceeds of the optional prepayment of Lease Payments made by the Authority pursuant to the Lease Agreement.

**SINKING FUND REDEMPTION:** Any bidder may, at its option, specify that one or more maturities of the Bonds will consist of term Bonds which are subject to mandatory sinking fund redemption in consecutive years immediately preceding the maturity thereof, as designated in the bid of such bidder. In the event that the bid of the successful bidder specifies that any maturity of Bonds will be term Bonds, such term Bonds will be subject to mandatory sinking fund redemption on August 1 in each year so designated in the bid, in the respective amounts for such years as set forth above under the heading "MATURITIES," at a redemption price equal to the principal amount thereof to be redeemed together with accrued interest thereon to the redemption date, without premium.

**PURPOSE:** The Bonds are being issued to (a) purchase the Town of Fairfax, California, 2012 General Obligation Refunding Bonds (the "Town Refunding Bonds"), issued by the Town of Fairfax (the "Town") and (b) finance the acquisition and construction of public capital improvements in the Town. The Town Refunding Bonds are being issued by the Town to refinance an existing series of general obligation bonds of the Town issued in 2002.

**SECURITY:** The Bonds are secured by a pledge of and lien on Revenues, consisting primarily of payments of principal and interest made with respect to the Town Refunding Bonds which will be issued by the Town concurrently with the Bonds. The Board of Supervisors of the County of Marin (the "County") is empowered and obligated to annually levy *ad valorem* taxes, without limitation as to rate or amount, for the payment of the principal of and interest on the Town Refunding Bonds upon all property subject to taxation within the Town (except certain personal property which is taxable at limited rates), all as more fully described herein.

**RATING:** Standard & Poor's Ratings Services has assigned the underlying rating of "    " to the Bonds. **The cost of obtaining such rating will be borne entirely by the Authority and not by the successful bidder.**

#### **TERMS OF SALE**

**INTEREST RATE:** No rate of interest may be bid which exceeds 12% per annum. Each rate bid must be a multiple of one-twentieth of one percent (1/20%) or one-eighth of one percent (1/8%). No Bond shall bear more than one interest rate, and all Bonds of the same maturity shall bear the same rate. Each Bond must bear interest at the rate specified in the bid from its date to its fixed maturity date. The rate on any maturity or group of maturities shall not be more than 4% higher than the interest rate on any other maturity or group of maturities.

**FORM OF BID; MAXIMUM DISCOUNT:** All bids must be for not less than all of the Bonds hereby offered for sale and for not less than the par amount thereof.

To the extent any instructions or directions set forth in BiDCOMP/PARITY© conflict with this Official Notice of Sale, the terms of this Official Notice of Sale shall Wulff, Hansen & Co. (the "Financial Advisor") Advisor at (415) 421-8900 or BiDCOMP/PARITY© at (212) 404-8102.

THE AUTHORITY RETAINS ABSOLUTE DISCRETION TO DETERMINE WHETHER ANY BID IS TIMELY, LEGIBLE AND COMPLETE. NONE OF THE AUTHORITY, THE FINANCIAL ADVISOR, OR QUINT & THIMMIG LLP ("BOND COUNSEL") TAKES ANY RESPONSIBILITY FOR INFORMING ANY BIDDER PRIOR TO THE TIME FOR RECEIVING BIDS THAT ITS BID IS INCOMPLETE, ILLEGIBLE OR NOT RECEIVED.

EACH BIDDER SUBMITTING AN ELECTRONIC BID UNDERSTANDS AND AGREES BY DOING SO THAT IT IS SOLELY RESPONSIBLE FOR ALL ARRANGEMENTS WITH BiDCOMP/PARITY© AND THAT BiDCOMP/PARITY© IS NOT ACTING AS AN AGENT OF THE AUTHORITY. INSTRUCTIONS AND FORMS FOR SUBMITTING ELECTRONIC BIDS MUST BE OBTAINED FROM BiDCOMP/PARITY© AND THE AUTHORITY ASSUMES NO RESPONSIBILITY FOR ENSURING OR VERIFYING BIDDER COMPLIANCE WITH THE PROCEDURES OF BiDCOMP/PARITY©. THE AUTHORITY SHALL ASSUME THAT ANY BID RECEIVED THROUGH BiDCOMP/PARITY© HAS BEEN MADE BY A DULY AUTHORIZED AGENT OF THE BIDDER.

THE AUTHORITY WILL MAKE ITS BEST EFFORTS TO ACCOMMODATE ELECTRONIC BIDS; HOWEVER THE AUTHORITY, THE FINANCIAL ADVISOR AND BOND COUNSEL ASSUME NO RESPONSIBILITY FOR ANY ERROR CONTAINED IN ANY BID SUBMITTED ELECTRONICALLY, OR FOR FAILURE OF ANY BID TO BE TRANSMITTED, RECEIVED OR ACCEPTED AT THE OFFICIAL TIME FOR RECEIPT OF BIDS. THE OFFICIAL TIME FOR RECEIPT OF BIDS WILL BE DETERMINED BY THE AUTHORITY AND THE AUTHORITY SHALL NOT BE REQUIRED TO ACCEPT THE TIME KEPT BY BIDCOMP/PARITY© AS THE OFFICIAL TIME.

**BEST BID:** The Bonds will be awarded to the responsible bidder or bidders offering to purchase the Bonds at the *lowest true interest cost* to the Authority. The true interest cost of each bid will be determined on the basis of the present value of the aggregate future semiannual payments resulting from the interest rates specified by the bidder. The present value will be calculated to the dated date of the Bonds (assumed to be March 1, 2012) and will be based on the proposed bid amount (par value less any discount or plus any premium). For the purpose of making such determination, it shall be assumed that any Bond designated as term bonds by the bidder shall be deemed to be payable on the dates and in the amounts as shown under the section entitled "MATURITIES" herein. Each bidder is requested, but not required, to state in his bid the percentage true interest cost to the Authority, which shall be considered as informative only and shall not be binding on either the bidder or the Authority. The determination of the best bid by the Authority's financial advisor shall be binding and conclusive on all bidders.

**RIGHT OF CANCELLATION OF SALE BY AUTHORITY:** The Authority reserves the right, in its sole discretion, at any time to cancel the public sale of the Bonds. In such event, the Authority shall cause notice of cancellation of this invitation for bids and the public sale of the Bonds to be communicated through the *Bond Buyer Wire* as promptly as practicable. However, no failure to publish such notice or any defect or omission therein shall affect the cancellation of the public sale of the Bonds.

**RIGHT TO MODIFY OR AMEND:** The Authority reserves the right, in its sole discretion, to modify or amend this official Notice of Sale including, but not limited to, the right to adjust and change the principal amount and principal amortization schedule of the Bonds being offered, however, such modifications or amendments shall be made not later than 8:30 A.M., California time, on the business day prior to the bid opening and communicated through the *Bond Buyer Wire*.

**RIGHT OF POSTPONEMENT BY AUTHORITY:** The Authority reserves the right, in its sole discretion, to postpone, from time to time, the date established for the receipt of bids. Any such postponement will be communicated through the *Bond Buyer Wire* not later than 8:30 A.M., California time, on the business day prior to any announced date for receipt of bids. If any date is postponed, any alternative sale date will be announced through the *Bond Buyer Wire* at least 24 hours prior to such alternative sale date. On any such alternative sale date, any bidder may submit a bid for the purchase of the Bonds in conformity in all respects with the provisions of this Official Notice of Sale, except for the date of sale and except for the changes announced by through the *Bond Buyer Wire* at the time the sale date and time are announced.

**RIGHT OF REJECTION:** The Authority reserves the right, in its sole discretion, to reject any and all bids and to waive any irregularity or informality in any bid except that no bids will be accepted later than 10:00 A.M. on the date set for receipt of bids.

**PROMPT AWARD:** Pursuant to authority granted by the Board, the \_\_\_\_\_ designee, will take action awarding the Bonds or rejecting all bids not later than twenty-six (26) hours after the expiration of the time herein prescribed for the receipt of proposals; provided,

that the award may be made after the expiration of the specified time if the bidder shall not have given to said Board notice in writing of the withdrawal of such proposal.

**PLACE OF DELIVERY; CANCELLATION FOR LATE DELIVERY:** It is expected that said Bonds will be delivered to DTC for the account of the successful bidder within twenty (20) days from the date of sale thereof. The successful bidder shall have the right, at his option, to cancel its obligation to purchase the Bonds if the Bonds are not tendered for delivery within sixty (60) days from the date of the sale thereof, and in such event the successful bidder shall be entitled to the return of the deposit accompanying his bid.

**GOOD FAITH DEPOSIT:** A good faith deposit ("Deposit") in the form of a certified or cashier's check or a wire transfer, in the amount of \$ \_\_\_\_\_ payable to the order of the Trustee, must be remitted by the winning bidder within 48 hours after the acceptance of its bid. The Deposit shall be cashed by the Trustee on behalf of the Authority and shall then be applied toward the purchase price of the Bonds. If after the award of the Bonds the successful bidder or bidders fail to complete their purchase on the terms stated in their bid, the Deposit will be retained by the Authority. No interest on the Deposit will accrue to any bidder.

**CHANGE IN TAX EXEMPT STATUS:** At any time before the Bonds are tendered for delivery, the successful bidder may disaffirm and withdraw his proposal if the interest received by private holders from Bonds of the same type and character shall be declared to be taxable income under present federal income tax laws, either by a ruling of the Internal Revenue Service or by a decision of any federal court, or shall be declared taxable, or be required to be taken into account in computing federal income taxes (except alternative minimum taxes and environmental taxes payable by corporations) by any federal income tax law enacted subsequent to the date of this notice.

**CLOSING PAPERS; BOND PRINTING:** Each proposal will be understood to be conditioned upon the Authority furnishing to the purchaser, without charge, concurrently with payment for and delivery of the Bonds, the following closing papers, each dated the date of delivery:

(a) The opinion of Quint & Thimmig LLP, San Francisco, California, Special Counsel, approving the validity of the Bonds and stating that, subject to the Authority's compliance with certain covenants, interest on the Bonds is excludable from gross income of the owners thereof for federal income tax purposes and is not included as an item of tax preference in computing the alternative minimum tax for individuals and corporations under the Internal Revenue Code of 1986, as amended (the "Code"), but is taken into account in computing an adjustment used in determining the federal alternative minimum tax for certain corporations, the Bonds are "qualified tax-exempt obligations" under section 265(b)(3) of the Code and interest on the Bonds is exempt from personal income taxes of the State of California. Other tax consequences to holders of the Bonds, if any, are not addressed in the opinion.

(b) A certificate of the Authority certifying that on the basis of the facts, estimates and circumstances in existence on the date of issue, it is not expected that the proceeds of the Bonds will be used in a manner that would cause the Bonds to be arbitrage bonds;

(c) A certificate of the Authority, signed by officers and representatives of the Authority, certifying that the officers and representatives have signed the Bonds whether by facsimile or manual signature, and that they were respectively duly authorized to execute the same;

(d) The receipt of the Authority evidencing the receipt of the purchase price of the Bonds;

(e) A certificate of the Authority, certifying that there is no known litigation threatened or pending affecting the validity of the Bonds; and

(f) A certificate of the Authority, signed by an officer of the Authority, acting in his official capacity, to the effect that at the time of the sale of the Bonds, and at all times subsequent thereto up to and including the time of the delivery of the Bonds, the Official Statement relating to the Bonds did not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

**CUSIP NUMBERS:** It is anticipated that CUSIP numbers will be printed on the Bonds, but neither the failure to print such numbers on any Bond nor error with respect thereto shall constitute cause for a failure or refusal by the purchaser thereof to accept delivery of and pay for the Bonds in accordance with the terms of the purchase contract. All expenses of printing CUSIP numbers on the Bonds and the CUSIP Service Bureau charge for the assignment of said numbers shall be paid by the successful bidder.

**CERTIFICATION OF REOFFERING PRICE:** The successful bidder shall be required, as a condition to the issuance of the Bonds, to deliver to the Authority a certificate, in form and substance satisfactory to Special Counsel, stating (i) that, as of the date of award, the Bonds were expected to be reoffered in a bona fide public offering, (ii) the initial offering price at which a substantial amount (at least 10%) of each maturity of the Bonds were sold to the public, and (iii) that no Bonds of a single maturity were offered at one price to the general public and at a discount from that price to institutional or other investors.

**CALIFORNIA DEBT AND INVESTMENT ADVISORY COMMISSION:** The successful bidder will be required, pursuant to State law, to pay any fees to the California Debt and Investment Advisory Commission when due.

**DTC FEES:** All fees due DTC with respect to the Bonds shall be paid by the successful bidder or bidders.

**OFFICIAL STATEMENT:** The Authority has caused to be prepared a Preliminary Official Statement describing the Bonds in a form deemed final by the Authority within the meaning of Rule 15c2-12 of the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended, except for certain information which is permitted under said Rule 15c2-12 to be omitted from the Preliminary Official Statement. A copy of the Preliminary Official Statement will be furnished upon request to Wulff, Hansen & Co., 351 California Street, Suite 1000, San Francisco, CA 94104, telephone (415) 421-8900. The Authority will furnish to the successful bidder within seven business days following the date of award, at no charge, not in excess of \_\_\_\_\_ (\_\_\_\_) copies of the Official Statement for use in connection with any resale of the Bonds.

**DISCLOSURE CERTIFICATE:** The Authority will deliver to the purchaser of the Bonds a certificate of an official of the Authority, dated the date of Bond delivery, stating that as of the date thereof, to the best of the knowledge and belief of said official, the Official Statement does not contain an untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading, and further certifying that the signatory knows of no material adverse change in the condition of the Authority which would make it unreasonable for the purchaser of the Bonds to rely upon the Official Statement in connection with the resale of the Bonds.

**CONTINUING DISCLOSURE:** In order to assist bidders in complying with S.E.C. Rule 15c2-12(b)(5), the Town will undertake, pursuant to the resolution authorizing issuance of the Bonds and a Continuing Disclosure Certificate, to provide annual reports and notices of certain events. A description of this undertaking is set forth in the preliminary Official Statement and will also be set forth in the final Official Statement.

Dated: February 2, 2012

# **EXHIBIT # E**

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## **INDENTURE OF TRUST**

**by and between the**

**FAIRFAX FINANCING AUTHORITY**

**and**

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

**Dated as of March 1, 2012**

**Relating to:**

**\$ \_\_\_\_\_**

**Fairfax Financing Authority  
Revenue Bonds, Series 2012**

**(Town of Fairfax General Obligation Refunding Bond Program)**

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EXHIBIT A – FORM OF BONDS

## INDENTURE OF TRUST

THIS INDENTURE OF TRUST (this "Indenture"), made and entered into and dated as of March 1, 2012, is by and between the FAIRFAX FINANCING AUTHORITY, a joint powers authority organized and existing under the laws of the State of California (the "Authority"), and U.S. BANK NATIONAL ASSOCIATION, a national banking association organized and existing under the laws of the United States of America having a corporate trust office in San Francisco, California, and being qualified to accept and administer the trusts hereby created (the "Trustee").

### RECITALS:

WHEREAS, the Authority is a joint powers authority duly organized and existing under the laws of the State and is entitled to purchase personal and real property and to sell or lease such property, to contract for construction and improvements, to execute operating agreements regarding such property and to finance and refinance such projects, including financing in the form of the Authority issuing revenue obligations to finance acquisition of a client municipal corporation and general law city's obligations;

WHEREAS, the Authority was formed by the Town of Fairfax (the "Town") and the California Municipal Finance Authority for the purpose of \_\_\_\_\_;

WHEREAS, the Town of Fairfax (the "Town") has heretofore issued its Town of Fairfax (Marin California, California) General Obligation Bonds, Series 2002, dated June 1, 2002, in the principal amount of \$3,000,000, of which \$2,670,000 is currently outstanding (the "Prior Town Bonds");

WHEREAS, pursuant to Article 9 of Chapter 3 (commencing with section 53550) of Division 2 of Title 5 of the California Government Code, the Town is empowered to issue general obligation refunding bonds, and the Town has determined to issue its Town of Fairfax (Marin County, California) 2012 General Obligation Bonds (the "Town Refunding Bonds") to refund the Prior Town Bonds;

WHEREAS, the Authority has determined to issue its Fairfax Financing Authority Revenue Bonds, 2012 Series A (Town of Fairfax General Obligation Refunding Bond Program) (the "Authority Bonds"), under the provisions of Article 4 (commencing with Section 6584) of Chapter 5 of Division 7 of Title 1 of the California Government Code (the "Bond Law"), the proceeds of which will be applied to (a) the purchase of the Town Refunding Bonds, and (b) the financing of capital improvements within the geographic boundaries of the Town; and

WHEREAS, the Bonds are to be secured by a pledge of and first lien on the revenues to be derived from the Town Refunding Bonds, which revenues are designed to be sufficient in time and amount to pay the principal of and interest and premium (if any) on the Bonds as it becomes due and payable; and

WHEREAS, the Town Council of the Town held a public hearing, after due public notice, pursuant to section 6586.5(a)(2) of the Bond Law with respect to the public improvements to be financed with the proceeds of the Bonds, all of which improvements are or will be located in the Town; and

WHEREAS, in order to provide for the authentication and delivery of the Bonds, to establish and declare the terms and conditions upon which the Bonds are to be issued and to

secure the payment of the principal thereof, premium (if any) and interest thereon, the Authority has authorized the execution and delivery of this Indenture; and

WHEREAS, the Authority has found and determined, and hereby affirms, that all acts and proceedings required by law necessary to make the Bonds, when executed by the Authority, authenticated and delivered by the Trustee and duly issued, the valid, binding and legal special obligations of the Authority, and to constitute this Indenture a valid and binding agreement for the uses and purposes herein set forth in accordance with its terms, have been done and taken, and the execution and delivery of this Indenture have been in all respects duly authorized.

