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**MEMORANDUM**

**To:** Mayor and City Council

**From:** Chris Pike, Finance Director

**Date:** 7/9/2012

**Subject:** **Discussion on Assignment and Refunding of Land**

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**ITEM DESCRIPTION**

Discussion of documents related to the refunding (refinancing) of 16 acres of land known as 4000 Dunwoody Park Dr. (commonly referred to as the PVC Farm).

**BACKGROUND**

Over the past few years, the City has engaged in a Comprehensive Land Use Plan and a Georgetown/NorthShallowford Redevelopment Master Plan. The plans indicated a need for redevelopment and identified the land at 4000 Dunwoody Park Dr. as integral to the redevelopment process. In 2011, the City acquired the property. Over the past few months, the City approved a Purchase and Sale Development Agreement with John Wieland Homes. The City is partnering with John Wieland Homes to create a 35 acre public/private redevelopment project referred to as "Project Renaissance". The project, at full buildout, will include 106 single family homes, 11 acres of new parks, a possible municipal complex, a planned 2 mile multi-use trail that will run from Chamblee Dunwoody Rd. that will eventually run through Brook Run Park and a 3 acre Commercial development site.

The 4000 Dunwoody Park Dr. property will be transferred by City Council in July to the Urban Redevelopment Agency (URA) via Intergovernmental Agreement and Ordinance in order to most efficiently move Project Renaissance forward.

**EVALUATION**

It is necessary to transfer the property to the Urban Redevelopment Agency (URA) in order to remove certain zoning and title restrictions on the property if it remained in the possession of the City. Once titled to the URA, these restrictions could be lifted; allowing the URA and City to work with the developer deemed most advantageous to meeting the objectives of the development. When refinancing the property, the URA is required to determine what portions of the land will be used for private development (housing and commercial uses) and which portions will be used for public use (parks, infrastructure and trails). The portions used for private development must be refinanced with taxable loans while the portions used for public use can be refinanced with nontaxable loans. The City has bid and negotiated the refinancing of both the taxable and tax exempt portions of the land. After receiving proposals, the City has agreed to refinance the property with PNC Bank (formerly RBC Bank); the same bank that currently holds the loan on the property.



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The tax exempt portion of the loan will have fixed terms and a fixed payment schedule. The taxable portion of the loan will have a variable interest rate; giving the loan a lower interest rate and also the ability to pay off the loan at any time without penalty.

The documents attached to this memo include the URA and City Resolutions, Bond Purchase Agreements, Agreements of Sale, and Assignment/Security Agreements. All of these are necessary to complete the transaction. The documents are duplicated; one set for the taxable portion of the sale and one set for the tax exempt portion of the sale. The documents, in combination with the Intergovernmental Agreement with the City and the City Council's land transfer ordinance (to be passed in July) complete the assignment of land to the URA and the refunding of the loan through the URA.

**RECOMMENDED ACTION**

Staff verbal acknowledgement and approval of the above referenced documents related to the refunding (refinancing) of the existing loan in place for 4000 Dunwoody Park Dr.

**DRAFT DATE: 06/21/12**

**URBAN REDEVELOPMENT AGENCY  
OF THE CITY OF DUNWOODY, GEORGIA**  
(a public corporation created  
and existing under the laws of the State of Georgia)

as Seller

and

**CITY OF DUNWOODY, GEORGIA**  
(a municipal corporation created and existing under  
the laws of the State of Georgia)

as Purchaser

**AGREEMENT OF SALE**

Dated as of July 1, 2012

THE RIGHTS AND INTEREST OF THE URBAN REDEVELOPMENT AGENCY OF THE CITY OF DUNWOODY, GEORGIA IN THIS AGREEMENT OF SALE AND THE REVENUES AND RECEIPTS DERIVED THEREFROM, EXCEPT FOR ITS UNASSIGNED RIGHTS, AS DEFINED HEREIN, HAVE BEEN ASSIGNED AND ARE THE SUBJECT OF A GRANT OF A SECURITY INTEREST TO PNC BANK, NATIONAL ASSOCIATION, UNDER AN ASSIGNMENT AND SECURITY AGREEMENT DATED THE DATE HEREOF.

**AGREEMENT OF SALE**

**TABLE OF CONTENTS**

(This Table of Contents is not a part of the Agreement of Sale  
and is only for convenience of reference.)

Page

**[TO BE INSERTED]**

**EXHIBIT A - DESCRIPTION OF LAND..... A-1**

**AGREEMENT OF SALE**

This **AGREEMENT OF SALE**, dated as of July 1, 2012, by and between the Urban Redevelopment Agency of the City of Dunwoody, Georgia (the “Issuer”), a public corporation created and existing under the laws of the State of Georgia, and the City of Dunwoody, Georgia (the “Purchaser”), a municipal corporation created and existing under the laws of the State of Georgia;

**WITNESSETH:**

**WHEREAS**, the Issuer desires to sell the Project, as hereinafter defined, to the Purchaser, and the Purchaser desires to purchase the Project from the Issuer, subject to the terms and conditions of and for the purposes set forth in this Agreement; and

**WHEREAS**, the Issuer and the Purchaser are authorized under the Constitution and laws of the State of Georgia to enter into this Agreement for the purposes set forth herein;

**NOW, THEREFORE**, for and in consideration of the promises and covenants hereinafter contained, the parties hereby agree as follows:

## ARTICLE I

### DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

**Section 1.01. Definitions.** Certain words and terms used in this Agreement are defined herein. When used herein, such words and terms shall have the meanings given to them by the language employed in this Article I defining such words and terms, unless the context clearly indicates otherwise. In addition to the words and terms defined elsewhere herein, the following words and terms are defined terms under this Agreement:

**“Agreement”** means the within Agreement of Sale between the Issuer and the Purchaser, as the same may be amended from time to time in accordance with the provisions hereof.

**“Assignment”** means the Assignment and Security Agreement, dated the date hereof, between the Issuer and the Bond Buyer, under the terms of which the Issuer assigned and pledged, and granted a first priority security interest in, its right, title, and interest in this Agreement (except Unassigned Rights) to the Bond Buyer, as security for the payment of principal of, premium, if any, and interest on the Bond. The term Assignment shall include any amendments or supplements thereto.

**“Authorized Issuer Representative”** means the person at the time designated to act on behalf of the Issuer by written certificate furnished to the Purchaser, the Bondholder, and the Depository, containing the specimen signature of such person and signed on behalf of the Issuer by the Chairman or Vice Chairman of its Governing Body. Such certificate or any subsequent or supplemental certificate so executed may designate an alternate or alternates.

**“Authorized Purchaser Representative”** means the person at the time designated to act on behalf of the Purchaser by written certificate furnished to the Issuer, the Bondholder, and the Depository, containing the specimen signature of such person and signed on behalf of the Purchaser by its Mayor or Mayor Pro Tem. Such certificate or any subsequent or supplemental certificate so executed may designate an alternate or alternates.

**“Bond”** means the revenue bond designated “Urban Redevelopment Agency of the City of Dunwoody, Georgia Revenue Bond (City of Dunwoody, Georgia Project), Series 2012A,” dated the date of its issuance and delivery, in the principal amount of \$\_\_\_\_\_, to be issued pursuant to the Bond Purchase Agreement, and any bond issued in substitution or exchange therefor.

**“Bond Buyer”** means PNC Bank, National Association, Atlanta, Georgia, and its successors and assigns.

**“Bond Documents”** means, collectively, this Agreement, the Assignment, the Bond, and the Bond Purchase Agreement.

**“Bond Purchase Agreement”** means the Bond Purchase Agreement, dated the date of its execution and delivery, between the Issuer and the Bond Buyer, under the terms of which the Issuer agreed to issue and sell the Bond to the Bond Buyer and the Bond Buyer agreed to

purchase the Bond from the Issuer. The term Bond Purchase Agreement shall include any amendments or supplements thereto.

**“Bond Resolution”** means the resolution or resolutions adopted by the Governing Body of the Issuer authorizing the issuance and sale of the Bond and the security therefor.

**“Bondholder”** means the Person in whose name the Bond is registered on the bond registration books kept and maintained by the Issuer.

**“Code”** means the Internal Revenue Code of 1986, as amended.

**“Costs of the Project”** means those costs and expenses in connection with the acquisition of the Project permitted by Section 4.03 hereof to be paid or reimbursed from proceeds of the Bond.

**“Depository”** means PNC Bank, National Association, Atlanta, Georgia, and its successors and assigns.

**“Event of Default”** means any event specified in Section 8.01 of this Agreement.

**“Fiscal Year”** means any period of twelve consecutive months adopted by the Purchaser as its fiscal year for financial reporting purposes and shall initially mean the period beginning on January 1 of each calendar year and ending on December 31 of the next calendar year.

**“Governing Body”** means, in the case of the Issuer, the Board of Commissioners of the Issuer and, in the case of the Purchaser, its Mayor and Council.

**“Issuer”** means the Urban Redevelopment Agency of the City of Dunwoody, Georgia, a public corporation created and existing under the laws of the State, the party of the first part hereto, and its successors and assigns.

**“Land”** means the real estate described in Exhibit A attached hereto, which, by this reference thereto, is incorporated herein.

**“Lien”** means any mortgage or pledge of or security interest in or lien, charge, or encumbrance on the Project.

**“Permitted Investments”** means the obligations in which the Issuer is permitted to invest proceeds of the Bond pursuant to applicable law.

**“Person”** means natural persons, firms, joint ventures, associations, trusts, partnerships, corporations, and public bodies.

**“Project”** means the urban redevelopment projects consisting of land to be used as parkland, multi-use trails, civic space and other similar projects, consisting of the Land.

**“Project Fund”** means the Project Fund created in Section 5.1 of the Bond Purchase Agreement and referred to herein.

**“Purchase Price”** means the purchase price payable by the Purchaser to the Issuer pursuant to Section 5.03(a) of this Agreement.

**“Purchaser”** means the City of Dunwoody, Georgia, a municipal corporation created and existing under the laws of the State, the party of the second part hereto, and its successors and assigns.

**“Rebate Amount”** means the rebatable arbitrage in connection with the Bond, which is payable to the United States Treasury pursuant to Section 148(f) of the Code and any Regulations proposed or promulgated in connection therewith.

**“Rebate Calculator”** means any nationally recognized bond counsel, nationally recognized firm of certified public accountants, or other firm acceptable to the Bondholder, which is expert in making the calculations required by Section 148(f) of the Code, appointed by the Purchaser pursuant to Section 4.12 hereof to make the calculations required by Section 148(f) of the Code and any Regulations proposed or promulgated in connection therewith.

**“Regulations”** means the Treasury Regulations promulgated under and pursuant to the Code.

**“State”** means the State of Georgia.

**“Unassigned Rights”** means all of the rights of the Issuer to receive reimbursements and payments pursuant to Sections 5.03(b), 6.02, and 8.04 hereof, to give consents and approvals pursuant to Section 4.01 hereof, and to be held harmless and indemnified pursuant to Section 6.02 hereof.

**“Urban Redevelopment Law”** means Chapter 61 of Title 36 of the Official Code of Georgia Annotated, entitled the “Urban Redevelopment Law,” as amended, and as the same may be from time to time additionally supplemented and amended.

**Section 1.02. Construction of Certain Terms.** For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires, the following rules of construction shall apply:

(1) The use of the masculine, feminine, or neuter gender is for convenience only and shall be deemed and construed to include correlative words of the masculine, feminine, or neuter gender, as appropriate.

(2) “This Agreement” means this instrument as originally executed or as it may from time to time be supplemented or amended by one or more agreements of sale supplemental hereto entered into pursuant to the applicable provisions hereof.

(3) All references in this instrument to designated “Articles,” “Sections,” and other subdivisions are to the designated Articles, Sections, and other subdivisions of this instrument. The words “herein,” “hereof,” and “hereunder” and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section, or other subdivision.

(4) The terms defined in this Article shall have the meaning assigned to them in this Article and include the plural as well as the singular.

(5) All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles as promulgated by the American Institute of Certified Public Accountants, on and as of the date of this instrument.

**Section 1.03. Table of Contents; Titles and Headings.** The table of contents, the titles of the articles, and the headings of the sections of this Agreement are solely for convenience of reference, are not a part of this Agreement, and shall not be deemed to affect the meaning, construction, or effect of any of its provisions.

**Section 1.04. Contents of Certificates or Opinions.** Every certificate or opinion with respect to the compliance with a condition or covenant provided for in this Agreement shall include: (i) a statement that the person or persons making or giving such certificate or opinion have read such covenant or condition and the definitions herein relating thereto, (ii) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based, (iii) a statement that, in the opinion of the signers, they have made or caused to be made such examination or investigation as is necessary to enable them to express an informed opinion as to whether or not such covenant or condition has been complied with, and (iv) a statement as to whether, in the opinion of the signers, such condition or covenant has been complied with.

Any such certificate or opinion made or given by an official of the Issuer or the Purchaser may be based, insofar as it relates to legal or accounting matters, upon a certificate or an opinion of counsel or an accountant, which certificate or opinion has been given only after due inquiry of the relevant facts and circumstances, unless such official knows that the certificate or opinion with respect to the matters upon which his certificate or opinion may be based as aforesaid is erroneous or in the exercise of reasonable care should have known that the same was erroneous. Any such certificate or opinion made or given by counsel or an accountant may be based (insofar as it relates to factual matters with respect to information that is in the possession of an official of the Issuer or the Purchaser or any third party) upon the certificate or opinion of or representations by an official of the Issuer or the Purchaser or any third party on whom counsel or an accountant could reasonably rely unless such counsel or such accountant knows that the certificate or opinion or representations with respect to the matters upon which his certificate or opinion may be based as aforesaid are erroneous or in the exercise of reasonable care should have known that the same were erroneous. The same official of the Issuer or the Purchaser, or the same counsel or accountant, as the case may be, need not certify or opine to all of the matters required to be certified or opined under any provision of this Agreement, but different officials, counsel, or accountants may certify or opine to different matters, respectively.

[End of Article I]

## ARTICLE II

### REPRESENTATIONS AND UNDERTAKINGS

**Section 2.01. Representations by the Issuer.** The Issuer makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(a) Creation and Authority. The Issuer is a public corporation duly created and validly existing under the laws of the State, including the provisions of the Urban Redevelopment Law. The Issuer has all requisite power and authority under the Urban Redevelopment Law and the laws of the State (1) to issue the Bond to finance the costs of acquiring the Project, (2) to acquire the Project and to sell the same to the Purchaser, and (3) to enter into, perform its obligations under, and exercise its rights under this Agreement, the Bond Purchase Agreement, and the Assignment. The Purchaser has elected to have its “urban redevelopment project powers,” as defined in Section 36-61-17(b) of the Official Code of Georgia Annotated, exercised by the Issuer, and the Issuer is vested with all of the “urban redevelopment project powers” of the Purchaser conferred in the Urban Redevelopment Law. The Urban Redevelopment Law authorizes the Issuer to issue bonds to finance the undertaking of any “urban redevelopment project” under the Urban Redevelopment Law, which bonds shall be made payable, as to both principal and interest, solely from the income, proceeds, revenues, and funds of the Issuer derived from or held in connection with its undertaking and carrying out of urban redevelopment projects under the Urban Redevelopment Law. The Urban Redevelopment Law authorizes the Issuer to undertake and carry out within the corporate limits of the Purchaser “urban redevelopment projects,” which are defined to include undertakings or activities of the Issuer in an urban redevelopment area under the Urban Redevelopment Law for the elimination and for the prevention of the development or spread of slums and may involve slum clearance and redevelopment in an urban redevelopment area, rehabilitation or conservation in an urban redevelopment area, or any combination or part thereof, in accordance with an urban redevelopment plan adopted pursuant to the Urban Redevelopment Law. The Urban Redevelopment Law authorizes the Issuer to make and execute contracts and other instruments necessary or convenient to the exercise of its powers under the Urban Redevelopment Law, to acquire, by purchase, grant, or otherwise, any real property (defined to include all lands, including improvements and fixtures thereon and property of any nature appurtenant thereto or used in connection therewith), to hold, improve, clear, or prepare for redevelopment any such property, to dispose of any real property, and to borrow money for the purposes of the Urban Redevelopment Law and to give such security as may be required and to enter into and carry out contracts in connection therewith.

(b) Pending Litigation. There are no actions, suits, proceedings, inquiries, or investigations pending or, to the knowledge of the Issuer, after making due inquiry with respect thereto, threatened against or affecting the Issuer in any court or by or before any governmental authority or arbitration board or tribunal, which involve the possibility of materially and adversely affecting the transactions contemplated by this Agreement or which, in any way, would adversely affect the validity or enforceability of the Bond, the Bond Purchase Agreement, the Assignment, this Agreement, or any agreement or instrument to which the Issuer is a party and which is used or contemplated for use in the consummation of the transactions contemplated

hereby or thereby, nor is the Issuer aware of any facts or circumstances presently existing which would form the basis for any such actions, suits, or proceedings.

(c) Agreements Are Legal and Authorized. The execution and delivery by the Issuer of this Agreement, the Bond, the Bond Purchase Agreement, and the Assignment, the compliance by the Issuer with all of the provisions of each thereof, and the adoption of the Bond Resolution (i) are within the purposes, powers, and authority of the Issuer, (ii) have been done in full compliance with the provisions of the Urban Redevelopment Law and have been approved by the Governing Body of the Issuer and are legal and will not conflict with or constitute on the part of the Issuer a violation of or a breach of or a default under any organic document, indenture, mortgage, security deed, pledge, note, lease, loan, or installment sale agreement, contract, or other agreement or instrument to which the Issuer is a party or by which the Issuer or its properties are otherwise subject or bound, or any license, judgment, decree, law, statute, order, writ, injunction, demand, rule, or regulation of any court or governmental agency or body having jurisdiction over the Issuer or any of its activities or properties, and (iii) have been duly authorized by all necessary action on the part of the Issuer. This Agreement, the Bond Purchase Agreement, and the Assignment, when executed by the other parties hereto or thereto, will have been duly and validly executed and delivered by the Issuer, will be in full force and effect as to the Issuer, and will constitute the legal, valid, binding, and enforceable obligations of the Issuer, enforceable in accordance with their terms. The Bond, when issued, delivered, and paid for as in the Bond Purchase Agreement and in the Bond Resolution provided, will have been duly and validly authorized and issued and will constitute a valid and binding obligation of the Issuer enforceable in accordance with its terms.

(d) Governmental Consents. Neither the nature of the Issuer nor any of its activities or properties, nor any relationship between the Issuer and any other Person, nor any circumstance in connection with the offer, issue, sale, or delivery of the Bond is such as to require the consent, approval, permission, order, license, or authorization of, or the filing, registration, or qualification with, any governmental authority on the part of the Issuer in connection with the execution, delivery, and performance of this Agreement, the Bond Purchase Agreement, and the Assignment or the consummation of any transaction therein contemplated, or the offer, issue, sale, or delivery of the Bond, except as shall have been obtained or made and as are in full force and effect.

(e) No Defaults. To the knowledge of the Issuer, after making due inquiry with respect thereto, no event has occurred and no condition exists that would constitute an Event of Default hereunder or an “Event of Default” under the Bond Purchase Agreement or that, with the lapse of time or with the giving of notice or both, would become such an Event of Default. To the knowledge of the Issuer, after making due inquiry with respect thereto, the Issuer is not in default or violation in any material respect under the Urban Redevelopment Law or under any organic document or other agreement or instrument to which it is a party or by which it may be bound.

(f) No Prior Pledge. Neither this Agreement nor any of the payments or amounts to be received by the Issuer hereunder have been or will be assigned, pledged, or hypothecated in any manner or for any purpose or have been or will be the subject of a grant of a security interest by the Issuer other than as provided in the Assignment.

(g) Disclosure. The representations of the Issuer contained in this Agreement and any certificate, document, written statement, or other instrument furnished to the Bond Buyer by or on behalf of the Issuer in connection with the transactions contemplated hereby do not contain any untrue statement of a material fact relating to the Issuer and do not omit to state a material fact relating to the Issuer necessary in order to make the statements contained herein and therein relating to the Issuer not misleading. Nothing has come to the attention of the Issuer that would materially and adversely affect or in the future may (so far as the Issuer can now reasonably foresee) materially and adversely affect the acquisition of the Project by the Issuer or any other transactions contemplated by this Agreement, the Bond Purchase Agreement, and the Assignment, which has not been set forth in writing to the Bond Buyer or in the certificates, documents, and instruments furnished to the Bond Buyer by or on behalf of the Issuer prior to the date of execution of this Agreement in connection with the transactions contemplated hereby.

(h) Compliance with Conditions Precedent to the Issuance of the Bond. All acts, conditions, and things required to exist, happen, and be performed precedent to and in the execution and delivery by the Issuer of the Bond do exist, have happened, and have been performed in due time, form, and manner as required by law; the issuance of the Bond, together with all other obligations of the Issuer, do not exceed or violate any constitutional or statutory limitation, and the revenues, funds, property, and amounts pledged to the payment of the principal of, premium, if any, and interest on the Bond, as the same become due, have been calculated to be sufficient in amount for that purpose.

**Section 2.02. Representations by the Purchaser.** The Purchaser makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(a) Creation and Authority. The Purchaser is a municipal corporation duly created and validly existing under the laws of the State. The Purchaser has all requisite power and authority under the laws of the State to purchase the Project from the Issuer and to enter into, perform its obligations under, and exercise its rights under this Agreement. The Purchaser has taken all actions required by the Urban Redevelopment Law to qualify the Project as “urban redevelopment projects” thereunder, including, without limitation, designating the Land as within an “urban redevelopment area” and approving an urban redevelopment plan for the Project following a public hearing required by the Urban Redevelopment Law. The Urban Redevelopment Law authorizes the Purchaser to appropriate such funds and make such expenditures as may be necessary to carry out the purposes of the Urban Redevelopment Law and to levy taxes and assessments for such purposes. Article IX, Section III, Paragraph I of the Constitution of the State of Georgia of 1983 authorizes the Purchaser (1) to contract for any period not exceeding fifty years with any public corporation or public authority for joint services, for the provision of services, or for the joint or separate use of facilities or equipment, if such contract deals with activities, services, or facilities that the contracting parties are authorized by law to undertake or provide, and (2) in connection with any such contract to convey any existing facilities or equipment to any public corporation or public authority.

(b) Pending Litigation. There are no actions, suits, proceedings, inquiries, or investigations pending or, to the knowledge of the Purchaser, after making due inquiry with respect thereto, threatened against or affecting the Purchaser in any court or by or before any governmental authority or arbitration board or tribunal, which involve the possibility of

materially and adversely affecting the properties, activities, prospects, profits, operations, or condition (financial or otherwise) of the Purchaser, or the ability of the Purchaser to perform its obligations under this Agreement, or the transactions contemplated by this Agreement or which, in any way, would adversely affect the validity or enforceability of this Agreement or any agreement or instrument to which the Purchaser is a party and which is used or contemplated for use in the consummation of the transactions contemplated hereby or thereby, nor is the Purchaser aware of any facts or circumstances presently existing that would form the basis for any such actions, suits, or proceedings. The Purchaser is not in default with respect to any judgment, order, writ, injunction, decree, demand, rule, or regulation of any court, governmental authority, or arbitration board or tribunal.

(c) Agreement Is Legal and Authorized. The execution and delivery by the Purchaser of this Agreement, the consummation of the transactions herein contemplated, and the fulfillment of or the compliance with all of the provisions hereof (i) are within the power, legal right, and authority of the Purchaser, (ii) are legal and will not conflict with or constitute on the part of the Purchaser a violation of or a breach of or a default under, any organic document, indenture, mortgage, security deed, pledge, note, lease, loan, or installment sale agreement, contract, or other agreement or instrument to which the Purchaser is a party or by which the Purchaser or its properties are otherwise subject or bound, or any license, law, statute, rule, regulation, judgment, order, writ, injunction, decree, or demand of any court or governmental agency or body having jurisdiction over the Purchaser or any of its activities or properties, and (iii) have been duly authorized by all necessary and appropriate official action on the part of the Governing Body of the Purchaser. This Agreement is the valid, legal, binding, and enforceable obligation of the Purchaser. The officials of the Purchaser executing this Agreement are duly and properly in office and are fully authorized and empowered to execute the same for and on behalf of the Purchaser.

(d) Governmental Consents. Neither the Purchaser nor any of its activities or properties, nor any relationship between the Purchaser and any other Person, nor any circumstances in connection with the execution, delivery, and performance by the Purchaser of its obligations under this Agreement or the offer, issue, sale, or delivery by the Issuer of the Bond, is such as to require the consent, approval, permission, order, license, or authorization of, or the filing, registration, or qualification with, any governmental authority on the part of the Purchaser in connection with the execution, delivery, and performance of this Agreement or the consummation of any transaction herein contemplated, or the offer, issue, sale, or delivery of the Bond, except as shall have been obtained or made and as are in full force and effect and except as are not presently obtainable. To the knowledge of the Purchaser, after making due inquiry with respect thereto, the Purchaser will be able to obtain all such additional consents, approvals, permissions, orders, licenses, or authorizations of governmental authorities as may be required on or prior to the date the Purchaser is legally required to obtain the same.

(e) No Defaults. No event has occurred and no condition exists that would constitute an Event of Default or that, with the lapse of time or with the giving of notice or both, would become an Event of Default. To the knowledge of the Purchaser, after making due inquiry with respect thereto, the Purchaser is not in default or violation in any material respect under any organic document or other agreement or instrument to which it is a party or by which it may be bound.

(f) Compliance with Law. To the knowledge of the Purchaser, after making due inquiry with respect thereto, the Purchaser is not in violation of any laws, ordinances, or governmental rules or regulations to which it or its properties are subject and has not failed to obtain any licenses, permits, franchises, or other governmental authorizations (which are presently obtainable) necessary to the ownership of its properties or to the conduct of its affairs, which violation or failure to obtain might materially and adversely affect the properties, activities, prospects, profits, and condition (financial or otherwise) of the Purchaser, and there have been no citations, notices, or orders of noncompliance issued to the Purchaser under any such law, ordinance, rule, or regulation.

(g) Restrictions on the Purchaser. The Purchaser is not a party to or bound by any contract, instrument, or agreement, or subject to any other restriction, that materially and adversely affects its activities, properties, assets, operations, or condition (financial or otherwise). The Purchaser is not a party to any contract or agreement that restricts the right or ability of the Purchaser to enter into agreements of sale on an installment basis.

(h) Disclosure. The representations of the Purchaser contained in this Agreement and any certificate, document, written statement, or other instrument furnished by or on behalf of the Purchaser to the Issuer or the Bond Buyer in connection with the transactions contemplated hereby, do not contain any untrue statement of a material fact and do not omit to state a material fact necessary to make the statements contained herein or therein not misleading. There is no fact that the Purchaser has not disclosed to the Issuer or the Bond Buyer in writing that materially and adversely affects or in the future may (so far as the Purchaser can now reasonably foresee) materially and adversely affect the purchase of the Project or the properties, activities, prospects, operations, profits, or condition (financial or otherwise) of the Purchaser, or the ability of the Purchaser to perform its obligations under this Agreement or any of the documents or transactions contemplated hereby or thereby or any other transactions contemplated by this Agreement, which has not been set forth in writing to the Bond Buyer or in the certificates, documents, and instruments furnished to the Bond Buyer by or on behalf of the Purchaser prior to the date of execution of this Agreement in connection with the transactions contemplated hereby.

(i) Project Compliance. The Project complies or will comply with all presently applicable building and zoning, health, environmental, and safety ordinances and laws and all other applicable laws, rules, and regulations of any and all governmental and quasi-governmental authorities having jurisdiction over any portion of the Project.

(j) Purchaser's Tax Certificate. The representations and warranties of the Purchaser set forth in the Purchaser's Tax Certificate, dated the date of issuance and delivery of the Bond, are hereby incorporated herein and made a part hereof by this reference thereto, as if fully set forth herein, and are true and correct as of the date hereof.

(k) Financial Statements. The balance sheet of the City as of December 31, 2010, and the statement of revenues, expenditures, and changes in fund balance and the statement of cash flow for the year ended December 31, 2010 (copies of which, audited by Mauldin Jenkins, Certified Public Accountants, LLC, have been furnished to the Bond Buyer) present fairly the financial position of the City as of December 31, 2010, and the results of its operations and its

cash flows for the year ended December 31, 2010, with such exceptions as may be disclosed in the audit report. Since December 31, 2010, there has been no material adverse change in the financial position or results of operations or cash flows of the City.