#### AGREEMENT:

NOW, THEREFORE, THIS INDENTURE WITNESSETH, that in order to secure the payment of the principal of and the interest and premium (if any) on all Bonds at any time issued and Outstanding under this Indenture, according to their tenor, and to secure the performance and observance of all the covenants and conditions therein and herein set forth, and to declare the terms and conditions upon and subject to which the Bonds are to be issued and repaid, and in consideration of the premises and of the mutual covenants herein contained and of the purchase and acceptance of the Bonds by the Owners thereof, and for other valuable consideration the receipt and sufficiency of which is hereby acknowledged, the Authority does hereby covenant and agree with the Trustee, for the benefit of the respective Owners from time to time of the Bonds, as follows:

## ARTICLE I

### DEFINITIONS; AUTHORIZATION AND PURPOSE OF BONDS; EQUAL SECURITY

Section 1.01. Definitions. Unless the context otherwise requires, the terms defined in this Section 1.01 shall for all purposes of this Indenture and of any Supplemental Indenture and of the Bonds and of any certificate, opinion, request or other documents herein mentioned have the meanings herein specified.

“*Act*” means Articles 1 through 4 (commencing with Section 6500) of Chapter 5, Division 7, Title 1 of the California Government Code, as in existence on the Closing Date or as thereafter amended from time to time.

“*Authority*” means the Fairfax Financing Authority, a joint powers authority duly organized and existing under the laws of the State and a joint exercise of powers agreement, by and between the Town and the California Municipal Finance Authority.

“*Board*” means the Board of Directors of the Authority.

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

“*Bond Law*” means the Marks-Roos Local Bond Pooling Act of 1985, constituting Article 4 of the Act (commencing with Section 6584), as in existence on the Closing Date or as thereafter amended from time to time.

“*Bond Year*” means each twelve-month period extending from August 2 in one calendar year to August 1 of the succeeding calendar year, both dates inclusive; except that the first Bond Year shall begin on the Closing Date and end on August 1, 2012.

“*Bonds*” means the \$ \_\_\_\_\_ aggregate principal amount of Fairfax Financing Authority Revenue Bonds, Series 2012 (Town of Fairfax General Obligation Refunding Bond Program), Series 2012, authorized by and at any time Outstanding pursuant to the Bond Law and this Indenture.

“*Business Day*” means a day of the year, other than a Saturday or Sunday, or legal holiday on which banks in the State of California are required or authorized to remain closed.

“*Certificate of the Authority*” means a certificate in writing signed by the Chairman, Executive Director, Secretary or Treasurer of the Authority, or by any other officer of the Authority duly authorized by the Board for that purpose, written notice of which shall be given to the Trustee.

“*Closing Date*” means March 1, 2012, being the date of delivery of the Bonds to the original purchaser thereof.

“*Continuing Disclosure Certificate*” shall mean the Continuing Disclosure Certificate executed by the Town, and dated the date of issuance and delivery of the Bonds, as originally executed and as it may be amended from time to time in accordance with the terms thereof.

*“Costs of Issuance”* means all expenses incurred in connection with the authorization, issuance, sale and delivery of the Bonds and the Town Refunding Bonds, and the refunding and defeasance of the Prior Town Bonds from a portion of the proceeds of the Bonds, including but not limited to all compensation, fees and expenses (including but not limited to fees and expenses for legal counsel) of the Authority, the Trustee and the Town Paying Agent, compensation to any financial consultants or underwriters, legal fees and expenses, filing and recording costs, rating agency fees, costs of preparation and reproduction of documents and costs of printing.

*“Costs of Issuance Fund”* means the fund established and held by the Trustee pursuant to Section 3.04.

*“County”* means the County of Marin, a political subdivision organized and existing under the laws of the State.

*“Depository”* means (a) initially, DTC, and (b) any other Securities Depositories acting as Depository pursuant to Section 2.09.

*“Depository System Participant”* means any participant in the Depository’s book-entry system.

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

*“Excess Investment Earnings”* means the amount of excess investment earnings determined to be subject to rebate to the United States of America with respect to the investment of the gross proceeds of the Bonds, determined pursuant to Section 148(f) of the Tax Code.

*“Event of Default”* means any of the events described in Section 8.01.

*“Fair Market Value”* means, with respect to any investment, the price at which a willing buyer would purchase such investment from a willing seller in a bona fide, arm’s length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of Section 1273 of the Tax Code) and, otherwise, the term “Fair Market Value” means the acquisition price in a bona fide arm’s length transaction (as described above) if (i) the investment is a certificate of deposit that is acquired in accordance with applicable regulations under the Tax Code, (ii) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with applicable regulations under the Tax Code, (iii) the investment is a United States Treasury Security - State and Local Government Series that is acquired in accordance with applicable regulations of the United States Bureau of Public Debt, or (iv) any commingled investment fund in which the Authority and related parties do not own more than a ten percent (10%) beneficial interest therein if the return paid by the fund is without regard to the source of the investment.

*“Federal Securities”* means direct and general obligations of the United States of America, or those which are unconditionally guaranteed as to principal and interest by the same.

*“Fiscal Year”* means any twelve-month period extending from July 1 in one calendar year to June 30 of the succeeding calendar year, both dates inclusive, or any other twelve-month period selected and designated by the Authority as its official fiscal year period.

**“Indenture”** means this Indenture of Trust, as originally executed or as it may from time to time be supplemented, modified or amended by any Supplemental Indenture pursuant to the provisions hereof.

**“Independent Accountant”** means any certified public accountant or firm of certified public accountants appointed and paid by the Authority, and who, or each of whom (a) is in fact independent and not under domination of the Authority or the Town; (b) does not have any substantial interest, direct or indirect, in the Authority or the Town; and (c) is not connected with the Authority or the Town as an officer or employee of the Authority or the Town but who may be regularly retained to make annual or other audits of the books of or reports to the Authority or the Town.

**“Independent Financial Consultant”** means any financial consultant or firm of such consultants appointed and paid by the Town, and who, or each of whom: (a) is in fact independent and not under domination of the Authority or the Town; (b) does not have any substantial interest, direct or indirect, in the Authority or the Town; and (c) is not an officer or employee of the Authority or the Town, but who may be regularly retained to make annual or other audits of the books of or reports to the Authority or the Town.

**“Information Services”** means the Electronic Municipal Market Access System (referred to as **“EMMA”**), a facility of the Municipal Securities Rulemaking Board (at <http://emma.msrb.org>) or, in accordance with then current guidelines of the Securities and Exchange Commission, such other addresses and/or such other national information services providing information or disseminating notices of redemption of obligations similar to the Bonds.

**“Interest Account”** means the account by that name established and held by the Trustee pursuant to Section 4.02(b)(i).

**“Interest Payment Date”** means February 1 and August 1 in each year, beginning August 1, 2012, and continuing thereafter so long as any Bonds remain Outstanding.

**“Maximum Annual Debt Service”** means, as of the date of calculation, the maximum amount obtained by totaling, for the current or any future Bond Year, the sum of: (a) the principal amount of all Outstanding Bonds maturing in such Bond Year; and (b) the interest which would be due during such Bond Year on the aggregate principal amount of Bonds which would be Outstanding in such period if the Bonds are retired as scheduled, but deducting and excluding from such aggregate principal amount the aggregate principal amount of Bonds no longer Outstanding.

**“Moody’s”** means Moody’s Investors Service, its successors and assigns.

**“Nominee”** means (a) initially, Cede & Co. as nominee of DTC, and (b) any other nominee of the Depository designated pursuant to Section 2.09(a).

**“Outstanding”**, when used as of any particular time with reference to Bonds, means all Bonds theretofore executed, issued and delivered by the Authority under this Indenture except (a) Bonds theretofore cancelled by the Trustee or surrendered to the Trustee for cancellation, (b) Bonds paid or deemed to have been paid within the meaning of Section 9.03 (but subject to the last paragraph of Section 9.03), and (c) Bonds in lieu of or in substitution for which other Bonds shall have been executed, issued and delivered pursuant to this Indenture or any Supplemental Indenture.

“Owner”, when used with respect to any Bond, means the person in whose name the ownership of such Bond shall be registered on the Registration Books.

“Participating Underwriter” shall have the meaning ascribed thereto in the Continuing Disclosure Agreement.

“Permitted Investments” means any of the following which at the time of investment are legal investments under the laws of the State for the moneys proposed to be invested therein, but only to the extent that the same are acquired at Fair Market Value (provided the Trustee may rely upon the Request of the Authority directing investment hereunder as a determination that such investment is a Permitted Investment):

“Permitted Investments” means:

(a) Federal Securities.

(b) Notes, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following federal agencies and provided such obligations are backed by the full faith and credit of the United States of America (stripped securities are only permitted if they have been stripped by the agency itself):

1. U.S. Export-Import Bank (Eximbank)

Direct obligations or fully guaranteed certificates of beneficial ownership

2. U.S. Farmers Home Administration (FmHA)

Certificates of Beneficial Ownership

3. Federal Financing Bank

4. Federal Housing Administration Debentures (FHA)

5. General Services Administration

Participation Certificates

6. Government National Mortgage Association (GNMA or Ginnie Mae)

GNMA—guaranteed mortgage-backed bonds  
GNMA—guaranteed Title XI financing  
GNMA—guaranteed pass-through obligations

7. U.S. Maritime Administration

8. U.S. Department of Housing and Urban Development (HUD)

Project Notes

Local Agency Notes

New Communities Debentures - U.S. government guaranteed debentures

U.S. Public Housing Notes and 2010 Notes - U.S. government guaranteed public housing notes and bonds

(c) Notes, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following federal agencies which are not backed by the full faith and credit of the United States of America (stripped securities are only permitted if they have been stripped by the agency itself):

1. Federal Home Loan Bank System

Senior debt obligations



2. Federal Home Loan Mortgage Corporation (FHLMC or Freddie Mac)  
Participation Certificate  
Senior debt obligations
3. Federal National Mortgage Association (FNMA or Fannie Mae)  
Mortgage-backed securities and senior debt obligations
4. Student Loan Marketing Association (SLMA or Sallie Mae)  
Senior debt obligations
5. Resolution Funding Corp. (REFCORP) obligations
6. Farm Credit System  
Consolidated systemwide bonds and notes

(d) Money market funds registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933, which invest solely in Federal Securities, if rated by S&P, having a rating at the time of investment of AAAM-G; and if rated by Moody's having a rating at the time of investment of Aaa, including funds for which the Trustee, its parent holding company, if any, or any affiliates or subsidiaries provide investment advisory or other management services.

(e) Certificates of deposit secured at all times by collateral described in (a) and/or (b) above. Such certificates must be issued by commercial banks or savings and loan associations (including the Trustee or its affiliates). The collateral must be held by a third party and the Owners must have a perfected first security interest in the collateral.

(f) Certificates of deposit, savings accounts, deposit accounts or money market deposits which are fully insured by FDIC and, to the extent such deposits are in excess of the amounts protected by FDIC insurance, secured at all times by collateral described in (a) and/or (b) above.

(g) Commercial paper rated, at the time of purchase, "Prime-1" by Moody's and "A-1" or better by S&P.

(h) Federal funds or bankers acceptances with a maximum term of 180 days of any bank which has an unsecured, uninsured and unguaranteed obligation rating at the time of investment of "Prime-1" or better by Moody's and "A-1" or better by S&P.

(i) The Local Agency Investment Fund of the State, created pursuant to 16429.1 of the California Government Code.

(j) The County pooled investment fund.

(k) Municipal obligations rated "A" or higher by S&P.

(l) Other forms of investments that satisfy the Town's Statement of Investment Policy as of the time of investment.

"*Principal Account*" means the account by that name established and held by the Trustee pursuant to Section 4.02(b)(ii).

*“Principal Prepayments”* means any amounts received by the Trustee representing (a) a redemption of any of the Town Refunding Bonds pursuant to the Town Bond Resolution, consisting of the principal amount of the Town Refunding Bonds being redeemed and any premium paid upon such redemption, or (b) the amount due upon acceleration of Town Refunding Bonds following a default under the terms of the Town Bond Resolution; but excluding in any event the amount of any regularly scheduled payments of principal of and interest on the Town Refunding Bonds paid concurrent therewith.

*“Project Fund”* means the fund by that name established and held by the Trustee pursuant to Section 3.04.

*“Purchase Fund”* means the fund by that name established and held by the Trustee pursuant to Section 3.03.

*“Rebate Account”* means the account established and held by the Trustee pursuant to Section 4.02(c).

*“Record Date”* means, with respect to any Interest Payment Date, the fifteenth (15th) calendar day of the month immediately preceding such Interest Payment Date, whether or not such day is a Business Day.

*“Registration Books”* means the records maintained by the Trustee pursuant to Section 2.07 for the registration and transfer of ownership of the Bonds.

*“Request of the Authority”* means a request in writing signed by the Chair, Executive Director, Secretary or Treasurer of the Authority, or by any other officer of the Authority duly authorized by the Board for that purpose, written notice of which shall be given to the Trustee.

*“Revenue Fund”* means the fund by that name established and held by the Trustee pursuant to Section 4.02(a).

*“Revenues”* means: (a) all amounts derived from or with respect to the Town Refunding Bonds, including but not limited to all Principal Prepayments and other payments of principal thereof and interest thereon; (b) all moneys deposited and held from time to time by the Trustee in the funds and accounts established hereunder, other than the Rebate Account; and (c) income and gains with respect to the investment of amounts on deposit in the funds and accounts established hereunder, other than the Rebate Account and the Costs of Issuance Fund.

*“S&P”* means Standard & Poor’s Ratings Services, its successors and assigns.

*“Securities Depositories”* means The Depository Trust Company, 55 Water Street, 50th Floor, New York, NY 10041-0099, Attention: Call Notification Department, Fax (212) 855-7232; and, in accordance with then current guidelines of the Securities and Exchange Commission, such other addresses and/or such other securities depositories as the Town may designate in a Certificate of the Town delivered to the Trustee.

*“State”* means the State of California.

*“Supplemental Indenture”* means any indenture, agreement or other instrument hereafter duly executed by the Authority and the Trustee in accordance with the provisions of Section 7.01.

“*Tax Code*” means the Internal Revenue Code of 1986, as amended. Any reference to a provision of the Tax Code shall include the applicable Tax Regulations with respect to such provision.

“*Tax Regulations*” means temporary and permanent regulations promulgated under or with respect to Section 103 and Sections 141 through 150, inclusive, of the Tax Code.

“*Town*” means the Town of Fairfax, a municipal corporation and general law city organized under the laws of the State, and any successor thereto.

“*Town Bond Resolution*” means that Resolution No. \_\_\_\_\_, adopted by the Town Council of the Town on February 1, 2012, pursuant to which the Town authorized the issuance of the Town Refunding Bonds, as such resolution may hereafter be amended and supplemented.

“*Town Refunding Bonds*” means the \$ \_\_\_\_\_ Town of Fairfax (Marin County, California) 2012 General Obligation Refunding Bonds, all of which are to be purchased with amounts in the Purchase Fund pursuant to Section 3.03 hereof.

“*Town Paying Agent*” means U.S. Bank National Association, a national banking association organized and existing under the laws of the United States of America or any other entity designated in accordance with the Town Bond Resolution as paying agent for the Town Refunding Bonds.

“*Trust Office*” means the corporate trust office of the Trustee at the address set forth in Section 9.13, and such office as the Trustee may designate in writing to the Authority from time to time as the place for transfer, exchange or payment of the Bonds.

“*Trustee*” means U.S. Bank National Association and its successors and assigns, and any other corporation or association which may at any time be substituted in its place as provided in Article VI.

Section 1.02. Rules of Construction. All references in this Indenture to “Articles,” “Sections,” and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Indenture; and the words “herein,” “hereof,” “hereunder,” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or subdivision hereof.

Section 1.03. Authorization and Purpose of Bonds. The Authority has reviewed all proceedings heretofore taken relative to the authorization of the Bonds and has found, as a result of such review, and hereby finds and determines that all things, conditions, and acts required by law to exist, happen and be performed precedent to and in the issuance of the Bonds do exist, have happened and have been performed in due time, form and manner as required by law, and the Authority is now authorized under the Bond Law and each and every requirement of law, to issue the Bonds in the manner and form provided in this Indenture. Accordingly, the Authority hereby authorizes the issuance of the Bonds pursuant to the Bond Law and this Indenture for the purpose of providing funds purchase the Town Refunding Bonds.

Section 1.04. Equal Security. In consideration of the acceptance of the Bonds by the Owners thereof, this Indenture shall be deemed to be and shall constitute a contract among the Authority, the Trustee and the Owners from time to time of the Bonds; and the covenants and agreements herein set forth to be performed on behalf of the Authority shall be for the equal and proportionate benefit, security and protection of all Owners of the Bonds without preference, priority or distinction as to security or otherwise of any of the Bonds over any of the

others by reason of the number or date thereof or the time of sale, execution or delivery thereof, or otherwise for any cause whatsoever, except as expressly provided therein or herein.

ARTICLE II  
ISSUANCE OF THE BONDS

Section 2.01. Terms of the Bonds. The Bonds authorized to be issued by the Authority under and subject to the Bond Law and the terms of this Indenture shall be designated the "Fairfax Financing Authority Revenue Bonds, Series 2012 (Town of Fairfax General Obligation Refunding Bond Program), Series 2012" and shall be issued in the original aggregate principal amount of \_\_\_\_\_ dollars (\$\_\_\_\_\_).

The Bonds shall be issued in fully registered form without coupons in denominations of \$5,000 or any integral multiple thereof, so long as no Bond shall have more than one maturity date. The Bonds shall be dated the Closing Date, and shall mature on September 1 in each of the years and in the amounts, and shall bear interest (calculated on the basis of a 360-day year of twelve 30-day months) at the rates, as follows:

<u>Maturity Date</u> <u>(August 1)</u>	<u>Principal</u> <u>Amount</u>	<u>Interest Rate</u> <u>Per Annum</u>	<u>Maturity Date</u> <u>(August 1)</u>	<u>Principal</u> <u>Amount</u>	<u>Interest Rate</u> <u>Per Annum</u>
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Interest on the Bonds shall be payable on each Interest Payment Date to the person whose name appears on the Registration Books as the Owner thereof as of the Record Date immediately preceding each such Interest Payment Date, such interest to be paid by check or draft of the Trustee mailed by first class mail, postage prepaid, on each Interest Payment Date to the Owner at the address of such Owner as it appears on the Registration Books as of the preceding Record Date; *provided, however*, that at the written request of the Owner of at least \$1,000,000 in aggregate principal amount of Outstanding Bonds filed with the Trustee prior to any Record Date, interest on such Bonds shall be paid to such Owner on each succeeding Interest Payment Date by wire transfer of immediately available funds to an account in the continental United States designated in such written request. Principal of and premium (if any) on any Bond shall be paid upon presentation and surrender thereof, at maturity or the prior redemption thereof, at the Trust Office of the Trustee. The principal of and interest and premium (if any) on the Bonds shall be payable in lawful money of the United States of America.