**Section 2.03. Reliance by Bondholder.** The Issuer and the Purchaser acknowledge and agree that these representations and warranties are made to induce the Bond Buyer to purchase the Bond, and that such representations and warranties and any other representations and warranties made by the Issuer and the Purchaser in the Bond Documents are made for the benefit of the Bondholder and may be relied upon by the Bondholder and shall remain operative and in full force and effect (unless expressly waived in writing by the Bond Buyer), regardless of any investigations made by the Bond Buyer or on its behalf, and shall survive delivery of the Bond to the Bond Buyer.

[End of Article II]

## ARTICLE III

### SALE OF THE PROJECT; SECURITY; TITLE

**Section 3.01. Sale of the Project.** The Issuer hereby sells to the Purchaser, and the Purchaser hereby purchases from the Issuer, the Project at the purchase price set forth in Section 5.03 hereof and in accordance with the provisions of this Agreement. Promptly after acquiring the components of the Project, the Issuer shall deliver to the Purchaser documents conveying to the Purchaser good and marketable title (of the same quality as received by the Issuer) to such components of the Project.

**Section 3.02. Security for Payments under this Agreement.** (a) As security for the payments required to be made and the obligations required to be performed by the Purchaser under this Agreement, the Purchaser hereby pledges to the Issuer its full faith and credit and taxing power for such payment and performance. The Purchaser covenants that, in order to make any payments of Purchase Price when due from its general funds to the extent required hereunder, it will exercise its power of taxation to the extent necessary to pay the amounts required to be paid hereunder and will make available and use for such payments all taxes levied and collected for that purpose, subject to the millage limitation in paragraph (b) below, together with funds received from any other sources. The Purchaser further covenants and agrees that in order to make funds available for such purpose in each Fiscal Year, it will, in its general revenue, appropriation, and budgetary measures through which its tax funds or revenues and the allocation thereof are controlled or provided for, include sums sufficient to satisfy any such payments of Purchase Price that may be required to be made hereunder, whether or not any other sums are included in such measure, until all payments so required to be made hereunder shall have been made in full. The obligation of the Purchaser to make any payments that may be required to be made from its general funds shall constitute a general obligation of the Purchaser and a pledge of the full faith and credit of the Purchaser to provide the funds required to fulfill any such obligation, subject to the 3.04 millage limitation described in paragraph (b) below. In the event for any reason any such provision or appropriation is not made as provided in this Section 3.02, then the fiscal officers of the Purchaser are hereby authorized and directed to set up as an appropriation on their accounts in the appropriate Fiscal Year the amounts required to pay the obligations that may be due from the general funds of the Purchaser. The amount of such appropriation shall be due and payable and shall be expended for the purpose of paying any such obligations, and such appropriation shall have the same legal status as if the Purchaser had included the amount of the appropriation in its general revenue, appropriation, and budgetary measures, and the fiscal officers of the Purchaser shall make such payments of Purchase Price to the Issuer if for any reason the payment of such obligations shall not otherwise have been made.

(b) The Purchaser covenants and agrees that it shall, to the extent necessary, levy an annual ad valorem tax on all taxable property located within the corporate limits of the Purchaser, as now existent and as the same may hereafter be extended, at such rate or rates, not to exceed 3.04 mills per dollar (or such greater amount as may hereafter be recommended by the Mayor and Council of the City and approved by a majority of the eligible voters in the City by referendum), as may be necessary to produce in each year revenues that will be sufficient to fulfill the Purchaser's obligations under this Agreement, from which revenues the Purchaser agrees to appropriate sums sufficient to pay in full when due all of the Purchaser's obligations

under this Agreement. Nothing herein contained, however, shall be construed as limiting the right of the Purchaser to make the payments called for by this Agreement out of any funds lawfully available to it for such purpose, from whatever source derived (including general funds).

**Section 3.03. Security for the Bond; Perfection.** Contemporaneously with the issuance of the Bond, as security for the payment of the Bond, the Issuer shall execute and deliver the Assignment. The Purchaser hereby assents to the assignment and grant of a first priority security interest made in the Assignment and hereby agrees that its obligations to make all payments under this Agreement shall be absolute and shall not be subject to any defense, except payment, or to any right of setoff, counterclaim, or recoupment arising out of any breach by the Issuer of any obligation to the Purchaser, whether hereunder or otherwise, or arising out of any indebtedness or liability at any time owing to the Purchaser by the Issuer. The Purchaser and the Issuer further agree that all payments required to be made under this Agreement, except for those arising out of Unassigned Rights, shall be paid directly to the Bondholder for the account of the Issuer. The Bondholder shall have all rights and remedies herein accorded to the Issuer (except for Unassigned Rights), and may enforce such rights and remedies without joining the Issuer as a party, and any reference herein to the Issuer shall be deemed, with the necessary changes in detail, to include the Bondholder, and the Bondholder is deemed to be and is a third party beneficiary of the representations, covenants, and agreements of the Purchaser herein contained; provided, however, the Assignment shall not be deemed to impose any obligations or liabilities whatsoever on the Bond Buyer under this Agreement.

Upon reasonable and timely written notice from the Bondholder as to the required form, substance, timing, and place for filing, refiling, recording, or re-recording, or for taking possession of any collateral, the Purchaser shall file, refile, record, or re-record all financing statements, continuation statements, documents, and notices or deliver possession of any instrument or cash necessary to perfect and maintain any lien or security interest created by the Assignment for the benefit of the Bondholder as a first and preferred pledge, lien, encumbrance, and security interest in and to the property encumbered thereby. The Issuer agrees that it will cooperate fully and will take any action required to assist the Purchaser in meeting the provisions of this Section 3.03.

**Section 3.04. Warranty of Title.** The Issuer warrants that (a) the Purchaser will acquire good and marketable fee simple title to the Land and (b) the Project is and will be free from all Liens, adverse claims, security interests, and encumbrances.

[End of Article III]

## ARTICLE IV

### THE PROJECT; ISSUANCE OF THE BOND; PROJECT FUND

**Section 4.01. Agreement to Acquire the Project.** Promptly following the issuance and sale of the Bond, the Issuer will acquire the Land and convey the Land to the Purchaser as required by Section 3.01 hereof. Promptly following the acquisition of the Land, the Issuer will convey the same to the Purchaser as required by Section 3.01 hereof. The Issuer hereby authorizes the Purchaser to, on its behalf, acquire the Project.

The Purchaser agrees, on behalf of the Issuer, to complete the acquisition of the Project as promptly as practicable and with all reasonable dispatch after the date of issuance and sale of the Bond.

**Section 4.02. Agreement to Issue the Bond; Application of Proceeds.** In order to provide funds for payment of the Costs of the Project, the Issuer agrees that it shall execute and deliver the Bond Purchase Agreement and sell and cause to be delivered to the Bond Buyer the Bond in the principal amount of \$\_\_\_\_\_ and shall thereupon deposit in the Project Fund the purchase price of the Bond in the amount of \$\_\_\_\_\_.

**Section 4.03. Application of Moneys in the Project Fund.** The Issuer shall in the Bond Purchase Agreement authorize and direct the Depository to use the moneys in the Project Fund for the following purposes (but for no other purposes):

- (a) payment of the cost of acquisition of the Project and any other costs and expenses relating to the acquisition of the Project;
- (b) payment of the costs of issuing the Bond;
- (c) payment of the fees or out of pocket expenses of the Purchaser, if any, relating to the Project, including, but not limited to, architectural, engineering, and supervisory services with respect to the Project;
- (d) payment of the fees, or out of pocket expenses, if any, of those providing services with respect to the Project, including, but not limited to, architectural, engineering, legal, accounting, and supervisory services;
- (e) payment to the Purchaser or the Issuer of such amounts, if any, as shall be necessary to reimburse the Purchaser or the Issuer in full for all advances and payments made by either of them for any of the items set forth in clauses (a) through (e) above;
- (f) payment of any other costs and expenses relating to the Project permitted to be paid by the Issuer under the Urban Redevelopment Law; and
- (g) all proceeds of the Bond remaining in the Project Fund on the Completion Date, less amounts retained or set aside to meet costs not then due and payable or that are being contested, shall be applied as prepayments of Purchase Price under Section 7.03 hereof.

**Section 4.04. Disbursements from the Project Fund.** All disbursements from the Project Fund shall be made upon draft or other demand for payment, signed by the Authorized Issuer Representative and the Authorized Purchaser Representative, but before they shall sign any such draft, there shall be filed with the Depository:

(a) A requisition for such payment (the above-mentioned draft or other demand for payment may be deemed a requisition for the purpose of this Section 4.04), stating each amount to be paid and the name of the person to whom payment is due.

(b) A certificate executed by the Authorized Issuer Representative and the Authorized Purchaser Representative attached to the requisition and certifying:

(1) that an obligation in the stated amount has been incurred by the Issuer and that the same is a proper charge against the Project Fund and has not been paid and stating that the bill or statement of account for such obligation, or a copy thereof, is on file in the office of the Purchaser;

(2) that the signers have no notice of any vendor's, mechanic's, or other liens or rights to liens, chattel mortgages, or conditional sales contracts that should be satisfied or discharged before such payment is made; and

(3) that such requisition contains no item representing payment on account of any retained percentages that the Issuer is, at the date of any such certificate, entitled to retain.

**Section 4.05. Obligation of the Parties to Cooperate in Furnishing Documents; Reliance of the Depository.** Upon payment of any expenses of the Issuer incurred in connection therewith pursuant to Section 5.03(b) hereof, the Issuer agrees to cooperate with the Purchaser in furnishing to the Depository the documents referred to in Section 4.04 hereof that are required to effect payments out of the Project Fund, and the Issuer agrees to cause such orders to be directed to the Depository as may be necessary to effect payments out of the Project Fund, in accordance with Section 4.04 hereof. Such obligation of the Issuer is subject to any provisions of the Bond Purchase Agreement requiring additional documentation with respect to payments and shall not extend beyond the moneys in the Project Fund available for payment under the terms of the Bond Purchase Agreement. In making any such payment from the Project Fund, the Depository may rely on any such orders and certifications delivered to it pursuant to Section 4.04 hereof.

**Section 4.06. Purchaser Required to Pay Project Costs in Event Project Fund Insufficient.** In the event the moneys in the Project Fund available for payment of the Costs of the Project shall not be sufficient to pay the costs thereof in full, the Purchaser agrees to complete the acquisition of the Project and to pay all that portion of the Costs of the Project as may be in excess of the moneys available therefor in the Project Fund. The Issuer does not make any warranty, either express or implied, that the moneys which will be paid into the Project Fund and which, under the provisions of this Agreement, will be available for payment of the Costs of the Project, will be sufficient to pay all the costs that will be incurred in that connection. The Purchaser agrees that if after exhaustion of the moneys in the Project Fund the Purchaser shall pay any portion of the Costs of the Project pursuant to the provisions of this Section 4.07, it shall

not be entitled to any reimbursement therefor from the Issuer, the Depository, or the Bondholder, nor shall it be entitled to any diminution of the amounts payable under Section 5.03 hereof.

**Section 4.07. Authorized Purchaser and Issuer Representatives and Successors.**

The Purchaser and the Issuer, respectively, shall designate, in the manner prescribed in Section 1.01 hereof, the Authorized Purchaser Representative and the Authorized Issuer Representative. In the event that any person so designated and his alternate or alternates, if any, should become unavailable or unable to take any action or make any certificate provided for or required in this Agreement, a successor shall be appointed in the same manner.

**Section 4.08. Investment of Project Fund.** Subject to Section 5.3 of the Bond Purchase Agreement and Section 4.11 hereof, any moneys held as a part of the Project Fund shall be invested or reinvested by the Depository at the written direction of the Authorized Purchaser Representative in such Permitted Investments as may be designated by the Purchaser. The Depository may make any and all such investments through its own bond or investment department or through its broker-dealer affiliate.

The investments so purchased shall be held by the Depository and shall be deemed at all times a part of the Project Fund, and the interest accruing thereon and any profit realized therefrom shall be credited to the Project Fund, and any losses resulting from such investments shall be charged to the Project Fund and paid by the Purchaser.

**Section 4.09. Special Investment Covenants.** The Issuer and the Purchaser each covenant that it will not directly or indirectly use or permit the use of any proceeds (as defined in the Regulations) of the Bond or any other funds of the Issuer or the Purchaser, or take or omit to take any action, or direct the Depository to invest any funds held by it, in such manner as will, or allow any “related party” (as defined in Section 1.150-1(b) of the Regulations) to enter into any arrangement, formal or informal, as will, cause the Bond to be “federally guaranteed”, as such term is used and defined in Section 149(b) of the Code, or to be an “arbitrage bond” within the meaning of Section 148 of the Code, and any Regulations proposed or promulgated in connection therewith. To that end, the Issuer and the Purchaser shall comply with all requirements of Section 149(b) and Section 148 of the Code to the extent applicable to the Bond. In the event that at any time the Issuer or the Purchaser is of the opinion that for purposes of this Section 4.11 it is necessary to dispose of any investment or to restrict or limit the yield on any investment held under the Bond Documents or otherwise, the Issuer or the Purchaser, as the case may be, shall so instruct the Depository in writing.

**Section 4.10. Calculation and Payment of Rebate Amount.** The Purchaser agrees to appoint and pay a Rebate Calculator to calculate and determine the Rebate Amount, if any, as required by Section 148(f) of the Code and any Regulations proposed or promulgated in connection therewith. All calculations and determinations made by a Rebate Calculator shall be accompanied by the opinion of a Rebate Calculator that such calculations and determinations have been made in accordance with the requirements of Section 148(f) of the Code. The Purchaser agrees to pay to the United States Treasury for and on behalf of the Issuer the amount determined by the Rebate Calculator to be due to the United States Treasury before the due date specified by the Rebate Calculator. The obligations created by this Section 4.12 shall survive the

termination of this Agreement. The Issuer hereby delegates to the Purchaser the authority and responsibility for compliance with Section 148(f) of the Code.

[End of Article IV]

## ARTICLE V

### INSTALLMENT PURCHASE PROVISIONS; NATURE OF OBLIGATIONS OF PURCHASER

**Section 5.01. Term of Agreement.** This Agreement shall become effective upon its delivery and shall be in full force and effect until midnight, \_\_\_\_\_ 1, 20\_\_\_\_, subject to the provisions of this Agreement permitting earlier termination (including particularly Article VII hereof), or if all the Purchase Price and other amounts payable pursuant to Section 5.03 hereof have not been paid or retired, until such date as such payment shall have been made; provided, however, that the covenants and obligations expressed herein to so survive shall survive the termination of this Agreement, but in no event shall the term of this Agreement exceed fifty (50) years.

**Section 5.02. Delivery and Acceptance of Possession.** The Issuer agrees to deliver to the Purchaser sole and exclusive possession and use of the Land promptly following execution and delivery of this Agreement, and the Purchaser will accept possession and use of the Land and will accept possession of the Project upon the Completion Date; provided that prior to such date for delivery of sole and exclusive possession, the Purchaser may take such possession of all or any part of the Project as shall not interfere with the construction or installation of the Project. The Issuer shall be permitted such continued possession of the Project as shall be necessary and convenient for it to construct or install or cause to be constructed or installed the Project. The Issuer covenants and agrees that it shall not take any action to prevent the Purchaser from having quiet and peaceable possession and enjoyment of the Project during the term of this Agreement and shall, at the request of the Purchaser and at the cost of the Purchaser, cooperate with the Purchaser in order that the Purchaser may have quiet and peaceable possession and enjoyment of the Project.

**Section 5.03. Purchase Price and Other Amounts Payable.** (a) Until the principal of, premium, if any, and interest on the Bond shall have been fully paid, the Purchaser shall pay the Purchase Price in installments and shall pay to the Bondholder for the account of the Issuer as installments of Purchase Price, on or before \_\_\_\_\_ 1, 20\_\_\_\_, and on or before the first day of each month thereafter, to and including \_\_\_\_\_ 1, 20\_\_\_\_, a sum equal to the amount payable on such date as principal of, premium, if any, and interest on the Bond, as provided in the Bond Purchase Agreement. Each installment of Purchase Price ,under this Section due on an interest or principal payment date, redemption date, or tender date until the Bond is fully paid, shall in all events be sufficient to pay the total amount of interest, principal, redemption requirement, tender requirement, and premium, if any, payable on the Bond on the principal or interest payment date, on the redemption date or on the tender date. Any installment of Purchase Price not received by the Bondholder when due shall continue as an obligation of the Purchaser until paid and shall bear interest at the rate of interest on the Bond. The Purchaser agrees to pay all reasonable out-of-pocket costs and expenses of the Issuer and the Bond Buyer incurred in connection with their

negotiation, structuring, documenting, and closing the Bond, including, without limitation, the reasonable fees and disbursements of counsel for the Issuer and Bond Counsel.

(a) The Purchaser agrees to pay all reasonable out-of-pocket costs and expenses of the Issuer, the Bondholder, and the Depository incurred in connection with their administration or modification of, or in connection with the preservation of their rights under, enforcement of, or any refinancing, renegotiation, restructuring, or termination of, any Bond Document or any instruments referred to therein or any amendment, waiver, or consent relating thereto, including, without limitation, the reasonable fees and disbursements of counsel for the Issuer, counsel for the Bondholder, and counsel for the Depository.

Such additional installments of Purchase Price shall be billed to the Purchaser by the Issuer, the Bond Buyer, the Bondholder, or the Depository from time to time, together with a statement certifying that the amount billed has been incurred or paid by such party for one or more of the above items. Amounts so billed shall be paid by the Purchaser within thirty (30) days after receipt of the bill by the Purchaser.

(b) In the event the Purchaser shall fail to make any of the payments required in this Section 5.03, the item or installment so in default shall continue as an obligation of the Purchaser until the amount in default shall have been fully paid.

**Section 5.04. Place of Purchase Price Payments.** The payments of Purchase Price provided for in Section 5.03(a) hereof shall be paid in lawful money of the United States of America in immediately available funds directly to the Bondholder for the account of the Issuer by the method and at the address specified for such purpose by the Bondholder in writing to the Purchaser. The payments of additional purchase price to be made to the Issuer, the Bond Buyer, the Bondholder, or the Depository pursuant to Section 5.03(b) hereof shall be paid directly to the Issuer, the Bond Buyer, the Bondholder, or the Depository for its own use.

**Section 5.05. Nature of Obligations of Purchaser Hereunder.** (a) The obligations of the Purchaser to make the payments required in Section 5.03 hereof and other sections hereof and to perform and observe any and all of the other covenants and agreements on its part contained herein shall be a general obligation of the Purchaser and shall be absolute and unconditional irrespective of any defense or any rights of setoff, recoupment, or counterclaim, except payment (and to the extent there exists any such defense, right of setoff or recoupment, or counterclaim on the date hereof, the same is hereby waived by the Purchaser), it may otherwise have against the Issuer or the Bondholder. The Purchaser agrees that it shall not (i) suspend, abate, reduce, abrogate, diminish, postpone, modify, or discontinue any payments provided for in Section 5.03 hereof, (ii) fail to observe any of its other agreements contained in this Agreement, or (iii) except as provided in Article VII hereof, terminate its obligations under this Agreement for any contingency, act of God, event, or cause whatsoever, including, without limiting the generality of the foregoing, failure of the Purchaser to occupy or to use the Project as contemplated in this Agreement or otherwise, any change or delay in the time of availability of the Project, any acts or circumstances that may impair or preclude the use or possession of the Project, any defect in the title, design, operation, merchantability, fitness, or condition of the Project, or in the suitability of the Project for the Purchaser's purposes or needs, any sale, lease or other disposition in whole or in part of the Project, failure of consideration, any declaration or

finding that the Bond is unenforceable or invalid, the invalidity of any provision of this Agreement, any acts or circumstances that may constitute an eviction or constructive eviction, destruction of or damage to the Project, the taking by eminent domain of title to or the use of all or any part of the Project, failure of the Issuer's title to the Project or any part thereof, commercial frustration of purpose, any change in the tax or other laws of the United States of America or of the State or any political subdivision of either thereof or in the rules or regulations of any governmental authority, any sale, assignment, or encumbrance by the Purchaser of this Agreement or any of its obligations hereunder, or any failure of the Issuer to perform and observe any agreement, whether express or implied, or any duty, liability, or obligation arising out of or connected with this Agreement.

(a) Nothing contained in this Section 5.05 shall be construed to release the Issuer from the performance of any of the agreements on its part herein contained. In the event the Issuer should fail to perform any such agreement on its part, the Purchaser may institute such action against the Issuer as the Purchaser may deem necessary to compel performance so long as such action does not abrogate, limit, or reduce the Purchaser's obligations hereunder. The Issuer hereby agrees that it shall not take or omit to take any action that would cause this Agreement to be terminated. The Purchaser may, however, at its own cost and expense and in its own name or in the name of the Issuer, prosecute or defend any action or proceeding or take any other action involving third persons that the Purchaser deems reasonably necessary in order to secure or protect its right of possession, occupancy, and use hereunder, and in such event the Issuer hereby agrees to cooperate fully with the Purchaser and to take all action necessary to effect the substitution of the Purchaser for the Issuer in any such action or proceeding if the Purchaser shall so request.

[End of Article V]

## ARTICLE VI

### ADDITIONAL COVENANTS

**Section 6.01. No Warranty of Condition or Suitability by the Issuer.** NEITHER THE ISSUER NOR THE BONDHOLDER MAKES ANY WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO THE HABITABILITY, MERCHANTABILITY, CONDITION, OR WORKMANSHIP OF ANY PART OF THE PROJECT OR THAT IT WILL BE SUITABLE FOR THE PURCHASER'S PURPOSES OR NEEDS.

**Section 6.02. Indemnity.** To the extent permitted by the laws and Constitution of the State, the Purchaser shall protect, hold harmless, and indemnify the Issuer, the Bondholder, and the Depository from and against any and all liability, obligations, losses, claims, and damages whatsoever, regardless of cause thereof, and expenses in connection therewith, including, without limitation, counsel fees and expenses, penalties, and interest arising out of or as the result of the entering into of the Bond Documents or any transactions contemplated thereby, the ownership of any item of the Project, the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage, or return of any item of the Project or any accident in connection with the operation, use, condition, possession, storage, or return of any item of the Project resulting in damage to property or injury to or death of any person. The indemnification arising under this Section shall continue in full force and effect notwithstanding the full payment of all obligations under this Agreement and shall survive the termination of this Agreement for any reason.

**Section 6.03. Annual Budgets and Financial Statements.** (a) Commencing with the Purchaser's first Fiscal Year commencing after the date of execution and delivery of this Agreement, the Purchaser shall furnish to the Issuer and the Bondholder copies of each annual budget of the Purchaser within ten (10) days after the filing of the adopted budget with its Governing Body. The covenants on the part of the Purchaser herein contained shall be deemed to be and shall be construed to be duties imposed by law, and it shall be the duty of each and every public official of the Purchaser to take such action and do such things as are required by law in the performance of the official duty of such officials to enable the Purchaser to carry out and perform the agreements and covenants in this Agreement agreed to be carried out and performed by the Purchaser.

(b) During the term of this Agreement, the Purchaser shall provide the Issuer and the Bondholder annually, within two hundred seventy (270) days after the end of each Fiscal Year, its basic financial statements for each Fiscal Year, with comparative totals for the preceding Fiscal Year, which basic financial statements shall be accompanied by an audit report resulting from an audit conducted by an independent certified public accountant or firm of independent certified public accountants.

**Section 6.04. Tax Covenants.** The Purchaser covenants that it will not take or omit to take any action nor permit any action to be taken or omitted that would cause the interest on the Bond to become includable in the gross income of any owner thereof.

The Purchaser further covenants and agrees that it shall comply with the representations and certifications it made in its Purchaser's Tax Certificate dated the date of issuance and delivery of the Bond and that it shall take no action nor omit to take any action that would cause such representations and certifications to be untrue.

[End of Article VI]

## ARTICLE VII

### ASSIGNMENT; PURCHASE PRICE PREPAYMENTS

**Section 7.01. No Assignment by Purchaser.** Neither this Agreement nor its obligations under this Agreement may be sold, assigned, or encumbered by the Purchaser without the prior written consent of the Issuer and the Bondholder.

**Section 7.02. Redemption of Bond.** The Issuer, at the written request of the Purchaser at any time and if the Bond is then callable or available for purchase, and if there are funds available therefor, shall forthwith take all steps that may be necessary under the applicable redemption or purchase provisions of the Bond Purchase Agreement and the Bond to effect redemption or purchase of all or part of the then outstanding Bond, as may be specified by the Purchaser, on the earliest date on which such redemption or purchase may be made under such applicable provisions.

**Section 7.03. Prepayment of Purchase Price.** There is expressly reserved to the Purchaser the right, and the Purchaser is authorized and permitted, at any time it may choose, to prepay all or any part of the Purchase Price and other amounts payable under Section 5.03 hereof, and the Issuer agrees that the Bondholder may accept such prepayments of Purchase Price and other amounts when the same are tendered by the Purchaser. All Purchase Price and other amounts so prepaid shall at the written direction of the Purchaser be credited toward the Purchase Price and other amounts specified in Section 5.03 hereof, in the order of their due dates, or applied to the retirement of the Bond prior to maturity (either by redemption or purchase) in accordance with the Bond Purchase Agreement and the Bond.

**Section 7.04. Option to Prepay the Purchase Price and Redeem the Bond at Prior Optional Redemption Dates.** The Purchaser shall also have the option to prepay Purchase Price and other amounts payable under this Agreement in such manner and amounts as will enable the Issuer to redeem the Bond prior to maturity, in whole, but not in part, on any scheduled interest payment date, as provided in Section 7.2 of the Bond Purchase Agreement. The Purchase Price and other amounts payable by the Purchaser in the event of its exercise of the option granted under this Section shall be the amount necessary to pay and satisfy all amounts due under the Bond Documents.

[End of Article VII]

## ARTICLE VIII

### EVENTS OF DEFAULT AND REMEDIES

**Section 8.01. Events of Default Defined.** The following shall be “Events of Default” under this Agreement, and the terms “Event of Default” or “Default” shall mean, whenever they are used in this Agreement, any one or more of the following events:

(a) The Purchaser’s failure to pay the amounts required to be paid under Section 5.03 of this Agreement at the times specified therein.

(b) The Purchaser’s breach in any material respect of any representation or warranty contained in this Agreement or the Purchaser’s failure to observe, perform, or comply with any covenant, condition, or agreement in this Agreement on the part of the Purchaser to be observed or performed, other than as referred to in subsection (a) of this Section 8.01, for a period of thirty (30) days after written notice specifying such breach or failure and requesting that it be remedied, given to the Purchaser by the Issuer or the Bondholder, unless the Bondholder shall agree in writing to an extension of such time prior to its expiration. In the case of any such breach or default that cannot with due diligence be cured within such thirty (30) day period but can be wholly cured within a period of time not materially detrimental to the rights of the Issuer and the Bondholder, to be determined conclusively by the Bondholder, it shall not constitute an Event of Default if corrective action is instituted by the Purchaser within the applicable period and diligently pursued until the breach or default is corrected in accordance with and subject to any directions or limitations of time established in writing by the Bondholder.

(c) The Purchaser shall (i) apply for or consent to the appointment of or the taking of possession by a receiver, custodian, trustee, or liquidator of it or of all or a substantial part of its property, (ii) enter into an agreement of composition with its creditors, (iii) admit in writing its inability to pay its debts as such debts become due, (iv) make a general assignment for the benefit of its creditors, (v) commence a voluntary case under the federal bankruptcy law (as now or hereafter in effect), (vi) file a petition or answer seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (vii) fail to controvert in a timely or appropriate manner or acquiesce in writing to any petition filed against it in an involuntary case under such federal bankruptcy law, or (viii) take any action for the purpose of effecting any of the foregoing.

(d) A proceeding or case shall be commenced, without the application of the Purchaser, in any court of competent jurisdiction, seeking (i) the liquidation, reorganization, dissolution, winding-up, or composition or adjustment of debts of the Purchaser, (ii) the appointment of a trustee, receiver, custodian, liquidator, or the like of the Purchaser or of all or any substantial part of the assets of it, or (iii) similar relief in respect of the Purchaser under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition and adjustment of debts, and such proceeding or case shall continue undismissed or an order, judgment, or decree approving or ordering any of the foregoing shall be entered and shall continue unvacated and unstayed and in effect for a period of sixty (60) days, whether consecutive or not.

**Section 8.02. Remedies on Default.** Whenever any Event of Default referred to in Section 8.01 hereof shall have happened and be continuing, the Issuer, in its discretion, may exercise any one or more of the following remedies:

(a) The Issuer may have access to and inspect, examine, and make copies of the books and records and any and all accounts and similar data of the Purchaser.

(b) The Issuer may from time to time take whatever action at law or in equity or under the terms of this Agreement may appear necessary or desirable to collect the Purchase Price and other amounts payable by the Purchaser hereunder then due or thereafter to become due, or to enforce performance and observance of any obligation, agreement, or covenant of the Purchaser under this Agreement, including without limitation, bringing any suit, action, or proceeding in law or in equity, including mandamus, injunction, and action for specific performance.

No action taken pursuant to this Section 8.02 shall relieve the Purchaser from its obligations pursuant to Section 5.03 hereof, all of which shall survive any such action, and the Issuer may take whatever action at law or in equity as may appear necessary and desirable to collect the Purchase Price and other amounts then due and thereafter to become due or to enforce the performance and observance of any obligation, agreement, or covenant of the Purchaser hereunder.

**Section 8.03. No Remedy Exclusive.** No remedy herein conferred upon or reserved to the Issuer is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission 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 thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Issuer to exercise any remedy reserved to it in this Article VIII, it shall not be necessary to give any notice, other than such notice as may be herein expressly required. Such rights and remedies as are given the Issuer hereunder shall also extend to the Bondholder, and the Bondholder shall be deemed a third party beneficiary of all covenants and agreements herein contained.

**Section 8.04. Agreement to Pay Fees and Expenses.** Upon the occurrence of an Event of Default under any of the provisions of this Agreement and the Issuer or the Bondholder should employ attorneys, accountants, or other experts or incur other expenses for the collection of Purchase Price and other amounts due hereunder or the enforcement of performance or observance of any obligation or agreement on the part of the Purchaser herein contained, the Purchaser agrees that it shall on demand therefor pay to the Issuer or to the Bondholder for the account of the Issuer the reasonable fees of such attorneys, accountants, or other experts and such other expenses so incurred by the Issuer or the Bondholder. Any attorneys' fees required to be paid by the Purchaser under this Agreement shall include attorneys' and paralegals' fees through all proceedings, including, but not limited to, negotiations, administrative hearings, trials, and appeals.

**Section 8.05. Waiver of Events of Default.** The Issuer may, with the prior written consent of the Bondholder, waive any Event of Default hereunder and its consequences. In case of any such waiver, or in case any proceeding taken by the Issuer or the Bondholder on account of any such Event of Default shall be discontinued or abandoned or determined adversely to the Issuer or the Bondholder, then and in every such case the Issuer and the Purchaser shall be restored to their former position and rights hereunder, but no such waiver or rescission shall extend to or affect any subsequent or other Event of Default or impair or exhaust any right, power, or remedy consequent thereon.

[End of Article VIII]



**Section 9.04. Amounts Remaining in Funds.** It is agreed by the parties hereto that any amounts remaining in the Project Fund or other funds provided for herein upon expiration or sooner termination of this Agreement, as provided in this Agreement, after payment in full of the Purchase Price and the Bond, the fees, charges, and expenses of the Issuer, the Bondholder, and the Depository, in accordance with the terms hereof, and all sums due and owing to the Issuer, shall belong to and be paid to the Purchaser by the Issuer as overpayment of Purchase Price.

**Section 9.05. Amendments, Changes, and Modifications.** This Agreement may not be amended, changed, modified, altered, or terminated, and the observance of any term hereof may not be waived, without the prior written consent of the Bondholder.

**Section 9.06. Execution of Counterparts.** This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**Section 9.07. Law Governing Construction of this Agreement.** This Agreement is prepared and entered into with the intention that the law of the State, exclusive of such state's rules governing choice of law, shall govern its construction.

**Section 9.08. Immunity of Officials, Officers, and Employees of Issuer and Purchaser.** No recourse shall be had for the enforcement of any obligation, covenant, promise, or agreement of the Issuer or the Purchaser contained in this Agreement or for any claim based hereon or otherwise in respect hereof against any member of a Governing Body, officer, or employee, as such, in his individual capacity, past, present, or future, of the Issuer, the Purchaser, or any successor body, whether by virtue of any constitutional provision, statute, or rule of law, or by the enforcement of any assessment or penalty or otherwise, it being expressly agreed and understood that this Agreement is solely a corporate obligation of the Purchaser and the Issuer payable only from the funds and assets of the Purchaser and the Issuer herein specifically provided to be subject to such obligation and that no personal liability whatsoever shall attach to, or be incurred by, any member of a Governing Body, officer, or employee, as such, past, present, or future, of the Purchaser or the Issuer, or of any successor corporation, either directly or through the Purchaser, the Issuer, or any successor corporation, under or by reason of any of the obligations, covenants, promises, or agreements entered into between the Issuer and the Purchaser whether contained in this Agreement or in the other Bond Documents or to be implied herefrom or therefrom as being supplemental hereto or thereto, and that all personal liability of that character against every such member of a Governing Body, officer, and employee is, by the execution of this Agreement and as a condition of and as part of the consideration for the execution of this Agreement, expressly waived and released. The immunity of members of a Governing Body, officers, and employees of the Issuer and the Purchaser under the provisions contained in this Section 9.08 shall survive the completion of the Project and the termination of this Agreement.

**Section 9.09. Time of Essence.** Time is of the essence of this Agreement. Anywhere a day certain is stated for payment or for performance of any obligation, the day certain so stated enters into and becomes a part of the consideration for this Agreement.

[End of Article IX]

**SIGNATURES AND SEALS**

**IN WITNESS WHEREOF**, the Issuer has executed this Agreement by causing its name to be hereunto subscribed by its Chairman and by causing the official seal of the Issuer to be impressed hereon and attested by its Secretary; and the Purchaser has executed this Agreement by causing its name to be hereunto subscribed by its Mayor and by causing the official seal of the Purchaser to be impressed hereon and attested by its City Clerk; all being done as of the day and year first above written.

**URBAN REDEVELOPMENT AGENCY  
OF THE CITY OF DUNWOODY,  
GEORGIA**

(SEAL)

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

Attest:

\_\_\_\_\_  
Secretary

**CITY OF DUNWOODY, GEORGIA**

(SEAL)

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

Attest:

\_\_\_\_\_  
City Clerk

**EXHIBIT A**

**DESCRIPTION OF LAND**

[Attached]

**DRAFT DATE: 06/21/12**

**ASSIGNMENT AND SECURITY AGREEMENT**

**THIS ASSIGNMENT AND SECURITY AGREEMENT**, made and entered into as of July 1, 2012, between the Urban Redevelopment Agency of the City of Dunwoody, Georgia (the “Issuer”), a public corporation created and existing under the laws of the State of Georgia, and PNC Bank, National Association (the “Bond Buyer”);

**WITNESSETH:**

**WHEREAS**, the Issuer has adopted a resolution (the “Bond Resolution”) authorizing the issuance of \$\_\_\_\_\_ in principal amount of its Taxable Revenue Bond (City of Dunwoody, Georgia Project), Series 2012B (the “Bond”), the Bond to be dated the date hereof, and the Bond to have a final stated maturity of \_\_\_\_\_ 1, 20\_\_\_, and authorizing the execution and delivery of a Bond Purchase Agreement (the “Bond Purchase Agreement”) with the Bond Buyer, dated the date of its execution and delivery, under the terms of which the Issuer agreed to sell the Bond to the Bond Buyer to finance the costs of acquiring, constructing, and installing urban redevelopment projects consisting of land to be redeveloped or rehabilitated as described in the urban redevelopment plan approved by the City of Dunwoody, Georgia (the “City”) (the “Project”); and

**WHEREAS**, pursuant to an Intergovernmental Services Agreement (the “Contract”), between the Issuer and the City, dated the date hereof, the City (1) will agree to make payments to the Issuer in amounts sufficient to enable the Issuer to pay the principal of, premium, if any, and interest on the Bond when due, and (2) will agree to levy an annual ad valorem tax on all taxable property located within the corporate limits of the City, at such rates, not to exceed 3.04 mills per dollar (or such greater amount as may hereafter be recommended by the Mayor and Council of the City and approved by a majority of the eligible voters in the City by referendum), as may be necessary to produce in each year revenues that are sufficient to fulfill the City’s obligations under the Contract; and

**WHEREAS**, to secure its obligation to pay principal of, premium, if any, and interest on the Bond, the Issuer desires to assign and pledge, and grant a first priority security interest in, its right, title, and interest in the Contract to the Bond Buyer and desires to make and execute this instrument for that purpose;

**NOW, THEREFORE**, for and in consideration of the foregoing premises, the sum of Ten Dollars (\$10.00) cash in hand paid, and other good and valuable consideration, all of which the Issuer acknowledges constitutes sufficient consideration and value received by the Issuer at the time of or before the Issuer’s execution, sealing, and delivery hereof, the Issuer does hereby covenant and agree as follows:

1. The Issuer does hereby grant, bargain, convey, sell, transfer, assign, pledge, and set over, and grant a security interest in, unto the Bond Buyer and its successors and assigns all of the Issuer’s right, title, interest, remedies, powers, options, benefits, and privileges in, to, and under the Contract (reserving, however, to the Issuer the Unassigned Rights, as defined in the

Contract) and all amounts due and to become due to the Issuer under and pursuant to the Contract.

2. This Assignment shall not be deemed to impose any obligations or liabilities whatsoever on the Bond Buyer or to transfer or pass or in any way affect or modify any obligations of the Issuer under the Contract, it being understood and agreed that all such obligations of the Issuer shall be and remain enforceable only against the Issuer.

3. The Issuer represents and warrants to the Bond Buyer that it has not previously assigned, transferred, pledged, or encumbered in any manner, or granted a security interest in, any of its right, title, interest, remedies, powers, options, benefits, and privileges in, to, or under the Contract and the lien or security interest that the Bond Buyer has in the Contract by virtue of this Assignment is and shall remain at all times superior to any other liens or claims against the Contract. The Issuer shall defend the title to all of the foregoing against the claims and demands of all persons whomsoever claiming by, through, or under the Issuer.

4. The Bond Buyer may assign, transfer, pledge, or encumber, or grant a security interest in, the Contract and any or all rights of the Bond Buyer under this Assignment, without consent or approval of, or notice to, the Issuer.

5. The Issuer hereby authorizes and empowers the Bond Buyer, and hereby irrevocably and duly constitutes and appoints the Bond Buyer as the Issuer's attorney-in-fact, to receive any and all amounts payable under the Contract (except pursuant to Unassigned Rights), to collect any and all such amounts by such means and taking such action as the Bond Buyer may deem necessary or desirable, to exercise any and all rights or remedies provided for under the Contract, to file such claims and take any other action or to institute any other proceedings that the Bond Buyer may deem necessary or advisable to enforce any such obligations, and to act in all other ways under and with respect to the Contract in the place and stead of the Issuer. The foregoing appointment of the Bond Buyer as the Issuer's attorney-in-fact is coupled with an interest, cannot be revoked by insolvency, reorganization, merger, consolidation, or otherwise, and shall not terminate until the Bond has been paid and satisfied in full.

6. The Issuer agrees to take any actions and execute and deliver to the Bond Buyer, at any time or times during which this Agreement shall be in effect, such further instruments and documents as the Bond Buyer may reasonably require to make effective this Assignment and the several covenants of the Issuer herein contained.

7. The Issuer will fulfill, perform and observe each and every condition and covenant of the Issuer, as the case may be, contained in the Contract.

8. This Assignment may be executed in several counterparts, and each such counterpart shall be deemed to be an original.

9. This Assignment shall be governed by and construed in accordance with the laws of the State of Georgia.

[Signatures and Seals to Follow]

**IN WITNESS WHEREOF**, the Issuer has executed this Assignment by causing its name to be hereunto subscribed by its Chairman and by causing the official seal of the Issuer to be impressed hereon and attested by its Secretary; and the Bond Buyer has executed this Assignment by causing its name to be hereunto subscribed by its Authorized Officer; all as of July 1, 2012.

**URBAN REDEVELOPMENT AGENCY  
OF THE CITY OF DUNWOODY,  
GEORGIA**

(SEAL)

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

Attest:

Secretary

**PNC BANK, NATIONAL ASSOCIATION**

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

**DRAFT DATE: 06/21/12****ASSIGNMENT AND SECURITY AGREEMENT**

**THIS ASSIGNMENT AND SECURITY AGREEMENT**, made and entered into as of July 1, 2012, between the Urban Redevelopment Agency of the City of Dunwoody, Georgia (the “Issuer”), a public corporation created and existing under the laws of the State of Georgia, and PNC Bank, National Association. (the “Bond Buyer”);

**WITNESSETH:**

**WHEREAS**, the Issuer has adopted a resolution (the “Bond Resolution”) authorizing the issuance of \$\_\_\_\_\_ in principal amount of its Revenue Bond (City of Dunwoody, Georgia Project), Series 2012A (the “Bond”), the Bond to be dated the date hereof, and the Bond to have a final stated maturity of \_\_\_\_\_, 20\_\_\_\_, and authorizing the execution and delivery of a Bond Purchase Agreement (the “Bond Purchase Agreement”) with the Bond Buyer, dated the date of its execution and delivery, under the terms of which the Issuer agreed to sell the Bond to the Bond Buyer to finance the costs of acquiring, constructing, and installing urban redevelopment projects consisting of land to be used as parkland, multi-use trails, civic space and other similar projects (the “Project”); and

**WHEREAS**, the Issuer will sell the Project to the City of Dunwoody, Georgia (the “Purchaser”) pursuant to an Agreement of Sale (the “Contract”), dated the date hereof, under the terms of which the Purchaser (1) will agree to make installment payments of purchase price to the Issuer in amounts sufficient to enable the Issuer to pay the principal of, premium, if any, and interest on the Bond when due, and (2) will agree to levy an annual ad valorem tax on all taxable property located within the corporate limits of the Purchaser, at such rates, not to exceed 3.04 mills per dollar (or such greater amount as may hereafter be recommended by the Mayor and Council of the City and approved by a majority of the eligible voters in the City by referendum), as may be necessary to produce in each year revenues that are sufficient to fulfill the Purchaser’s obligations under the Contract; and

**WHEREAS**, to secure its obligation to pay principal of, premium, if any, and interest on the Bond, the Issuer desires to assign and pledge, and grant a first priority security interest in, its right, title, and interest in the Contract to the Bond Buyer and desires to make and execute this instrument for that purpose;

**NOW, THEREFORE**, for and in consideration of the foregoing premises, the sum of Ten Dollars (\$10.00) cash in hand paid, and other good and valuable consideration, all of which the Issuer acknowledges constitutes sufficient consideration and value received by the Issuer at the time of or before the Issuer’s execution, sealing, and delivery hereof, the Issuer does hereby covenant and agree as follows:

1. The Issuer does hereby grant, bargain, convey, sell, transfer, assign, pledge, and set over, and grant a security interest in, unto the Bond Buyer and its successors and assigns all of the Issuer’s right, title, interest, remedies, powers, options, benefits, and privileges in, to, and under the Contract (reserving, however, to the Issuer the Unassigned Rights, as defined in the

Contract) and all amounts due and to become due to the Issuer under and pursuant to the Contract.

2. This Assignment shall not be deemed to impose any obligations or liabilities whatsoever on the Bond Buyer or to transfer or pass or in any way affect or modify any obligations of the Issuer under the Contract, it being understood and agreed that all such obligations of the Issuer shall be and remain enforceable only against the Issuer.

3. The Issuer represents and warrants to the Bond Buyer that it has not previously assigned, transferred, pledged, or encumbered in any manner, or granted a security interest in, any of its right, title, interest, remedies, powers, options, benefits, and privileges in, to, or under the Contract and the lien or security interest that the Bond Buyer has in the Contract by virtue of this Assignment is and shall remain at all times superior to any other liens or claims against the Contract. The Issuer shall defend the title to all of the foregoing against the claims and demands of all persons whomsoever claiming by, through, or under the Issuer.

4. The Bond Buyer may assign, transfer, pledge, or encumber, or grant a security interest in, the Contract and any or all rights of the Bond Buyer under this Assignment, without consent or approval of, or notice to, the Issuer.

5. The Issuer hereby authorizes and empowers the Bond Buyer, and hereby irrevocably and duly constitutes and appoints the Bond Buyer as the Issuer's attorney-in-fact, to receive any and all amounts payable under the Contract (except pursuant to Unassigned Rights), to collect any and all such amounts by such means and taking such action as the Bond Buyer may deem necessary or desirable, to exercise any and all rights or remedies provided for under the Contract, to file such claims and take any other action or to institute any other proceedings that the Bond Buyer may deem necessary or advisable to enforce any such obligations, and to act in all other ways under and with respect to the Contract in the place and stead of the Issuer. The foregoing appointment of the Bond Buyer as the Issuer's attorney-in-fact is coupled with an interest, cannot be revoked by insolvency, reorganization, merger, consolidation, or otherwise, and shall not terminate until the Bond has been paid and satisfied in full.

6. The Issuer agrees to take any actions and execute and deliver to the Bond Buyer, at any time or times during which this Agreement shall be in effect, such further instruments and documents as the Bond Buyer may reasonably require to make effective this Assignment and the several covenants of the Issuer herein contained.

7. The Issuer will fulfill, perform and observe each and every condition and covenant of the Issuer, as the case may be, contained in the Contract.

8. This Assignment may be executed in several counterparts, and each such counterpart shall be deemed to be an original.

9. This Assignment shall be governed by and construed in accordance with the laws of the State of Georgia.

[Signatures and Seals to Follow]

**IN WITNESS WHEREOF**, the Issuer has executed this Assignment by causing its name to be hereunto subscribed by its Chairman and by causing the official seal of the Issuer to be impressed hereon and attested by its Secretary; and the Bond Buyer has executed this Assignment by causing its name to be hereunto subscribed by its Authorized Officer; all as of July 1, 2012.

**URBAN REDEVELOPMENT AGENCY  
OF THE CITY OF DUNWOODY,  
GEORGIA**

(SEAL)

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

Attest:

Secretary

**PNC BANK, NATIONAL ASSOCIATION**

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

**DRAFT DATE: 06/21/12**

**BOND PURCHASE AGREEMENT**

\$\_\_\_\_\_Urban Redevelopment Agency of  
the City of Dunwoody, Georgia Taxable Revenue Bond  
(City of Dunwoody, Georgia Project), Series 2012B

Dated July \_\_\_\_, 2012

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URBAN REDEVELOPMENT AGENCY OF THE CITY OF DUNWOODY, GEORGIA  
Dunwoody, Georgia

BOND PURCHASE AGREEMENT

July \_\_, 2012

PNC Bank, National Association  
Atlanta, Georgia

Ladies and Gentlemen:

The Urban Redevelopment Agency of the City of Dunwoody, Georgia (the “Issuer”), a public corporation created and existing under the laws of the State of Georgia, agrees with you as follows:

**1. ISSUANCE OF THE BOND.**

**1.1. Authorization of the Bond.**

The Issuer has duly authorized the issuance and sale of \$\_\_\_\_\_ in principal amount of its Taxable Revenue Bond (City of Dunwoody, Georgia Project), Series 2012B (the “Bond,” such term to include any such bond issued in substitution therefor pursuant to Section 10 of this Agreement). The Bond shall be substantially in the form set out in Exhibit A, with such changes therefrom, if any, as may be approved by you and the Issuer. Certain capitalized terms used in this Agreement are defined in Section 17 of this Agreement; references to an “Exhibit” are, unless otherwise specified, to an Exhibit attached to this Agreement.

**1.2. Terms of the Bond.**

The Bond shall be dated the date of Closing and shall be designated “Urban Redevelopment Agency of the City of Dunwoody, Georgia Taxable Revenue Bond (City of Dunwoody, Georgia Project), Series 2012B.” The Bond shall be issued as a single, fully registered bond without coupons in the principal amount of \$\_\_\_\_\_ and shall be numbered R-1.

The Bond shall be payable in monthly principal installments on the 1<sup>st</sup> day of each month, the first such principal payment becoming due on \_\_\_\_\_1, 2012, as set forth in the principal installment schedule attached as Schedule 1 to the form of the Bond attached hereto as Exhibit A, and shall mature on \_\_\_\_\_1, 2022. All unpaid principal with respect to the Bond shall be due and payable on \_\_\_\_\_1, 2022.

Interest shall accrue on outstanding principal amount of the Bond, and shall be payable in monthly installments on the 1<sup>st</sup> day of each month, the first such payment becoming due on

\_\_\_\_\_, 2012, and shall be calculated at the Daily LIBOR rate on the basis of actual days elapsed over a 360-day year. Notwithstanding the foregoing, the interest rate on the Bond shall not exceed the Maximum Rate.

### **1.3. Security for the Bond.**

Contemporaneously with the issuance of the Bond, as security for the payment of the Bond, the Issuer shall execute and deliver the Assignment.

### **1.4. Limited Obligation.**

The Bond shall be a special or limited and not general obligation of the Issuer giving rise to no pecuniary liability of the Issuer, shall be payable solely from the Security, and shall be a valid claim of the Bondholder only against the Security, which Security is hereby again specifically pledged and assigned for the payment of the Bond and shall be used for no other purpose than to pay the principal of, premium, if any, and interest on the Bond, except as may be otherwise expressly authorized in the Bond Documents. The Bond shall not constitute a general or moral obligation of the City of Dunwoody, Georgia nor a debt, indebtedness, or obligation of, or a pledge of the faith and credit or taxing power of, the City of Dunwoody, Georgia or the State of Georgia or any political subdivision thereof, within the meaning of any constitutional or statutory provision whatsoever. Neither the faith and credit nor the taxing power of the State of Georgia, the City of Dunwoody, Georgia, or any political subdivision thereof is pledged to the payment of the principal of, premium, if any, or interest on the Bond or other costs incident thereto. The Issuer has no taxing power. Neither the members of the Governing Body of the Issuer nor any person executing the Bond shall be liable personally on the Bond by reason of the issuance thereof.

## **2. SALE AND PURCHASE OF THE BOND .**

Subject to the terms and conditions of this Agreement, the Issuer shall issue and sell to you and you shall purchase from the Issuer, at the Closing provided for in Section 3, the Bond at the purchase price of \$\_\_\_\_\_.

## **3. CLOSING.**

The sale and purchase of the Bond shall occur at the offices of Gray Pannell & Woodward LLP, 3060 Peachtree Road, N.W., Suite 730, One Buckhead Plaza, Atlanta, Georgia 30305, at 10:00 a.m., local time, at a closing (the "Closing") on July \_\_\_, 2012, or on such other Business Day thereafter as may be agreed upon by the Issuer and you and the City. At the Closing the Issuer shall deliver to you the Bond duly executed in the form of a single, fully registered Bond without coupons in a denomination of \$\_\_\_\_\_, dated the date of the Closing, and registered in your name (or in the name of your nominee), against delivery by you to the Issuer or its order of immediately available funds in the amount of the purchase price of the Bond in the amount of \$\_\_\_\_\_, which shall be immediately deposited in the Project Fund. If at the Closing the Issuer shall fail to tender the Bond to you as provided above in this Section 3, or any of the conditions specified in Section 4 shall not have been fulfilled to your satisfaction, you shall, at your election, be relieved of all further obligations under this

Agreement, without thereby waiving any rights you may have by reason of such failure or such nonfulfillment.

#### **4. CONDITIONS TO CLOSING.**

Your obligation to purchase and pay for the Bond at the Closing is subject to the fulfillment to your satisfaction, prior to or at the Closing, of the following conditions:

##### **4.1. Representations and Warranties.**

The representations and warranties of the Issuer and the City in the Contract shall be correct when made and at the time of the Closing.

##### **4.2. Performance; No Default.**

The Issuer and the City shall have performed and complied with all agreements and conditions contained in this Agreement and the Contract required to be performed or complied with by them prior to or at the Closing and after giving effect to the issue and sale of the Bond (and the application of the proceeds thereof as contemplated by this Agreement) no Event of Default under this Agreement or the Contract shall have occurred and be continuing.

##### **4.3. Compliance Certificates.**

(a) Issuer's Certificate. The Issuer shall have delivered to you a closing certificate, dated the date of the Closing, incorporating a copy of the activating resolution of the City of Dunwoody, Georgia and the Bond Resolution, each certified by the Secretary or the Assistant Secretary of the Issuer, and certifying that the conditions applicable to the Issuer specified in Sections 4.1 and 4.2 have been fulfilled.

(b) City's Certificate. The City shall have delivered to you a closing certificate, dated the date of the Closing, incorporating copies of the resolutions of the City Council of the City (1) declaring the necessity of the City to exercise powers under the Urban Redevelopment Law, (2) designating the area encompassing the Premises as an urban redevelopment area, (3) approving the urban redevelopment plan for the Project, and (4) authorizing and approving the execution and delivery of the Contract and all other documents to be delivered by the City in connection with the transactions contemplated by such instruments, each certified by the City Clerk, and certifying that the conditions applicable to the City specified in Sections 4.1 and 4.2 have been fulfilled.

##### **4.4. Opinions of Counsel.**

You shall have received opinions in form and substance satisfactory to you, dated the date of the Closing, (a) from \_\_\_\_\_, counsel for the Issuer, substantially in the form set forth in Exhibit B, (b) from \_\_\_\_\_, counsel for the City, substantially in the form set forth in Exhibit C, and (c) from Gray Pannell & Woodward LLP, Bond Counsel, substantially in the form set forth in Exhibit D, each opinion covering such other matters incident to the transactions contemplated hereby as you or your counsel may reasonably request.

#### **4.5. Purchase Permitted By Applicable Law, etc.**

On the date of the Closing, your purchase of the Bond shall (i) be permitted by the laws and regulations of each jurisdiction to which you are subject, (ii) not violate any applicable law or regulation (including, without limitation, Regulation G, T, or X of the Board of Governors of the Federal Reserve System), and (iii) not subject you to any tax, penalty, or liability under or pursuant to any applicable law or regulation, which law or regulation was not in effect on the date hereof.

#### **4.6. Security Documents.**

You shall have received in form and substance satisfactory to you original duly executed counterparts of the Contract and the Assignment.

#### **4.7. Lien Documents.**

You shall have received in form and substance satisfactory to you (a) evidence to the effect that all appropriate filings and other steps then necessary for perfection of the liens and security interests created by the Assignment and in the Security, as against third party creditors of and purchasers for value in good faith from the Issuer have been taken, and (b) certified copies of Requests for Information or Copies (Form UCC-11), or equivalent reports, listing all effective financing statements that name the Issuer as debtor and that are on file in the centralized index of filings maintained by the Georgia Superior Court Clerks' Cooperative Authority, together with copies of such financing statements, none of which shall cover the collateral purported to be covered by the Assignment, except as shall be terminated on the date of the Closing.

#### **4.8. Proceedings and Documents.**

All corporate and other proceedings in connection with the transactions contemplated by this Agreement and the other Bond Documents and all documents and instruments incident to such transactions shall be satisfactory to you and your counsel, and you and your counsel shall have received all such counterpart originals or certified or other copies of such documents and such other assurances, certificates, documents, consents, or opinions as you or they may reasonably request.

### **5. PROJECT FUND.**

#### **5.1. Creation of the Project Fund.**

There is hereby created by the Issuer and ordered established with the Depository a fund in the name of the Issuer to be designated the "Project Fund." The purchase price of the Bond shall be immediately deposited into the Project Fund.

The Issuer hereby grants a security interest in the moneys and investments in the Project Fund held by the Depository for the benefit of the Bondholder, and this Agreement shall be deemed a security agreement with respect to the security interest so created. The Depository shall be deemed to be a bailee, which under the Uniform Commercial Code of Georgia holds collateral for the benefit of the Bondholder as secured party, with an obligation to use moneys in

the Project Fund solely as provided herein. Upon the occurrence of an Event of Default under this Agreement, the Depository shall, upon the written direction of the Bondholder (and without further consent of the Issuer), apply all moneys in the Project Fund to the payment of the amounts due on the Bond, and for no other purpose. Any such application shall reduce and discharge the amount then due and payable on the Bond to the extent of such application. The Depository shall promptly notify the City and the Issuer of the amount of such reduction.

## **5.2. Disbursements.**

Moneys in the Project Fund shall be expended in accordance with the provisions of the Contract, particularly Sections 4.03 and 4.04 thereof. The Depository is hereby authorized and directed to issue its checks for each disbursement required by the aforesaid provisions of the Contract. The Depository shall keep and maintain adequate records pertaining to the Project Fund and all disbursements therefrom, and the Depository shall, if requested by the City, file an accounting thereof with the Issuer and the City.