Each Bond shall bear interest from the Interest Payment Date next preceding the date of authentication thereof, unless (i) it is authenticated after a Record Date and on or before the following Interest Payment Date, in which event it shall bear interest from such Interest Payment Date; or (ii) it is authenticated on or before July 14, 2012, in which event it shall bear interest from the Closing Date for such Bonds; *provided, however*, that if, as of the date of authentication of any Bond, interest thereon is in default, such Bond shall bear interest from the Interest Payment Date to which interest has previously been paid or made available for payment thereon.

Section 2.02. Redemption of the Bonds.

(a) *Optional Redemption.* The Bonds maturing on or before August 1, \_\_\_\_\_, are not subject to optional redemption prior to maturity. The Bonds maturing on or after August 1, \_\_\_\_\_, are subject to redemption, at the option of the Town, on any date on or after August 1, \_\_\_\_\_, as a whole or in part, among such maturity or maturities as directed by the Authority (or in the absence of such direction, pro rata by maturity) and by lot within a maturity, from any available moneys, including from the optional redemption by the Town of Town Refunding Bonds, at a redemption price equal to the principal amount of the Bonds to be redeemed together with accrued interest thereon to the date fixed for redemption, without premium.

In the event the Authority determines to redeem Bonds, the Town or the Authority will immediately inform the Trustee of such redemption and the Trustee will concurrently mail notice of the redemption of such Bonds. In the event that the Town or the Authority receives notice of the redemption or acceleration of any Town Refunding Bonds, the Town or the Authority will immediately inform the Trustee of such redemption and the Trustee will concurrently mail notice of the redemption of Bonds, such redemption to occur on the date fixed for such redemption of the Town Refunding Bonds. The proceeds of any such redemption of the Town Refunding Bonds will be applied by the Trustee to pay the redemption price of the Bonds. The redemption price of redeemed Town Refunding Bonds will be equal to the redemption price of a like amount of Bonds.

(b) *Notice of Redemption.* The Trustee on behalf and at the expense of the Authority shall mail (by first class mail) notice of any redemption to the respective Owners of any Bonds designated for redemption at their respective addresses appearing on the Registration Books, and to the Securities Depositories and to one or more Information Services, at least thirty (30) but not more than sixty (60) days prior to the date fixed for redemption; *provided, however,* that neither failure to receive any such notice so mailed nor any defect therein shall affect the validity of the proceedings for the redemption of such Bonds or the cessation of the accrual of interest thereon. Such notice shall state the date of the notice, the redemption date, the redemption place and the redemption price and shall designate the CUSIP numbers, the Bond numbers (but only if less than all of the Outstanding Bonds are to be redeemed) and the maturity or maturities (in the event of redemption of all of the Bonds of such maturity or maturities in whole) of the Bonds to be redeemed, and shall require that such Bonds be then surrendered at the Trust Office of the Trustee for redemption at the redemption price, giving notice also that further interest on such Bonds will not accrue from and after the redemption date.

Notwithstanding the foregoing, in the case of any optional redemption of the Bonds under Section 2.02(a) above, the notice of redemption shall state that the redemption is conditioned upon receipt by the Trustee of sufficient moneys to redeem the Bonds on the anticipated redemption date, and that the optional redemption shall not occur if by no later than the scheduled redemption date sufficient moneys to redeem the Bonds have not been deposited with the Trustee. In the event that the Trustee does not receive sufficient funds by the scheduled optional redemption date to so redeem the Bonds to be optionally redeemed, the Trustee shall send written notice to the owners of the Bonds, to the Securities Depositories and to one or more of the Information Services to the effect that the redemption did not occur as anticipated, and the Bonds for which notice of optional redemption was given shall remain Outstanding for all purposes of this Indenture.

(c) *Selection of Bonds for Redemption.* Whenever provision is made in this Indenture for the redemption of less than all of the Bonds of any maturity, the Trustee shall select the Bonds to be redeemed from all Bonds of such maturity not previously called for redemption, by lot in any manner which the Trustee in its sole discretion shall deem appropriate and fair. For purposes of

such selection, all Bonds shall be deemed to be comprised of separate \$5,000 portions and such portions shall be treated as separate Bonds which may be separately redeemed.

(d) *Partial Redemption of Bonds.* In the event only a portion of any Bond is called for redemption, then upon surrender of such Bond the Authority shall execute and the Trustee shall authenticate and deliver to the Owner thereof, at the expense of the Authority, a new Bond or Bonds of the same series and maturity date, of authorized denominations in aggregate principal amount equal to the unredeemed portion of the Bond to be redeemed.

(e) *Effect of Redemption.* From and after the date fixed for redemption, if funds available for the payment of the principal of and interest (and premium, if any) on the Bonds so called for redemption shall have been duly provided, such Bonds so called shall cease to be entitled to any benefit under this Indenture other than the right to receive payment of the redemption price, and no interest shall accrue thereon from and after the redemption date specified in such notice.

Section 2.03. Form of the Bonds. The Bonds, the form of Trustee's certificate of authentication, and the form of assignment to appear thereon, shall be substantially in the respective forms set forth in Exhibit A attached hereto and by this reference incorporated herein, with necessary or appropriate variations, omissions and insertions, as permitted or required by this Indenture.

Section 2.04. Execution of Bonds. The Bonds shall be signed in the name and on behalf of the Authority with the manual or facsimile signatures of its Chairman and attested with the manual or facsimile signature of its Secretary or any assistant duly appointed by the Board, under the printed seal of the Authority, and shall be delivered to the Trustee for authentication by it. In case any officer of the Authority who shall have signed any of the Bonds shall cease to be such officer before the Bonds so signed shall have been authenticated or delivered by the Trustee or issued by the Authority, such Bonds may nevertheless be authenticated, delivered and issued and, upon such authentication, delivery and issue, shall be as binding upon the Authority as though the individual who signed the same had continued to be such officer of the Authority. Also, any Bond may be signed on behalf of the Authority by any individual who on the actual date of the execution of such Bond shall be the proper officer although on the nominal date of such Bond such individual shall not have been such officer.

Only such of the Bonds as shall bear thereon a certificate of authentication in substantially the form set forth in Exhibit A, manually executed by the Trustee, shall be valid or obligatory for any purpose or entitled to the benefits of this Indenture, and such certificate of the Trustee shall be conclusive evidence that the Bonds so authenticated have been duly authenticated and delivered hereunder and are entitled to the benefits of this Indenture.

Section 2.05. Transfer of Bonds. Any Bond may, in accordance with its terms, be transferred, upon the Registration Books, by the person in whose name it is registered, in person or by his duly authorized attorney, upon surrender of such Bond for cancellation, accompanied by delivery of a written instrument of transfer in a form approved by the Trustee, duly executed. Whenever any Bond or Bonds shall be surrendered for transfer, the Authority shall execute and the Trustee shall authenticate and deliver to the transferee a new Bond or Bonds of like maturity and aggregate principal amount. The cost of printing Bonds and any services rendered or expenses incurred by the Trustee in connection with any transfer shall be paid by the Town. The Trustee shall not be required to transfer, pursuant to this Section, either (a) all Bonds during the period established by the Trustee for the selection of Bonds for redemption, or (b) any Bonds selected for redemption pursuant to Section 2.02.

Section 2.06. Exchange of Bonds. The Bonds may be exchanged at the Trust Office of the Trustee for a like aggregate principal amount of Bonds of other authorized denominations and

of the same maturity. The cost of printing Bonds and any services rendered or expenses incurred by the Trustee in connection with any exchange shall be paid by the Town. The Trustee shall not be required to exchange, pursuant to this Section, either (a) all Bonds during the period established by the Trustee for the selection of Bonds for redemption, or (b) any Bonds selected for redemption pursuant to Section 2.02.

Section 2.07. Registration Books. The Trustee will keep or cause to be kept at its Trust Office sufficient records for the registration and transfer of the Bonds which shall at all reasonable times during regular business hours be open to inspection by the Authority with reasonable prior notice; and, upon presentation for such purpose, the Trustee shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on said records Bonds as hereinbefore provided.

Section 2.08. Bonds Mutilated, Lost, Destroyed or Stolen. If any Bond shall become mutilated, the Authority, at the expense of the Owner of said Bond, shall execute, and the Trustee shall thereupon authenticate and deliver, a new Bond of like series, tenor and authorized denomination in exchange and substitution for the Bond so mutilated, but only upon surrender to the Trustee of the Bond so mutilated. Every mutilated Bond so surrendered to the Trustee shall be cancelled by it and destroyed. If any Bond issued hereunder shall be lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Trustee and, if such evidence be satisfactory to the Trustee and indemnity for the Trustee and the Authority satisfactory to the Trustee shall be given, the Authority, at the expense of the Bond Owner, shall execute, and the Trustee shall thereupon authenticate and deliver, a new Bond of like series and tenor in lieu of and in substitution for the Bond so lost, destroyed or stolen (or if any such Bond shall have matured or shall have been called for redemption, instead of issuing a substitute Bond the Trustee may pay the same without surrender thereof upon receipt of indemnity satisfactory to the Trustee). The Trustee may require payment of a reasonable fee for each new Bond issued under this Section and of the expenses which may be incurred by the Authority and the Trustee. Any Bond issued under the provisions of this Section in lieu of any Bond alleged to be lost, destroyed or stolen shall constitute an original contractual obligation on the part of the Authority whether or not the Bond alleged to be lost, destroyed or stolen be at any time enforceable by anyone, and shall be equally and proportionately entitled to the benefits of this Indenture with all other Bonds secured by this Indenture.

Section 2.09. Book-Entry System.

(a) *Original Delivery.* The Bonds shall be initially delivered in the form of a single fully registered Bond (which may be typewritten) for each maturity of the Bonds. Upon initial delivery, the ownership of each such Bond shall be registered on the Registration Books in the name of the Nominee. Except as provided in subsection (c), the ownership of all of the Outstanding Bonds shall be registered in the name of the Nominee on the Registration Books.

With respect to Bonds the ownership of which shall be registered in the name of the Nominee, the Authority and the Trustee shall have no responsibility or obligation to any Depository System Participant or to any person on behalf of which the Nominee or the Depository System Participant holds an interest in the Bonds. Without limiting the generality of the immediately preceding sentence, the Authority and the Trustee shall have no responsibility or obligation with respect to (i) the accuracy of the records of the Depository, the Nominee or any Depository System Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any Depository System Participant or any other person, other than a Bond Owner as shown in the Registration Books, of any notice with respect to the Bonds, including any notice of redemption, (iii) the selection by the Depository of the beneficial interests in the Bonds to be redeemed in the event the Authority elects to redeem the Bonds in part, (iv) the payment to any Depository System Participant or any other person, other than a Bond Owner as shown in the

Registration Books, of any amount with respect to principal of or interest or premium, if any, on the Bonds or (v) any consent given or other action taken by the Depository as Owner of the Bonds. The Authority and the Trustee may treat and consider the person in whose name each Bond is registered as the absolute owner of such Bond for the purpose of payment of principal of and interest and premium, if any, on such Bond, for the purpose of giving notices of redemption and other matters with respect to such Bond, for the purpose of registering transfers of ownership of such Bond, and for all other purposes whatsoever. The Trustee shall pay the principal of and interest and premium, if any, on the Bonds only to the respective Owners or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge all obligations with respect to payment of principal of and interest and premium, if any, on the Bonds to the extent of the sum or sums so paid. No person other than a Bond Owner shall receive a Bond evidencing the obligation of the Authority to make payments of principal, interest and premium, if any, pursuant to this Indenture. Upon delivery by the Depository to the Nominee and the Authority of written notice to the effect that the Depository has determined to substitute a new Nominee in its place, such new nominee shall become the Nominee hereunder for all purposes; and upon receipt of such a notice the Authority shall promptly deliver a copy of the same to the Trustee.

(b) *Representation Letter.* In order to qualify the Bonds for the Depository's book-entry system, the Authority shall execute and deliver to such Depository a letter representing such matters as shall be necessary to so qualify the Bonds. The execution and delivery of such letter shall not in any way limit the provisions of subsection (a) above or in any other way impose upon the Authority or the Trustee any obligation whatsoever with respect to persons having interests in the Bonds other than the Bond Owners. Upon the written acceptance by the Trustee, the Trustee shall agree, to the extent not inconsistent with the terms hereof, to take all action reasonably necessary for all representations of the Trustee in such letter with respect to the Trustee to at all times be complied with. In addition to the execution and delivery of such letter, the Authority may take any other actions, not inconsistent with this Indenture, to qualify the Bonds for the Depository's book-entry program.

(c) *Transfers Outside Book-Entry System.* In the event that either (i) the Depository determines not to continue to act as Depository for the Bonds, or (ii) the Authority determines to terminate the Depository as such, then the Authority shall thereupon discontinue the book-entry system with such Depository. In such event, the Depository shall cooperate with the Authority and the Trustee in the issuance of replacement Bonds at the expense of the Authority by providing the Trustee with a list showing the interests of the Depository System Participants in the Bonds, and by surrendering the Bonds, registered in the name of the Nominee, to the Trustee on or before the date such replacement Bonds are to be issued. The Depository, by accepting delivery of the Bonds, agrees to be bound by the provisions of this subsection (c). If, prior to the termination of the Depository acting as such, the Authority fails to identify another Securities Depository to replace the Depository, then the Bonds shall no longer be required to be registered in the Registration Books in the name of the Nominee, but shall be registered in whatever name or names the Owners transferring or exchanging Bonds shall designate, in accordance with the provisions hereof.

In the event the Authority determines that it is in the best interests of the beneficial owners of the Bonds that they be able to obtain certificated Bonds, the Authority may notify the Depository System Participants of the availability of such certificated Bonds through the Depository. In such event, the Trustee will issue, transfer and exchange Bonds as required by the Depository and others in appropriate amounts; and whenever the Depository requests, the Trustee and the Authority shall cooperate with the Depository in taking appropriate action (y) to make available one or more separate certificates evidencing the Bonds to any Depository System Participant having Bonds credited to its account with the Depository, or (z) to arrange

for another Securities Depository to maintain custody of a single certificate evidencing such Bonds, all at the Authority's expense.

(d) *Payments to the Nominee.* Notwithstanding any other provision of this Indenture to the contrary, so long as any Bond is registered in the name of the Nominee, all payments with respect to principal of and interest and premium, if any, on such Bond and all notices with respect to such Bond shall be made and given, respectively, as provided in the letter described in subsection (b) of this Section or as otherwise instructed by the Depository.

### ARTICLE III

#### DEPOSIT AND APPLICATION OF PROCEEDS OF BONDS

Section 3.01. Issuance of Bonds. Upon the execution and delivery of this Indenture, the Authority shall execute and deliver the Bonds in the aggregate principal amount of \_\_\_\_\_ dollars (\$ \_\_\_\_\_), and the Authority shall deliver the Bonds to the Trustee for authentication and delivery to the original purchaser thereof upon the Request of the Authority.

Section 3.02. Application of Proceeds of Sale of Bonds. Upon the receipt of payment for the Bonds on the Closing Date, the Trustee shall deposit the net proceeds of sale thereof (\$ \_\_\_\_\_, being equal to the aggregate principal amount thereof, less an underwriter's discount of \$ \_\_\_\_\_, less a net original issue discount of \$ \_\_\_\_\_) as follows:

- (a) \$ \_\_\_\_\_ shall be deposited in the Purchase Fund;
- (b) \$ \_\_\_\_\_ shall be deposited in the Costs of Issuance Fund; and
- (c) \$ \_\_\_\_\_ shall be deposited in the Project Fund.

Section 3.03. Purchase Fund. The Trustee shall establish and maintain a separate fund to be known as the "Purchase Fund" into which shall be deposited the proceeds of sale of the Bonds pursuant to Section 3.02(a). On the Closing Date, the Trustee shall withdraw all amounts on deposit in the Purchase Fund and transfer such sum to the Town Paying Agent for deposit by the Town Paying Agent under the Town Bond Resolution, as the purchase price for the Town Refunding Bonds.

Section 3.04. Costs of Issuance Fund. There is hereby established an account to be held by the Trustee known as the "Costs of Issuance Fund" into which shall be deposited a portion of the proceeds of the Town Refunding Bonds pursuant to Section 3.02(b). The moneys in the Costs of Issuance Fund shall be used to pay Costs of Issuance from time to time upon receipt of a Request of the Authority. On September 1, 2012, or upon the earlier receipt by the Trustee of a Request of the Authority stating that all Costs of Issuance have been paid, the Trustee shall transfer all remaining amounts in the Costs of Issuance Fund to the Project Fund and the Costs of Issuance Fund shall be closed.

Section 3.05. Project Fund. There is hereby established an account to be held by the Trustee known as the "Project Fund" into which shall be deposited a portion of the proceeds of the Town Refunding Bonds pursuant to Section 3.02(c). The moneys in the Project Fund shall be used from time to time to pay or reimburse the costs of public capital improvements, or Costs of Issuance in excess of amounts available in the Costs of Issuance Fund, upon receipt of a Request of the Town stating (a) the person to whom payment is to be made, (b) the amount to be paid, (c) the purpose for which the obligation was incurred, (d) that such payment is in respect of a public capital improvement eligible under the Act, and (e) that such amount has not been the subject of a prior disbursement from the Project Fund. On March 1, 2015, amounts (if any) remaining in the Project Fund shall be withdrawn therefrom by the Trustee and transferred to the Interest Account and the Project Fund shall be closed.