## **5.3. Investments.**

The Depository shall invest and reinvest any moneys held in the Project Fund at the direction of the City as provided in the Contract, particularly Section 4.10 thereof. The Depository shall not be required to invest or reinvest any moneys in the Project Fund or any earnings therefrom unless directed by the City. The Depository shall not be liable for interest upon any moneys held in the Project Fund during any period of time that such moneys are uninvested. Such investments shall be held by or under the control of the Depository and shall be deemed at all times a part of the Project Fund, and the interest accruing thereon and any profit realized therefrom shall be credited as set forth below, and any loss therefrom shall be charged against the Project Fund. The Depository is directed to sell and convert to cash a sufficient amount of such investments as determined by Depository in its discretion whenever the cash held in the Project Fund is insufficient for the uses prescribed for moneys held in the Project Fund. Neither the Depository nor the Issuer shall be liable or responsible for any loss resulting from any such investment or resulting from the redemption or sale of any such investment as herein authorized.

In computing the assets of the Project Fund, investments and accrued interest thereon shall be deemed a part thereof. Such investments shall be valued at the face value or the cost thereof, whichever is lower. Moneys in the Project Fund shall be invested only in obligations maturing or redeemable at the option of the City in such amounts and on such dates as may be necessary to provide moneys to meet the payments from such fund. Interest and profits from the investment of moneys held in the Project Fund shall be retained in the Project Fund.

## **5.4. Depository.**

PNC Bank, National Association, Atlanta, Georgia, is hereby designated as Depository of the Project Fund. The Issuer and the Bondholder may, from time to time, with the prior written consent of the City, designate a successor Depository; provided, that any such successor Depository shall be a bank or trust company having an unimpaired capital and surplus of not less than \$20,000,000. All moneys received by the Depository under this Agreement shall, until used

or applied as herein provided, be held for the purposes for which they were received but need not be segregated from other funds except to the extent required by this Agreement or by law. In making any disbursement or payment from the Project Fund as provided herein, the Depository may rely upon all requisitions, certificates, and other items submitted to it pursuant to this Agreement or the Contract, and the Depository shall be relieved of all liability with respect to disbursements or payments made in accordance with this Agreement or the Contract. The Depository shall have no liability for and shall be protected in acting upon any requisition, certificate, or other item believed to be genuine and correct and to have been signed or sent by the proper person or persons. The Depository may consult legal counsel selected by it in the event of any dispute or question as to the construction of any of the provisions of this Agreement or the Contract or its duties hereunder or thereunder and shall incur no liability resulting from any action or non-action taken in good faith in reliance upon such opinion or advice.

The duties of the Depository hereunder shall be entirely administrative and not discretionary. The Depository shall be obligated to act only in accordance with written directions or written instructions received by it as provided in this Agreement or the Contract and the Depository shall have no implied duties or obligations and shall not be charged with knowledge or notice of any factor or circumstance not specifically set forth herein. The Issuer hereby waives any suit, claim, demand, or cause of action of any kind, which it may have or may assert against the Depository arising out of or relating to the execution or performance by the Depository of this Agreement, unless such suit, claim, demand, or cause of action is based upon the gross negligence or willful misconduct of the Depository.

## **6. REPRESENTATIONS OF THE PURCHASER.**

You represent that you are purchasing the Bond for your own account or for one or more separate accounts maintained by you for investment purposes or for your loan portfolio and not with a view to the distribution thereof, provided that the disposition of your property shall at all times be within your control. You agree (1) to execute and deliver to the Issuer and the City an Investment Letter substantially in the form attached hereto as Exhibit E, at or prior to the Closing, and (2) that the Bond may not be resold unless the purchaser of the Bond executes and delivers to the Issuer and the City an Investment Letter substantially in the form attached hereto as Exhibit E, at or prior to such resale.

## **7. REDEMPTION OF THE BOND.**

### **7.1. Redemption at Option of Issuer.**

The Bond shall be subject to optional redemption by the Issuer upon the written request of the City prior to maturity, in whole, but not in part, on any scheduled interest payment date, at a redemption price equal to one hundred percent (100%) of the principal amount being redeemed plus accrued interest to the redemption date. As a condition precedent to each optional redemption under this Section 7.1, the Bondholder shall receive written notice of such optional redemption not less than thirty (30) nor more than sixty (60) days prior to the date fixed for such redemption. Each such notice shall specify the date of redemption, the principal amount of the Bond to be redeemed on such date, and the accrued interest (if the same can be calculated) to be paid on the redemption date with respect to the principal amount being redeemed.

## **7.2. Maturity.**

In the case of each redemption of the Bond pursuant to this Section 7, the principal amount of the Bond to be redeemed shall mature and become due and payable on the date fixed for such redemption, together with interest on such principal amount accrued to such date and the applicable premium, if any. From and after such date, unless the Issuer shall fail to pay such principal amount when so due and payable, together with the interest and premium, if any, as aforesaid, interest on such principal amount shall cease to accrue.

## **7.3. Optional Tender**

The Bond may be irrevocably tendered to the Issuer for purchase in whole on the seventh (7th) anniversary of the date of Closing or on any day thereafter, but only if the Bondholder of the Bond shall have provided to the City and the Issuer not less than 120 days advance notice of such tender. In the event of such a tender, the City must furnish to the Bondholder sufficient funds to pay the tender price, which shall be the outstanding principal amount of the Bond plus accrued and unpaid interest to the tender date. The failure to provide such funds or to pay the tender price on the tender date shall constitute an Event of Default hereunder.

## **8. COVENANTS.**

### **8.1. Payment of Principal, Interest, and Premium.**

The Issuer covenants that it will promptly pay or cause to be paid the principal of, premium, if any, and interest on the Bond at the place, on the dates, and in the manner provided herein and in the Bond according to the true intent and meaning thereof, but solely from the Security. The principal of, premium, if any, and interest on the Bond are payable solely from the sources as provided herein, which sources are hereby specifically pledged to the payment thereof in the manner and to the extent specified in the Assignment, and nothing in the Bond or in this Agreement shall be construed as pledging any other funds or assets of the Issuer.

### **8.2. Performance of Covenants; Authority of the Issuer.**

The Issuer covenants that it shall faithfully perform at all times any and all covenants, undertakings, stipulations, and provisions contained in this Agreement, in the Bond, and in all proceedings pertaining thereto. The Issuer represents that it is duly authorized under the Constitution and laws of the State, including particularly the Urban Redevelopment Law, to issue the Bond and to execute this Agreement, and to pledge the Security pledged in the manner and to the extent set forth in the Assignment, that all action required on its part for the issuance of the Bond and the execution and delivery of this Agreement have been duly and effectively taken, and that the Bond in the hands of the Bondholder is and will be the valid and enforceable obligation of the Issuer according to the import thereof.

### **8.3. Instruments of Further Assurance.**

The Issuer agrees that the Bondholder may defend its rights to the payments and other amounts due under the Contract against the claims and demands of all persons whomsoever. The Issuer covenants that it will do, execute, acknowledge, and deliver or cause to be done, executed,

acknowledged, and delivered such agreements and such further acts, instruments, and transfers as the Bondholder may reasonably require for the better assuring, transferring, conveying, pledging, assigning, and confirming unto the Bondholder the Security. The Issuer covenants and agrees that, except as herein and in the Assignment provided, it has not and will not sell, transfer, convey, assign, pledge, encumber, grant a security interest in, or otherwise dispose of, or create or suffer to be created any lien, encumbrance, security interest, or charge upon, any part of the Security or the income and revenues therefrom or of its rights under the Contract, or enter into any contract or take any action by which the rights of the Bondholder may be impaired.

#### **8.4. Inspection of Project Books.**

The Issuer covenants and agrees that all books and documents in its possession relating to the Project and the income and revenues derived from the Project shall at all reasonable times be open to inspection by such employees, representatives, accountants or other agents as the Bondholder may from time to time designate.

#### **8.5. Rights Under and Possession of the Contract.**

The Contract, a duly executed original or counterpart of which has been filed with you, sets forth the covenants and obligations of the Issuer and the City, including provisions that subsequent to the initial issuance of the Bond and prior to its payment in full, the Contract may not be effectively amended, changed, modified, altered, or terminated (other than as provided therein) without the written consent of the Bondholder, and reference is hereby made to the Contract for a detailed statement of such covenants and obligations of the City under the Contract, and the Bondholder in its own name or in the name of the Issuer may enforce all rights of the Issuer and all obligations of the City under and pursuant to the Contract, whether or not the Issuer is in default hereunder.

So long as the Bond remains outstanding, and for such longer period when required by the Bond Documents, the Issuer shall faithfully and punctually perform and observe all obligations and undertakings on its part to be performed and observed under the Contract. The Issuer covenants to maintain, at all times, the validity and effectiveness of the Contract and (except as expressly permitted thereby) shall take no action, shall permit no action to be taken by others, and shall not omit to take any action or permit others to omit to take any action, which action or omission might release the City from its liabilities or obligations under the Contract or result in the surrender, termination, amendment, or modification of, or impair the validity of, the Contract.

The Issuer covenants to diligently enforce all covenants, undertakings, and obligations of the City under the Contract, and the Issuer hereby authorizes and directs the Bondholder to enforce any and all of the Issuer's rights under the Contract on behalf of the Issuer.

#### **8.6. Recording and Filing.**

The security interest of the Bondholder created by the Assignment shall be perfected by the filing of financing statements required to be filed pursuant to the State of Georgia Uniform Commercial Code or by the taking of possession or obtaining control of appropriate collateral. Such financing or continuation statements shall be filed from time to time, and the appropriate

parties shall take or maintain possession of appropriate collateral, as is necessary to preserve the security interest of the Assignment. The Issuer hereby irrevocably authorizes the Bondholder to file one or more financing statements describing all or part of the collateral, and continuation statements, or amendments thereto, relative to all or part of the collateral as authorized by applicable law.

### **8.7. Maintenance of Existence; Compliance with Laws.**

The Issuer shall at all times maintain its corporate existence or assure the assumption of its obligations under the Bond Documents by any other entity succeeding to its powers to the reasonable satisfaction of the Bondholder. The Issuer shall comply with all valid acts, rules, regulations, orders, and directions of any legislative, executive, administrative, or judicial body known to it to be applicable to the Bond Documents.

## **9. EVENTS OF DEFAULT AND REMEDIES.**

### **9.1. Events of Default.**

(a) If any of the following events occur, it is hereby defined as and declared to be and to constitute a default and an “Event of Default”:

- (1) default in the due and punctual payment of any interest on the Bond,
- (2) default in the due and punctual payment of any principal of the Bond (or premium thereon, if any), whether at the stated maturity thereof, any principal payment date or upon proceedings for redemption thereof,
- (3) any material breach by the Issuer of any representation or warranty made in the Bond Documents or default in the performance or observance of any other of the covenants, agreements, or conditions on the part of the Issuer in the Bond Documents or in the Bond contained, subject to the provisions of subsection (b) of this Section 9.1,
- (4) the Issuer shall (i) apply for or consent to the appointment of or the taking of possession by a receiver, custodian, trustee, or liquidator of it or of all or a substantial part of its property, (ii) enter into an agreement of composition with its creditors, (iii) admit in writing its inability to pay its debts as such debts become due, (iv) make a general assignment for the benefit of its creditors, (v) commence a voluntary case under the federal bankruptcy law (as now or hereafter in effect), (vi) file a petition or answer seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (vii) fail to controvert in a timely or appropriate manner or acquiesce in writing to any petition filed against it in an involuntary case under such federal bankruptcy law, or (viii) take any action for the purpose of effecting any of the foregoing,
- (5) a proceeding or case shall be commenced, without the application of the Issuer, in any court of competent jurisdiction, seeking (i) the liquidation, reorganization, dissolution, winding-up, or composition or adjustment of debts of the Issuer, (ii) the appointment of a trustee, receiver, custodian, liquidator, or the like of the Issuer or of all

or any substantial part of the assets of it, or (iii) similar relief in respect of the Issuer under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition and adjustment of debts, and such proceeding or case shall continue undismissed or an order, judgment, or decree approving or ordering any of the foregoing shall be entered and shall continue unvacated and unstayed and in effect for a period of sixty (60) days, whether consecutive or not, or

(6) the occurrence of an “Event of Default” under any of the other Bond Documents.

(b) Anything herein to the contrary notwithstanding, no default under Section 9.1(a)(3) shall constitute an Event of Default until actual written notice of such default by registered or certified mail shall be given by the Bondholder to the City and the Issuer, and the City and Issuer shall have had thirty (30) days after receipt of such notice to correct such default or cause such default to be corrected and shall not have corrected such default or caused such default to be corrected within the applicable period; provided, however, if such default be such that it cannot with due diligence be cured within the applicable period but can be wholly cured within a period of time not materially detrimental to the rights of the Bondholder, to be determined conclusively by the Bondholder, it shall not constitute an Event of Default if corrective action is instituted by the City or the Issuer, as the case may be, within the applicable period and diligently pursued until the default is corrected in accordance with and subject to any directions or limitations of time established by the Bondholder.

With regard to any alleged default concerning which notice is given to the City under the provisions of this Section 9.1(b), the Issuer hereby grants the City full authority for the account of the Issuer to perform any covenant or obligation alleged in such notice to constitute a default, in the name and stead of the Issuer with full power to do any and all things and acts to the same extent that the Issuer could do and perform any such things and acts and with power of substitution.

In addition, the Bondholder shall give written notice of all other Events of Default by registered or certified mail to the City, provided, however, such notice shall not be a condition precedent to the Bondholder exercising any right or remedy granted to it hereunder.

## **9.2. Remedies.**

If any Event of Default has occurred and is continuing, the Bondholder may exercise any right, power, or remedy permitted to it by law or under the terms of the Bond Documents and may proceed to protect and enforce the rights of the Bondholder by an action at law, suit in equity, or other appropriate proceeding, whether for the specific performance of any covenant or agreement contained herein, in the other Bond Documents, or in the Bond, or for an injunction against a violation of any of the terms hereof or thereof, or in aid of the exercise of any power granted hereby or thereby or by law or otherwise.

Upon the occurrence of and during the continuation of an Event of Default hereunder, all amounts due hereunder including principal of and interest on the Bond shall bear interest at a rate

equal to 300 basis points in excess of the then applicable rate. Notwithstanding the foregoing, the interest rate on the Bond shall not exceed the Maximum Rate.

### **9.3. No Waivers or Election of Remedies; Expenses.**

No course of dealing and no delay or omission on the part of the Bondholder in exercising any right, power, or remedy shall operate as a waiver thereof or otherwise impair or prejudice the Bondholder's rights, powers, or remedies, but any such right, power, or remedy may be exercised from time to time and as often as may be deemed expedient. No right, power, or remedy conferred by this Agreement, by any other Bond Document, or by the Bond upon the Bondholder shall be exclusive of any other right, power, or remedy referred to herein or therein or now or hereafter available at law, in equity, by statute, or otherwise, but each and every such right, power, or remedy shall be cumulative and shall be in addition to every other right, power, or remedy given under this Agreement, any other Bond Document, or the Bond or now or hereafter existing at law, in equity, by statute, or otherwise. Without limiting the obligations of the Issuer under Section 12, the Issuer will pay to the Bondholder on demand, but solely from the Security, such further amount as shall be sufficient to cover all costs and expenses of the Bondholder incurred in any enforcement or collection under this Section 9, including, without limitation, reasonable attorneys' fees, expenses, and disbursements.

## **10. REGISTRATION; TRANSFER; SUBSTITUTION OF THE BOND.**

### **10.1. Registration of the Bond.**

The Issuer shall keep at its office a register for the registration and registration of transfers of the Bond. The name and address of the Bondholder, each transfer thereof, and the name and address of each transferee of the Bond shall be registered in such register. Prior to due presentment for registration of transfer, the Person in whose name the Bond shall be registered shall be deemed and treated as the owner and holder thereof for all purposes hereof (including the receipt of payments of principal of, premium, if any, and interest on the Bond), whether or not the Bond shall be overdue, and the Issuer shall not be affected by any notice or knowledge to the contrary.

### **10.2. Transfer of the Bond.**

Upon surrender of the Bond at the office of the Issuer for registration of transfer, duly endorsed or accompanied by a written instrument of transfer duly executed by the registered owner of the Bond or its attorney duly authorized in writing and accompanied by the address for notices of each transferee of the Bond, the Issuer shall execute and deliver, at the Issuer's expense (except as provided below), a new Bond in exchange therefor, in a principal amount equal to the unpaid principal amount of the surrendered Bond. Each such new Bond shall be payable to such Person as the former Bondholder may request and shall be issued as a single, fully registered bond substantially in the form of Exhibit A. Each such new Bond shall be dated and bear interest from the date to which interest shall have been paid on the surrendered Bond or dated the date of the surrendered Bond if no interest shall have been paid thereon. The Issuer may require payment of a sum sufficient to cover any stamp tax or governmental charge imposed in respect of any such transfer of the Bond. The Bond shall not be transferred in a denomination

of less than the unpaid principal amount of the surrendered Bond. No transfer of the Bond shall be made until (1) the transferring Bondholder has assigned all of its right, title, and interest in this Agreement and the Assignment to such transferee, and (2) the transferee has assumed in writing your obligations under this Agreement and has executed and delivered to the City and the Issuer an Investment Letter substantially in the form of Exhibit E.

### **10.3. Replacement of the Bond.**

Upon receipt by the Issuer of evidence reasonably satisfactory to it of the ownership of and the loss, theft, destruction, or mutilation of the Bond, and

(a) in the case of loss, theft, or destruction, of indemnity reasonably satisfactory to it (provided that if the Bondholder is, or is a nominee for, you or another Bondholder with a minimum net worth of at least \$25,000,000, such Person's own unsecured agreement of indemnity shall be deemed to be satisfactory), or

(b) in the case of mutilation, upon surrender and cancellation thereof,

the Issuer at its own expense shall execute and deliver, in lieu thereof, a new single, fully registered Bond, dated and bearing interest from the date to which interest shall have been paid on such lost, stolen, destroyed, or mutilated Bond or dated the date of such lost, stolen, destroyed, or mutilated Bond if no interest shall have been paid thereon.

## **11. PAYMENTS ON THE BOND.**

All sums becoming due on the Bond for principal, premium, if any, and interest shall be paid in lawful money of the United States by the method and at the address specified for such purpose by the Bondholder in writing to the City and the Issuer, without the presentation or surrender of the Bond or the making of any notation thereon, except that upon written request of the Issuer made concurrently with or reasonably promptly after payment or redemption in full of the Bond, you shall surrender the Bond for cancellation, reasonably promptly after any such request, to the Issuer. Prior to any sale or other disposition of the Bond held by you or your nominee you shall endorse thereon the amount of principal paid thereon and the last date to which interest has been paid thereon.

All payments of principal of the Bond (whether at maturity, principal payment date, or upon redemption), including the date and amount of each payment, shall be endorsed by you on the Schedule of Payments and Redemptions attached to the Bond; provided, however, that any failure by you to endorse such information on such Schedule or any error therein shall not in any manner affect the obligation of the Issuer to make payments of principal, premium, if any, and interest in accordance with the terms of the Bond. The Issuer hereby irrevocably authorizes and directs you to enter on the Schedule of Payments and Redemptions the date and amount of each payment of principal of the Bond.

You shall permit the Issuer or the City at any time during regular business hours to make at your office where the original Bond is held an appropriate notation on the Bond of payments of principal thereof, if at least five days prior thereto the Issuer or the City shall have given

written notice of its intention to do so and if it shall not have received from you a written confirmation that the requested notation has been made.

In the event that on any date the Issuer shall pay less than the amount then due on the Bond, such partial payment shall be applied to the amounts then due in the following order of priority: (i) reimbursable expenses and indemnities, (ii) accrued interest and premium, if any, on the Bond, (iii) principal of the Bond, and (iv) any other amounts due under the Bond or the Bond Documents.

## **12. EXPENSES, ETC.**

### **12.1. Transaction Expenses.**

Whether or not the transactions contemplated hereby are consummated, the Issuer will pay, but solely from the Security, all costs and expenses (including reasonable attorneys' fees of a counsel and, if reasonably required, local or other counsel) incurred by you in connection with such transactions and in connection with any amendments, waivers, or consents under or in respect of this Agreement, the other Bond Documents, or the Bond (whether or not such amendment, waiver, or consent becomes effective), including, without limitation: (a) the costs and expenses incurred in enforcing or defending (or determining whether or how to enforce or defend) any rights under this Agreement, the other Bond Documents, or the Bond, or in responding to any subpoena or other legal process or informal investigative demand issued in connection with this Agreement, the other Bond Documents, or the Bond, or by reason of being the Bondholder, and (b) the costs and expenses, including financial advisors' fees, incurred in connection with the insolvency or bankruptcy of the Issuer or the City or in connection with any work-out or restructuring of the transactions contemplated hereby, by the other Bond Documents, and by the Bond.

### **12.2. Survival.**

The obligations of the Issuer under this Section 12 will survive the payment or transfer of the Bond, the enforcement, amendment, or waiver of any provision of this Agreement, any of the other Bond Documents, or the Bond, and the termination of this Agreement.

## **13. SURVIVAL OF REPRESENTATIONS AND WARRANTIES; ENTIRE AGREEMENT.**

All representations and warranties contained herein shall survive the execution and delivery of this Agreement and the Bond, the purchase or transfer by you of the Bond or interest therein and the payment of the Bond, and may be relied upon by any subsequent Bondholder, regardless of any investigation made at any time by or on behalf of you or any other Bondholder. All statements contained in any certificate or other instrument delivered by or on behalf of the Issuer pursuant to this Agreement shall be deemed representations and warranties of the Issuer under this Agreement. Subject to the preceding sentence, this Agreement, the other Bond Documents, and the Bond embody the entire agreement and understanding between you and the Issuer and supersede all prior agreements and understandings relating to the subject matter hereof.



If to the City: City of Dunwoody, Georgia  
41 Perimeter Center East  
Dunwoody, Georgia 30346  
Attention: Mayor  
Telecopy: \_\_\_\_\_

with a copy to:

If to the Bondholder: PNC Bank, National Association  
[ADDRESS]  
Attention: \_\_\_\_\_  
Telecopy: \_\_\_\_\_

Notices under this Section 15 will be deemed given only when actually received. A duplicate copy of each notice, certificate, or other communication given hereunder shall also be given to the City.

**16. SUBSTITUTION OF PURCHASER.**

You shall have the right to substitute any one of your Affiliates as the purchaser of the Bond, by written notice to the Issuer and the City, which notice shall be signed by both you and such Affiliate, shall contain such Affiliate’s agreement to be bound by this Agreement, and shall contain a confirmation by such Affiliate of the accuracy with respect to it of the representations set forth in Section 6. Upon receipt of such notice, wherever the word “you” is used in this Agreement (other than in this Section 16), such word shall be deemed to refer to such Affiliate in lieu of you. In the event that such Affiliate is so substituted as a purchaser hereunder and such Affiliate thereafter transfers to you the Bond then held by such Affiliate, upon receipt by the Issuer and the City of notice of such transfer, wherever the word “you” is used in this Agreement (other than in this Section 16), such word shall no longer be deemed to refer to such Affiliate, but shall refer to you, and you shall have all the rights of the original Bondholder under this Agreement.

**17. INTERPRETATION.**

**17.1. Definitions.**

Certain words and terms used in this Agreement shall have the meaning given them in Section 1.01 of the Contract, which by this reference is incorporated herein. In addition to the words and terms defined elsewhere herein, the following words and terms shall have the meanings set forth below. When used herein, such words and terms shall have the meanings given to them by the language employed in Section 1.01 of the Contract and in this Section 17.1 defining such words and terms, unless the context or use clearly indicates otherwise.

“Affiliate” means any Person directly or indirectly controlling, controlled by, or under common control with another Person or any Person controlling ten percent (10%) or more of the

voting securities or equity or membership interest of such Person or any officer, director, or partner of such Person and if such Person is an officer, director, or partner, any entity for which such Person acts in any such capacity. For purposes of this definition, “control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities or an equity interest, by contract, or otherwise.

“Business Day” means any day other than a Saturday, a Sunday, or a day on which commercial banks in Atlanta, Georgia are required or authorized to be closed.

“Closing” is defined in Section 3.

“Contract” means the Intergovernmental Service Agreement, dated as of July 1, 2012, between the Issuer and the City. The term Contract shall include any amendments or supplements thereto.

[“Daily LIBOR” means the average rate quoted on Reuters Screen LIBOR01 Page (or such replacement page) for deposits in U.S. Dollars offered in the London interbank market for one month determined as of 11:00 a.m. London time on the relevant date for determination; provided that if the above method of determining Daily LIBOR shall not be available, “Daily LIBOR” shall be the rate quoted in *The Wall Street Journal*, or a rate determined by a substitute method of determination agreed on by the City and the Bondholder; provided, if such agreement is not reached within a reasonable period of time (in the Bondholder’s sole judgment), a comparable daily interest rate reasonable determined by the Bondholder in its sole discretion as a rate being paid by first class banking organizations (as determined by the Bondholder) in London interbank market for U.S. Dollar deposits.]

“Default” means an event or condition the occurrence or existence of which would, with the lapse of time or the giving of notice or both, become an Event of Default.

“Event of Default” is defined in Section 9.

“Maximum Rate” means the lesser of (a) the highest interest rate which may be borne by the Bond under State law or (b) 12% per annum.

“Security” means any of the property subject to the operation of the assignment and pledge and grant of lien and security interest contained in the Assignment.

“State” means the State of Georgia.

## **17.2. Construction of Certain Terms.**

For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires, the following rules of construction shall apply:

- (1) The use of the masculine, feminine, or neuter gender is for convenience only and shall be deemed and construed to include correlative words of the masculine, feminine, or neuter gender, as appropriate.

(2) All references in this instrument to designated “Sections” and other subdivisions are to the designated Sections and other subdivisions of this instrument. The words “herein,” “hereof,” “hereto,” “hereby,” and “hereunder” and other words of similar import refer to this Agreement as a whole and not to any particular Section or other subdivision.

(3) The terms defined in this Section include the plural as well as the singular.

### **17.3. Table of Contents; Titles and Headings.**

The table of contents, the titles of the sections, and the headings of the subdivisions of this Agreement are solely for convenience of reference, are not a part of this Agreement, and shall not be deemed to affect the meaning, construction, or effect of any of its provisions.

## **18. MISCELLANEOUS.**

### **18.1. Successors and Assigns.**

All covenants and other agreements contained in this Agreement by or on behalf of any of the parties hereto bind and inure to the benefit of their respective successors and assigns (including, without limitation, any subsequent Bondholder) whether so expressed or not.

### **18.2. Payments Due on Non-Business Days.**

Anything in this Agreement or the Bond to the contrary notwithstanding, any payment of principal of or premium or interest on the Bond that is due on a date other than a Business Day shall be made on the next succeeding Business Day without including the additional days elapsed in the computation of the interest payable on such next succeeding Business Day.

### **18.3. Severability.**

Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall (to the full extent permitted by law) not invalidate or render unenforceable such provision in any other jurisdiction.

### **18.4. Construction.**

Each covenant contained herein shall be construed (absent express provision to the contrary) as being independent of each other covenant contained herein, so that compliance with any one covenant shall not (absent such an express contrary provision) be deemed to excuse compliance with any other covenant. Where any provision herein refers to action to be taken by any Person, or which such Person is prohibited from taking, such provision shall be applicable whether such action is taken directly or indirectly by such Person.

**18.5. Counterparts.**

This Agreement may be executed in any number of counterparts, each of which shall be an original but all of which together shall constitute one instrument. Each counterpart may consist of a number of copies hereof, each signed by less than all, but together signed by all, of the parties hereto.

**18.6. Governing Law.**

This Agreement shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the law of the State of Georgia excluding choice-of-law principles of the law of such State that would require the application of the laws of a jurisdiction other than such State.

**18.7. No Liability of Issuer's Officers.**

No recourse under or upon any obligation, covenant, or agreement contained in this Agreement, in any other Bond Document, or in the Bond, or for any claim based thereon, or under any judgment obtained against the Issuer, or by the enforcement of any assessment or penalty or otherwise or by any legal or equitable proceeding by virtue of any constitution, rule of law or equity, or statute or otherwise or under any other circumstances, under or independent of this Agreement, shall be had against any incorporator, member, commissioner, or officer, as such, past, present, or future, of the Issuer, or any incorporator, member, commissioner, or officer of any successor corporation, as such, either directly or through the Issuer or any successor corporation, or otherwise, for the payment for or to the Issuer or any receiver thereof, or for or to the Bondholder or otherwise, of any sum that may be due and unpaid by the Issuer under this Agreement, under any other Bond Document, or upon the Bond. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such incorporator, member, commissioner, or officer, as such, to respond by reason of any act or omission on his part or otherwise, for the payment for or to the Issuer or any receiver thereof, or for or to the Bondholder or otherwise, of any sum that may remain due and unpaid under this Agreement, under any other Bond Document, or upon the Bond, is hereby expressly waived and released as a condition of and in consideration for the execution of this Agreement and the issuance of the Bond.