Section 3.06. Validity of Bonds. The validity of the authorization and issuance of the Bonds shall not be affected in any way by any proceedings taken by the Town with respect to the application of the proceeds of any of the Town Refunding Bonds, and the recital contained

in the Bonds that the same are issued pursuant to the Bond Law shall be conclusive evidence of their validity and of the regularity of their issuance.

## ARTICLE IV

### REVENUES; FLOW OF FUNDS

**Section 4.01. Pledge of Revenues; Assignment of Rights.** Subject to the provisions of Section 6.03, the Bonds shall be secured by a first lien on and pledge (which shall be effected in the manner and to the extent hereinafter provided) of all of the Revenues and a pledge of all of the moneys in the Revenue Fund, the Interest Account and the Principal Account, including all amounts derived from the investment of such moneys. The Bonds shall be equally secured by a pledge, charge and lien upon the Revenues and such moneys without priority for number, date of Bonds, date of execution or date of delivery; and the payment of the interest on and principal of the Bonds and any premiums upon the redemption of any thereof shall be and are secured by an exclusive pledge, charge and lien upon the Revenues and such moneys. So long as any of the Bonds are Outstanding, the Revenues and such moneys shall not be used for any other purpose; except that out of the Revenues there may be apportioned such sums, for such purposes, as are expressly permitted by Section 4.02.

The Authority hereby transfers in trust and assigns to the Trustee, for the benefit of the Owners from time to time of the Bonds, all of the Revenues and all of the right, title and interest of the Authority (but not the obligations) in the Town Refunding Bonds. The Trustee shall be entitled to and shall receive all of the Revenues, and any Revenues collected or received by the Authority shall be deemed to be held, and to have been collected or received, by the Authority as the agent of the Trustee and shall forthwith be paid by the Authority to the Trustee. The Trustee also shall be entitled to and, subject to the provisions hereof, shall take all steps, actions and proceedings reasonably necessary in its judgment to enforce, either jointly with the Authority or separately, all of the rights of the Authority and all of the obligations of the Town under the Town Refunding Bonds.

#### **Section 4.02. Receipt, Deposit and Application of Revenues.**

(a) *Deposit of Revenues; Revenue Fund.* All Revenues described in clause (a) of the definition thereof in Section 1.01 shall be promptly deposited by the Trustee upon receipt thereof in a special fund designated as the "Revenue Fund" which the Trustee shall establish, maintain and hold in trust hereunder.

(b) *Application of Revenues: Special Accounts.* On or before each date on which interest on the Bonds becomes due and payable, the Trustee shall transfer from the Revenue Fund and deposit into the following respective accounts (each of which the Trustee shall establish and maintain within the Revenue Fund), the following amounts in the following order of priority, the requirements of each such account (including the making up of any deficiencies in any such account resulting from lack of Revenues sufficient to make any earlier required deposit) at the time of deposit to be satisfied before any transfer is made to any account subsequent in priority:

(i) **Interest Account.** On or before each date on which interest on the Bonds becomes due and payable, the Trustee shall deposit in the Interest Account an amount required to cause the aggregate amount on deposit in the Interest Account to equal the amount of interest becoming due and payable on such date on all Outstanding Bonds. No deposit need be made into the Interest Account if the amount contained therein is at least equal to the interest becoming due and payable upon all Outstanding Bonds on such date. All moneys in the Interest Account shall be used and withdrawn by the Trustee solely for the purpose of paying the interest on the Bonds as it shall become due and payable (including accrued interest on any Bonds redeemed prior to maturity). All amounts on deposit in the Interest Account on any Interest Payment Date, to the extent

not required to pay any interest then having come due and payable on the Outstanding Bonds, shall be withdrawn therefrom by the Trustee and transferred to the Town to be used for any lawful purposes of the Town.

(ii) **Principal Account.** On or before each date on which the principal of the Bonds shall be payable, the Trustee shall deposit in the Principal Account an amount required to cause the aggregate amount on deposit in the Principal Account to equal the aggregate amount of principal coming due and payable on such date on the Bonds pursuant to Section 2.01, or the redemption price of the Bonds (consisting of the principal amount thereof and any applicable redemption premiums) required to be redeemed on such date pursuant to any of the provisions of Section 2.02. All moneys in the Principal Account shall be used and withdrawn by the Trustee solely for the purpose of (A) paying the principal of the Bonds at the maturity thereof, or (B) paying the principal of and premium (if any) on any Bonds upon the redemption thereof pursuant to Section 2.02(a). All amounts on deposit in the Principal Account on the first day of any Bond Year, to the extent not required to pay the principal of any Outstanding Bonds then having come due and payable, shall be withdrawn therefrom and transferred to the Town to be used for any lawful purposes of the Town.

(iii) **Surplus.** On August 1 of each year, after making the deposits required on such September 1 pursuant to the preceding clause (i) and (ii) of this Section 4.02(b), the Trustee shall transfer any amount remaining on deposit in the Revenue Fund to the Town, free and clear of the lien of this Indenture, to be used for any lawful purpose of the Town.

(c) **Rebate Account.** The Trustee shall deposit in the Rebate Account from time to time, from payments made by the Town for such purpose pursuant to the Town Bond Resolution, an amount determined by the Authority to be subject to rebate to the United States of America in accordance with Section 5.08. Amounts in the Rebate Account shall be applied and disbursed by the Trustee solely for the purposes and at the times set forth in Requests of the Authority filed with the Trustee pursuant to Section 5.08.

Section 4.03. Investments. All moneys in any of the funds or accounts established with the Trustee pursuant to this Indenture or the Town Bond Resolution (other than the Purchase Fund and the moneys deposited in the Interest Account from the proceeds of the Bonds) shall be invested by the Trustee solely in Permitted Investments, as directed in writing by the Town two (2) Business Days prior to the making of such investment. Permitted Investments may be purchased at such prices as the Town shall determine. All Permitted Investments shall be acquired subject to any limitations or requirements as may be established by the Written Request of the Town (as defined in the Town Bond Resolution) filed with the Trustee. Moneys in all funds and accounts shall be invested in Permitted Investments maturing not later than the date on which it is estimated that such moneys will be required for the purposes specified in this Indenture. Absent timely written direction from the Town, the Trustee shall invest any funds held by it in Permitted Investments described in clause (g) of the definition thereof.

All interest, profits and other income received from the investment of moneys in any fund or account established pursuant to this Indenture shall be deposited in the Revenue Fund, except that such interest, profits and other income (i) on amounts in the Costs of Issuance Fund shall be retained therein to be used to the purposes thereof, (ii) on amounts in the Rebate Account shall be retained therein to be used for the purposes thereof, and (iii) on amounts in the Purchase Fund shall be retained therein to be used for the purposes thereof. Permitted Investments acquired as an investment of moneys in any fund established under this Indenture shall be credited to such fund.

The Trustee or any of its affiliates may act as principal or agent in the making or disposing of any investment. The Trustee shall sell or present for redemption, any Permitted Investments so purchased whenever it shall be necessary to provide moneys to meet any required payment, transfer, withdrawal or disbursement from the fund to which such Permitted Investments is credited, and the Trustee shall not be liable or responsible for any loss resulting from any investment made or sold pursuant to this Section 4.03. For purposes of investment, the Trustee may commingle moneys in any of the funds and accounts established hereunder.

The Authority acknowledges that to the extent regulations of the Comptroller of the Currency grant the Authority the right to receive brokerage confirmations of security transactions as they occur, the Authority specifically waives receipt of such confirmations to the extent permitted by law. The Trustee shall furnish the Authority periodic cash transaction statements which include detail for all investment transactions made by the Trustee hereunder.

The Trustee or any of its affiliates may act as sponsor, advisor or manager in connection with any investments made by the Trustee hereunder.

Section 4.04. Valuation and Disposition of Investments. Subject to the provisions of the next paragraph (which shall prevail in the event of any conflict with the provisions of this paragraph), all investments of amounts deposited in any fund or account created by or pursuant to this Indenture, or otherwise containing gross proceeds of the Bonds (within the meaning of Section 148 of the Tax Code), shall be acquired and disposed of and valued at Fair Market Value; *provided, however*, that investments in funds or accounts (or portions thereof) that are subject to a yield restriction under applicable provisions of the Tax Code, shall be valued at their present value (within the meaning of Section 148 of the Tax Code). The Trustee shall have no duty in connection with the determination of Fair Market Value other than to follow (1) its normal practices in the purchase, sale and determining the value of Permitted Investments; and (2) the investment directions of the Town.

## ARTICLE V

### COVENANTS OF THE AUTHORITY

Section 5.01. Punctual Payment. The Authority shall punctually pay or cause to be paid the principal, interest and premium (if any) to become due in respect of all the Bonds, in strict conformity with the terms of the Bonds and of this Indenture, according to the true intent and meaning thereof, but only out of Revenues and other assets pledged for such payment as provided in this Indenture.

Section 5.02. Extension of Payment of Bonds. The Authority shall not directly or indirectly extend or assent to the extension of the maturity of any of the Bonds or the time of payment of any claims for interest by the purchase of such Bonds or by any other arrangement, and in case the maturity of any of the Bonds or the time of payment of any such claims for interest shall be extended, such Bonds or claims for interest shall not be entitled, in case of any default hereunder, to the benefits of this Indenture, except subject to the prior payment in full of the principal of all of the Bonds then Outstanding and of all claims for interest thereon which shall not have been so extended. Nothing in this Section shall be deemed to limit the right of the Authority to issue Bonds for the purpose of refunding any Outstanding Bonds, and such issuance shall not be deemed to constitute an extension of maturity of the Bonds.

Section 5.03. Against Encumbrances. The Authority shall not create, or permit the creation of, any pledge, lien, charge or other encumbrance upon the Revenues and other assets pledged or assigned under this Indenture while any of the Bonds are Outstanding, except the pledge and assignment created by this Indenture. Subject to this limitation, the Authority expressly reserves the right to enter into one or more other indentures for any of its corporate purposes, including other programs under the Bond Law, and reserves the right to issue other obligations for such purposes.

Section 5.04. Power to Issue Bonds and Make Pledge and Assignment. The Authority is duly authorized pursuant to law to issue the Bonds and to enter into this Indenture and to pledge and assign the Revenues, the Town Refunding Bonds and other assets purported to be pledged and assigned, respectively, under this Indenture in the manner and to the extent provided in this Indenture. The Bonds and the provisions of this Indenture are and will be the legal, valid and binding special obligations of the Authority in accordance with their terms, and the Authority and the Trustee shall at all times, to the extent permitted by law, defend, preserve and protect said pledge and assignment of Revenues and other assets and all the rights of the Bond Owners under this Indenture against all claims and demands of all persons whomsoever.

Section 5.05. Accounting Records and Financial Statements. The Trustee shall at all times keep, or cause to be kept, proper books of record and account, prepared in accordance with industry standards, in which complete and accurate entries shall be made of all transactions made by the Trustee relating to the proceeds of Bonds, the Revenues and all funds and accounts established pursuant to this Indenture. Such books of record and account shall be available for inspection by the Authority and the Town, during regular business hours with reasonable prior notice.

Section 5.06. No Parity Debt. Except for the Bonds, the Authority covenants that no additional bonds, notes or other indebtedness shall be issued or incurred which are payable out of the Revenues in whole or in part.

Section 5.07. Tax Covenants Relating to Bonds.

(a) *Private Business Use Limitation.* The Authority shall assure that the proceeds of the Bonds (and the proceeds of the Town Refunding Bonds) are not used in a manner which would cause the Bonds to become "private activity bonds" within the meaning of Section 141(a) of the Tax Code.

(b) *Private Loan Limitation.* The Authority shall assure that no more than five percent (5%) of the net proceeds of the Bonds (and of the Town Refunding Bonds) are used, directly or indirectly, to make or finance a loan (other than loans constituting nonpurpose obligations as defined in the Tax Code or constituting assessments) to persons other than state or local government units.

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

(d) *No Arbitrage.* The Authority shall not take, or permit or suffer to be taken by the Trustee or otherwise, any action with respect to the Bond proceeds which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the Closing Date, would have caused the Bonds to be "arbitrage bonds" within the meaning of Section 148(a) of the Tax Code.

Section 5.08. Rebate of Excess Investment Earnings to United States.

(a) *Obligation to Calculate Excess Investment Earnings.* The Authority shall comply with all applicable provisions of the Tax Code relating to the calculation of Excess Investment Earnings and shall provide or cause to be provided written notice to the Trustee of the amount so calculated. Such calculations shall be made by or on behalf of the Authority at such times, and in such manner, as shall be required pursuant to all applicable provisions of the Tax Code. Promptly upon the making of any such calculation by or on behalf of the Authority, the Authority shall give written notice thereof to the Trustee. The Authority shall make written demand on the Town from time to time for any amounts owed by the Town in respect to amounts owing to the United States under the Town Bond Resolution.

(b) *Rebate to United States.* The Authority shall pay to the Trustee from time to time, in accordance with the Tax Code, all excess investment earnings required to be paid to the United States of America pursuant to the Tax Code for deposit to the Rebate Account. Amounts in the Rebate Account shall be applied by the Trustee, at the written direction of the Authority, solely to make payments from time to time, when due, of excess investment earnings to the United States of America; *provided, however,* that any amounts on deposit in the Rebate Account in excess of the amount required to be paid to the United States of America shall be withdrawn therefrom by the Trustee at the written direction of the Authority and paid to the Town. Payments to the United States of America shall be made to the address prescribed by the Tax Regulations, together with such reports and statements as may be prescribed by the Tax Regulations all as provided by the Authority in writing to the Trustee.

(c) *Investment Transactions.* The Authority shall assure that excess investment earnings on the Bonds are not paid or disbursed except as required in this Section 5.08. To that end the Authority shall assure that investment transactions are on an arm's length basis. In the event that Nonpurpose Investments consist of certificates of deposit or investment contracts, investment in such Nonpurpose Investments shall be made in accordance with the procedures described in applicable Tax Regulations as from time to time in effect.

(d) *Maintenance of Records.* The Authority shall keep, and retain for a period of six (6) years following the retirement of the Bonds, records of the determinations made pursuant to this Section 5.08.

(e) *Engagement of Professional Services.* In order to provide for the administration of this Section 5.08, the Authority may provide for the employment of independent attorneys, accountants and consultants compensated on such reasonable basis as the Authority may deem appropriate.

(f) *Trustee's Reliance on Authority.* The Trustee shall conclusively be entitled to rely upon all calculations and directions made and furnished by the Authority under this Section 5.08, and the Trustee shall not incur any liability whatsoever in acting upon and as instructed by such calculations and directions, or for failing to take any action in the absence of such directions.

#### Section 5.09. Covenants With Respect to Town Refunding Bonds.

(a) *Sale of Town Refunding Bonds.* The Authority may sell the Town Refunding Bonds or any portion of the principal thereof upon written direction of the Authority to the Trustee specifying the principal amount and purchase price of the Town Refunding Bonds to be sold, accompanied by: (i) cash and a written direction of the Authority as to any investment of such cash in Defeasance Obligations, (ii) a certificate of the Authority specifying the maturity or maturities and principal amounts of the Bonds to be defeased (in the manner contemplated by Section 9.03(c)) with such cash and any Defeasance Obligations specified pursuant to the preceding clause (i), (iii) a written certificate of an Independent Financial Consultant to the effect that the aggregate of the principal and interest due on the portion, if any, of such Town Refunding Bonds to be retained by the Trustee following such sale will be sufficient in time and amount to timely pay the principal and interest due on the Bonds which will remain Outstanding following such sale, and (iv) an opinion of Bond Counsel to the effect that such sale, in itself, will not adversely affect the exclusion from the gross incomes of the Owners of the interest on the Bonds. Upon receipt of such documents, the Trustee shall invest such cash as specified by the Authority pursuant to clause (i) above and hold such investments and any uninvested cash in an escrow fund to be used solely for payment of the Bonds defeased therewith, and shall cooperate with the Authority in the transfer of such Town Refunding Bonds so sold to the purchaser thereof. Upon the discharge of all of the Bonds pursuant to Article IX, the Trustee shall thereupon convey all of its right, title and interest in and to the Town Refunding Bonds to the Town.

(b) *Amendment of Town Refunding Bonds.* Neither the Trustee nor the Authority shall consent or agree to consent to any amendment or modification of the Town Bond Resolution unless the Authority shall have obtained, and caused to be filed with the Trustee, (a) if applicable, the report of an Independent Financial Consultant stating that such amendment or modification will not cause a reduction in the amount of Revenues required to pay debt service on the Bonds, and (b) an opinion of Bond Counsel stating that such amendment or modification will not materially adversely impair the interests of the Bond Owners hereunder, and will not cause interest on the Bonds to be includable in gross income of the Bond Owners for federal income tax purposes. The Trustee and the Authority may conclusively rely on such report of the Independent Financial Consultant and Opinion of Bond Counsel and shall, in each case, be protected in relying thereon.

(c) *Collection of Revenues.* The Trustee shall collect and cause to be paid to it all Revenues promptly as such Revenues become due and payable, and, subject to the provisions of this Indenture, shall enforce and cause to be enforced all rights of the Trustee under and with respect to the Town Refunding Bonds. Enforcement of the rights of the Trustee under and with

respect to the Town Refunding Bonds shall be subject to the provisions of subsection (e) of this Section.

(d) *Notification of Town Refunding Bonds Default.* Upon receiving actual knowledge of either (i) the failure to pay when due any installment of principal of or interest or premium (if any) on any of the Town Refunding Bonds, or (ii) the occurrence of any other default under the Town Bond Resolution, the Trustee shall promptly notify the Authority of such failure or event of default by telephone, fax or other form of telecommunication, promptly confirmed in writing. Such notice shall identify the nature of the default.