**18.8. Third Party Beneficiary.**

The City is and shall be deemed to be a third party beneficiary of this Agreement.

[Signatures and Seals to Follow]

SIGNATURES AND SEALS

If you are in agreement with the foregoing, please sign the form of agreement on the accompanying counterpart of this Agreement and return it to the Issuer, whereupon the foregoing shall become a binding agreement between you and the Issuer.

Very truly yours,

URBAN REDEVELOPMENT AGENCY OF  
THE CITY OF DUNWOODY, GEORGIA

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

(SEAL)

Attest:

\_\_\_\_\_  
Secretary

The foregoing is hereby agreed to as of the date thereof.

PNC BANK, NATIONAL ASSOCIATION

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

#M.1.

EXHIBIT A  
FORM OF BOND

[Attached]

EXHIBIT B

FORM OF OPINION OF COUNSEL FOR THE ISSUER

[Attached]

#M.1.

EXHIBIT C

FORM OF OPINION OF COUNSEL FOR THE CITY

[Attached]

EXHIBIT D

FORM OF OPINION OF BOND COUNSEL

[Attached]

#M.1.

EXHIBIT E

FORM OF INVESTMENT LETTER

[Attached]

**DRAFT DATE: 06/21/12**

**BOND PURCHASE AGREEMENT**

\$\_\_\_\_\_ Urban Redevelopment Agency of  
the City of Dunwoody, Georgia Revenue Bond  
(City of Dunwoody, Georgia Project), Series 2012A

Dated July \_\_\_\_, 2012

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URBAN REDEVELOPMENT AGENCY OF THE CITY OF DUNWOODY, GEORGIA  
Dunwoody, Georgia

**BOND PURCHASE AGREEMENT**

July \_\_, 2012

PNC Bank, National Association  
Atlanta, Georgia

Ladies and Gentlemen:

The Urban Redevelopment Agency of the City of Dunwoody, Georgia (the “**Issuer**”), a public corporation created and existing under the laws of the State of Georgia, agrees with you as follows:

**1. ISSUANCE OF THE BOND.**

**1.1. Authorization of the Bond.**

The Issuer has duly authorized the issuance and sale of \$\_\_\_\_\_ in principal amount of its Revenue Bond (City of Dunwoody, Georgia Project), Series 2012A (the “**Bond**,” such term to include any such bond issued in substitution therefor pursuant to Section 10 of this Agreement). The Bond shall be substantially in the form set out in Exhibit A, with such changes therefrom, if any, as may be approved by you and the Issuer. Certain capitalized terms used in this Agreement are defined in Section 17 of this Agreement; references to an “Exhibit” are, unless otherwise specified, to an Exhibit attached to this Agreement.

**1.2. Terms of the Bond.**

The Bond shall be dated the date of Closing and shall be designated “Urban Redevelopment Agency of the City of Dunwoody, Georgia Revenue Bond (City of Dunwoody, Georgia Project), Series 2012A.” The Bond shall be issued as a single, fully registered bond without coupons in the principal amount of \$\_\_\_\_\_ and shall be numbered R-1.

The Bond shall bear interest from its dated date on the outstanding principal amount thereof at the rate of \_\_\_\_\_% per annum, computed on the basis of a 360-day year consisting of twelve 30-day months.

The Bond shall be payable in monthly installments of principal and interest on the 1<sup>st</sup> day of each month, the first such installment of principal and interest becoming due on \_\_\_\_\_1, 2012, as set forth in the principal and interest installment schedule attached as Schedule 1 to the form of the Bond attached hereto as Exhibit A, as shall mature on \_\_\_\_\_1, 2022. All unpaid principal with respect to the Bond shall be due and payable on \_\_\_\_\_1, 2022.

### **1.3. Security for the Bond.**

Contemporaneously with the issuance of the Bond, as security for the payment of the Bond, the Issuer shall execute and deliver the Assignment.

### **1.4. Limited Obligation.**

The Bond shall be a special or limited and not general obligation of the Issuer giving rise to no pecuniary liability of the Issuer, shall be payable solely from the Security, and shall be a valid claim of the Bondholder only against the Security, which Security is hereby again specifically pledged and assigned for the payment of the Bond and shall be used for no other purpose than to pay the principal of, premium, if any, and interest on the Bond, except as may be otherwise expressly authorized in the Bond Documents. The Bond shall not constitute a general or moral obligation of the City of Dunwoody, Georgia nor a debt, indebtedness, or obligation of, or a pledge of the faith and credit or taxing power of, the City of Dunwoody, Georgia or the State of Georgia or any political subdivision thereof, within the meaning of any constitutional or statutory provision whatsoever. Neither the faith and credit nor the taxing power of the State of Georgia, the City of Dunwoody, Georgia, or any political subdivision thereof is pledged to the payment of the principal of, premium, if any, or interest on the Bond or other costs incident thereto. The Issuer has no taxing power. Neither the members of the Governing Body of the Issuer nor any person executing the Bond shall be liable personally on the Bond by reason of the issuance thereof.

## **2. SALE AND PURCHASE OF THE BOND.**

Subject to the terms and conditions of this Agreement, the Issuer shall issue and sell to you and you shall purchase from the Issuer, at the Closing provided for in Section 3, the Bond at the purchase price of 100% of the principal amount thereof.

## **3. CLOSING.**

The sale and purchase of the Bond shall occur at the offices of Gray Pannell & Woodward LLP, 3060 Peachtree Road, N.W., Suite 730, One Buckhead Plaza, Atlanta, Georgia 30305, at 10:00 a.m., local time, at a closing (the "Closing") on July \_\_, 2012, or on such other Business Day thereafter as may be agreed upon by the Issuer and you and the City. At the Closing the Issuer shall deliver to you the Bond duly executed in the form of a single, fully registered Bond without coupons in a denomination of \$\_\_\_\_\_, dated the date of the Closing, and registered in your name (or in the name of your nominee), against delivery by you to the Issuer or its order of immediately available funds in the amount of the purchase price of the Bond in the amount of \$\_\_\_\_\_, which shall be immediately deposited in the Project Fund. If at the Closing the Issuer shall fail to tender the Bond to you as provided above in this Section 3, or any of the conditions specified in Section 4 shall not have been fulfilled to your satisfaction, you shall, at your election, be relieved of all further obligations under this Agreement, without thereby waiving any rights you may have by reason of such failure or such nonfulfillment.

#### **4. CONDITIONS TO CLOSING.**

Your obligation to purchase and pay for the Bond at the Closing is subject to the fulfillment to your satisfaction, prior to or at the Closing, of the following conditions:

##### **4.1. Representations and Warranties.**

The representations and warranties of the Issuer and the Purchaser in the Contract shall be correct when made and at the time of the Closing.

##### **4.2. Performance; No Default.**

The Issuer and the Purchaser shall have performed and complied with all agreements and conditions contained in this Agreement and the Contract required to be performed or complied with by them prior to or at the Closing and after giving effect to the issue and sale of the Bond (and the application of the proceeds thereof as contemplated by this Agreement) no Event of Default under this Agreement or the Contract shall have occurred and be continuing.

##### **4.3. Compliance Certificates.**

(a) Issuer's Certificate. The Issuer shall have delivered to you a closing certificate, dated the date of the Closing, incorporating a copy of the activating resolution of the City of Dunwoody, Georgia and the Bond Resolution, each certified by the Secretary or the Assistant Secretary of the Issuer, and certifying that the conditions applicable to the Issuer specified in Sections 4.1 and 4.2 have been fulfilled.

(b) Purchaser's Certificate. The Purchaser shall have delivered to you a closing certificate, dated the date of the Closing, incorporating copies of the resolutions of the City Council of the Purchaser (1) declaring the necessity of the Purchaser to exercise powers under the Urban Redevelopment Law, (2) designating the area encompassing the Premises as an urban redevelopment area, (3) approving the urban redevelopment plan for the Project, and (4) authorizing and approving the execution and delivery of the Contract and all other documents to be delivered by the Purchaser in connection with the transactions contemplated by such instruments, each certified by the City Clerk, and certifying that the conditions applicable to the Purchaser specified in Sections 4.1 and 4.2 have been fulfilled.

##### **4.4. Opinions of Counsel.**

You shall have received opinions in form and substance satisfactory to you, dated the date of the Closing, (a) from \_\_\_\_\_, counsel for the Issuer, substantially in the form set forth in Exhibit B, (b) from \_\_\_\_\_, counsel for the Purchaser, substantially in the form set forth in Exhibit C, and (c) from Gray Pannell & Woodward LLP, Bond Counsel, substantially in the form set forth in Exhibit D, each opinion covering such other matters incident to the transactions contemplated hereby as you or your counsel may reasonably request.

#### **4.5. Purchase Permitted By Applicable Law, etc.**

On the date of the Closing, your purchase of the Bond shall (i) be permitted by the laws and regulations of each jurisdiction to which you are subject, (ii) not violate any applicable law or regulation (including, without limitation, Regulation G, T, or X of the Board of Governors of the Federal Reserve System), and (iii) not subject you to any tax, penalty, or liability under or pursuant to any applicable law or regulation, which law or regulation was not in effect on the date hereof.

#### **4.6. Security Documents.**

You shall have received in form and substance satisfactory to you original duly executed counterparts of the Contract and the Assignment.

#### **4.7. Lien Documents.**

You shall have received in form and substance satisfactory to you (a) evidence to the effect that all appropriate filings and other steps then necessary for perfection of the liens and security interests created by the Assignment and in the Security, as against third party creditors of and purchasers for value in good faith from the Issuer have been taken, and (b) certified copies of Requests for Information or Copies (Form UCC-11), or equivalent reports, listing all effective financing statements that name the Issuer as debtor and that are on file in the centralized index of filings maintained by the Georgia Superior Court Clerks' Cooperative Authority, together with copies of such financing statements, none of which shall cover the collateral purported to be covered by the Assignment, except as shall be terminated on the date of the Closing.

#### **4.8. Proceedings and Documents.**

All corporate and other proceedings in connection with the transactions contemplated by this Agreement and the other Bond Documents and all documents and instruments incident to such transactions shall be satisfactory to you and your counsel, and you and your counsel shall have received all such counterpart originals or certified or other copies of such documents and such other assurances, certificates, documents, consents, or opinions as you or they may reasonably request.

### **5. PROJECT FUND.**

#### **5.1. Creation of the Project Fund.**

There is hereby created by the Issuer and ordered established with the Depository a fund in the name of the Issuer to be designated the "Project Fund." The purchase price of the Bond shall be immediately deposited into the Project Fund.

The Issuer hereby grants a security interest in the moneys and investments in the Project Fund held by the Depository for the benefit of the Bondholder, and this Agreement shall be deemed a security agreement with respect to the security interest so created. The Depository shall be deemed to be a bailee, which under the Uniform Commercial Code of Georgia holds collateral for the benefit of the Bondholder as secured party, with an obligation to use moneys in

the Project Fund solely as provided herein. Upon the occurrence of an Event of Default under this Agreement, the Depository shall, upon the written direction of the Bondholder (and without further consent of the Issuer), apply all moneys in the Project Fund to the payment of the amounts due on the Bond, and for no other purpose. Any such application shall reduce and discharge the amount then due and payable on the Bond to the extent of such application. The Depository shall promptly notify the Purchaser and the Issuer of the amount of such reduction.

## **5.2. Disbursements.**

Moneys in the Project Fund shall be expended in accordance with the provisions of the Contract, particularly Sections 4.03 and 4.04 thereof. The Depository is hereby authorized and directed to issue its checks for each disbursement required by the aforesaid provisions of the Contract. The Depository shall keep and maintain adequate records pertaining to the Project Fund and all disbursements therefrom, and the Depository shall, if requested by the Purchaser, file an accounting thereof with the Issuer and the Purchaser.

## **5.3. Investments.**

The Depository shall invest and reinvest any moneys held in the Project Fund at the direction of the Purchaser as provided in the Contract, particularly Section 4.10 thereof. The Depository shall not be required to invest or reinvest any moneys in the Project Fund or any earnings therefrom unless directed by the Purchaser. The Depository shall not be liable for interest upon any moneys held in the Project Fund during any period of time that such moneys are uninvested. Such investments shall be held by or under the control of the Depository and shall be deemed at all times a part of the Project Fund, and the interest accruing thereon and any profit realized therefrom shall be credited as set forth below, and any loss therefrom shall be charged against the Project Fund. The Depository is directed to sell and convert to cash a sufficient amount of such investments as determined by Depository in its discretion whenever the cash held in the Project Fund is insufficient for the uses prescribed for moneys held in the Project Fund. Neither the Depository nor the Issuer shall be liable or responsible for any loss resulting from any such investment or resulting from the redemption or sale of any such investment as herein authorized.

In computing the assets of the Project Fund, investments and accrued interest thereon shall be deemed a part thereof. Such investments shall be valued at the face value or the cost thereof, whichever is lower. Moneys in the Project Fund shall be invested only in obligations maturing or redeemable at the option of the Purchaser in such amounts and on such dates as may be necessary to provide moneys to meet the payments from such fund. Interest and profits from the investment of moneys held in the Project Fund shall be retained in the Project Fund.

## **5.4. Depository.**

PNC Bank, National Association, Atlanta, Georgia, is hereby designated as Depository of the Project Fund. The Issuer and the Bondholder may, from time to time, with the prior written consent of the Purchaser, designate a successor Depository; provided, that any such successor Depository shall be a bank or trust company having an unimpaired capital and surplus of not less than \$20,000,000. All moneys received by the Depository under this Agreement shall, until used

or applied as herein provided, be held for the purposes for which they were received but need not be segregated from other funds except to the extent required by this Agreement or by law. In making any disbursement or payment from the Project Fund as provided herein, the Depository may rely upon all requisitions, certificates, and other items submitted to it pursuant to this Agreement or the Contract, and the Depository shall be relieved of all liability with respect to disbursements or payments made in accordance with this Agreement or the Contract. The Depository shall have no liability for and shall be protected in acting upon any requisition, certificate, or other item believed to be genuine and correct and to have been signed or sent by the proper person or persons. The Depository may consult legal counsel selected by it in the event of any dispute or question as to the construction of any of the provisions of this Agreement or the Contract or its duties hereunder or thereunder and shall incur no liability resulting from any action or non-action taken in good faith in reliance upon such opinion or advice.

The duties of the Depository hereunder shall be entirely administrative and not discretionary. The Depository shall be obligated to act only in accordance with written directions or written instructions received by it as provided in this Agreement or the Contract and the Depository shall have no implied duties or obligations and shall not be charged with knowledge or notice of any factor or circumstance not specifically set forth herein. The Issuer hereby waives any suit, claim, demand, or cause of action of any kind, which it may have or may assert against the Depository arising out of or relating to the execution or performance by the Depository of this Agreement, unless such suit, claim, demand, or cause of action is based upon the gross negligence or willful misconduct of the Depository.

## **6. REPRESENTATIONS OF THE PURCHASER.**

You represent that you are purchasing the Bond for your own account or for one or more separate accounts maintained by you for investment purposes or for your loan portfolio and not with a view to the distribution thereof, provided that the disposition of your property shall at all times be within your control. You agree (1) to execute and deliver to the Issuer and the Purchaser an Investment Letter substantially in the form attached hereto as Exhibit E, at or prior to the Closing, and (2) that the Bond may not be resold unless the purchaser of the Bond executes and delivers to the Issuer and the Purchaser an Investment Letter substantially in the form attached hereto as Exhibit E, at or prior to such resale.

## **7. REDEMPTION OF THE BOND.**

### **7.1. Redemption at Option of Issuer.**

The Bond shall be subject to optional redemption by the Issuer upon the written request of the Purchaser prior to maturity, in whole, but not in part, on any scheduled interest payment date, at a redemption price equal to one hundred percent (100%) of the principal amount being redeemed plus accrued interest to the redemption date. As a condition precedent to each optional redemption under this Section 7.1, the Bondholder shall receive written notice of such optional redemption not less than thirty (30) nor more than sixty (60) days prior to the date fixed for such redemption. Each such notice shall specify the date of redemption, the principal amount of the Bond to be redeemed on such date, and the accrued interest (if the same can be calculated) to be paid on the redemption date with respect to the principal amount being redeemed.

### **7.2. Maturity.**

In the case of each redemption of the Bond pursuant to this Section 7, the principal amount of the Bond to be redeemed shall mature and become due and payable on the date fixed for such redemption, together with interest on such principal amount accrued to such date and the applicable premium, if any. From and after such date, unless the Issuer shall fail to pay such principal amount when so due and payable, together with the interest and premium, if any, as aforesaid, interest on such principal amount shall cease to accrue.

### **7.3. Optional Tender**

The Bond may be irrevocably tendered to the Issuer for purchase in whole on the fifth (5th) anniversary of the date of Closing or on any day thereafter, but only if the Bondholder of the Bond shall have provided to the City and the Issuer not less than 120 days advance notice of such tender. In the event of such a tender, the City must furnish to the Bondholder sufficient funds to pay the tender price, which shall be the outstanding principal amount of the Bond plus accrued and unpaid interest to the tender date. The failure to provide such funds or to pay the tender price on the tender date shall constitute an Event of Default hereunder.

## **8. COVENANTS.**

### **8.1. Payment of Principal, Interest, and Premium.**

The Issuer covenants that it will promptly pay or cause to be paid the principal of, premium, if any, and interest on the Bond at the place, on the dates, and in the manner provided herein and in the Bond according to the true intent and meaning thereof, but solely from the Security. The principal of, premium, if any, and interest on the Bond are payable solely from the sources as provided herein, which sources are hereby specifically pledged to the payment thereof in the manner and to the extent specified in the Assignment, and nothing in the Bond or in this Agreement shall be construed as pledging any other funds or assets of the Issuer.

## **8.2. Performance of Covenants; Authority of the Issuer.**

The Issuer covenants that it shall faithfully perform at all times any and all covenants, undertakings, stipulations, and provisions contained in this Agreement, in the Bond, and in all proceedings pertaining thereto. The Issuer represents that it is duly authorized under the Constitution and laws of the State, including particularly the Urban Redevelopment Law, to issue the Bond and to execute this Agreement, and to pledge the Security pledged in the manner and to the extent set forth in the Assignment, that all action required on its part for the issuance of the Bond and the execution and delivery of this Agreement have been duly and effectively taken, and that the Bond in the hands of the Bondholder is and will be the valid and enforceable obligation of the Issuer according to the import thereof.

## **8.3. Instruments of Further Assurance.**

The Issuer agrees that the Bondholder may defend its rights to the payments and other amounts due under the Contract against the claims and demands of all persons whomsoever. The Issuer covenants that it will do, execute, acknowledge, and deliver or cause to be done, executed, acknowledged, and delivered such agreements and such further acts, instruments, and transfers as the Bondholder may reasonably require for the better assuring, transferring, conveying, pledging, assigning, and confirming unto the Bondholder the Security. The Issuer covenants and agrees that, except as herein and in the Assignment provided, it has not and will not sell, transfer, convey, assign, pledge, encumber, grant a security interest in, or otherwise dispose of, or create or suffer to be created any lien, encumbrance, security interest, or charge upon, any part of the Security or the income and revenues therefrom or of its rights under the Contract, or enter into any contract or take any action by which the rights of the Bondholder may be impaired.

## **8.4. Inspection of Project Books.**

The Issuer covenants and agrees that all books and documents in its possession relating to the Project and the income and revenues derived from the Project shall at all reasonable times be open to inspection by such employees, representatives, accountants or other agents as the Bondholder may from time to time designate.

## **8.5. Rights Under and Possession of the Contract.**

The Contract, a duly executed original or counterpart of which has been filed with you, sets forth the covenants and obligations of the Issuer and the Purchaser, including provisions that subsequent to the initial issuance of the Bond and prior to its payment in full, the Contract may not be effectively amended, changed, modified, altered, or terminated (other than as provided therein) without the written consent of the Bondholder, and reference is hereby made to the Contract for a detailed statement of such covenants and obligations of the Purchaser under the Contract, and the Bondholder in its own name or in the name of the Issuer may enforce all rights of the Issuer and all obligations of the Purchaser under and pursuant to the Contract, whether or not the Issuer is in default hereunder.

So long as the Bond remains outstanding, and for such longer period when required by the Bond Documents, the Issuer shall faithfully and punctually perform and observe all obligations and undertakings on its part to be performed and observed under the Contract. The

Issuer covenants to maintain, at all times, the validity and effectiveness of the Contract and (except as expressly permitted thereby) shall take no action, shall permit no action to be taken by others, and shall not omit to take any action or permit others to omit to take any action, which action or omission might release the Purchaser from its liabilities or obligations under the Contract or result in the surrender, termination, amendment, or modification of, or impair the validity of, the Contract.

The Issuer covenants to diligently enforce all covenants, undertakings, and obligations of the Purchaser under the Contract, and the Issuer hereby authorizes and directs the Bondholder to enforce any and all of the Issuer's rights under the Contract on behalf of the Issuer.

#### **8.6. Recording and Filing.**

The security interest of the Bondholder created by the Assignment shall be perfected by the filing of financing statements required to be filed pursuant to the State of Georgia Uniform Commercial Code or by the taking of possession or obtaining control of appropriate collateral. Such financing or continuation statements shall be filed from time to time, and the appropriate parties shall take or maintain possession of appropriate collateral, as is necessary to preserve the security interest of the Assignment. The Issuer hereby irrevocably authorizes the Bondholder to file one or more financing statements describing all or part of the collateral, and continuation statements, or amendments thereto, relative to all or part of the collateral as authorized by applicable law.

#### **8.7. Maintenance of Existence; Compliance with Laws.**

The Issuer shall at all times maintain its corporate existence or assure the assumption of its obligations under the Bond Documents by any other entity succeeding to its powers to the reasonable satisfaction of the Bondholder. The Issuer shall comply with all valid acts, rules, regulations, orders, and directions of any legislative, executive, administrative, or judicial body known to it to be applicable to the Bond Documents.

### **9. EVENTS OF DEFAULT AND REMEDIES.**

#### **9.1. Events of Default.**

(a) If any of the following events occur, it is hereby defined as and declared to be and to constitute a default and an **“Event of Default”**:

- (1) default in the due and punctual payment of any interest on the Bond,
- (2) default in the due and punctual payment of any principal of the Bond (or premium thereon, if any), whether at the stated maturity thereof, any principal payment date or upon proceedings for redemption thereof,
- (3) any material breach by the Issuer of any representation or warranty made in the Bond Documents or default in the performance or observance of any other of the covenants, agreements, or conditions on the part of the Issuer in the Bond Documents or in the Bond contained, subject to the provisions of subsection (b) of this Section 9.1,

(4) the Issuer shall (i) apply for or consent to the appointment of or the taking of possession by a receiver, custodian, trustee, or liquidator of it or of all or a substantial part of its property, (ii) enter into an agreement of composition with its creditors, (iii) admit in writing its inability to pay its debts as such debts become due, (iv) make a general assignment for the benefit of its creditors, (v) commence a voluntary case under the federal bankruptcy law (as now or hereafter in effect), (vi) file a petition or answer seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (vii) fail to controvert in a timely or appropriate manner or acquiesce in writing to any petition filed against it in an involuntary case under such federal bankruptcy law, or (viii) take any action for the purpose of effecting any of the foregoing,

(5) a proceeding or case shall be commenced, without the application of the Issuer, in any court of competent jurisdiction, seeking (i) the liquidation, reorganization, dissolution, winding-up, or composition or adjustment of debts of the Issuer, (ii) the appointment of a trustee, receiver, custodian, liquidator, or the like of the Issuer or of all or any substantial part of the assets of it, or (iii) similar relief in respect of the Issuer under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition and adjustment of debts, and such proceeding or case shall continue undismissed or an order, judgment, or decree approving or ordering any of the foregoing shall be entered and shall continue unvacated and unstayed and in effect for a period of sixty (60) days, whether consecutive or not, or

(6) the occurrence of an “Event of Default” under any of the other Bond Documents.

(b) Anything herein to the contrary notwithstanding, no default under Section 9.1(a)(3) shall constitute an Event of Default until actual written notice of such default by registered or certified mail shall be given by the Bondholder to the Purchaser and the Issuer, and the Purchaser and Issuer shall have had thirty (30) days after receipt of such notice to correct such default or cause such default to be corrected and shall not have corrected such default or caused such default to be corrected within the applicable period; provided, however, if such default be such that it cannot with due diligence be cured within the applicable period but can be wholly cured within a period of time not materially detrimental to the rights of the Bondholder, to be determined conclusively by the Bondholder, it shall not constitute an Event of Default if corrective action is instituted by the Purchaser or the Issuer, as the case may be, within the applicable period and diligently pursued until the default is corrected in accordance with and subject to any directions or limitations of time established by the Bondholder.

With regard to any alleged default concerning which notice is given to the Purchaser under the provisions of this Section 9.1(b), the Issuer hereby grants the Purchaser full authority for the account of the Issuer to perform any covenant or obligation alleged in such notice to constitute a default, in the name and stead of the Issuer with full power to do any and all things and acts to the same extent that the Issuer could do and perform any such things and acts and with power of substitution.

In addition, the Bondholder shall give written notice of all other Events of Default by registered or certified mail to the Purchaser, provided, however, such notice shall not be a condition precedent to the Bondholder exercising any right or remedy granted to it hereunder.

## **9.2. Remedies.**

If any Event of Default has occurred and is continuing, the Bondholder may exercise any right, power, or remedy permitted to it by law or under the terms of the Bond Documents and may proceed to protect and enforce the rights of the Bondholder by an action at law, suit in equity, or other appropriate proceeding, whether for the specific performance of any covenant or agreement contained herein, in the other Bond Documents, or in the Bond, or for an injunction against a violation of any of the terms hereof or thereof, or in aid of the exercise of any power granted hereby or thereby or by law or otherwise.

Upon the occurrence of and during the continuation of an Event of Default hereunder, all amounts due hereunder including principal of and interest on the Bond shall bear interest at a rate equal to 300 basis points in excess of the then applicable rate.

## **9.3. No Waivers or Election of Remedies; Expenses.**

No course of dealing and no delay or omission on the part of the Bondholder in exercising any right, power, or remedy shall operate as a waiver thereof or otherwise impair or prejudice the Bondholder's rights, powers, or remedies, but any such right, power, or remedy may be exercised from time to time and as often as may be deemed expedient. No right, power, or remedy conferred by this Agreement, by any other Bond Document, or by the Bond upon the Bondholder shall be exclusive of any other right, power, or remedy referred to herein or therein or now or hereafter available at law, in equity, by statute, or otherwise, but each and every such right, power, or remedy shall be cumulative and shall be in addition to every other right, power, or remedy given under this Agreement, any other Bond Document, or the Bond or now or hereafter existing at law, in equity, by statute, or otherwise. Without limiting the obligations of the Issuer under Section 12, the Issuer will pay to the Bondholder on demand, but solely from the Security, such further amount as shall be sufficient to cover all costs and expenses of the Bondholder incurred in any enforcement or collection under this Section 9, including, without limitation, reasonable attorneys' fees, expenses, and disbursements.

## **10. REGISTRATION; TRANSFER; SUBSTITUTION OF THE BOND.**

### **10.1. Registration of the Bond.**

The Issuer shall keep at its office a register for the registration and registration of transfers of the Bond. The name and address of the Bondholder, each transfer thereof, and the name and address of each transferee of the Bond shall be registered in such register. Prior to due presentment for registration of transfer, the Person in whose name the Bond shall be registered shall be deemed and treated as the owner and holder thereof for all purposes hereof (including the receipt of payments of principal of, premium, if any, and interest on the Bond), whether or not the Bond shall be overdue, and the Issuer shall not be affected by any notice or knowledge to the contrary.

## **10.2. Transfer of the Bond.**

Upon surrender of the Bond at the office of the Issuer for registration of transfer, duly endorsed or accompanied by a written instrument of transfer duly executed by the registered owner of the Bond or its attorney duly authorized in writing and accompanied by the address for notices of each transferee of the Bond, the Issuer shall execute and deliver, at the Issuer's expense (except as provided below), a new Bond in exchange therefor, in a principal amount equal to the unpaid principal amount of the surrendered Bond. Each such new Bond shall be payable to such Person as the former Bondholder may request and shall be issued as a single, fully registered bond substantially in the form of Exhibit A. Each such new Bond shall be dated and bear interest from the date to which interest shall have been paid on the surrendered Bond or dated the date of the surrendered Bond if no interest shall have been paid thereon. The Issuer may require payment of a sum sufficient to cover any stamp tax or governmental charge imposed in respect of any such transfer of the Bond. The Bond shall not be transferred in a denomination of less than the unpaid principal amount of the surrendered Bond. No transfer of the Bond shall be made until (1) the transferring Bondholder has assigned all of its right, title, and interest in this Agreement and the Assignment to such transferee, and (2) the transferee has assumed in writing your obligations under this Agreement and has executed and delivered to the Purchaser and the Issuer an Investment Letter substantially in the form of Exhibit E.