(e) *Exercise of Remedies With Respect to Town Refunding Bonds.* Subject to Section 9.01 hereof, upon the occurrence of a default with respect to any of the Town Refunding Bonds, the Trustee may, and if requested in writing by the Owners of a majority in aggregate principal amount of the Bonds then Outstanding the Trustee shall, subject to the provisions of this Indenture, exercise any and all remedies granted to the Trustee as registered owner of the Town Refunding Bonds.

(f) *Optional Redemption of Town Refunding Bonds.* The Authority shall not consent to the optional redemption of any of the Town Refunding Bonds unless it shall first have obtained a certificate of an Independent Financial Consultant which: (i) specifies (A) the premium, if any, to be paid by the Town in connection with such optional redemption, and (B) the principal amount and redemption date and price of any Bonds to be redeemed pursuant to Section 2.02(a) as a result of the optional redemption of the Town Refunding Bonds; and (ii) concludes that, based upon the information supplied in clauses (i)(A) and (B) above, and in reliance upon the Trustee, the Town Paying Agent, the Town and the Authority implementing the redemption of the Town Refunding Bonds and the Bonds in a manner consistent with such information, the aggregate of the scheduled principal and interest due on the Town Refunding Bonds which remain Outstanding (as defined in the Town Bond Resolution) following such redemption will be sufficient in time and amount to timely pay the principal and interest due on the Bonds which will remain Outstanding following any redemption of the Bonds to occur under Section 2.02(a) as a result of the optional redemption of the Town Refunding Bonds. The Authority and the Trustee may conclusively rely upon any such certificate of an Independent Financial Consultant in connection with the redemption of the Bonds under Section 2.02(a) as a consequence of such optional redemption.

The consent of the Authority to any such optional redemption of the Town Refunding Bonds may be executed and delivered by the Executive Director of the Authority, who is hereby authorized to so execute and deliver any such consent following receipt of the certificate of an Independent Financial Consultant described in the preceding paragraph, without the need for any further action by the Board of Directors of the Authority. No officer of the Authority shall be subject to any personal liability by reason of his execution and delivery of any such consent.

Section 5.10. Waiver of Laws. The Authority shall not at any time insist upon or plead in any manner whatsoever, or claim or take the benefit or advantage of, any stay or extension law now or at any time hereafter in force that may affect the covenants and agreements contained in this Indenture or in the Bonds, and all benefit or advantage of any such law or laws is hereby expressly waived by the Authority to the extent permitted by law.

Section 5.11. Continuing Disclosure. The Authority hereby covenants and agrees that it will assist the Town in complying with and carrying out all of the provisions of the Continuing Disclosure Certificate. Notwithstanding any other provision of this Indenture, failure of the Authority or the Town to comply with the Continuing Disclosure Certificate shall not be considered an Event of Default; however, the Trustee may, at the written request of the Owners of at least 25% aggregate principal amount of Outstanding Bonds but only to the extent

indemnified to its satisfaction from any liability or expense, including fees of its attorneys, shall) or any Bondholder may, take such actions as may be necessary and appropriate to compel performance by the Town of its obligations under the Continuing Disclosure Certificate, including seeking mandate or specific performance by court order.

Section 5.12. Further Assurances. The Authority will adopt, make, execute and deliver any and all such further resolutions, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Indenture, and for the better assuring and confirming unto the Owners of the Bonds the rights and benefits provided in this Indenture.

## ARTICLE VI

### THE TRUSTEE

Section 6.01. Appointment of Trustee. U.S. Bank National Association is hereby appointed Trustee by the Authority for the purpose of receiving all moneys required to be deposited with the Trustee hereunder and to allocate, use and apply the same as provided in this Indenture. The Authority agrees that it will maintain a Trustee having a corporate trust office in the State, with a combined capital and surplus of at least fifty million dollars (\$50,000,000), and subject to supervision or examination by federal or State authority, so long as any Bonds are Outstanding. If such bank, corporation or trust company publishes a report of condition at least annually pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the purpose of this Section 6.01 the combined capital and surplus of such bank, corporation or trust company shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

The Trustee is hereby authorized to pay the principal of and interest and redemption premium (if any) on the Bonds when duly presented for payment at maturity, or on redemption or purchase prior to maturity, and to cancel all Bonds upon payment thereof. The Trustee shall keep accurate records of all funds administered by it and of all Bonds paid and discharged.

Section 6.02. Acceptance of Trusts. The Trustee hereby accepts the trusts imposed upon it by this Indenture, and agrees to perform said trusts, but only upon and subject to the following express terms and conditions:

(a) The Trustee, prior to the occurrence of an Event of Default and after curing or waiver of all Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. In case an Event of Default hereunder has occurred (which has not been cured or waived), the Trustee may exercise such of the rights and powers vested in it by this Indenture, and shall use the same degree of care and skill and diligence in their exercise, as a prudent person would use in the conduct of its own affairs.

(b) The Trustee may execute any of the trusts or powers hereof and perform the duties required of it hereunder by or through attorneys, agents, or receivers, and shall be entitled to advice of counsel concerning all matters of trust and its duty hereunder. The Trustee may conclusively rely on an opinion of counsel as full and complete protection for any action taken or suffered by it hereunder.

(c) The Trustee shall not be responsible for any recital herein or in the Bonds, or for any of the supplements hereto or thereto or instruments of further assurance, or for the sufficiency of the security for the Bonds issued hereunder or intended to be secured hereby and the Trustee shall not be bound to ascertain or inquire as to the observance or performance of any covenants, conditions or agreements on the part of the Authority hereunder.

(d) The Trustee may become the Owner of Bonds secured hereby with the same rights which it would have if not the Trustee; may acquire and dispose of other bonds or evidences of indebtedness of the Authority with the same rights it would have if it were not the Trustee; and may act as a depository for and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Owners of Bonds, whether or not such committee shall represent the Owners of the majority in aggregate principal amount of the Bonds then Outstanding.

(e) The Trustee shall be protected in acting, in good faith, upon any notice, request, consent, certificate, order, affidavit, letter, telegram, facsimile or other paper or document believed by it to be genuine and correct and to have been signed or sent by the proper person or persons. Any action taken or omitted to be taken by the Trustee in good faith pursuant to this Indenture upon the request or authority or consent of any person who at the time of making such request or giving such authority or consent is the Owner of any Bond, shall be conclusive and binding upon all future Owners of the same Bond and upon Bonds issued in exchange therefor or in place thereof. The Trustee shall not be bound to recognize any person as an Owner of any Bond or to take any action at his request unless the ownership of such Bond by such person shall be reflected on the Registration Books.

(f) As to the existence or non-existence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, the Trustee shall be entitled to rely upon a Certificate of the Authority as sufficient evidence of the facts therein contained and prior to the occurrence of an Event of Default hereunder of which the Trustee has been given notice or is deemed to have notice, as provided in Section 6.02(h) hereof, shall also be at liberty to accept a Certificate of the Authority to the effect that any particular dealing, transaction or action is necessary or expedient, but may at its discretion secure such further evidence deemed by it to be necessary or advisable, but shall in no case be bound to secure the same.

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

(h) The Trustee shall not be required to take notice or be deemed to have notice of any Event of Default hereunder except failure by the Town to make any of the payments to the Trustee required to be made by the Town on any of the Town Refunding Bonds or failure by the Authority or the Town to file with the Trustee any document required by this Indenture or the Town Bond Resolution to be so filed subsequent to the issuance of the Bonds, unless the Trustee shall be specifically notified in writing of such default by the Authority or by the Owners of at least twenty-five percent (25%) in aggregate principal amount of the Bonds then Outstanding and all notices or other instruments required by this Indenture to be delivered to the Trustee must, in order to be effective, be delivered at the Trust Office of the Trustee, and in the absence of such notice so delivered the Trustee may conclusively assume there is no Event of Default hereunder except as aforesaid.

(i) At any and all reasonable times the Trustee, and its duly authorized agents, attorneys, experts, accountants and representatives, shall have the right (but not any duty) fully to inspect all books, papers and records of the Authority pertaining to the Bonds, and to make copies of any of such books, papers and records such as may be desired but which is not privileged by statute or by law.

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

(k) Notwithstanding anything elsewhere in this Indenture with respect to the execution of any Bonds, the withdrawal of any cash, the release of any property, or any action whatsoever within the purview of this Indenture, the Trustee shall have the right, but shall not be required, to demand any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, as may be deemed desirable for the purpose of establishing the right of the Authority to the execution of any Bonds, the withdrawal of any cash, or the taking of any other action by the Trustee.

(l) Before taking the action referred to in Section 8.02 or this Article, the Trustee may require that a satisfactory indemnity bond be furnished for the reimbursement of all expenses to which it may be put and to protect it against all liability, except liability which is adjudicated to have resulted from its negligence or willful default in connection with any such action.

(m) All moneys received by the Trustee shall, until used or applied or invested as herein provided, be held in trust for the purposes for which they were received but need not be segregated from other funds except to the extent required by law.

(n) Whenever in the administration of the trusts imposed upon it by this Indenture the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively proved and established by a Certificate of the Authority, which shall be full warrant to the Trustee for any action taken or suffered in good faith under the provisions of this Indenture in reliance upon such Certificate, but in its discretion the Trustee may (but shall have no duty to), in lieu thereof, accept other evidence of such matter or may require such additional evidence as to it may deem reasonable.

(o) The Trustee shall have no responsibility or liability with respect to any information, statements or recital in any offering memorandum or other disclosure material prepared or distributed with respect to the issuance of the Bonds.

**Section 6.03. Fees, Charges and Expenses of Trustee.** The Trustee shall be entitled to payment and reimbursement from the Authority for reasonable fees for its services rendered hereunder and all advances, counsel fees (including expenses) and other expenses reasonably and necessarily made or incurred by the Trustee in connection with such services. Any compensation of the Trustee shall be limited to the amounts specified in the bid letter provided by the Trustee prior to the issuance of the Bonds, except as may otherwise be approved by the Authority. Upon the occurrence of an Event of Default hereunder, but only upon an Event of Default, the Trustee shall have a first lien with right of payment prior to payment of any Bond upon the amounts held hereunder for the foregoing fees, charges and expenses incurred by it respectively.

**Section 6.04. Notice to Bond Owners of Default.** If an Event of Default hereunder occurs with respect to any Bonds of which the Trustee has been given or is deemed to have notice, as provided in Section 6.02(h) hereof, then the Trustee shall promptly give written notice thereof by first-class mail to the Owner of each such Bond, unless such Event of Default shall have been cured before the giving of such notice; *provided, however*, that unless such Event of Default consists of the failure by the Authority to make any payment when due, the Trustee may elect not to give such notice to the Bond Owners if and so long as the Trustee in good faith determines that such Event of Default does not materially adversely affect the interests of the Bond Owners or that it is otherwise not in the best interests of the Bond Owners to give such notice.

**Section 6.05. Intervention by Trustee.** In any judicial proceeding to which the Authority is a party which, in the opinion of the Trustee and its counsel, has a substantial bearing on the interests of Owners of any of the Bonds, the Trustee may intervene on behalf of such Bond Owners, and subject to Section 6.02(l) hereof, shall do so if requested in writing by the Owners of a majority in aggregate principal amount of such Bonds then Outstanding.

**Section 6.06. Removal of Trustee.** The Owners of a majority in aggregate principal amount of the Outstanding Bonds may at any time, or the Authority may (and the Authority, at the request of the Town shall) so long as no Event of Default shall have occurred and then be continuing, remove the Trustee initially appointed, and any successor thereto, by an instrument

or concurrent instruments in writing delivered to the Trustee at least thirty (30) days prior to the effective date of each removal, whereupon the Authority or such Owners, as the case may be, shall appoint a successor or successors thereto; provided that any such successor shall be a bank or trust company meeting the requirements set forth in Section 6.01.

Section 6.07. Resignation by Trustee. The Trustee and any successor Trustee may at any time give thirty (30) days' written notice of its intention to resign as Trustee hereunder, such notice to be given to the Authority and the Town by registered or certified mail. Upon receiving such notice of resignation, the Authority shall promptly appoint a successor Trustee.

Section 6.08. Appointment of Successor Trustee. In the event of the removal or resignation of the Trustee pursuant to Sections 6.06 or 6.07, respectively, with the prior written consent of the Town, the Authority shall promptly appoint a successor Trustee. In the event the Authority shall for any reason whatsoever fail to appoint a successor Trustee within ninety (90) days following the delivery to the Trustee of the instrument described in Section 6.06 or within ninety (90) days following the receipt of notice by the Authority pursuant to Section 6.07, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor Trustee meeting the requirements of Section 6.01 hereof. Any such successor Trustee appointed by such court shall become the successor Trustee hereunder notwithstanding any action by the Authority purporting to appoint a successor Trustee following the expiration of such ninety-day period.

Any resignation or removal of the Trustee pursuant to Section 6.06 or Section 6.07 and appointment of a successor Trustee shall become effective upon written acceptance of appointment by the successor Trustee. Upon such acceptance, the Authority shall cause notice thereof to be given by first class mail, postage prepaid, to the Bond Owners at their respective addresses set forth on the Registration Books.

Section 6.09. Merger or Consolidation. Any company into which the Trustee may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which the Trustee may sell or transfer all or substantially all of its corporate trust business, provided that such company shall meet the requirements set forth in Section 6.01, shall be the successor to the Trustee and vested with all of the title to the trust estate and all of the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any paper or further act, anything herein to the contrary notwithstanding.

Section 6.10. Concerning any Successor Trustee. Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to the Authority an instrument in writing accepting such appointment hereunder and thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all the estates, properties, rights, powers, trusts, duties and obligations of its predecessors; but such predecessor shall, nevertheless, on the Request of the Authority, or of the Trustee's successor, execute and deliver an instrument transferring to such successor all the estates, properties, rights, powers and trusts of such predecessor hereunder; and every predecessor Trustee shall deliver all securities and moneys held by it as the Trustee hereunder to its successor. Should any instrument in writing from the Authority be required by any successor Trustee for more fully and certainly vesting in such successor the estate, rights, powers and duties hereby vested or intended to be vested in the predecessor Trustee, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Authority.

Section 6.11. Appointment of Co-Trustee. It is the purpose of this Indenture that there shall be no violation of any law of any jurisdiction (including particularly the law of the State) denying or restricting the right of banking corporations or associations to transact business as

Trustee in such jurisdiction. It is recognized that in the case of litigation under this Indenture, and in particular in case of the enforcement of the rights of the Trustee on default, or in the case the Trustee deems that by reason of any present or future law of any jurisdiction it may not exercise any of the powers, rights or remedies herein granted to the Trustee or hold title to the properties, in trust, as herein granted, or take any other action which may be desirable or necessary in connection therewith, it may be necessary that the Trustee appoint an additional individual or institution as a separate co-trustee. The following provisions of this Section 6.11 are adopted to these ends.

In the event that the Trustee appoints an additional individual or institution as a separate or co-trustee, each and every remedy, power, right, claim, demand, cause of action, immunity, estate, title, interest and lien expressed or intended by this Indenture to be exercised by or vested in or conveyed to the Trustee with respect thereto shall be exercisable by and vest in such separate or co-trustee but only to the extent necessary to enable such separate or co-trustee to exercise such powers, rights and remedies, and every covenant and obligation necessary to the exercise thereof by such separate or co-trustee shall run to and be enforceable by either of them.

Should any instrument in writing from the Authority be required by the separate trustee or co-trustee so appointed by the Trustee for more fully and certainly vesting in and confirming to it such properties, rights, powers, trusts, duties and obligations, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Authority. In case any separate trustee or co-trustee, or a successor to either, shall become incapable of acting, resign or be removed, all the estates, properties, rights, powers, trusts, duties and obligations of such separate trustee or co-trustee, so far as permitted by law, shall vest in and be exercised by the Trustee until the appointment of a new trustee or successor to such separate trustee or co-trustee.

Section 6.12. Indemnification; Limited Liability of Trustee. The Authority further covenants and agrees to indemnify and save the Trustee and its officers, directors, agents and employees, harmless against any loss, expense and liabilities which it may incur arising out of or in the exercise and performance of its powers and duties hereunder, including the costs and expenses of defending against any claim of liability, but excluding any and all losses, expenses and liabilities which are due to the negligence or intentional misconduct of the Trustee, its officers, directors, agents or employees. No provision in this Indenture shall require the Trustee to risk or expend its own funds or otherwise incur any financial liability hereunder if it is not assured to its satisfaction that repayment of such funds or adequate indemnity against such liability or risk is not assured to it. The Trustee shall not be liable for any action taken or omitted to be taken by it in accordance with the direction of the Owners of a majority in aggregate principal amount of Bonds Outstanding relating to the time, method and place of conducting any proceeding or remedy available to the Trustee under this Indenture. The obligations of the Authority under this paragraph shall survive the resignation or removal of the Trustee under this Indenture or any defeasance of the Bonds.

## ARTICLE VII

### MODIFICATION AND AMENDMENT OF THE INDENTURE

Section 7.01. Amendment Hereof. This Indenture and the rights and obligations of the Authority and of the Owners of the Bonds may be modified or amended at any time by a Supplemental Indenture which shall become binding upon adoption, without consent of any Bond Owners, to the extent permitted by law but only for any one or more of the following purposes-

(a) to add to the covenants and agreements of the Authority contained in this Indenture, other covenants and agreements hereafter to be observed, to pledge or assign additional security for the Bonds (or any portion thereof), or to surrender any right or power herein reserved to or conferred upon the Authority;

(b) to make such provisions for the purpose of curing any ambiguity, inconsistency or omission, or of curing or correcting any defective provision, contained in this Indenture, or in any other respect whatsoever, as the Authority may deem necessary or desirable, provided that such modification or amendment does not materially adversely affect the interests of the Bond Owners in the opinion of Bond Counsel;

(c) to modify, amend or supplement the Indenture in such manner as to permit the qualification of this Indenture under the Trust Indenture Act of 1939, as amended, or any similar federal statute hereafter in effect, and to add such other terms, conditions and provisions as may be permitted by said act or similar federal statute;

(d) to amend any provision hereof relating to the Tax Code, to any extent whatsoever but only if and to the extent such amendment will not adversely affect the exclusion from gross income of interest on any of the Bonds under the Tax Code, in the opinion of Bond Counsel; or

(e) to facilitate the issuance of additional obligations of the Town pursuant to the Town Bond Resolution.

Except as set forth in the preceding paragraph of this Section 7.01, this Indenture and the rights and obligations of the Authority and of the Owners of the Bonds may only be modified or amended at any time by a Supplemental Indenture which shall become binding when the written consents of the Owners of a majority in aggregate principal amount of the Bonds then Outstanding are filed with the Trustee. No such modification or amendment shall (a) extend the maturity of or reduce the interest rate on any Bond or otherwise alter or impair the obligation of the Authority to pay the principal, interest or premiums (if any) at the time and place and at the rate and in the currency provided therein of any Bond without the express written consent of the Owner of such Bond, (b) reduce the percentage of Bonds required for the written consent to any such amendment or modification, or (c) without its written consent thereto, modify any of the rights or obligations of the Trustee.

Section 7.02. Effect of Supplemental Indenture. From and after the time any Supplemental Indenture becomes effective pursuant to this Article VII, this Indenture shall be deemed to be modified and amended in accordance therewith, the respective rights, duties and obligations of the parties hereto or thereto and all Owners of Outstanding Bonds, as the case may be, shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modification and amendment, and all the terms and conditions of any Supplemental Indenture shall be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

Section 7.03. Endorsement or Replacement of Bonds After Amendment. After the effective date of any action taken as hereinabove provided, the Authority may determine that the Bonds shall bear a notation, by endorsement in form approved by the Authority, as to such action, and in that case upon demand of the Owner of any Bond Outstanding at such effective date and presentation of his Bond for that purpose at the Trust Office of the Trustee, a suitable notation as to such action shall be made on such Bond. If the Authority shall so determine, new Bonds so modified as, in the opinion of the Authority, shall be necessary to conform to such Bond Owners' action shall be prepared and executed, and in that case upon demand of the Owner of any Bond Outstanding at such effective date such new Bonds shall be exchanged at the Trust Office of the Trustee, without cost to each Bond Owner, for Bonds then Outstanding, upon surrender of such Outstanding Bonds.

Section 7.04. Amendment by Mutual Consent. The provisions of this Article VII shall not prevent any Bond Owner from accepting any amendment as to the particular Bond held by him, provided that due notation thereof is made on such Bond.

## ARTICLE VIII

### EVENTS OF DEFAULT AND REMEDIES

Section 8.01. Events of Default. The following events shall be Events of Default hereunder:

(a) Default in the due and punctual payment of the principal of any Bond when and as the same shall become due and payable, whether at maturity as therein expressed, by proceedings for redemption, by declaration or otherwise.

(b) Default in the due and punctual payment of any installment of interest on any Bond when and as such interest installment shall become due and payable.

(c) Failure by the Authority to observe and perform any of the covenants, agreements or conditions on its part in this Indenture or in the Bonds contained, other than as referred to in the preceding clauses (a) and (b), for a period of sixty (60) days after written notice, specifying such failure and requesting that it be remedied has been given to the Authority by the Trustee; *provided, however*, that if in the reasonable opinion of the Authority the failure stated in such notice can be corrected, but not within such sixty (60) day period, such failure shall not constitute an Event of Default if corrective action is instituted by the Authority within such sixty (60) day period and diligently pursued until such failure is corrected.

(d) The filing by the Authority of a petition or answer seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America, or if a court of competent jurisdiction shall approve a petition, filed with or without the consent of the Authority, seeking reorganization under the federal bankruptcy laws or any other applicable law of the United States of America, or if, under the provisions of any other law for the relief or aid of debtors, any court of competent jurisdiction shall assume custody or control of the Authority or of the whole or any substantial part of its property.

Section 8.02. Remedies Upon Event of Default. Subject to the provisions of Section 9.02, if any Event of Default shall occur, then, and in each and every such case during the continuance of such Event of Default, the Trustee may, and at the written direction of the Owners of a majority in aggregate principal amount of the Bonds at the time Outstanding shall, upon notice in writing to the Authority and the Town, pursue any available remedy at law or in equity to enforce the payment of the principal of and interest and premium (if any) on the Bonds, and to enforce any rights of the Trustee under or with respect to this Indenture. Notice of the occurrence of any Event of Default shall be given by the Trustee to the Bond Owners if and to the extent required pursuant to Section 6.04 and indemnification is provided to the Trustee pursuant to Section 6.12 hereof.

Subject to the provisions of Section 9.02, if an Event of Default shall have occurred and be continuing and if requested so to do by the Owners of a majority in aggregate principal amount of Outstanding Bonds and indemnified as provided in Section 6.02(1), the Trustee shall be obligated to exercise such one or more of the rights and powers conferred by this Article VIII, as the Trustee, being advised by counsel, shall deem most expedient in the interests of the Bond Owners.

No remedy by the terms of this Indenture conferred upon or reserved to the Trustee (or to the Bond Owners) is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Trustee or to the Bond Owners hereunder or now or hereafter existing at law or in equity.

No delay or omission to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or acquiescence therein; such right or power may be exercised from time to time as often as may be deemed expedient.

Section 8.03. Application of Revenues and Other Funds After Default. All amounts received by the Trustee pursuant to any right given or action taken by the Trustee under the provisions of this Indenture shall be applied by the Trustee in the following order upon presentation of the several Bonds, and the stamping thereon of the amount of the payment if only partially paid, or upon the surrender thereof if fully paid -

*First*, to the payment of the fees, costs and expenses of the Trustee in declaring such Event of Default and in carrying out the provisions of this Article VIII, including reasonable compensation to its agents, attorneys and counsel and any outstanding fees and expenses of the Trustee; and

*Second*, to the payment of the whole amount of interest on and principal of the Bonds then due and unpaid, with interest on overdue installments of principal and interest to the extent permitted by law at the net effective rate of interest then borne by the Outstanding Bonds; *provided, however*, that in the event such amounts shall be insufficient to pay in full the full amount of such interest and principal, then such amounts shall be applied in the following order of priority:

(a) to the payment of all installments of interest on the Bonds then due and unpaid, on a pro rata basis in the event that the available amounts are insufficient to pay all such interest in full,

(b) to the payment of principal of the Bonds then due and payable, such that the unpaid principal reflects, to the furthest extent possible, the unpaid portion of the Town Refunding Bonds, in the event that the available amounts are insufficient to pay all such principal in full, and

(c) to the payment of interest on overdue installments of principal and interest, on a pro rata basis in the event that the available amounts are insufficient to pay all such interest in full.

Section 8.04. Power of Trustee to Control Proceedings. Subject to the provisions of Section 9.02, in the event that the Trustee, upon the happening of an Event of Default, shall have taken any action, by judicial proceedings or otherwise, pursuant to its duties hereunder, whether upon its own discretion or upon the request of the Owners of at least a majority in aggregate principal amount of the Bonds then Outstanding, it shall have full power, in the exercise of its discretion for the best interests of the Owners of the Bonds, with respect to the continuance, discontinuance, withdrawal, compromise, settlement or other disposal of such action; *provided, however*, that the Trustee shall not, unless there no longer continues an Event of Default, discontinue, withdraw, compromise or settle, or otherwise dispose of any litigation pending at law or in equity, if at the time there has been filed with it a written request signed by the Owners of a majority in aggregate principal amount of the Outstanding Bonds hereunder opposing such discontinuance, withdrawal, compromise, settlement or other disposal of such litigation. Any suit, action or proceeding which any Owner of Bonds shall have the right to bring to enforce any right or remedy hereunder may be brought by the Trustee for the equal benefit and protection of all Owners of Bonds similarly situated and the Trustee is hereby appointed (and the successive respective Owners of the Bonds issued hereunder, by taking and holding the same, shall be conclusively deemed so to have appointed it) the true and lawful

attorney-in-fact of the respective Owners of the Bonds for the purpose of bringing any such suit, action or proceeding and to do and perform any and all acts and things for and on behalf of the respective Owners of the Bonds as a class or classes, as may be necessary or advisable in the opinion of the Trustee as such attorney-in-fact.

Section 8.05. Appointment of Receivers. Upon the occurrence of an Event of Default hereunder, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Trustee and of the Bond Owners under this Indenture, the Trustee shall be entitled, as a matter of right, to the appointment of a receiver or receivers of the Revenues and other amounts pledged hereunder, pending such proceedings, with such powers as the court making such appointment shall confer.

Section 8.06. Non-Waiver. Nothing in this Article VIII or in any other provision of this Indenture, or in the Bonds, shall affect or impair the obligation of the Authority, which is absolute and unconditional, to pay the interest on and principal of the Bonds to the respective Owners of the Bonds at the respective dates of maturity, as herein provided, out of the Revenues and other moneys herein pledged for such payment.

A waiver of any default or breach of duty or contract by the Trustee or any Bond Owners shall not affect any subsequent default or breach of duty or contract, or impair any rights or remedies on any such subsequent default or breach. No delay or omission of the Trustee or any Owner of any of the Bonds to exercise any right or power accruing upon any default or breach shall impair any such right or power or shall be construed to be a waiver of any such default or breach or an acquiescence therein; and every power and remedy conferred upon the Trustee or Bond Owners by the Bond Law or by this Article VIII may be enforced and exercised from time to time and as often as shall be deemed expedient by the Trustee or the Bond Owners, as the case may be.

Section 8.07. Rights and Remedies of Bond Owners. No Owner of any Bond issued hereunder shall have the right to institute any suit, action or proceeding at law or in equity, for any remedy under or upon this Indenture, unless (a) such Owner shall have previously given to the Trustee written notice of the occurrence of an Event of Default; (b) the Owners of a majority in aggregate principal amount of all the Bonds then Outstanding shall have made written request upon the Trustee to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name; (c) said Owners shall have tendered to the Trustee indemnity reasonably acceptable to the Trustee against the costs, expenses and liabilities to be incurred in compliance with such request; (d) the Trustee shall have refused or omitted to comply with such request for a period of sixty (60) days after such written request shall have been received by, and said tender of indemnity shall have been made to, the Trustee; and (e) no direction inconsistent with such written request has been given to the Trustee during such sixty (60) day period by the Owners of a majority in aggregate principal amount of the Bonds then Outstanding.

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

The right of any Owner of any Bond to receive payment of the principal of and interest and premium (if any) on such Bond as herein provided or to institute suit for the enforcement of any such payment, shall not be impaired or affected without the written consent of such Owner,

notwithstanding the foregoing provisions of this Section or any other provision of this Indenture.

Section 8.08. Termination of Proceedings. In case the Trustee shall have proceeded to enforce any right under this Indenture by the appointment of a receiver or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely, then and in every such case, the Authority, the Trustee and the Bond Owners shall be restored to their former positions and rights hereunder, respectively, with regard to the property subject to this Indenture, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

Section 8.09. Parties Interested Herein. Nothing in this Indenture expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the Authority, the Trustee and the Town, their officers, employees and agents, and the Owners any right, remedy or claim under or by reason of this Indenture, or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Indenture contained by and on behalf of the Authority shall be for the sole and exclusive benefit of the Authority, the Trustee and the Town, their officers, employees and agents, and the Owners.

## ARTICLE IX

### MISCELLANEOUS

Section 9.01. Limited Liability of Authority. Notwithstanding anything in this Indenture contained, the Authority shall not be required to advance any moneys derived from any source of income other than the Revenues for the payment of the principal of or interest on the Bonds, or any premiums upon the redemption thereof, or for the performance of any covenants herein contained (except to the extent any such covenants are expressly payable hereunder from the Revenues). The Authority may, however, advance funds for any such purpose, provided that such funds are derived from a source legally available for such purpose and may be used by the Authority for such purpose without incurring indebtedness.

The Bonds shall be revenue bonds, payable exclusively from the Revenues and other funds as in this Indenture provided. The general fund of the Authority is not liable, and the credit of the Authority is not pledged, for the payment of the interest and premium (if any) on or principal of the Bonds. The Owners of the Bonds shall never have the right to compel the forfeiture of any property of the Authority. The principal of and interest on the Bonds, and any premiums upon the redemption of any thereof, shall not be a legal or equitable pledge, charge, lien or encumbrance upon any property of the Authority or upon any of its income, receipts or revenues except the Revenues and other funds pledged to the payment thereof as in this Indenture provided.

Section 9.02. Benefits of Indenture Limited to Parties. Nothing in this Indenture, expressed or implied, is intended to give to any person other than the Authority, the Trustee, the Town and the Owners of the Bonds, any right, remedy or claim under or by reason of this Indenture. Any covenants, stipulations, promises or agreements in this Indenture contained by and on behalf of the Authority shall be for the sole and exclusive benefit of the Trustee, the Town and the Owners of the Bonds.

Section 9.03. Discharge of Indenture. If the Authority shall pay and discharge any or all of the Outstanding Bonds in any one or more of the following ways:

(a) by well and truly paying or causing to be paid the principal of, and the interest and premium (if any) on, such Bonds as and when the same become due and payable;

(b) by irrevocably depositing with the Trustee, in trust, at or before maturity, money which, together with the available amounts then on deposit in the funds and accounts established with the Trustee pursuant to this Indenture, is fully sufficient to pay such Bonds, including all principal, interest and premiums (if any); or

(c) by irrevocably depositing with the Trustee or any other fiduciary, in trust, non-callable Defeasance Obligations in such amount as an Independent Accountant or Bond Counsel shall determine will, together with the interest to accrue thereon and available moneys then on deposit in the funds and accounts established with the Trustee pursuant to this Indenture be fully sufficient to pay and discharge the indebtedness on such Bonds (including all principal, interest and redemption premiums) at or before their respective maturity dates;

and if such Bonds are to be redeemed prior to the maturity thereof notice of such redemption shall have been mailed pursuant to Section 2.02(d) or provision satisfactory to the Trustee shall have been made for the mailing of such notice, then, at the Request of the Authority, and notwithstanding that any of such Bonds shall not have been surrendered for payment, the pledge of the Revenues and other funds provided for in this Indenture with respect to such

Bonds, and all other pecuniary obligations of the Authority under this Indenture with respect to all such Bonds, shall cease and terminate, except only the obligation of the Authority to pay or cause to be paid to the Owners of such Bonds not so surrendered and paid all sums due thereon from amounts set aside for such purpose as aforesaid, and all expenses and costs of the Trustee. Any funds held by the Trustee following any payment or discharge of the Outstanding Bonds pursuant to this Section 9.03, which are not required for said purposes, shall be paid over to the Authority.

Section 9.04. Successor Is Deemed Included in All References to Predecessor. Whenever in this Indenture or any Supplemental Indenture the Authority is named or referred to, such reference shall be deemed to include the successor to the powers, duties and functions, with respect to the management, administration and control of the affairs of the Authority, that are presently vested in the Authority, and all the covenants, agreements and provisions contained in this Indenture by or on behalf of the Authority shall bind and inure to the benefit of its successors whether so expressed or not.

Section 9.05. Content of Certificates. Every certificate with respect to compliance with a condition or covenant provided for in this Indenture made or given by an officer of the Authority may be based, insofar as it relates to legal matters, upon a certificate or opinion of or representations by counsel, unless such officer knows that the certificate or opinion or representations with respect to the matters upon which his certificate may be based are erroneous, or in the exercise of reasonable care should have known that the same were erroneous. Any such certificate or opinion or representation made or given by counsel may be based, insofar as it relates to factual matters, on information with respect to which is in the possession of the Authority, or upon the certificate or opinion of or representations by an officer or officers of the Authority, unless such counsel knows that the certificate or opinion or representations with respect to the matters upon which his certificate, opinion or representation may be based are erroneous, or in the exercise of reasonable care should have known that the same were erroneous.

Section 9.06. Execution of Documents by Bond Owners. Any request, consent or other instrument required by this Indenture to be signed and executed by Bond Owners may be in any number of concurrent writings of substantially similar tenor and may be signed or executed by such Bond Owners in person or by their agent or agents duly appointed in writing. Proof of the execution of any such request, consent or other instrument or of a writing appointing any such agent, shall be sufficient for any purpose of this Indenture and shall be conclusive in favor of the Trustee and of the Authority if made in the manner provided in this Section 9.06.

The fact and date of the execution by any person of any such request, consent or other instrument or writing may be proved by the affidavit of a witness of such execution or by the certificate of any notary public or other officer of any jurisdiction, authorized by the laws thereof to take acknowledgments of deeds, certifying that the person signing such request, consent or other instrument or writing acknowledged to him the execution thereof.

The ownership of Bonds shall be proved by the Registration Books. Any request, consent or vote of the Owner of any Bond shall bind every future Owner of the same Bond and the Owner of any Bond issued in exchange therefor or in lieu thereof, in respect of anything done or suffered to be done by the Trustee or the Authority in pursuance of such request, consent or vote. In lieu of obtaining any demand, request, direction, consent or waiver in writing, the Trustee may call and hold a meeting of the Bond Owners upon such notice and in accordance with such rules and obligations as the Trustee considers fair and reasonable for the purpose of obtaining any such action.

Section 9.07. Disqualified Bonds. In determining whether the Owners of the requisite aggregate principal amount of Bonds have concurred in any demand, request, direction, consent or waiver under this Indenture, Bonds which are owned or held by or for the account of the Town or the Authority (but excluding Bonds held in any employees' retirement fund) shall be disregarded and deemed not to be Outstanding for the purpose of any such determination, *provided, however*, that for the purpose of determining whether the Trustee shall be protected in relying on any such demand, request, direction, consent or waiver, only Bonds which the Trustee knows to be so owned or held shall be disregarded. Upon request of the Trustee, the Town and the Authority shall specify to the Trustee those Bonds disqualified pursuant to this Section and the Trustee may conclusively rely on such Certificates.

Section 9.08. Waiver of Personal Liability. No officer, agent or employee of the Authority shall be individually or personally liable for the payment of the interest on or principal of the Bonds; but nothing herein contained shall relieve any such officer, agent or employee from the performance of any official duty provided by law.