## **10.3. Replacement of the Bond.**

Upon receipt by the Issuer of evidence reasonably satisfactory to it of the ownership of and the loss, theft, destruction, or mutilation of the Bond, and

(a) in the case of loss, theft, or destruction, of indemnity reasonably satisfactory to it (provided that if the Bondholder is, or is a nominee for, you or another Bondholder with a minimum net worth of at least \$25,000,000, such Person's own unsecured agreement of indemnity shall be deemed to be satisfactory), or

(b) in the case of mutilation, upon surrender and cancellation thereof,

the Issuer at its own expense shall execute and deliver, in lieu thereof, a new single, fully registered Bond, dated and bearing interest from the date to which interest shall have been paid on such lost, stolen, destroyed, or mutilated Bond or dated the date of such lost, stolen, destroyed, or mutilated Bond if no interest shall have been paid thereon.

## **11. PAYMENTS ON THE BOND.**

All sums becoming due on the Bond for principal, premium, if any, and interest shall be paid in lawful money of the United States by the method and at the address specified for such purpose by the Bondholder in writing to the Purchaser and the Issuer, without the presentation or surrender of the Bond or the making of any notation thereon, except that upon written request of the Issuer made concurrently with or reasonably promptly after payment or redemption in full of the Bond, you shall surrender the Bond for cancellation, reasonably promptly after any such request, to the Issuer. Prior to any sale or other disposition of the Bond held by you or your nominee you shall endorse thereon the amount of principal paid thereon and the last date to which interest has been paid thereon.

All payments of principal of the Bond (whether at maturity, principal payment date, or upon redemption), including the date and amount of each payment, shall be endorsed by you on the Schedule of Payments and Redemptions attached to the Bond; provided, however, that any failure by you to endorse such information on such Schedule or any error therein shall not in any manner affect the obligation of the Issuer to make payments of principal, premium, if any, and interest in accordance with the terms of the Bond. The Issuer hereby irrevocably authorizes and directs you to enter on the Schedule of Payments and Redemptions the date and amount of each payment of principal of the Bond.

You shall permit the Issuer or the Purchaser at any time during regular business hours to make at your office where the original Bond is held an appropriate notation on the Bond of payments of principal thereof, if at least five days prior thereto the Issuer or the Purchaser shall have given written notice of its intention to do so and if it shall not have received from you a written confirmation that the requested notation has been made.

In the event that on any date the Issuer shall pay less than the amount then due on the Bond, such partial payment shall be applied to the amounts then due in the following order of priority: (i) reimbursable expenses and indemnities, (ii) accrued interest and premium, if any, on the Bond, (iii) principal of the Bond, and (iv) any other amounts due under the Bond or the Bond Documents.

## **12. EXPENSES, ETC.**

### **12.1. Transaction Expenses.**

Whether or not the transactions contemplated hereby are consummated, the Issuer will pay, but solely from the Security, all costs and expenses (including reasonable attorneys' fees of a counsel and, if reasonably required, local or other counsel) incurred by you in connection with such transactions and in connection with any amendments, waivers, or consents under or in respect of this Agreement, the other Bond Documents, or the Bond (whether or not such amendment, waiver, or consent becomes effective), including, without limitation: (a) the costs and expenses incurred in enforcing or defending (or determining whether or how to enforce or defend) any rights under this Agreement, the other Bond Documents, or the Bond, or in responding to any subpoena or other legal process or informal investigative demand issued in connection with this Agreement, the other Bond Documents, or the Bond, or by reason of being the Bondholder, and (b) the costs and expenses, including financial advisors' fees, incurred in connection with the insolvency or bankruptcy of the Issuer or the Purchaser or in connection with any work-out or restructuring of the transactions contemplated hereby, by the other Bond Documents, and by the Bond.

### **12.2. Survival.**

The obligations of the Issuer under this Section 12 will survive the payment or transfer of the Bond, the enforcement, amendment, or waiver of any provision of this Agreement, any of the other Bond Documents, or the Bond, and the termination of this Agreement.

### **13. SURVIVAL OF REPRESENTATIONS AND WARRANTIES; ENTIRE AGREEMENT.**

All representations and warranties contained herein shall survive the execution and delivery of this Agreement and the Bond, the purchase or transfer by you of the Bond or interest therein and the payment of the Bond, and may be relied upon by any subsequent Bondholder, regardless of any investigation made at any time by or on behalf of you or any other Bondholder. All statements contained in any certificate or other instrument delivered by or on behalf of the Issuer pursuant to this Agreement shall be deemed representations and warranties of the Issuer under this Agreement. Subject to the preceding sentence, this Agreement, the other Bond Documents, and the Bond embody the entire agreement and understanding between you and the Issuer and supersede all prior agreements and understandings relating to the subject matter hereof.

### **14. AMENDMENT AND WAIVER.**

#### **14.1. Requirements.**

This Agreement, the Assignment, and the Bond may be amended, changed, and modified, and the observance of any term hereof or of the Assignment or the Bond may be waived (either retroactively or prospectively), by the written agreement of the parties hereto, with (and only with) the prior written consent of the Purchaser.

#### **14.2. Binding Effect, etc.**

Any amendment, change, modification, or waiver consented to as provided in this Section 14 shall be binding upon you and upon each future Bondholder and upon the Issuer without regard to whether the Bond has been marked to indicate such amendment, change, modification, or waiver. No such amendment, change, modification, or waiver will extend to or affect any obligation, covenant, agreement, or Event of Default not expressly amended, changed, modified, or waived or impair any right consequent thereon. No course of dealing between the Issuer and any Bondholder nor any delay in exercising any rights hereunder or under the Bond shall operate as a waiver of any rights of any Bondholder.

#### **14.3. Contract.**

The Issuer shall not amend, change, or modify the Contract, or waive the observance of any term thereof (including, without limitation, any “Event of Default” thereunder), without the prior written consent of the Bondholder.

### **15. NOTICES.**

All notices, certificates, and other communications provided for hereunder shall be in writing and sent (a) by telecopy if the sender on the same day sends a confirming copy of such notice by a recognized overnight delivery service (charges prepaid), or (b) by registered or certified mail with return receipt requested (postage prepaid), or (c) by a recognized overnight delivery service (with charges prepaid). Any such notice must be sent to any party hereto at the



is used in this Agreement (other than in this Section 16), such word shall no longer be deemed to refer to such Affiliate, but shall refer to you, and you shall have all the rights of the original Bondholder under this Agreement.

## **17. INTERPRETATION.**

### **17.1. Definitions.**

Certain words and terms used in this Agreement shall have the meaning given them in Section 1.01 of the Contract, which by this reference is incorporated herein. In addition to the words and terms defined elsewhere herein, the following words and terms shall have the meanings set forth below. When used herein, such words and terms shall have the meanings given to them by the language employed in Section 1.01 of the Contract and in this Section 17.1 defining such words and terms, unless the context or use clearly indicates otherwise.

**“Affiliate”** means any Person directly or indirectly controlling, controlled by, or under common control with another Person or any Person controlling ten percent (10%) or more of the voting securities or equity or membership interest of such Person or any officer, director, or partner of such Person and if such Person is an officer, director, or partner, any entity for which such Person acts in any such capacity. For purposes of this definition, “control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities or an equity interest, by contract, or otherwise.

**“Business Day”** means any day other than a Saturday, a Sunday, or a day on which commercial banks in Atlanta, Georgia are required or authorized to be closed.

**“Closing”** is defined in Section 3.

**“Contract”** means the Agreement of Sale, dated as of July 1, 2012, between the Issuer and the Purchaser. The term Contract shall include any amendments or supplements thereto.

**“Default”** means an event or condition the occurrence or existence of which would, with the lapse of time or the giving of notice or both, become an Event of Default.

**“Event of Default”** is defined in Section 9.

**“Security”** means any of the property subject to the operation of the assignment and pledge and grant of lien and security interest contained in the Assignment.

### **17.2. Construction of Certain Terms.**

For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires, the following rules of construction shall apply:

- (1) The use of the masculine, feminine, or neuter gender is for convenience only and shall be deemed and construed to include correlative words of the masculine, feminine, or neuter gender, as appropriate.

(2) All references in this instrument to designated “Sections” and other subdivisions are to the designated Sections and other subdivisions of this instrument. The words “herein,” “hereof,” “hereto,” “hereby,” and “hereunder” and other words of similar import refer to this Agreement as a whole and not to any particular Section or other subdivision.

(3) The terms defined in this Section include the plural as well as the singular.

**17.3. Table of Contents; Titles and Headings.**

The table of contents, the titles of the sections, and the headings of the subdivisions of this Agreement are solely for convenience of reference, are not a part of this Agreement, and shall not be deemed to affect the meaning, construction, or effect of any of its provisions.

**18. MISCELLANEOUS.**

**18.1. Successors and Assigns.**

All covenants and other agreements contained in this Agreement by or on behalf of any of the parties hereto bind and inure to the benefit of their respective successors and assigns (including, without limitation, any subsequent Bondholder) whether so expressed or not.

**18.2. Payments Due on Non-Business Days.**

Anything in this Agreement or the Bond to the contrary notwithstanding, any payment of principal of or premium or interest on the Bond that is due on a date other than a Business Day shall be made on the next succeeding Business Day without including the additional days elapsed in the computation of the interest payable on such next succeeding Business Day.

**18.3. Severability.**

Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall (to the full extent permitted by law) not invalidate or render unenforceable such provision in any other jurisdiction.

**18.4. Construction.**

Each covenant contained herein shall be construed (absent express provision to the contrary) as being independent of each other covenant contained herein, so that compliance with any one covenant shall not (absent such an express contrary provision) be deemed to excuse compliance with any other covenant. Where any provision herein refers to action to be taken by any Person, or which such Person is prohibited from taking, such provision shall be applicable whether such action is taken directly or indirectly by such Person.

**18.5. Counterparts.**

This Agreement may be executed in any number of counterparts, each of which shall be an original but all of which together shall constitute one instrument. Each counterpart may consist of a number of copies hereof, each signed by less than all, but together signed by all, of the parties hereto.

**18.6. Governing Law.**

This Agreement shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the law of the State of Georgia excluding choice-of-law principles of the law of such State that would require the application of the laws of a jurisdiction other than such State.

**18.7. No Liability of Issuer's Officers.**

No recourse under or upon any obligation, covenant, or agreement contained in this Agreement, in any other Bond Document, or in the Bond, or for any claim based thereon, or under any judgment obtained against the Issuer, or by the enforcement of any assessment or penalty or otherwise or by any legal or equitable proceeding by virtue of any constitution, rule of law or equity, or statute or otherwise or under any other circumstances, under or independent of this Agreement, shall be had against any incorporator, member, commissioner, or officer, as such, past, present, or future, of the Issuer, or any incorporator, member, commissioner, or officer of any successor corporation, as such, either directly or through the Issuer or any successor corporation, or otherwise, for the payment for or to the Issuer or any receiver thereof, or for or to the Bondholder or otherwise, of any sum that may be due and unpaid by the Issuer under this Agreement, under any other Bond Document, or upon the Bond. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such incorporator, member, commissioner, or officer, as such, to respond by reason of any act or omission on his part or otherwise, for the payment for or to the Issuer or any receiver thereof, or for or to the Bondholder or otherwise, of any sum that may remain due and unpaid under this Agreement, under any other Bond Document, or upon the Bond, is hereby expressly waived and released as a condition of and in consideration for the execution of this Agreement and the issuance of the Bond.

**18.8. Third Party Beneficiary.**

The Purchaser is and shall be deemed to be a third party beneficiary of this Agreement.

[Signatures and Seals to Follow]

**SIGNATURES AND SEALS**

If you are in agreement with the foregoing, please sign the form of agreement on the accompanying counterpart of this Agreement and return it to the Issuer, whereupon the foregoing shall become a binding agreement between you and the Issuer.

Very truly yours,

**URBAN REDEVELOPMENT AGENCY OF  
THE CITY OF DUNWOODY, GEORGIA**

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

(SEAL)

Attest:

\_\_\_\_\_  
Secretary

The foregoing is hereby agreed to as of the date thereof.

**PNC BANK, NATIONAL ASSOCIATION**

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

**EXHIBIT A**  
**FORM OF BOND**

[Attached]

**EXHIBIT B**

**FORM OF OPINION OF COUNSEL FOR THE ISSUER**

[Attached]

**EXHIBIT C**

**FORM OF OPINION OF COUNSEL FOR THE PURCHASER**

[Attached]

**EXHIBIT D**

**FORM OF OPINION OF BOND COUNSEL**

[Attached]

**EXHIBIT E**

**FORM OF INVESTMENT LETTER**

[Attached]

**DRAFT DATE: 06/21/12**

**BOND RESOLUTION**

A RESOLUTION OF THE URBAN REDEVELOPMENT AGENCY OF THE CITY OF DUNWOODY, GEORGIA AUTHORIZING, INTER ALIA, THE ISSUANCE OF ITS TAXABLE REVENUE BOND (CITY OF DUNWOODY, GEORGIA PROJECT), SERIES 2012B, IN A PRINCIPAL AMOUNT OF NOT TO EXCEED \$\_\_\_\_\_

Adopted June 28, 2012

Exhibit "A" - Form of Bond Purchase Agreement

Exhibit "B" - Form of Intergovernmental Service Agreement

Exhibit "C" - Form of Assignment and Security Agreement

## BOND RESOLUTION

**WHEREAS**, the City of Dunwoody, Georgia (the “City”), in order to exercise the powers conferred upon the City by Chapter 61 of Title 36 of the Official Code of Georgia Annotated, entitled the “Urban Redevelopment Law,” as amended (the “Urban Redevelopment Law”), adopted a resolution on April 9, 2012, finding that one or more slum areas exist in the City and that the rehabilitation, conservation, or redevelopment, or a combination thereof, of such area or areas is necessary in the interest of the public health, safety, morals, or welfare of the residents of the City; and

**WHEREAS**, the City, by resolution adopted on April 9, 2012, designated the area covered by the hereinafter defined Urban Redevelopment Plan as an “urban redevelopment area,” or “slum area,” which the Mayor and Council of the City designated as appropriate for an urban redevelopment project; and

**WHEREAS**, the Mayor and Council of the City held a public hearing on April 23, 2012, on a proposed urban redevelopment plan entitled “Downtown Dunwoody Urban Redevelopment Plan” (the “Urban Redevelopment Plan”), a copy of which is on file with the City; and

**WHEREAS**, public notice of such public hearing was published in the *Dunwoody Crier*, a newspaper having a general circulation in the area of operation of the City of Dunwoody, Georgia, on April 18, 2012, and proof of such publication is on file with the City; and

**WHEREAS**, the City, by resolution adopted on April 23, 2012, approved the Urban Redevelopment Plan and the urban redevelopment projects set forth therein; and

**WHEREAS**, the Urban Redevelopment Agency of the City of Dunwoody, Georgia (the “Issuer”) is a public body corporate and politic duly created and validly existing under and pursuant to the Urban Redevelopment Law; and

**WHEREAS**, the City, by resolution adopted on April 23, 2012, activated the Issuer and elected to have the Issuer exercise the City’s “urban redevelopment project powers” under the Urban Redevelopment Law, and the Issuer’s commissioners have been appointed as provided in the Urban Redevelopment Law and are currently acting in that capacity; and

**WHEREAS**, the Urban Redevelopment Law authorizes the Issuer to issue bonds to finance the undertaking of any “urban redevelopment project” under the Urban Redevelopment Law, which bonds shall be made payable, as to both principal and interest, solely from the income, proceeds, revenues, and funds of the Issuer derived from or held in connection with its undertaking and carrying out of urban redevelopment projects under the Urban Redevelopment Law; and

**WHEREAS**, the Urban Redevelopment Law authorizes the Issuer to undertake and carry out within the corporate limits of the City “urban redevelopment projects,” which are defined to include undertakings or activities of the Issuer in an urban redevelopment area under the Urban Redevelopment Law for the elimination and for the prevention of the development or spread of slums and may involve slum clearance and redevelopment in an urban redevelopment area,

rehabilitation or conservation in an urban redevelopment area, or any combination or part thereof, in accordance with an urban redevelopment plan adopted pursuant to the Urban Redevelopment Law; and

**WHEREAS**, the Urban Redevelopment Law authorizes the Issuer to make and execute contracts and other instruments necessary or convenient to the exercise of its powers under the Urban Redevelopment Law, to acquire, by purchase, grant, or otherwise, any real property (defined to include all lands, including improvements and fixtures thereon and property of any nature appurtenant thereto or used in connection therewith), to hold, improve, clear, or prepare for redevelopment any such property, to dispose of any real property, and to borrow money for the purposes of the Urban Redevelopment Law and to give such security as may be required and to enter into and carry out contracts in connection therewith; and

**WHEREAS**, the Issuer proposes to issue, sell, and deliver its revenue bond to be known as the “Urban Redevelopment Agency of the City of Dunwoody, Georgia Taxable Revenue Bond (City of Dunwoody, Georgia Project), Series 2012B” (the “Bond”), in the principal amount of not to exceed \$\_\_\_\_\_, for the purpose of obtaining funds to finance the costs of acquiring urban redevelopment projects, consisting of land to be redeveloped and rehabilitated as described in the Urban Redevelopment Plan (the “Project”), and to finance related costs; and

**WHEREAS**, the Issuer and the City propose to enter into an Intergovernmental Service Agreement (the “Contract”), to be dated as of July 1, 2012, with respect to the Project under the terms of which the City (1) will agree to make payments to the Issuer in amounts sufficient to enable the Issuer to pay the principal of, premium, if any, and interest on the Bond when due, and (2) will agree to levy an annual ad valorem tax on all taxable property located within the corporate limits of the City, at such rates, not to exceed 3.04 mills per dollar (or such greater amount as may hereafter be recommended by the Mayor and Council of the City and approved by a majority of the eligible voters in the City by referendum), as may be necessary to produce in each year revenues that are sufficient to fulfill the City’s obligations under the Contract; and

**WHEREAS**, to secure its obligation to pay principal of, premium, if any, and interest on the Bond, the Issuer proposes to assign and pledge to PNC Bank, National Association (the “Bond Buyer”), and proposes to grant a first priority security interest in, all of its right, title, and interest in the Contract (except for the Unassigned Rights, as defined in the Contract) and all revenues, payments, receipts, and moneys to be received and held thereunder, pursuant to an Assignment and Security Agreement (the “Assignment”), to be dated as of July 1, 2012, between the Issuer and the Bond Buyer; and

**WHEREAS**, the Issuer proposes to sell the Bond to an institution insured by an agency of the federal government at private sale at not less than par as permitted by the Urban Redevelopment Law, by selling the Bond to the Bond Buyer pursuant to a Bond Purchase Agreement (the “Bond Purchase Agreement”), to be dated the date of its execution and delivery, between the Issuer and the Bond Buyer; and

**WHEREAS**, the Issuer hereby finds and determines that the Project is an “urban redevelopment project” within the meaning of the Urban Redevelopment Law and that the

financing of the Project will further the purposes and policies of the Urban Redevelopment Law; and

**WHEREAS**, the Board of Commissioners of the Issuer has determined that accomplishing the foregoing is in the best interests of the Issuer, and the Board of Commissioners of the Issuer has found and does hereby declare that such undertaking is for a lawful, valid, and necessary public purpose, which will prevent and eliminate slums, all to the public benefit and good; and

**WHEREAS**, copies of the forms of the following documents relating to the transactions described above have been submitted to the Issuer, are now on file with the Issuer, and are attached as exhibits:

Exhibit "A" - Bond Purchase Agreement, to be dated the date of its execution and delivery, between the Issuer and the Bond Buyer,

Exhibit "B" - Intergovernmental Service Agreement, to be dated as of July 1, 2012, between the Issuer and the City, and

Exhibit "C" - Assignment and Security Agreement, to be dated as of July 1, 2012, between the Issuer and the Bond Buyer;

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE URBAN REDEVELOPMENT AGENCY OF THE CITY OF DUNWOODY, GEORGIA AS FOLLOWS:**

1. In order to further the public purposes of the Urban Redevelopment Law, the Issuer is hereby authorized to issue the Bond to finance the costs of acquiring the Project and to finance related costs, and all such assistance previously provided is hereby ratified and approved. It is hereby found, ascertained, determined, and declared that the Project constitutes an "urban redevelopment project," within the meaning of that term as defined in the Urban Redevelopment Law, and that the financing of the acquisition of the Project and the related costs thereto is for a public purpose and is necessary to prevent and eliminate slums, all to the public benefit and good.

2. For the purpose of financing the cost of the acquisition of the Project and of financing related costs, the issuance of not to exceed \$\_\_\_\_\_ in principal amount of a revenue bond of the Issuer to be known as "Urban Redevelopment Agency of the City of Dunwoody, Georgia Taxable Revenue Bond (City of Dunwoody, Georgia Project), Series 2012B" is hereby approved and authorized pursuant to the provisions of the Act.

3. The Bond shall be dated as of the date of its delivery, and shall be issued as a single, fully registered bond without coupons in the principal amount of not to exceed \$\_\_\_\_\_ and shall be numbered R-1.

The Bond shall bear interest from its dated date on the outstanding principal amount thereof at a rate computed on the basis of a 360-day year consisting of twelve 30-day months.

Interest on the Bond shall be payable on \_\_\_\_\_ 1, 2012, and on the first day of each month thereafter. Principal of the Bond shall be payable on \_\_\_\_\_ 1.

The Bond shall bear interest at a net interest cost not to exceed \_\_\_% per annum; shall have a final maturity not later than \_\_\_\_\_ 1, 20\_\_; and shall have maximum annual debt serviced in any sinking fund year not to exceed \$\_\_\_\_\_. The principal amount in each year (through the operation of a sinking fund or otherwise), the interest rate on each such maturity, and the mandatory sinking fund redemption provisions shall be specified by the Issuer in a supplemental resolution.

The Bond shall bear interest on any overdue installment of principal and, to the extent permitted by applicable law, on any overdue installment of interest, at the aforesaid rate.

The Bond shall be substantially in the form set forth in the Bond Purchase Agreement hereinafter authorized and shall be subject to redemption, shall be payable in such medium of payment at such place or places, shall be of such tenor, and shall have such other terms and provisions as are provided in the Bond Purchase Agreement and the Bond. The form of the Bond and the provisions for execution, delivery, payment, substitution, transfer, registration, and redemption shall be as set forth in the Bond Purchase Agreement hereinafter authorized.

4. The Bond shall be secured as provided in the Bond Purchase Agreement and the Assignment.

5. The Bond shall never constitute an indebtedness or general obligation of the State of Georgia, the City of Dunwoody, Georgia, or any other political subdivision of the State of Georgia, within the meaning of any constitutional provision or statutory limitation whatsoever, nor a pledge of the faith and credit or taxing power of any of the foregoing, nor shall any of the foregoing be subject to any pecuniary liability thereon. The Issuer has no taxing power. The Bond shall not be payable from nor a charge upon any funds other than the revenues pledged to the payment thereof and shall be a limited or special obligation of the Issuer payable solely from the funds provided therefor in the Bond Purchase Agreement and the Assignment, including the proceeds of the ad valorem tax that the City is obligated to levy pursuant to the Contract, subject to the 3.04 millage limitation. No owner of the Bond shall ever have the right to compel the exercise of the taxing power of the State of Georgia, the City of Dunwoody, Georgia, or any other political subdivision of the State of Georgia, except to levy the ad valorem tax required by the Contract, to pay the principal of the Bond or the interest or any premium thereon, or to enforce payment thereof against any property of the foregoing, other than the proceeds of the ad valorem tax required by the Contract, nor shall the Bond constitute a charge, lien, or encumbrance, legal or equitable, upon any property of the foregoing other than the revenues pledged to the payment thereof and the proceeds of the ad valorem tax required by the Contract. Neither the members of the Board of Commissioners of the Issuer nor any person executing the Bond shall be liable personally on the Bond by reason of the issuance thereof.

6. The obligations of the Issuer with respect to the Security (as defined in the Bond Purchase Agreement) shall be as provided in the Bond Purchase Agreement and the Assignment.

7. Subject to Section 10 below, the forms, terms, and conditions and the execution, delivery, and performance of the Bond Purchase Agreement, the Contract, and the Assignment, attached hereto as Exhibits A, B, and C, respectively, are hereby approved and authorized. The Bond Purchase Agreement, the Contract, and the Assignment (collectively the "Bond Documents") shall be in substantially the forms submitted to the Board of Commissioners of the Issuer with such changes, corrections, deletions, insertions, variations, additions, or omissions as may be approved by the Chairman or Vice Chairman of the Board of Commissioners of the Issuer, whose approval thereof shall be conclusively evidenced by the execution of each such instrument.

8. Subject to Section 10 below, the execution and delivery of the Bond to the Bond Buyer for the purchase price and upon the terms and conditions set forth in the Bond Purchase Agreement are hereby approved and authorized. The Issuer hereby determines that the sale of the Bond at private sale upon a negotiated basis in the manner, at the price, and at the time determined in and pursuant to the Bond Purchase Agreement is most advantageous to the Issuer.

9. Subject to Section 10 below, the Chairman or Vice Chairman of the Board of Commissioners of the Issuer is hereby authorized and directed to execute on behalf of the Issuer the Bond Documents, and the Secretary or Assistant Secretary of the Issuer is hereby authorized and directed to affix thereto and attest the seal of the Issuer, upon proper execution and delivery of the other parties thereto, provided, that in no event shall any such attestation or affixation of the seal of the Issuer be required as a prerequisite to the effectiveness thereof, and the Chairman or Vice Chairman and Secretary or Assistant Secretary are authorized and directed to deliver the Bond Documents on behalf of the Issuer to the City or the Bond Buyer, as the case may be, and to execute and deliver all such other contracts, instruments, documents, affidavits, or certificates, and to do and perform all such things and acts as each shall deem necessary or appropriate in furtherance of the issuance of the Bond and the carrying out of the transactions authorized by this Bond Resolution or contemplated by the instruments and documents referred to in this Bond Resolution. The Bond shall be executed on behalf of the Issuer by its Chairman or Vice Chairman by his manual signature, and the official seal of the Issuer shall be impressed thereon and attested by the manual signature of the Secretary or Assistant Secretary of the Issuer.

10. The Bond Purchase Agreement, the Contract and the Assignment shall not be executed until the Board of Commissioners of the Authority has adopted a supplemental resolution approving the final terms for the Bond.

11. This Bond Resolution and the Bond Purchase Agreement, the Contract, and the Assignment, as approved by this Bond Resolution, all of which are hereby incorporated in this Bond Resolution by this reference thereto, shall be placed on file at the office of the Issuer and made available for public inspection by any interested party immediately following the passage and approval of this Bond Resolution.

12. No representation, statement, covenant, stipulation, obligation, or agreement herein contained, or contained in the Bond, the Bond Documents, or in any certificate or other instrument to be executed in connection with the issuance of the Bond, shall be deemed to be a representation, statement, covenant, stipulation, obligation, or agreement of any commissioner, officer, employee, or agent of the Issuer in his individual capacity, and none of the foregoing

persons nor any of the officers of the Issuer executing the Bond, the Bond Documents, or any certificate or other instrument to be executed in connection with the issuance of the Bond shall be liable personally thereon or be subject to any personal liability or accountability by reason of the execution or delivery thereof.

13. Except as otherwise expressly provided herein or in the Bond or the Bond Documents, nothing in this Bond Resolution or in the Bond or the Bond Documents, express or implied, is intended or shall be construed to confer upon any person, firm, corporation, or other organization, other than the Issuer, the City, the Bond Buyer, and the registered owner from time to time of the Bond, any right, remedy, or claim, legal or equitable, under and by reason of this Bond Resolution or any provision hereof, or of the Bond or the Bond Documents, all provisions hereof and thereof being intended to be and being for the sole and exclusive benefit of the Issuer, the City, the Bond Buyer, and the registered owner from time to time of the Bond.

14. All acts, conditions, and things relating to the passage of this Bond Resolution, to the issuance, sale, and delivery of the Bond, and to the execution and delivery of the Bond Documents, required by the Constitution or other laws of the State of Georgia to happen, exist, and be performed precedent to the passage hereof, have happened, exist, and have been performed as so required.