Section 9.09. Partial Invalidity. If any one or more of the covenants or agreements, or portions thereof, provided in this Indenture on the part of the Authority (or of the Trustee) to be performed should be contrary to law, then such covenant or covenants, such agreement or agreements, or such portions thereof, shall be null and void and shall be deemed separable from the remaining covenants and agreements or portions thereof and shall in no way affect the validity of this Indenture or of the Bonds; but the Bond Owners shall retain all rights and benefits accorded to them under the Bond Law or any other applicable provisions of law. The Authority hereby declares that it would have entered into this Indenture and each and every other section, paragraph, subdivision, sentence, clause and phrase hereof and would have authorized the issuance of the Bonds pursuant hereto irrespective of the fact that any one or more sections, paragraphs, subdivisions, sentences, clauses or phrases of this Indenture or the application thereof to any person or circumstance may be held to be unconstitutional, unenforceable or invalid.

Section 9.10. Destruction of Cancelled Bonds. Whenever in this Indenture provision is made for the surrender to the Authority of any Bonds which have been paid or cancelled pursuant to the provisions of this Indenture, at the Request of the Authority the Trustee shall destroy such Bonds and furnish to the Authority a certificate of such destruction.

Section 9.11. Funds and Accounts. Any fund or account required by this Indenture to be established and maintained by the Authority or the Trustee may be established and maintained in the accounting records of the Authority or the Trustee, as the case may be, either as a fund or an account, and may, for the purpose of such records, any audits thereof and any reports or statements with respect thereto, be treated either as a fund or as an account. All such records with respect to all such funds and accounts held by the Authority shall at all times be maintained in accordance with generally accepted accounting principles and all such records with respect to all such funds and accounts held by the Trustee shall be at all times maintained in accordance with industry practices; in each case with due regard for the protection of the security of the Bonds and the rights of every Owner thereof. Any fund or account required by this Indenture to be established and maintained by the Authority or the Trustee may be established and maintained in the form of multiple funds, accounts or sub-accounts therein. The Trustee may establish additional accounts as the trustee shall deem necessary and prudent in furtherance of its duties under this Indenture.

Section 9.12. Payment on Business Days. Whenever in this Indenture any amount is required to be paid on a day which is not a Business Day, such payment shall be required to be made on the Business Day immediately following such day, provided that interest shall not accrue from and after such day.

Section 9.13. Notices. Any notice, request, complaint, demand or other communication under this Indenture shall be given by first class mail or personal delivery to the party entitled thereto at its address set forth below, or by telecopy or other form of telecommunication, at its number set forth below. Notice shall be effective either (a) upon transmission by telecopy or other form of telecommunication, (b) 48 hours after deposit in the United States mail, postage prepaid, or (c) in the case of personal delivery to any person, upon actual receipt. The Authority, the Town or the Trustee may, by written notice to the other parties, from time to time modify the address or number to which communications are to be given hereunder.

If to the Authority: Fairfax Financing Authority  
c/o Town of Fairfax

Attention: \_\_\_\_\_  
Telephone: (510) 670-4271  
Fax: (510) 670-4572

If to the Town: Town of Fairfax

Attention: \_\_\_\_\_  
Telephone: (408) 522-8200  
Fax: (408) 522-8338

If to the Trustee: U.S. Bank National Association  
One California Street, Suite 1000  
San Francisco, CA 94111  
Attention: Corporate Trust Services  
Telephone: (415) 677-\_\_\_\_  
Fax: (415) 677-\_\_\_\_

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

Section 9.14. Unclaimed Moneys. Anything in this Indenture to the contrary notwithstanding, subject to the laws of the State, any moneys held by the Trustee in trust for the payment and discharge of any of the Bonds which remain unclaimed for two (2) years after the date when such Bonds have become due and payable, either at their stated maturity dates or by call for earlier redemption, if such moneys were held by the Trustee at such date, or for two (2) years after the date of deposit of such moneys if deposited with the Trustee after said date when such Bonds become due and payable, shall be repaid by the Trustee to the Authority, as its absolute property and free from trust, and the Trustee shall thereupon be released and discharged with respect thereto and the Bond Owners shall look only to the Authority for the payment of such Bonds; *provided, however,* that before being required to make any such payment to the Authority, the Trustee shall, at the expense of the Authority, cause to be mailed to the Owners of all such Bonds, at their respective addresses appearing on the Registration Books, a notice that said moneys remain unclaimed and that, after a date named in said notice, which date shall not be less than thirty (30) days after the date of mailing of such notice, the balance of such moneys then unclaimed will be returned to the Authority.

Section 9.15. Governing Law. This Agreement shall be construed and governed in accordance with the laws of the State of California.

IN WITNESS WHEREOF, the FAIRFAX FINANCING AUTHORITY has caused this Indenture to be signed in its name and U.S. BANK NATIONAL ASSOCIATION, in token of its acceptance of the trust created hereunder, has caused this Indenture to be signed in its corporate name by its officer identified below, all as of the day and year first above written.

FAIRFAX FINANCING AUTHORITY

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

U.S. BANK NATIONAL ASSOCIATION, as  
Trustee

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

EXHIBIT A

FORM OF BONDS

FAIRFAX FINANCING AUTHORITY  
REVENUE BOND, Series 2012  
(Town of Fairfax General Obligation Refunding Bond Program)

RATE OF INTEREST	MATURITY DATE	ORIGINAL ISSUE DATE	CUSIP
%	August 1,	, 2012	

REGISTERED OWNER: CEDE & CO.

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

The FAIRFAX FINANCING AUTHORITY, a joint powers authority organized and existing under the laws of the State of California (the "Authority"), for value received, hereby promises to pay (but only out of the Revenues and other moneys and securities hereinafter referred to) to the Registered Owner identified above or registered assigns (the "Registered Owner"), on the Maturity Date identified above, the Principal Amount identified above in lawful money of the United States of America; and to pay interest thereon at the Rate of Interest identified above in like money from the Interest Payment Date (as hereinafter defined) next preceding the date of authentication of this Bond (unless this Bond is authenticated on or before an Interest Payment Date and after the fifteenth calendar day of the month preceding such Interest Payment Date, in which event it shall bear interest from such Interest Payment Date, or unless this Bond is authenticated on or prior to July 15, 2012, in which event it shall bear interest from the Original Issue Date identified above; *provided, however*, that if, at the time of authentication of this Bond, interest is in default on this Bond, this Bond shall bear interest from the Interest Payment Date to which interest hereon has previously been paid or made available for payment), payable semiannually on February 1 and August 1 in each year, commencing August 1, 2012 (each, an "Interest Payment Date") until payment of such Principal Amount in full. The Principal Amount hereof is payable upon presentation hereof at the principal corporate trust office (the "Trust Office") of U.S. Bank National Association, as trustee (the "Trustee"), in San Francisco, California or such other place as designated by the Trustee. Interest hereon is payable by check or draft of the Trustee mailed by first class mail on each Interest Payment Date to the Registered Owner hereof at the address of the Registered Owner as it appears on the Registration Books of the Trustee as of the fifteenth calendar day of the month preceding such Interest Payment Date; except that at the written request of the owner of at least \$1,000,000 in aggregate principal amount of outstanding Bonds filed with the Trustee prior to the fifteenth calendar day of the month preceding any Interest Payment Date, interest on such Bonds shall be paid to such owner on such Interest Payment Date by wire transfer of immediately available funds to an account in the continental United States designated in such written request.

This Bond is one of a duly authorized issue of bonds of the Authority designated the "Fairfax Financing Authority Revenue Bonds, Series 2012 (Town of Fairfax General Obligation Refunding Bond Program)" (the "Bonds"), limited in principal amount to \$\_\_\_\_\_, secured by an Indenture of Trust dated as of March 1, 2012 (the "Indenture"), by and between the Authority and the Trustee. Reference is hereby made to the Indenture and all indentures supplemental thereto for a description of the rights thereunder of the owners of the Bonds, of the nature and extent of the Revenues (as that term is defined in the Indenture), of the rights, duties and immunities of the Trustee and of the rights and obligations of the Authority thereunder; and all of the terms of the Indenture are hereby incorporated herein and constitute

a contract between the Authority and the Registered Owner hereof, and to all of the provisions of which Indenture the Registered Owner hereof, by acceptance hereof, assents and agrees.

The Bonds are authorized to be issued pursuant to the provisions of the Marks-Roos Local Bond Pooling Act of 1985, constituting Article 4 (commencing with Section 6584) of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (the "Act"). The Bonds are special obligations of the Authority and, as and to the extent set forth in the Indenture, are payable solely from and secured by a first lien and pledge of the Revenues and certain other moneys and securities held by the Trustee as provided in the Indenture. All of the Bonds are equally secured by a pledge of, and charge and lien upon, all of the Revenues and such other moneys and securities, and the Revenues and such other moneys and securities constitute a trust fund for the security and payment of the principal of and interest and premium (if any) on the Bonds. The full faith and credit of the Authority is not pledged for the payment of the principal of or interest or redemption premiums (if any) on the Bonds. The Bonds are not secured by a legal or equitable pledge of, or charge, lien or encumbrance upon, any of the property of the Authority or any of its income or receipts, except the Revenues and such other moneys and securities as provided in the Indenture.

The Bonds have been issued to provide funds to purchase a bond issue (the "Town Refunding Bonds") of the Town of Fairfax (the "Town") and to finance capital improvements for the Town, all as more particularly described in the Indenture. The Town Refunding Bonds have been issued by the Town pursuant to a resolution (the "Town Bond Resolution"), adopted by the Board of Education of the Town on February 1, 2012. The Town Refunding Bonds have been assigned to the Trustee under the Indenture, and the payments by the Town on the Town Refunding Bonds constitute the principal source of Revenues which are pledged to the payment of the Bonds. The Town has incurred indebtedness, and may in the future issue its bonds, notes or other obligations on a parity with some of the Town Refunding Bonds, subject to the terms and conditions of the Town Bond Resolution.

The Bonds maturing on or before August 1, \_\_\_\_\_, are not subject to optional redemption prior to maturity. The Bonds maturing on or after August 1, \_\_\_\_\_, are subject to redemption, at the option of the Town, on any date on or after August 1, \_\_\_\_\_, as a whole or in part, among such maturity or maturities as directed by the Authority (or in the absence of such direction, pro rata by maturity) and by lot within a maturity, from any available moneys, including from the optional redemption by the Town of Town Refunding Bonds, at a redemption price equal to the principal amount of the Bonds to be redeemed together with accrued interest thereon to the date fixed for redemption, without premium.

The Trustee on behalf and at the expense of the Authority shall mail (by first class mail) notice of any redemption to the respective owners of any Bonds designated for redemption, at their respective addresses appearing on the registration books maintained by the Trustee, to the Securities Depositories and to one or more Information Services (as such terms are defined in the Indenture), at least thirty (30) but not more than sixty (60) days prior to the redemption; provided, however, that neither failure to receive any such notice so mailed nor any defect therein shall affect the validity of the proceedings for the redemption of such Bonds or the cessation of the accrual of interest on the Bonds to be redeemed from and after the date fixed for redemption. Such notice shall state the date of the notice, the redemption date, the redemption place and the redemption price and shall designate the CUSIP numbers, the serial numbers of each maturity or maturities (except that in the event of redemption of all of the Bonds of any maturity, the Trustee shall designate such maturity without referencing each individual Bond number) of the Bonds to be redeemed, and shall require that such Bonds be then surrendered at the Trust Office of the Trustee for redemption at the redemption price, giving notice also that further interest on such Bonds will not accrue from and after the redemption date.

The Bonds are issuable as fully registered Bonds without coupons in denominations of \$5,000 or any integral multiple thereof. Subject to the limitations and upon payment of the charges, if any, provided in the Indenture, Bonds may be exchanged at the Trust Office of the Trustee for a like aggregate principal amount and maturity of Bonds of other authorized denominations.

This Bond is transferable by the Registered Owner hereof, in person or by his attorney duly authorized in writing, at the Trust Office of the Trustee or such other place as designated by the Trustee, but only in the manner, subject to the limitations and upon payment of the charges provided in the Indenture, and upon surrender and cancellation of this Bond. Upon such transfer a new Bond or Bonds, of authorized denomination or denominations, for the same aggregate principal amount and of the same maturity will be issued to the transferee in exchange herefor. The Authority and the Trustee may treat the Registered Owner hereof as the absolute owner hereof for all purposes, and the Authority and the Trustee shall not be affected by any notice to the contrary.

The Indenture and the rights and obligations of the Authority and of the owners of the Bonds and of the Trustee may be modified or amended from time to time and at any time in the manner, to the extent, and upon the terms provided in the Indenture; provided that no such modification or amendment shall (a) extend the maturity of or reduce the interest rate on any Bond or otherwise alter or impair the obligation of the Authority to pay the principal, interest or redemption premiums at the time and place and at the rate and in the currency provided therein of any Bond without the express written consent of the owner of such Bond, (b) reduce the percentage of Bonds required for the written consent to any such amendment or modification, or (c) without its written consent thereto, modify any of the rights or obligations of the Trustee, all as more fully set forth in the Indenture.

It is hereby certified that all things, conditions and acts required to exist, to have happened and to have been performed precedent to and in the issuance of this Bond do exist, have happened and have been performed in due time, form and manner as required by the Constitution and statutes of the State of California and by the Act, and that the amount of this Bond, together with all other indebtedness of the Authority, does not exceed any limit prescribed by the Constitution or statutes of the State of California or by the Act.

This Bond shall not be entitled to any benefit under the Indenture, or become valid or obligatory for any purpose, until the certificate of authentication hereon shall have been signed by the Trustee.

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC") to the Authority or the Trustee for registration of transfer, exchange or payment, and any Bond issued is registered in the name of Cede & Co. or such other name as requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL in as much as the registered owner hereof, Cede & Co., has an interest herein.

IN WITNESS WHEREOF, the Authority has caused this Bond to be executed in its name and on its behalf by the facsimile signatures of its Chairman and Secretary and its seal to be reproduced hereon all as of the Original Issue Date identified above.

FAIRFAX FINANCING AUTHORITY

[SEAL]

Attest \_\_\_\_\_  
Secretary

By \_\_\_\_\_  
Chairman

**TRUSTEE'S CERTIFICATE OF AUTHENTICATION**

This is one of the Bonds described in the within-mentioned Indenture and registered on the registration books of the Trustee.

Dated: \_\_\_\_\_, 2012

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

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

**FORM OF ASSIGNMENT**

For value received the undersigned hereby sells, assigns and transfers unto

---

---

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

the within registered Bond and hereby irrevocably constitute(s) and appoints(s) \_\_\_\_\_ attorney, to transfer the same on the registration books of the Trustee with full power of substitution in the premises.

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

Signature Guaranteed:

Signature:

---

Note: Signature(s) must be guaranteed by a member firm of the New York Stock Exchange or any national stock exchange or a commercial bank or trust company.

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

# **EXHIBIT # F**

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## **BOND PURCHASE CONTRACT**

**by and between the**

**TOWN OF FAIRFAX**

**and the**

**FAIRFAX FINANCING AUTHORITY**

**Dated as of March 1, 2012**

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Relating to:  
\$ \_\_\_\_\_  
Town of Fairfax  
(Marin County, California)  
2012 General Obligation Refunding Bonds

## **BOND PURCHASE CONTRACT**

THIS BOND PURCHASE CONTRACT (this "Bond Purchase Contract"), dated as of March 1, 2012, is by and between the FAIRFAX FINANCING AUTHORITY, a joint exercise of powers authority duly organized and existing under and by virtue of the laws of the State of California (the "Authority"), and the TOWN OF FAIRFAX, a municipal corporation and general law city duly organized and existing under the laws of the State of California (the "Town"):

### **WITNESSETH:**

WHEREAS, the Authority is a joint exercise of powers authority duly organized and existing under the provisions of Articles 1 through 4 (commencing with section 6500) of Chapter 5 of Division 7 of Title 1 of the California Government Code (the "Act"), and is authorized pursuant to Article 4 of the Act (the "Bond Law") to borrow money for, among other purposes, the financing of bonds, notes and other obligations to provide financing for public capital improvements within the State of California;

WHEREAS, the Town has authorized the issuance of its \$\_\_\_\_\_ principal amount of Town of Fairfax, (Marin County, California) 2012 General Obligation Refunding Bonds (the "Town Refunding Bonds"), pursuant to a resolution of the Town, adopted on February 1, 2012 (the "Town Bond Resolution");

WHEREAS, the Authority has authorized the issuance of its bonds, designated as the Fairfax Financing Authority Revenue Bonds, Series 2012 (Town of Fairfax General Obligation Refunding Bond Program), in the aggregate principal amount of \$\_\_\_\_\_ (the "Authority Bonds"), to be issued under an Indenture of Trust, dated as of March 1, 2012 (the "Authority Indenture"), by and between the Authority and U.S. Bank National Association, as trustee (the "Trustee"), and under the Bond Law, the proceeds of which will be applied to (a) the purchase of the Town Refunding Bonds, and (b) the financing of capital improvements within the geographic boundaries of the Town;

WHEREAS, the Authority and the Town have found and determined that the sale of the Town Refunding Bonds to the Authority will result in substantial public benefits to the Town;

WHEREAS, the Authority and the Town desire to enter into this Bond Purchase Contract providing for the sale of the Town Refunding Bonds by the Town to the Authority and containing the other agreements herein set forth.

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

1. All terms not herein defined shall have the meanings given such terms in the Authority Indenture or in the Town Bond Resolution.

2. Upon the terms and conditions and upon the basis of the representations, warranties and agreements hereinafter set forth, the Town hereby commits to sell to the Authority and hereby sells to the Authority, and the Authority hereby commits to purchase from the Town and does hereby purchase from the Town with the proceeds of the Authority Bonds deposited in the Program Fund, all of the Town Refunding Bonds at a purchase price of \$\_\_\_\_\_. The Town Refunding Bonds will be in the principal amounts and be subject to redemption as set forth in Exhibit A attached hereto and hereby made a part hereof.

3. The Town confirms that there are no substantial conditions precedent to the issuance by the Town and to the sale (as provided herein) and the delivery to the Authority of the Town Refunding Bonds.

4. The Town hereby specifies March 1, 2012, as the date of closing of the purchase of the Town Refunding Bonds hereunder (the "Closing Date"). The Town Refunding Bonds shall be registered in the name of the Trustee, as assignee of the Authority and in its capacity as trustee for the Authority Bonds pursuant to the Authority Indenture. On the Closing Date, the Town shall issue and deliver the Town Refunding Bonds to the Trustee upon payment by the Trustee, on behalf of the Authority, to the Town or its order of the purchase price of the Town Refunding Bonds in the aggregate amount of \$ \_\_\_\_\_. Said purchase price shall be paid by the Trustee, on behalf of the Authority, solely from the proceeds of sale of the Authority Bonds pursuant to the terms of the Authority Indenture.

5. The Town Refunding Bonds shall be as described in the Official Statement dated February 2, 2012, relating to the Authority Bonds (the "Official Statement"), and shall be issued and secured under the provisions of the Town Bond Resolution and related proceedings authorizing the issuance of the Town Refunding Bonds (the "Proceedings"). The Town Refunding Bonds and interest thereon will be payable from ad valorem taxes in accordance with the Town Bond Resolution and the Proceedings. Proceeds of the Town Refunding Bonds will be used to refund the Prior Town Bonds.

The interest rate on the Town Refunding Bonds shall not exceed 12% per annum and shall be as set forth in the Town Bond Resolution.

6. Any action under this Bond Purchase Contract taken by the Authority, including payment for and acceptance of the Town Refunding Bonds, and delivery and execution of any receipt for the Town Refunding Bonds and any other instruments in connection with the closing on the Closing Date, shall be valid and sufficient for all purposes and binding upon the Authority, provided that any such action shall not impose any obligation or liability upon the Authority other than as may arise as expressly set forth in this Bond Purchase Contract.

7. It is a condition to the Town's sale of the Town Refunding Bonds and the obligation of the Town to deliver the Town Refunding Bonds to the Authority, and to the Authority's purchase of the Town Refunding Bonds and the obligations of the Authority to accept delivery of and to pay for the Town Refunding Bonds, that the entire aggregate principal amount of the Town Refunding Bonds authorized to be issued by the Town Bond Resolution shall be delivered by the Town, and accepted and paid for by the Authority, on the Closing Date.

8. The Town has furnished some, but not all, of the information contained in the Official Statement and hereby authorizes the use of that information by the Authority in connection with the public offering and sale of the Authority Bonds.

9. The Town represents and warrants to the Authority that:

(a) The Town is a municipal corporation and general law city, duly organized and existing under the laws of the State of California, and has, and on the Closing Date will have, full legal right, power and authority (i) to enter into this Bond Purchase Contract, (ii) to adopt or enter into the Proceedings, (iii) to issue, sell and deliver the Town Refunding Bonds to the Authority as provided herein, and (iv) to carry out and consummate the transactions on its part contemplated by this Bond Purchase Contract, the Proceedings and the Official Statement;

(b) The Town has complied, and will on the Closing Date be in compliance in all respects, with the Proceedings;

(c) By official action of the Town prior to or concurrently with the acceptance hereof, the Town has duly adopted the Town Bond Resolution, has duly authorized and approved the execution and delivery by the Town of, and the performance by the Town of the obligations on its part contained in, the Town Bond Resolution, the Town Refunding Bonds and this Bond Purchase Contract, and has duly authorized and approved the performance by the Town of its obligations contained in the Town Bond Resolution and the other Proceedings, and the consummation by it of all other transactions on its part contemplated by the Official Statement;

(d) The execution and delivery of this Bond Purchase Contract and the Town Refunding Bonds, the adoption of the Town Bond Resolution and the adoption or entering into of the other Proceedings, and compliance with the provisions of each thereof, and the carrying out and consummation of the transactions on its part contemplated by the Official Statement, will not conflict with or constitute a breach of or a default under any applicable law or administrative regulation of the State of California or the United States, or any applicable judgment, decree, agreement or other instrument to which the Town is a party or is otherwise subject;

(e) To the knowledge of the Town, at the time of the Town's acceptance hereof and at all times subsequent thereto up to and including the Closing Date, with respect to information describing the Town and the Proceedings conducted by the Town, the Official Statement does not and will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(f) Except as described in the Official Statement, there is no action, suit, proceeding or investigation before or by any court, public board or body pending or, to the knowledge of the Town, threatened, wherein an unfavorable decision, ruling or finding would: (i) affect the creation, organization, existence or powers of the Town or the titles of its members and officers to their respective offices, (ii) enjoin or restrain the issuance, sale and delivery of the Town Refunding Bonds, the property tax revenues which secure the Town Refunding Bonds, or the pledge thereof under the Town Bond Resolution, (iii) in any way question or affect any of the rights, powers, duties or obligations of the Town with respect to the moneys pledged or to be pledged to pay the principal of, premium, if any, or interest on the Town Refunding Bonds, (iv) in any way question or affect any authority for the issuance of the Town Refunding Bonds, or the validity or enforceability of the Town Refunding Bonds, the Town Bond Resolution or the other Proceedings, or (v) in any way question or affect this Bond Purchase Contract or the transactions contemplated by this Bond Purchase Contract, the Official Statement, the Town Bond Resolution, the other documents referred to in the Official Statement, or any other agreement or instrument to which the Town is a party relating to the Town Refunding Bonds;

(g) The Town will furnish such information, execute such instruments and take such other action in cooperation with the Authority, as the Authority may reasonably request, to qualify the Authority Bonds for offer and sale under the Blue Sky or other securities laws and regulations of such states and other jurisdictions of the United States as the Authority may designate, and will assist, if necessary therefor, in the continuance of such qualifications in effect as long as required for the distribution of the Authority Bonds; provided, however, that the Town shall not be required to qualify as a foreign corporation or to file any general consents to service of process under the laws of any state;

(h) The issuance and sale of the Town Refunding Bonds is not subject to any transfer or other documentary stamp taxes of the State of California or any political subdivision thereof;

(i) The Town has not been notified of any listing or proposed listing by the Internal Revenue Service to the effect that the Town is a bond issuer whose arbitrage certifications may not be relied upon; and

(j) Any certificate signed by any official of the Town authorized to do so shall be deemed a representation and warranty by the Town to the Authority as to the statements made therein.

10. If between the date of this Bond Purchase Contract and the date ninety (90) days after the Closing Date an event occurs which is materially adverse to the purpose for which the Official Statement is to be used which is not disclosed in the Official Statement, the Town shall notify the Authority of such fact.

11. At 8:00 A.M., Pacific Time, on the Closing Date, or at such other time or on such other date as is mutually agreed by the Town and the Authority, the Town will deliver the Town Refunding Bonds to the Trustee, on behalf of the Authority, in definitive form, duly executed, together with the other documents hereinafter mentioned, and, subject to the terms and conditions hereof, the Authority will accept such delivery and pay the purchase price of the Town Refunding Bonds, as referenced in paragraph 2 hereof, but solely from the available proceeds referenced in paragraph 4 hereof, by wire transfer or other funds which are good funds on the Closing Date payable to the order of U.S. Bank National Association, as paying agent Delivery and payment, as aforesaid, shall be made at such place as shall have been mutually agreed upon by the Town and the Authority.

12. The Authority has entered into this Bond Purchase Contract in reliance upon the representations, warranties and agreements of the Town contained herein and to be contained in the documents and instruments to be delivered on the Closing Date, and upon the performance by the Town of its obligations hereunder, both as of the date hereof and as of the Closing Date. Accordingly, the Authority's obligations under this Bond Purchase Contract to purchase, to accept delivery of and to pay for the Town Refunding Bonds shall be subject to the performance by the Town of its obligations to be performed hereunder and under such documents and instruments at or prior to the Closing Date, and shall also be subject to the following conditions:

(a) The representations and warranties of the Town contained herein shall be true and correct on the date hereof and on and as of the Closing Date, as if made on the Closing Date;

(b) On the Closing Date the Proceedings shall be in full force and effect, and shall not have been amended, modified or supplemented, and the Official Statement shall not have been amended, modified or supplemented, except in either case as may have been agreed to by both the Authority and the Original Purchaser;

(c) As of the Closing Date, all official action of the Town relating to the Proceedings shall be in full force and effect, and there shall have been taken all such actions as, in the opinion of Quint & Thimmig LLP, bond counsel ("Bond Counsel"), shall be necessary or appropriate in connection therewith, with the issuance of the Authority Bonds and the Town Refunding Bonds, and with the transactions contemplated hereby, all as described in the Official Statement;

(d) The Authority shall have the right to terminate the Authority's obligations under this Bond Purchase Contract to purchase, to accept delivery of and to pay for the Town Refunding Bonds by notifying the Town of its election to do so if, after the execution hereof and prior to the Closing Date: (i) either the marketability of the Authority Bonds or the market price of the Authority Bonds, in the opinion of the Authority, has been materially and adversely affected by any decision issued by a court of the United States (including the United States Tax Court) or of

the State of California, by any ruling or regulation (final, temporary or proposed) issued by or on behalf of the Department of the Treasury of the United States, the Internal Revenue Service, or other governmental agency of the United States, or any governmental agency of the State of California, or by a tentative decision with respect to legislation reached by a committee of the House of Representatives or the Senate of the Congress of the United States, or by legislation enacted by, pending in, or favorably reported to either the House of Representatives or the Senate of the Congress of the United States or either house of the Legislature of the State of California, or formally proposed to the Congress of the United States by the President of the United States or to the Legislature of the State of California by the Governor of the State of California in an executive communication, affecting the tax status of the Authority or the Town, their property or income, their bonds (including the Authority Bonds) or the interest thereon, or any tax exemption granted or authorized by the Bond Law; (ii) the United States shall have become engaged in: hostilities which have resulted in a declaration of war or national emergency, or there shall have occurred any other outbreak of hostilities, or a local, national or international calamity or crisis, financial or otherwise, the effect of such outbreak, calamity or crisis being such as, in the reasonable opinion of the Authority, would affect materially and adversely the ability of the Authority to market the Authority Bonds (it being agreed by the Authority that there is no outbreak, calamity or crisis of such a character as of the date hereof); (iii) there shall have occurred a general suspension of trading on the New York Stock Exchange or the declaration of a general banking moratorium by the United States, New York State or California State authorities; (iv) there shall have occurred a withdrawal or downgrading of any rating assigned to any securities of the Town by a national municipal bond rating agency; (v) any Federal or California court, authority or regulatory body shall take action materially and adversely affecting the ability of the Town to receive property tax revenues as contemplated by the Official Statement; or (vi) an event described in paragraph 10 hereof occurs which in the opinion of the Authority requires a supplement or amendment to the Official Statement; and

(e) On or prior to the Closing Date, the Authority shall have received each of the following documents:

(1) Opinion or opinions, in form and substance satisfactory to Bond Counsel, dated as of the Closing Date, of Bond Counsel to the Town approving the validity of the Town Refunding Bonds;

(2) A letter or letters of Bond Counsel, dated the date of the Closing and addressed to the Authority, to the effect that the opinion referred to in the preceding subparagraph (1) may be relied upon by the Authority to the same extent as if such opinion were addressed to it;

(3) A supplementary opinion or opinions, dated the date of the Closing and addressed to the Authority, of Bond Counsel to the effect that (i) this Bond Purchase Contract has been duly authorized, executed and delivered by, and, assuming due authorization, execution and delivery by the Authority, constitutes a legal, valid and binding agreement of the Town enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy and insolvency proceedings or by the application of equitable principles if equitable remedies are sought; and (ii) the Town Refunding Bonds are not subject to the registration requirements of the Securities Act of 1933, as amended, and the Town Bond Resolution is exempt from qualification under the Trust Indenture Act of 1939, as amended;

(4) A certificate or certificates dated the Closing Date, addressed to the Authority, signed by a Town official having knowledge of the facts to the effect that:

(i) The representations and warranties of the Town contained herein are true and correct in all material respects on and as of the Closing Date as if made on the Closing Date;

(ii) Except as described in the Official Statement, there is no action, suit, proceeding or investigation before or by any court, public board or body pending or threatened, wherein an unfavorable decision, ruling or finding would: (A) affect the creation, organization, existence or powers of the Town, or the titles of its members and officers to their respective offices, (B) enjoin or restrain the issuance, sale and delivery of the Town Refunding Bonds, the property tax revenues or any other moneys or property pledged or to be pledged under the Town Bond Resolution, or the pledge thereof, (C) in any way question or affect any of the rights, powers, duties or obligations of the Town with respect to the moneys and assets pledged or to be pledged to pay the principal of, premium, if any, or interest on the Town Refunding Bonds, (D) in any way question or affect any authority for the issuance of the Town Refunding Bonds, or the validity or enforceability of the Town Refunding Bonds or the Proceedings, or (E) in any way question or affect this Bond Purchase Contract or the transactions on the part of the Town contemplated by this Bond Purchase Contract, the Proceedings, the Official Statement or the documents referred to in the Official Statement;

(iii) The Town has complied with all agreements, covenants and arrangements, and satisfied all conditions, on its part to be complied with or satisfied hereunder, under the Town Bond Resolution on or prior to the Closing Date; and

(iv) To the best of its knowledge, no event affecting the Town has occurred since the date of the Official Statement which should be disclosed in the Official Statement for the purposes for which it is necessary to disclose therein in order to make the statements with respect to the Town or the Town Refunding Bonds not misleading in any respect; and

(5) Such additional legal opinions, certificates, instruments and documents as the Authority may reasonably request to evidence the truth and accuracy, as of the date hereof and as of the Closing Date, of the Town's representations and warranties contained herein and of the statements and information contained in the Official Statement.

In addition to the foregoing, the Town shall on the Closing Date provide the Proceedings, certified by authorized officers of the Town as true copies and as having been adopted or executed (as applicable), with only such amendments, modifications or supplements as may have been agreed to by the Authority.

All of the opinions, letters, certificates, instruments and other documents mentioned above or elsewhere in this Bond Purchase Contract shall be deemed to be in compliance with the provisions hereof if, but only if, they are in form and substance satisfactory to the Authority, but the approval of the Authority shall not be unreasonably withheld. Receipt of, and payment for, the Town Refunding Bonds shall constitute evidence of the satisfactory nature of such as to the Authority. The performance of any and all obligations of the Town hereunder and the performance of any and all conditions contained herein for the benefit of the Authority may be waived by the Executive Director of the Authority in his sole discretion.

If the Town shall be unable to satisfy the conditions to the obligations of the Authority to purchase, accept delivery of and pay for the Town Refunding Bonds contained in this Bond Purchase Contract, or if the obligations of the Authority to purchase, accept delivery of and pay for the Authority Bonds shall be terminated for any reason permitted by this Bond Purchase Contract, this Bond Purchase Contract shall terminate, and neither the Authority nor the Town shall be under further obligation hereunder, except that the respective obligations of the Town and the Authority set forth in paragraphs 13 and 14 hereof shall continue in full force and effect.

13. The Authority shall be under no obligation to pay, and the Town shall pay all expenses of the Town and the Authority incident to the performance of the Town's and the Authority's obligations hereunder including, but not limited to: (i) the cost of the preparation of, and all other costs of issuance of, the Town Refunding Bonds and the Authority Bonds; (ii) the fees and disbursements of Bond Counsel; and (iii) the fees and disbursements of accountants, advisers and of any other experts or consultants retained by the Town or the Authority.

14. The Authority and the Town hereby confirm that the purchase of the Town Refunding Bonds by the Authority hereunder will not violate any of the restrictions set forth in section 6592.5 of the Bond Law.

15. The Town hereby agrees to pay all costs of administration of the Authority and the Trustee related to the Authority Bonds.

16. This Bond Purchase Contract is made solely for the benefit of the Town and the Authority (including their successors and assigns), and no other person shall acquire or have any right hereunder or by virtue hereof. All of the Town's representations, warranties and agreements contained in this Bond Purchase Contract shall remain operative and in full force and effect regardless of: (i) any investigations made by or on behalf of the Authority or the Trustee, or (ii) delivery of and payment for the Town Refunding Bonds pursuant to this Bond Purchase Contract. The agreements contained in this paragraph and in paragraph 13 hereof shall survive any termination of this Bond Purchase Contract.

17. This Bond Purchase Contract may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

18. In case any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof.

19. The validity, interpretation and performance of this Bond Purchase Contract shall be governed by the laws of the State of California.

IN WITNESS WHEREOF, the Authority and the Town have each caused this Bond Purchase Contract to be executed by their duly authorized officers all as of the date first above written.

FAIRFAX FINANCING AUTHORITY

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

TOWN OF FAIRFAX

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

**EXHIBIT A**

**PRINCIPAL AMOUNTS AND INTEREST RATES**

\$ \_\_\_\_\_  
Town of Fairfax  
(Marin County, California)  
2012 General Obligation Refunding Bonds

<u>Maturity</u>	<u>Original Principal Amount</u>	<u>Final Accreted Value</u>	<u>Accretion Rate</u>
2012			
2013			
2014			
2015			
2016			
2017			
2018			
2019			
2020			
2021			
2022			
2023			
2024			
2025			
2026			
2027			

## **REDEMPTION PROVISIONS**

The Bonds are subject to redemption by the Town, subject to the receipt of consent by the Authority. The Authority shall not consent to the optional redemption of any of the Bonds unless it shall first have obtained a certificate of an Independent Financial Consultant (as defined in the Indenture) which:

(i) specifies (A) the premium, if any, to be paid by the Town in connection with such optional redemption, and (B) the principal amount and redemption date and price of any Authority Bonds to be redeemed as a result of the optional redemption of the Bonds; and

(ii) concludes that, based upon the information supplied in clauses (i)(A) and (B) above, and in reliance upon the Trustee, the Paying Agent, the Town and the Authority implementing the redemption of the Bonds and the Authority Bonds in a manner consistent with such information, the aggregate of the scheduled principal and interest due on the Bonds which remain Outstanding (as defined in the Town Resolution) following such redemption will be sufficient in time and amount to timely pay the principal and interest due on the Authority Bonds which will remain Outstanding following any redemption of the Bonds to occur as a result of the optional redemption of the Bonds.