15. The commissioners of the Issuer and its officers, attorneys, engineers, or other agents or employees are hereby authorized to do all acts and things required of them by this Bond Resolution, the Bond, and the Bond Documents and to do all acts and things that are desirable and consistent with the requirements hereof or of the Bond and the Bond Documents for the full, punctual, and complete performance of all the terms, covenants, and agreements contained herein or in the Bond and the Bond Documents.

16. The Issuer covenants and agrees that this Bond Resolution shall constitute a contract between the Issuer and the registered owner from time to time of the Bond, and that all covenants and agreements set forth herein and in the Bond and the Bond Documents to be performed by the Issuer shall be for the benefit and security of the registered owner from time to time of the Bond.

17. All motions, orders, ordinances, bylaws, resolutions, and parts thereof in conflict herewith are hereby repealed to the extent only of such conflict. This repealer shall not be construed as reviving any motion, order, ordinance, bylaw, resolution, or part thereof.

18. This Bond Resolution shall become effective immediately, and if any section, paragraph, clause, or provision hereof shall for any reason be held invalid or unenforceable, the invalidity or unenforceability thereof shall not affect any of the remaining provisions hereof.

**PASSED, ADOPTED, SIGNED, APPROVED, and EFFECTIVE** this 28<sup>th</sup> day of June, 2012.

**URBAN REDEVELOPMENT AGENCY  
OF THE CITY OF DUNWOODY,  
GEORGIA**

(SEAL)

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

Attest:

\_\_\_\_\_  
Secretary

**SECRETARY'S CERTIFICATE**

I, \_\_\_\_\_, the duly appointed, qualified, and acting Secretary of the Urban Redevelopment Agency of the City of Dunwoody, Georgia (the "Issuer"), **DO HEREBY CERTIFY** that the foregoing pages of typewritten matter pertaining to the revenue bond designated "Urban Redevelopment Agency of the City of Dunwoody, Georgia Taxable Revenue Bond (City of Dunwoody, Georgia Project), Series 2012B" constitute a true and correct copy of the Bond Resolution adopted on June 28, 2012, by the commissioners of the Issuer in a meeting duly called and assembled, after due and reasonable notice was given in accordance with the procedures of the Issuer and with applicable provisions of law, which was open to the public and at which a quorum was present and acting throughout, and that the original of such Bond Resolution appears of public record in the Minute Book of the Issuer, which is in my custody and control.

I further certify that such Bond Resolution has not been rescinded, repealed, or modified.

**GIVEN** under my hand and the seal of the Issuer, this 28<sup>th</sup> day of June, 2012.

(SEAL)

\_\_\_\_\_  
SECRETARY, Urban Redevelopment Agency of the  
City of Dunwoody, Georgia

**DRAFT DATE: 06/21/12**

**BOND RESOLUTION**

A RESOLUTION OF THE URBAN REDEVELOPMENT AGENCY OF THE CITY OF DUNWOODY, GEORGIA AUTHORIZING, INTER ALIA, THE ISSUANCE OF ITS REVENUE BOND (CITY OF DUNWOODY, GEORGIA PROJECT), SERIES 2012A, IN A PRINCIPAL AMOUNT OF NOT TO EXCEED \$\_\_\_\_\_

Adopted June 28, 2012

Exhibit "A" - Form of Bond Purchase Agreement

Exhibit "B" - Form of Agreement of Sale

Exhibit "C" - Form of Assignment and Security Agreement

## BOND RESOLUTION

**WHEREAS**, the City of Dunwoody, Georgia (the “Purchaser”), in order to exercise the powers conferred upon the Purchaser by Chapter 61 of Title 36 of the Official Code of Georgia Annotated, entitled the “Urban Redevelopment Law,” as amended (the “Urban Redevelopment Law”), adopted a resolution on April 9, 2012, finding that one or more slum areas exist in the City of Dunwoody, Georgia and that the rehabilitation, conservation, or redevelopment, or a combination thereof, of such area or areas is necessary in the interest of the public health, safety, morals, or welfare of the residents of the City of Dunwoody, Georgia; and

**WHEREAS**, the Purchaser, by resolution adopted on April 9, 2012, designated the area covered by the hereinafter defined Urban Redevelopment Plan as an “urban redevelopment area,” or “slum area,” which the Mayor and Council of the Purchaser designated as appropriate for an urban redevelopment project; and

**WHEREAS**, the Mayor and Council of the Purchaser held a public hearing on April 23, 2012, on a proposed urban redevelopment plan entitled “Downtown Dunwoody Urban Redevelopment Plan” (the “Urban Redevelopment Plan”), a copy of which is on file with the Purchaser; and

**WHEREAS**, public notice of such public hearing was published in the *Dunwoody Crier*, a newspaper having a general circulation in the area of operation of the City of Dunwoody, Georgia, on April 18, 2012, and proof of such publication is on file with the Purchaser; and

**WHEREAS**, the Purchaser, by resolution adopted on April 23, 2012, approved the Urban Redevelopment Plan and the urban redevelopment projects set forth therein; and

**WHEREAS**, the Urban Redevelopment Agency of the City of Dunwoody, Georgia (the “Issuer”) is a public body corporate and politic duly created and validly existing under and pursuant to the Urban Redevelopment Law; and

**WHEREAS**, the Purchaser, by resolution adopted on April 23, 2012, activated the Issuer and elected to have the Issuer exercise the Purchaser’s “urban redevelopment project powers” under the Urban Redevelopment Law, and the Issuer’s commissioners have been appointed as provided in the Urban Redevelopment Law and are currently acting in that capacity; and

**WHEREAS**, the Urban Redevelopment Law authorizes the Issuer to issue bonds to finance the undertaking of any “urban redevelopment project” under the Urban Redevelopment Law, which bonds shall be made payable, as to both principal and interest, solely from the income, proceeds, revenues, and funds of the Issuer derived from or held in connection with its undertaking and carrying out of urban redevelopment projects under the Urban Redevelopment Law; and

**WHEREAS**, the Urban Redevelopment Law authorizes the Issuer to undertake and carry out within the corporate limits of the Purchaser “urban redevelopment projects,” which are defined to include undertakings or activities of the Issuer in an urban redevelopment area under the Urban Redevelopment Law for the elimination and for the prevention of the development or

spread of slums and may involve slum clearance and redevelopment in an urban redevelopment area, rehabilitation or conservation in an urban redevelopment area, or any combination or part thereof, in accordance with an urban redevelopment plan adopted pursuant to the Urban Redevelopment Law; and

**WHEREAS**, the Urban Redevelopment Law authorizes the Issuer to make and execute contracts and other instruments necessary or convenient to the exercise of its powers under the Urban Redevelopment Law, to acquire, by purchase, grant, or otherwise, any real property (defined to include all lands, including improvements and fixtures thereon and property of any nature appurtenant thereto or used in connection therewith), to hold, improve, clear, or prepare for redevelopment any such property, to dispose of any real property, and to borrow money for the purposes of the Urban Redevelopment Law and to give such security as may be required and to enter into and carry out contracts in connection therewith; and

**WHEREAS**, the Issuer proposes to issue, sell, and deliver its revenue bond to be known as the “Urban Redevelopment Agency of the City of Dunwoody, Georgia Revenue Bond (City of Dunwoody, Georgia Project), Series 2012A” (the “Bond”), in the principal amount of not to exceed \$\_\_\_\_\_, for the purpose of obtaining funds to finance the costs of acquiring urban redevelopment projects, consisting of land to be used as parkland, multi-use trails, civic space and other similar projects (the “Project”), and to finance related costs; and

**WHEREAS**, the Issuer will sell the Project to the Purchaser pursuant to an Agreement of Sale (the “Contract”), to be dated as of July 1, 2012, under the terms of which the Purchaser (1) will agree to make installment payments of purchase price to the Issuer in amounts sufficient to enable the Issuer to pay the principal of, premium, if any, and interest on the Bond when due, and (2) will agree to levy an annual ad valorem tax on all taxable property located within the corporate limits of the Purchaser, at such rates, not to exceed 3.04 mills per dollar (or such greater amount as may hereafter be recommended by the Mayor and Council of the City and approved by a majority of the eligible voters in the City by referendum), as may be necessary to produce in each year revenues that are sufficient to fulfill the Purchaser’s obligations under the Contract; and

**WHEREAS**, to secure its obligation to pay principal of, premium, if any, and interest on the Bond, the Issuer proposes to assign and pledge to PNC Bank, National Association (the “Bond Buyer”), and proposes to grant a first priority security interest in, all of its right, title, and interest in the Contract (except for the Unassigned Rights, as defined in the Contract) and all revenues, payments, receipts, and moneys to be received and held thereunder, pursuant to an Assignment and Security Agreement (the “Assignment”), to be dated as of July 1, 2012, between the Issuer and the Bond Buyer; and

**WHEREAS**, the Issuer proposes to sell the Bond to an institution insured by an agency of the federal government at private sale at not less than par as permitted by the Urban Redevelopment Law, by selling the Bond to the Bond Buyer pursuant to a Bond Purchase Agreement (the “Bond Purchase Agreement”), to be dated the date of its execution and delivery, between the Issuer and the Bond Buyer; and

**WHEREAS**, the Issuer hereby finds and determines that the Project is an “urban redevelopment project” within the meaning of the Urban Redevelopment Law and that the financing of the Project will further the purposes and policies of the Urban Redevelopment Law; and

**WHEREAS**, the Board of Commissioners of the Issuer has determined that accomplishing the foregoing is in the best interests of the Issuer, and the Board of Commissioners of the Issuer has found and does hereby declare that such undertaking is for a lawful, valid, and necessary public purpose, which will prevent and eliminate slums, all to the public benefit and good; and

**WHEREAS**, copies of the forms of the following documents relating to the transactions described above have been submitted to the Issuer, are now on file with the Issuer, and are attached as exhibits:

Exhibit “A” - Bond Purchase Agreement, to be dated the date of its execution and delivery, between the Issuer and the Bond Buyer,

Exhibit “B” - Agreement of Sale, to be dated as of July 1, 2012, between the Issuer and the Purchaser, and

Exhibit “C” - Assignment and Security Agreement, to be dated as of July 1, 2012, between the Issuer and the Bond Buyer;

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE URBAN REDEVELOPMENT AGENCY OF THE CITY OF DUNWOODY, GEORGIA AS FOLLOWS:**

1. In order to further the public purposes of the Urban Redevelopment Law, the Issuer is hereby authorized to issue the Bond to finance the costs of acquiring the Project and to finance related costs, and all such assistance previously provided is hereby ratified and approved. It is hereby found, ascertained, determined, and declared that the Project constitutes an “urban redevelopment project,” within the meaning of that term as defined in the Urban Redevelopment Law, and that the financing of the acquisition of the Project and the related costs thereto is for a public purpose and is necessary to prevent and eliminate slums, all to the public benefit and good.

2. For the purpose of financing the cost of the acquisition of the Project and of financing related costs, the issuance of not to exceed \$\_\_\_\_\_ in principal amount of a revenue bond of the Issuer to be known as “Urban Redevelopment Agency of the City of Dunwoody, Georgia Revenue Bond (City of Dunwoody, Georgia Project), Series 2012A” is hereby approved and authorized pursuant to the provisions of the Act.

3. The Bond shall be dated as of the date of its delivery, and shall be issued as a single, fully registered bond without coupons in the principal amount of not to exceed \$\_\_\_\_\_ and shall be numbered R-1.

The Bond shall bear interest from its dated date on the outstanding principal amount thereof at a rate computed on the basis of a 360-day year consisting of twelve 30-day months.

Interest on the Bond shall be payable on \_\_\_\_\_ 1, 2012, and on the first day of each month thereafter. Principal of the Bond shall be payable on \_\_\_\_\_ 1.

The Bond shall bear interest at a net interest cost not to exceed \_\_\_% per annum; shall have a final maturity not later than \_\_\_\_\_ 1, 20\_\_; and shall have maximum annual debt serviced in any sinking fund year not to exceed \$\_\_\_\_\_. The principal amount in each year (through the operation of a sinking fund or otherwise), the interest rate on each such maturity, and the mandatory sinking fund redemption provisions shall be specified by the Issuer in a supplemental resolution.

The Bond shall bear interest on any overdue installment of principal and, to the extent permitted by applicable law, on any overdue installment of interest, at the aforesaid rate.

The Bond shall be substantially in the form set forth in the Bond Purchase Agreement hereinafter authorized and shall be subject to redemption, shall be payable in such medium of payment at such place or places, shall be of such tenor, and shall have such other terms and provisions as are provided in the Bond Purchase Agreement and the Bond. The form of the Bond and the provisions for execution, delivery, payment, substitution, transfer, registration, and redemption shall be as set forth in the Bond Purchase Agreement hereinafter authorized.

4. The Bond shall be secured as provided in the Bond Purchase Agreement and the Assignment.

5. The Bond shall never constitute an indebtedness or general obligation of the State of Georgia, the City of Dunwoody, Georgia, or any other political subdivision of the State of Georgia, within the meaning of any constitutional provision or statutory limitation whatsoever, nor a pledge of the faith and credit or taxing power of any of the foregoing, nor shall any of the foregoing be subject to any pecuniary liability thereon. The Issuer has no taxing power. The Bond shall not be payable from nor a charge upon any funds other than the revenues pledged to the payment thereof and shall be a limited or special obligation of the Issuer payable solely from the funds provided therefor in the Bond Purchase Agreement and the Assignment, including the proceeds of the ad valorem tax that the Purchaser is obligated to levy pursuant to the Contract, subject to the 3.04 millage limitation. No owner of the Bond shall ever have the right to compel the exercise of the taxing power of the State of Georgia, the City of Dunwoody, Georgia, or any other political subdivision of the State of Georgia, except to levy the ad valorem tax required by the Contract, to pay the principal of the Bond or the interest or any premium thereon, or to enforce payment thereof against any property of the foregoing, other than the proceeds of the ad valorem tax required by the Contract, nor shall the Bond constitute a charge, lien, or encumbrance, legal or equitable, upon any property of the foregoing other than the revenues pledged to the payment thereof and the proceeds of the ad valorem tax required by the Contract. Neither the members of the Board of Commissioners of the Issuer nor any person executing the Bond shall be liable personally on the Bond by reason of the issuance thereof.

6. The obligations of the Issuer with respect to the Security (as defined in the Bond Purchase Agreement) shall be as provided in the Bond Purchase Agreement and the Assignment.

7. Subject to Section 10 below, the forms, terms, and conditions and the execution, delivery, and performance of the Bond Purchase Agreement, the Contract, and the Assignment, attached hereto as Exhibits A, B, and C, respectively, are hereby approved and authorized. The Bond Purchase Agreement, the Contract, and the Assignment (collectively the "Bond Documents") shall be in substantially the forms submitted to the Board of Commissioners of the Issuer with such changes, corrections, deletions, insertions, variations, additions, or omissions as may be approved by the Chairman or Vice Chairman of the Board of Commissioners of the Issuer, whose approval thereof shall be conclusively evidenced by the execution of each such instrument.

8. Subject to Section 10 below, the execution and delivery of the Bond to the Bond Buyer for the purchase price and upon the terms and conditions set forth in the Bond Purchase Agreement are hereby approved and authorized. The Issuer hereby determines that the sale of the Bond at private sale upon a negotiated basis in the manner, at the price, and at the time determined in and pursuant to the Bond Purchase Agreement is most advantageous to the Issuer.

9. Subject to Section 10 below, the Chairman or Vice Chairman of the Board of Commissioners of the Issuer is hereby authorized and directed to execute on behalf of the Issuer the Bond Documents, and the Secretary or Assistant Secretary of the Issuer is hereby authorized and directed to affix thereto and attest the seal of the Issuer, upon proper execution and delivery of the other parties thereto, provided, that in no event shall any such attestation or affixation of the seal of the Issuer be required as a prerequisite to the effectiveness thereof, and the Chairman or Vice Chairman and Secretary or Assistant Secretary are authorized and directed to deliver the Bond Documents on behalf of the Issuer to the Purchaser or the Bond Buyer, as the case may be, and to execute and deliver all such other contracts, instruments, documents, affidavits, or certificates, and to do and perform all such things and acts as each shall deem necessary or appropriate in furtherance of the issuance of the Bond and the carrying out of the transactions authorized by this Bond Resolution or contemplated by the instruments and documents referred to in this Bond Resolution. The Bond shall be executed on behalf of the Issuer by its Chairman or Vice Chairman by his manual signature, and the official seal of the Issuer shall be impressed thereon and attested by the manual signature of the Secretary or Assistant Secretary of the Issuer.

10. The Bond Purchase Agreement, the Contract and the Assignment shall not be executed until the Board of Commissioners of the Authority has adopted a supplemental resolution approving the final terms for the Bond.

11. This Bond Resolution and the Bond Purchase Agreement, the Contract, and the Assignment, as approved by this Bond Resolution, all of which are hereby incorporated in this Bond Resolution by this reference thereto, shall be placed on file at the office of the Issuer and made available for public inspection by any interested party immediately following the passage and approval of this Bond Resolution.

12. No representation, statement, covenant, stipulation, obligation, or agreement herein contained, or contained in the Bond, the Bond Documents, or in any certificate or other

instrument to be executed in connection with the issuance of the Bond, shall be deemed to be a representation, statement, covenant, stipulation, obligation, or agreement of any commissioner, officer, employee, or agent of the Issuer in his individual capacity, and none of the foregoing persons nor any of the officers of the Issuer executing the Bond, the Bond Documents, or any certificate or other instrument to be executed in connection with the issuance of the Bond shall be liable personally thereon or be subject to any personal liability or accountability by reason of the execution or delivery thereof.

13. Except as otherwise expressly provided herein or in the Bond or the Bond Documents, nothing in this Bond Resolution or in the Bond or the Bond Documents, express or implied, is intended or shall be construed to confer upon any person, firm, corporation, or other organization, other than the Issuer, the Purchaser, the Bond Buyer, and the registered owner from time to time of the Bond, any right, remedy, or claim, legal or equitable, under and by reason of this Bond Resolution or any provision hereof, or of the Bond or the Bond Documents, all provisions hereof and thereof being intended to be and being for the sole and exclusive benefit of the Issuer, the Purchaser, the Bond Buyer, and the registered owner from time to time of the Bond.

14. All acts, conditions, and things relating to the passage of this Bond Resolution, to the issuance, sale, and delivery of the Bond, and to the execution and delivery of the Bond Documents, required by the Constitution or other laws of the State of Georgia to happen, exist, and be performed precedent to the passage hereof, have happened, exist, and have been performed as so required.

15. The commissioners of the Issuer and its officers, attorneys, engineers, or other agents or employees are hereby authorized to do all acts and things required of them by this Bond Resolution, the Bond, and the Bond Documents and to do all acts and things that are desirable and consistent with the requirements hereof or of the Bond and the Bond Documents for the full, punctual, and complete performance of all the terms, covenants, and agreements contained herein or in the Bond and the Bond Documents.

16. The Issuer covenants and agrees that this Bond Resolution shall constitute a contract between the Issuer and the registered owner from time to time of the Bond, and that all covenants and agreements set forth herein and in the Bond and the Bond Documents to be performed by the Issuer shall be for the benefit and security of the registered owner from time to time of the Bond.

17. All motions, orders, ordinances, bylaws, resolutions, and parts thereof in conflict herewith are hereby repealed to the extent only of such conflict. This repealer shall not be construed as reviving any motion, order, ordinance, bylaw, resolution, or part thereof.

18. The Issuer declares its intent to use proceeds of tax-exempt bonds to reimburse the Purchaser for moneys used to pay expenditures related to the Project. This Bond Resolution is and constitutes the Issuer's "official intent" (within the meaning of Treasury Regulation Section 1.150-2) to reimburse original expenditures related to the Project with proceeds of such tax-exempt bonds.

19. The Chairman or Vice Chairman of the Board of Commissioners of the Issuer is authorized and directed on behalf of the Issuer (i) to execute and deliver a certificate as to the reasonable expectations of the Issuer regarding the amount and use of the proceeds of the Bond, such certificate to be based upon representations of the Purchaser, (ii) to execute and file with the Internal Revenue Service Internal Revenue Service Form 8038-G, as required by Section 149(e) of the Internal Revenue Code of 1986, as amended (the "Code"), and (iii) to execute and make all other certifications and filings required under Section 103 of the Code and the applicable Treasury Regulations promulgated thereunder.

20. The Issuer hereby designates the Bond as a "qualified tax-exempt obligation" for purposes of Section 265(b)(3) of the Code and covenants that not more than \$10,000,000 in aggregate principal amount of obligations the interest on which is excludable from gross income for federal income tax purposes (excluding, however, private activity bonds, as defined in Section 141 of the Code, but including any borrowings by the Issuer as a "qualified borrower" with respect to one or more "qualified financing issues," as such terms are defined in Section 256(b)(3)(G) of the Code), including the Bond, have been or shall be issued by the Issuer, including all subordinate entities of the Issuer and all entities that issue obligations on behalf of the Issuer, during the calendar year 2012.

21. This Bond Resolution shall become effective immediately, and if any section, paragraph, clause, or provision hereof shall for any reason be held invalid or unenforceable, the invalidity or unenforceability thereof shall not affect any of the remaining provisions hereof.

**PASSED, ADOPTED, SIGNED, APPROVED, and EFFECTIVE** this 28<sup>th</sup> day of June, 2012.

**URBAN REDEVELOPMENT AGENCY  
OF THE CITY OF DUNWOODY,  
GEORGIA**

(SEAL)

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

Attest:

\_\_\_\_\_  
Secretary

**SECRETARY'S CERTIFICATE**

I, \_\_\_\_\_, the duly appointed, qualified, and acting Secretary of the Urban Redevelopment Agency of the City of Dunwoody, Georgia (the "Issuer"), **DO HEREBY CERTIFY** that the foregoing pages of typewritten matter pertaining to the revenue bond designated "Urban Redevelopment Agency of the City of Dunwoody, Georgia Revenue Bond (City of Dunwoody, Georgia Project), Series 2012A" constitute a true and correct copy of the Bond Resolution adopted on June 28, 2012, by the commissioners of the Issuer in a meeting duly called and assembled, after due and reasonable notice was given in accordance with the procedures of the Issuer and with applicable provisions of law, which was open to the public and at which a quorum was present and acting throughout, and that the original of such Bond Resolution appears of public record in the Minute Book of the Issuer, which is in my custody and control.

I further certify that such Bond Resolution has not been rescinded, repealed, or modified.

**GIVEN** under my hand and the seal of the Issuer, this 28<sup>th</sup> day of June, 2012.

(SEAL)

\_\_\_\_\_  
SECRETARY, Urban Redevelopment Agency of the  
City of Dunwoody, Georgia

**DRAFT DATE: 06/21/12**

## **AUTHORIZING RESOLUTION**

**WHEREAS**, the Mayor and Council (the “Council”) of the City of Dunwoody, Georgia (the “City”), in order to exercise the powers conferred upon the City by Chapter 61 of Title 36 of the Official Code of Georgia Annotated, entitled the “Urban Redevelopment Law,” as amended (the “Urban Redevelopment Law”), adopted a resolution on April 9, 2012, finding that one or more slum areas exist in the City of Dunwoody, Georgia and that the rehabilitation, conservation, or redevelopment, or a combination thereof, of such area or areas is necessary in the interest of the public health, safety, morals, or welfare of the residents of the City of Dunwoody, Georgia; and

**WHEREAS**, the Council, by resolution adopted on April 9, 2012, designated the area covered by the hereinafter defined Urban Redevelopment Plan as an “urban redevelopment area,” or “slum area” which the Council designated as appropriate for urban redevelopment projects; and

**WHEREAS**, the Council held a public hearing on April 23, 2012, on a proposed urban redevelopment plan entitled “Downtown Dunwoody Urban Redevelopment Plan” (the “Urban Redevelopment Plan”), a copy of which is on file with the City; and

**WHEREAS**, a public notice of such public hearing was published in the *Dunwoody Crier*, a newspaper having a general circulation in the area of operation of the City of Dunwoody, Georgia, on April 18, 2012, and proof of such publication is on file with the City; and

**WHEREAS**, the Council, by a resolution adopted on April 23, 2012, approved the Urban Redevelopment Plan and the urban redevelopment projects set forth therein; and

**WHEREAS**, the Urban Redevelopment Agency of the City of Dunwoody, Georgia (the “Issuer”) is a public body corporate and politic duly created and validly existing under and pursuant to the Urban Redevelopment Law; and

**WHEREAS**, the Council, by resolution adopted on April 23, 2012, activated the Issuer and elected to have the Issuer exercise the City’s “urban redevelopment project powers” under the Urban Redevelopment Law, and the Issuer’s commissioners have been appointed as provided in the Urban Redevelopment Law and are currently acting in that capacity; and

**WHEREAS**, the Urban Redevelopment Law authorizes the City to appropriate such funds and make such expenditures as may be necessary to carry out the purposes of the Urban Redevelopment Law and to levy taxes and assessments for such purposes; and

**WHEREAS**, Article IX, Section III, Paragraph I of the Constitution of the State of Georgia of 1983 authorizes the City to contract for any period not exceeding fifty years with any public corporation or public authority for joint services, for the provision of services, or for the

joint or separate use of facilities or equipment, if such contract deals with activities, services, or facilities that the contracting parties are authorized by law to undertake or provide; and

**WHEREAS**, in furtherance of the purposes for which it was created, the Issuer proposes to issue \$\_\_\_\_\_ in original principal amount of its Taxable Revenue Bond (City of Dunwoody, Georgia Project), Series 2012B (the “Bond”), in order to finance the costs of acquiring urban redevelopment projects consisting of land to be redeveloped or rehabilitated as described in the Urban Redevelopment Plan (the “Project”), as described in the Urban Redevelopment Plan, and to finance related costs; and

**WHEREAS**, the Issuer and the City propose to enter into an Intergovernmental Service Agreement (the “Contract”), to be dated as of July 1, 2012, with respect to the Project under the terms of which the City (1) will agree to make payments to the Issuer in amounts sufficient to enable the Issuer to pay the principal of, premium, if any, and interest on the Bond when due, and (2) will agree to levy an annual ad valorem tax on all taxable property located within the corporate limits of the City, at such rates, not to exceed 3.04 mills per dollar (or such greater amount as may hereafter be recommended by the Mayor and Council of the City and approved by a majority of the eligible voters in the City by referendum), as may be necessary to produce in each year revenues that are sufficient to fulfill the City’s obligations under the Contract; and

**WHEREAS**, the Issuer will sell the Bond to PNC Bank, National Association (the “Bond Buyer”) pursuant to a Bond Purchase Agreement, to be dated the date of its execution and delivery, between the Issuer and the Bond Buyer; and

**WHEREAS**, pursuant to the terms of an Assignment and Security Agreement, to be dated as of July 1, 2012, between the Issuer and the Bond Buyer, the Issuer will pledge the amounts received from the City under the Contract as security for payment of the Bond; and

**WHEREAS**, after careful study and investigation, the City desires to enter into the Contract;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the City of Dunwoody, Georgia, as follows:

1. Subject to Section 3 below, the form, terms, and conditions and the execution, delivery, and performance of the Contract, which has been filed with the City, are hereby approved and authorized. The Contract shall be in substantially the form submitted to the Council with such changes, corrections, deletions, insertions, variations, additions, or omissions as may be approved by the Mayor or Mayor Pro Tem of the City, whose approval thereof shall be conclusively evidenced by the execution of the Contract.

2. Subject to Section 3, below, the Mayor or Mayor Pro Tem of the City is hereby authorized and directed to execute on behalf of the City the Contract, and the City Clerk of the City is hereby authorized and directed to affix thereto and attest the seal of the City, upon proper execution and delivery of the Issuer, provided, that in no event shall any such attestation or affixation of the seal of the City be required as a prerequisite to the effectiveness thereof, and the Mayor or Mayor Pro Tem and City Clerk of the City are authorized and directed to deliver the Contract on behalf of the City to the Issuer, and to execute and deliver all such other contracts,

instruments, documents, affidavits, or certificates, and to do and perform all such things and acts as each shall deem necessary or appropriate in furtherance of the issuance of the Bond and the carrying out of the transactions authorized by this Resolution or contemplated by the instruments and documents referred to in this Resolution.

3. The Contract shall not be executed until the Mayor and City Council of the City have adopted a supplemental resolution approving the final terms for the Bond.

4. This Resolution and the Contract, as approved by this Resolution, which is hereby incorporated in this Resolution by this reference thereto, shall be placed on file at the office of the City and made available for public inspection by any interested party immediately following the passage and approval of this Resolution.

**PASSED, ADOPTED, SIGNED, APPROVED, AND EFFECTIVE** this \_\_\_\_ day of \_\_\_\_\_, 2012.

**CITY OF DUNWOODY, GEORGIA**

(SEAL)

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

Attest:

\_\_\_\_\_  
City Clerk

**CITY CLERK'S CERTIFICATE**

I, Sharon Lowery, the duly appointed, qualified, and acting City Clerk of the City of Dunwoody, Georgia (the "City"), **DO HEREBY CERTIFY** that the foregoing pages of typewritten matter constitute a true and correct copy of a resolution adopted on \_\_\_\_\_, 2012, by the Mayor and Council of the City in a meeting duly called and assembled in accordance with applicable laws and with the procedures of the City, by a vote of \_\_\_\_\_ Yea and \_\_\_\_\_ Nay, which meeting was open to the public and at which a quorum was present and acting throughout, and that the original of the foregoing resolution appears of public record in the Minute Book of the City, which is in my custody and control.

**GIVEN** under my hand and the seal of the City, this \_\_\_ day of \_\_\_\_\_, 2012.

(SEAL)

\_\_\_\_\_  
City Clerk, City of Dunwoody, Georgia

**DRAFT DATE: 06/21/12**

## **AUTHORIZING RESOLUTION**

**WHEREAS**, the Mayor and Council (the “Council”) of the City of Dunwoody, Georgia (the “Purchaser”), in order to exercise the powers conferred upon the Purchaser by Chapter 61 of Title 36 of the Official Code of Georgia Annotated, entitled the “Urban Redevelopment Law,” as amended (the “Urban Redevelopment Law”), adopted a resolution on April 9, 2012, finding that one or more slum areas exist in the City of Dunwoody, Georgia and that the rehabilitation, conservation, or redevelopment, or a combination thereof, of such area or areas is necessary in the interest of the public health, safety, morals, or welfare of the residents of the City of Dunwoody, Georgia; and

**WHEREAS**, the Council, by resolution adopted on April 9, 2012, designated the area covered by the hereinafter defined Urban Redevelopment Plan as an “urban redevelopment area,” or “slum area” which the Council designated as appropriate for urban redevelopment projects; and

**WHEREAS**, the Council held a public hearing on April 23, 2012, on a proposed urban redevelopment plan entitled “Downtown Dunwoody Urban Redevelopment Plan” (the “Urban Redevelopment Plan”), a copy of which is on file with the Purchaser; and

**WHEREAS**, a public notice of such public hearing was published in the *Dunwoody Crier*, a newspaper having a general circulation in the area of operation of the City of Dunwoody, Georgia, on April 18, 2012, and proof of such publication is on file with the Purchaser; and

**WHEREAS**, the Council, by a resolution adopted on April 23, 2012, approved the Urban Redevelopment Plan and the urban redevelopment projects set forth therein; and

**WHEREAS**, the Urban Redevelopment Agency of the City of Dunwoody, Georgia (the “Issuer”) is a public body corporate and politic duly created and validly existing under and pursuant to the Urban Redevelopment Law; and

**WHEREAS**, the Council, by resolution adopted on April 23, 2012, activated the Issuer and elected to have the Issuer exercise the Purchaser’s “urban redevelopment project powers” under the Urban Redevelopment Law, and the Issuer’s commissioners have been appointed as provided in the Urban Redevelopment Law and are currently acting in that capacity; and

**WHEREAS**, the Urban Redevelopment Law authorizes the Purchaser to appropriate such funds and make such expenditures as may be necessary to carry out the purposes of the Urban Redevelopment Law and to levy taxes and assessments for such purposes; and

**WHEREAS**, Article IX, Section III, Paragraph I of the Constitution of the State of Georgia of 1983 authorizes the Purchaser (1) to contract for any period not exceeding fifty years with any public corporation or public authority for joint services, for the provision of services, or

for the joint or separate use of facilities or equipment, if such contract deals with activities, services, or facilities that the contracting parties are authorized by law to undertake or provide, and (2) in connection with any such contract to convey any existing facilities or equipment to any public corporation or public authority; and

**WHEREAS**, in furtherance of the purposes for which it was created, the Issuer proposes to issue \$\_\_\_\_\_ in original principal amount of its Revenue Bond (City of Dunwoody, Georgia Project), Series 2012A (the “Bond”), in order to finance the costs of acquiring urban redevelopment projects consisting of land be used as parkland, multi-use trails, civic space and other similar projects (the “Project”), as described in the Urban Redevelopment Plan, and to finance related costs; and

**WHEREAS**, the Purchaser proposes to purchase the Project from the Issuer pursuant to an Agreement of Sale (the “Contract”), to be dated as of July 1, 2012, under the terms of which the Purchaser (1) will agree to make installment payments of purchase price to the Issuer in amounts sufficient to enable the Issuer to pay the principal of, premium, if any, and interest on the Bond when due, and (2) will agree to levy an annual ad valorem tax on all taxable property located within the corporate limits of the Purchaser, at such rates, not to exceed 3.04 mills per dollar (or such greater amount as may hereafter be recommended by the Mayor and Council of the City and approved by a majority of the eligible voters in the City by referendum), as may be necessary to produce in each year revenues that are sufficient to fulfill the Purchaser’s obligations under the Contract; and

**WHEREAS**, the Issuer will sell the Bond to PNC Bank, National Association (the “Bond Buyer”) pursuant to a Bond Purchase Agreement, to be dated the date of its execution and delivery, between the Issuer and the Bond Buyer; and

**WHEREAS**, pursuant to the terms of an Assignment and Security Agreement, to be dated as of July 1, 2012, between the Issuer and the Bond Buyer, the Issuer will pledge the amounts received from the Purchaser under the Contract as security for payment of the Bond; and

**WHEREAS**, after careful study and investigation, the Purchaser desires to enter into the Contract;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the City of Dunwoody, Georgia, as follows:

1. Subject to Section 3 below, the form, terms, and conditions and the execution, delivery, and performance of the Contract, which has been filed with the Purchaser, are hereby approved and authorized. The Contract shall be in substantially the form submitted to the Council with such changes, corrections, deletions, insertions, variations, additions, or omissions as may be approved by the Mayor or Mayor Pro Tem of the Purchaser, whose approval thereof shall be conclusively evidenced by the execution of the Contract.

2. Subject to Section 3 below, the Mayor or Mayor Pro Tem of the Purchaser is hereby authorized and directed to execute on behalf of the Purchaser the Contract, and the City Clerk of the Purchaser is hereby authorized and directed to affix thereto and attest the seal of the

Purchaser, upon proper execution and delivery of the Issuer, provided, that in no event shall any such attestation or affixation of the seal of the Purchaser be required as a prerequisite to the effectiveness thereof, and the Mayor or Mayor Pro Tem and City Clerk of the Purchaser are authorized and directed to deliver the Contract on behalf of the Purchaser to the Issuer, and to execute and deliver all such other contracts, instruments, documents, affidavits, or certificates, and to do and perform all such things and acts as each shall deem necessary or appropriate in furtherance of the issuance of the Bond and the carrying out of the transactions authorized by this Resolution or contemplated by the instruments and documents referred to in this Resolution.

3. The Contract shall not be executed until the Mayor and City Council of the City have adopted a supplemental resolution approving the final terms for the Bond.

4. This Resolution and the Contract, as approved by this Resolution, which is hereby incorporated in this Resolution by this reference thereto, shall be placed on file at the office of the Purchaser and made available for public inspection by any interested party immediately following the passage and approval of this Resolution.

**PASSED, ADOPTED, SIGNED, APPROVED, AND EFFECTIVE** this \_\_\_\_ day of \_\_\_\_\_, 2012.

**CITY OF DUNWOODY, GEORGIA**

(SEAL)

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

Attest:

\_\_\_\_\_  
City Clerk

**CITY CLERK'S CERTIFICATE**

I, Sharon Lowery, the duly appointed, qualified, and acting City Clerk of the City of Dunwoody, Georgia (the "Purchaser"), **DO HEREBY CERTIFY** that the foregoing pages of typewritten matter constitute a true and correct copy of a resolution adopted on \_\_\_\_\_, 2012, by the Mayor and Council of the Purchaser in a meeting duly called and assembled in accordance with applicable laws and with the procedures of the Purchaser, by a vote of \_\_\_\_\_ Yea and \_\_\_\_\_ Nay, which meeting was open to the public and at which a quorum was present and acting throughout, and that the original of the foregoing resolution appears of public record in the Minute Book of the Purchaser, which is in my custody and control.

**GIVEN** under my hand and the seal of the Purchaser, this \_\_\_\_ day of \_\_\_\_\_, 2012.

(SEAL)

\_\_\_\_\_  
City Clerk, City of Dunwoody, Georgia

**DRAFT DATE: 06/21/12**

**URBAN REDEVELOPMENT AGENCY  
OF THE CITY OF DUNWOODY, GEORGIA**  
(a public corporation created  
and existing under the laws of the State of Georgia)

as Seller

and

**CITY OF DUNWOODY, GEORGIA**  
(a municipal corporation created and existing under  
the laws of the State of Georgia)

as City

**INTERGOVERNMENTAL SERVICE AGREEMENT**

Dated as of July 1, 2012

THE RIGHTS AND INTEREST OF THE URBAN REDEVELOPMENT AGENCY OF THE CITY OF DUNWOODY, GEORGIA IN THIS INTERGOVERNMENTAL SERVICE AGREEMENT AND THE REVENUES AND RECEIPTS DERIVED THEREFROM, EXCEPT FOR ITS UNASSIGNED RIGHTS, AS DEFINED HEREIN, HAVE BEEN ASSIGNED AND ARE THE SUBJECT OF A GRANT OF A SECURITY INTEREST TO PNC BANK, NATIONAL ASSOCIATION, UNDER AN ASSIGNMENT AND SECURITY AGREEMENT DATED THE DATE HEREOF.

**INTERGOVERNMENTAL SERVICE AGREEMENT**

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and is only for convenience of reference.)

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## **INTERGOVERNMENTAL SERVICE AGREEMENT**

This **INTERGOVERNMENTAL SERVICE AGREEMENT**, dated as of July 1, 2012, by and between the Urban Redevelopment Agency of the City of Dunwoody, Georgia (the “Issuer”), a public corporation created and existing under the laws of the State of Georgia, and the City of Dunwoody, Georgia (the “City”), a municipal corporation created and existing under the laws of the State of Georgia;

### **WITNESSETH:**

**WHEREAS**, the Issuer and the City are authorized under the Constitution and laws of the State of Georgia to enter into this Agreement for the purposes set forth herein;

**NOW, THEREFORE**, for and in consideration of the promises and covenants hereinafter contained, the parties hereby agree as follows:

## ARTICLE I

### DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

**Section 1.01. Definitions.** Certain words and terms used in this Agreement are defined herein. When used herein, such words and terms shall have the meanings given to them by the language employed in this Article I defining such words and terms, unless the context clearly indicates otherwise. In addition to the words and terms defined elsewhere herein, the following words and terms are defined terms under this Agreement:

**“Agreement”** means the within Intergovernmental Service Agreement between the Issuer and the City, as the same may be amended from time to time in accordance with the provisions hereof.

**“Assignment”** means the Assignment and Security Agreement, dated the date hereof, between the Issuer and the Bond Buyer, under the terms of which the Issuer assigned and pledged, and granted a first priority security interest in, its right, title, and interest in this Agreement (except Unassigned Rights) to the Bond Buyer, as security for the payment of principal of, premium, if any, and interest on the Bond. The term Assignment shall include any amendments or supplements thereto.

**“Authorized Issuer Representative”** means the person at the time designated to act on behalf of the Issuer by written certificate furnished to the City, the Bondholder, and the Depository, containing the specimen signature of such person and signed on behalf of the Issuer by the Chairman or Vice Chairman of its Governing Body. Such certificate or any subsequent or supplemental certificate so executed may designate an alternate or alternates.

**“Authorized City Representative”** means the person at the time designated to act on behalf of the City by written certificate furnished to the Issuer, the Bondholder, and the Depository, containing the specimen signature of such person and signed on behalf of the City by its Mayor or Mayor Pro Tem. Such certificate or any subsequent or supplemental certificate so executed may designate an alternate or alternates.

**“Bond”** means the revenue bond designated “Urban Redevelopment Agency of the City of Dunwoody, Georgia Taxable Revenue Bond (City of Dunwoody, Georgia Project), Series 2012B,” dated the date of its issuance and delivery, in the principal amount of \$ \_\_\_\_\_, to be issued pursuant to the Bond Purchase Agreement, and any bond issued in substitution or exchange therefor.

**“Bond Buyer”** means PNC Bank, National Association, Atlanta, Georgia, and its successors and assigns.

**“Bond Documents”** means, collectively, this Agreement, the Assignment, the Bond, and the Bond Purchase Agreement.

**“Bond Purchase Agreement”** means the Bond Purchase Agreement, dated the date of its execution and delivery, between the Issuer and the Bond Buyer, under the terms of which the Issuer agreed to issue and sell the Bond to the Bond Buyer and the Bond Buyer agreed to

purchase the Bond from the Issuer. The term Bond Purchase Agreement shall include any amendments or supplements thereto.

**“Bond Resolution”** means the resolution or resolutions adopted by the Governing Body of the Issuer authorizing the issuance and sale of the Bond and the security therefor.

**“Bondholder”** means the Person in whose name the Bond is registered on the bond registration books kept and maintained by the Issuer.

**“City”** means the City of Dunwoody, Georgia, a municipal corporation created and existing under the laws of the State, the party of the second part hereto, and its successors and assigns.

**“Costs of the Project”** means those costs and expenses in connection with the acquisition of the Project permitted by Section 4.03 hereof to be paid or reimbursed from proceeds of the Bond.

**“Depository”** means PNC Bank, National Association, Atlanta, Georgia, and its successors and assigns.

**“Event of Default”** means any event specified in Section 8.01 of this Agreement.

**“Fiscal Year”** means any period of twelve consecutive months adopted by the City as its fiscal year for financial reporting purposes and shall initially mean the period beginning on January 1 of each calendar year and ending on December 31 of the next calendar year.

**“Governing Body”** means, in the case of the Issuer, the Board of Commissioners of the Issuer and, in the case of the City, its Mayor and Council.

**“Issuer”** means the Urban Redevelopment Agency of the City of Dunwoody, Georgia, a public corporation created and existing under the laws of the State, the party of the first part hereto, and its successors and assigns.

**“Land”** means the real estate described in Exhibit A attached hereto, which, by this reference thereto, is incorporated herein.

**“Lien”** means any mortgage or pledge of or security interest in or lien, charge, or encumbrance on the Project.

**“Permitted Investments”** means the obligations in which the Issuer is permitted to invest proceeds of the Bond pursuant to applicable law.

**“Person”** means natural persons, firms, joint ventures, associations, trusts, partnerships, corporations, and public bodies.

**“Project”** means the urban redevelopment projects consisting of land to be redeveloped or rehabilitated as described in the urban redevelopment plan entitled “Downtown Dunwoody

Urban Redevelopment Plan, approved by the City by a resolution adopted on April 23, 2012, and all related property both real and personal, consisting of the Land.

**“Project Fund”** means the Project Fund created in Section 5.1 of the Bond Purchase Agreement and referred to herein.

**“State”** means the State of Georgia.

**“Unassigned Rights”** means all of the rights of the Issuer to receive reimbursements and payments pursuant to Sections 5.03(b), 6.01, and 8.04 hereof, to give consents and approvals pursuant to Section 4.01 hereof, and to be held harmless and indemnified pursuant to Section 6.01 hereof.

**“Urban Redevelopment Law”** means Chapter 61 of Title 36 of the Official Code of Georgia Annotated, entitled the “Urban Redevelopment Law,” as amended, and as the same may be from time to time additionally supplemented and amended.

**Section 1.02. Construction of Certain Terms.** For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires, the following rules of construction shall apply:

(1) The use of the masculine, feminine, or neuter gender is for convenience only and shall be deemed and construed to include correlative words of the masculine, feminine, or neuter gender, as appropriate.

(2) “This Agreement” means this instrument as originally executed or as it may from time to time be supplemented or amended by one or more agreements of sale supplemental hereto entered into pursuant to the applicable provisions hereof.

(3) All references in this instrument to designated “Articles,” “Sections,” and other subdivisions are to the designated Articles, Sections, and other subdivisions of this instrument. The words “herein,” “hereof,” and “hereunder” and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section, or other subdivision.

(4) The terms defined in this Article shall have the meaning assigned to them in this Article and include the plural as well as the singular.

(5) All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles as promulgated by the American Institute of Certified Public Accountants, on and as of the date of this instrument.

**Section 1.03. Table of Contents; Titles and Headings.** The table of contents, the titles of the articles, and the headings of the sections of this Agreement are solely for convenience of reference, are not a part of this Agreement, and shall not be deemed to affect the meaning, construction, or effect of any of its provisions.

**Section 1.04. Contents of Certificates or Opinions.** Every certificate or opinion with respect to the compliance with a condition or covenant provided for in this Agreement shall include: (i) a statement that the person or persons making or giving such certificate or opinion have read such covenant or condition and the definitions herein relating thereto, (ii) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based, (iii) a statement that, in the opinion of the signers, they have made or caused to be made such examination or investigation as is necessary to enable them to express an informed opinion as to whether or not such covenant or condition has been complied with, and (iv) a statement as to whether, in the opinion of the signers, such condition or covenant has been complied with.

Any such certificate or opinion made or given by an official of the Issuer or the City may be based, insofar as it relates to legal or accounting matters, upon a certificate or an opinion of counsel or an accountant, which certificate or opinion has been given only after due inquiry of the relevant facts and circumstances, unless such official knows that the certificate or opinion with respect to the matters upon which his certificate or opinion may be based as aforesaid is erroneous or in the exercise of reasonable care should have known that the same was erroneous. Any such certificate or opinion made or given by counsel or an accountant may be based (insofar as it relates to factual matters with respect to information that is in the possession of an official of the Issuer or the City or any third party) upon the certificate or opinion of or representations by an official of the Issuer or the City or any third party on whom counsel or an accountant could reasonably rely unless such counsel or such accountant knows that the certificate or opinion or representations with respect to the matters upon which his certificate or opinion may be based as aforesaid are erroneous or in the exercise of reasonable care should have known that the same were erroneous. The same official of the Issuer or the City, or the same counsel or accountant, as the case may be, need not certify or opine to all of the matters required to be certified or opined under any provision of this Agreement, but different officials, counsel, or accountants may certify or opine to different matters, respectively.

[End of Article I]

## ARTICLE II

### REPRESENTATIONS AND UNDERTAKINGS

**Section 2.01. Representations by the Issuer.** The Issuer makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(a) Creation and Authority. The Issuer is a public corporation duly created and validly existing under the laws of the State, including the provisions of the Urban Redevelopment Law. The Issuer has all requisite power and authority under the Urban Redevelopment Law and the laws of the State (1) to issue the Bond to finance the costs of acquiring the Project, (2) to acquire the Project, and (3) to enter into, perform its obligations under, and exercise its rights under this Agreement, the Bond Purchase Agreement, and the Assignment. The City has elected to have its “urban redevelopment project powers,” as defined in Section 36-61-17(b) of the Official Code of Georgia Annotated, exercised by the Issuer, and the Issuer is vested with all of the “urban redevelopment project powers” of the City conferred in the Urban Redevelopment Law. The Urban Redevelopment Law authorizes the Issuer to issue bonds to finance the undertaking of any “urban redevelopment project” under the Urban Redevelopment Law, which bonds shall be made payable, as to both principal and interest, solely from the income, proceeds, revenues, and funds of the Issuer derived from or held in connection with its undertaking and carrying out of urban redevelopment projects under the Urban Redevelopment Law. The Urban Redevelopment Law authorizes the Issuer to undertake and carry out within the corporate limits of the City “urban redevelopment projects,” which are defined to include undertakings or activities of the Issuer in an urban redevelopment area under the Urban Redevelopment Law for the elimination and for the prevention of the development or spread of slums and may involve slum clearance and redevelopment in an urban redevelopment area, rehabilitation or conservation in an urban redevelopment area, or any combination or part thereof, in accordance with an urban redevelopment plan adopted pursuant to the Urban Redevelopment Law. The Urban Redevelopment Law authorizes the Issuer to make and execute contracts and other instruments necessary or convenient to the exercise of its powers under the Urban Redevelopment Law, to acquire, by purchase, grant, or otherwise, any real property (defined to include all lands, including improvements and fixtures thereon and property of any nature appurtenant thereto or used in connection therewith), to hold, improve, clear, or prepare for redevelopment any such property, to dispose of any real property, and to borrow money for the purposes of the Urban Redevelopment Law and to give such security as may be required and to enter into and carry out contracts in connection therewith.

(b) Pending Litigation. There are no actions, suits, proceedings, inquiries, or investigations pending or, to the knowledge of the Issuer, after making due inquiry with respect thereto, threatened against or affecting the Issuer in any court or by or before any governmental authority or arbitration board or tribunal, which involve the possibility of materially and adversely affecting the transactions contemplated by this Agreement or which, in any way, would adversely affect the validity or enforceability of the Bond, the Bond Purchase Agreement, the Assignment, this Agreement, or any agreement or instrument to which the Issuer is a party and which is used or contemplated for use in the consummation of the transactions contemplated hereby or thereby, nor is the Issuer aware of any facts or circumstances presently existing which would form the basis for any such actions, suits, or proceedings.

(c) Agreements Are Legal and Authorized. The execution and delivery by the Issuer of this Agreement, the Bond, the Bond Purchase Agreement, and the Assignment, the compliance by the Issuer with all of the provisions of each thereof, and the adoption of the Bond Resolution (i) are within the purposes, powers, and authority of the Issuer, (ii) have been done in full compliance with the provisions of the Urban Redevelopment Law and have been approved by the Governing Body of the Issuer and are legal and will not conflict with or constitute on the part of the Issuer a violation of or a breach of or a default under any organic document, indenture, mortgage, security deed, pledge, note, lease, loan, or installment sale agreement, contract, or other agreement or instrument to which the Issuer is a party or by which the Issuer or its properties are otherwise subject or bound, or any license, judgment, decree, law, statute, order, writ, injunction, demand, rule, or regulation of any court or governmental agency or body having jurisdiction over the Issuer or any of its activities or properties, and (iii) have been duly authorized by all necessary action on the part of the Issuer. This Agreement, the Bond Purchase Agreement, and the Assignment, when executed by the other parties hereto or thereto, will have been duly and validly executed and delivered by the Issuer, will be in full force and effect as to the Issuer, and will constitute the legal, valid, binding, and enforceable obligations of the Issuer, enforceable in accordance with their terms. The Bond, when issued, delivered, and paid for as in the Bond Purchase Agreement and in the Bond Resolution provided, will have been duly and validly authorized and issued and will constitute a valid and binding obligation of the Issuer enforceable in accordance with its terms.

(d) Governmental Consents. Neither the nature of the Issuer nor any of its activities or properties, nor any relationship between the Issuer and any other Person, nor any circumstance in connection with the offer, issue, sale, or delivery of the Bond is such as to require the consent, approval, permission, order, license, or authorization of, or the filing, registration, or qualification with, any governmental authority on the part of the Issuer in connection with the execution, delivery, and performance of this Agreement, the Bond Purchase Agreement, and the Assignment or the consummation of any transaction therein contemplated, or the offer, issue, sale, or delivery of the Bond, except as shall have been obtained or made and as are in full force and effect.

(e) No Defaults. To the knowledge of the Issuer, after making due inquiry with respect thereto, no event has occurred and no condition exists that would constitute an Event of Default hereunder or an "Event of Default" under the Bond Purchase Agreement or that, with the lapse of time or with the giving of notice or both, would become such an Event of Default. To the knowledge of the Issuer, after making due inquiry with respect thereto, the Issuer is not in default or violation in any material respect under the Urban Redevelopment Law or under any organic document or other agreement or instrument to which it is a party or by which it may be bound.

(f) No Prior Pledge. Neither this Agreement nor any of the payments or amounts to be received by the Issuer hereunder have been or will be assigned, pledged, or hypothecated in any manner or for any purpose or have been or will be the subject of a grant of a security interest by the Issuer other than as provided in the Assignment.

(g) Disclosure. The representations of the Issuer contained in this Agreement and any certificate, document, written statement, or other instrument furnished to the Bond Buyer by

or on behalf of the Issuer in connection with the transactions contemplated hereby do not contain any untrue statement of a material fact relating to the Issuer and do not omit to state a material fact relating to the Issuer necessary in order to make the statements contained herein and therein relating to the Issuer not misleading. Nothing has come to the attention of the Issuer that would materially and adversely affect or in the future may (so far as the Issuer can now reasonably foresee) materially and adversely affect the acquisition of the Project by the Issuer or any other transactions contemplated by this Agreement, the Bond Purchase Agreement, and the Assignment, which has not been set forth in writing to the Bond Buyer or in the certificates, documents, and instruments furnished to the Bond Buyer by or on behalf of the Issuer prior to the date of execution of this Agreement in connection with the transactions contemplated hereby.

(h) Compliance with Conditions Precedent to the Issuance of the Bond. All acts, conditions, and things required to exist, happen, and be performed precedent to and in the execution and delivery by the Issuer of the Bond do exist, have happened, and have been performed in due time, form, and manner as required by law; the issuance of the Bond, together with all other obligations of the Issuer, do not exceed or violate any constitutional or statutory limitation, and the revenues, funds, property, and amounts pledged to the payment of the principal of, premium, if any, and interest on the Bond, as the same become due, have been calculated to be sufficient in amount for that purpose.

**Section 2.02. Representations by the City.** The City makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(a) Creation and Authority. The City is a municipal corporation duly created and validly existing under the laws of the State. The City has all requisite power and authority under the laws of the State to enter into, perform its obligations under, and exercise its rights under this Agreement. The City has taken all actions required by the Urban Redevelopment Law to qualify the Project as “urban redevelopment projects” thereunder, including, without limitation, designating the Land as within an “urban redevelopment area” and approving an urban redevelopment plan for the Project following a public hearing required by the Urban Redevelopment Law. The Urban Redevelopment Law authorizes the City to appropriate such funds and make such expenditures as may be necessary to carry out the purposes of the Urban Redevelopment Law and to levy taxes and assessments for such purposes. Article IX, Section III, Paragraph I of the Constitution of the State of Georgia of 1983 authorizes the City to contract for any period not exceeding fifty years with any public corporation or public authority for joint services, for the provision of services, or for the joint or separate use of facilities or equipment, if such contract deals with activities, services, or facilities that the contracting parties are authorized by law to undertake or provide.

(b) Pending Litigation. There are no actions, suits, proceedings, inquiries, or investigations pending or, to the knowledge of the City, after making due inquiry with respect thereto, threatened against or affecting the City in any court or by or before any governmental authority or arbitration board or tribunal, which involve the possibility of materially and adversely affecting the properties, activities, prospects, profits, operations, or condition (financial or otherwise) of the City, or the ability of the City to perform its obligations under this Agreement, or the transactions contemplated by this Agreement or which, in any way, would adversely affect the validity or enforceability of this Agreement or any agreement or instrument

to which the City is a party and which is used or contemplated for use in the consummation of the transactions contemplated hereby or thereby, nor is the City aware of any facts or circumstances presently existing that would form the basis for any such actions, suits, or proceedings. The City is not in default with respect to any judgment, order, writ, injunction, decree, demand, rule, or regulation of any court, governmental authority, or arbitration board or tribunal.

(c) Agreement Is Legal and Authorized. The execution and delivery by the City of this Agreement, the consummation of the transactions herein contemplated, and the fulfillment of or the compliance with all of the provisions hereof (i) are within the power, legal right, and authority of the City, (ii) are legal and will not conflict with or constitute on the part of the City a violation of or a breach of or a default under, any organic document, indenture, mortgage, security deed, pledge, note, lease, loan, or installment sale agreement, contract, or other agreement or instrument to which the City is a party or by which the City or its properties are otherwise subject or bound, or any license, law, statute, rule, regulation, judgment, order, writ, injunction, decree, or demand of any court or governmental agency or body having jurisdiction over the City or any of its activities or properties, and (iii) have been duly authorized by all necessary and appropriate official action on the part of the Governing Body of the City. This Agreement is the valid, legal, binding, and enforceable obligation of the City. The officials of the City executing this Agreement are duly and properly in office and are fully authorized and empowered to execute the same for and on behalf of the City.

(d) Governmental Consents. Neither the City nor any of its activities or properties, nor any relationship between the City and any other Person, nor any circumstances in connection with the execution, delivery, and performance by the City of its obligations under this Agreement or the offer, issue, sale, or delivery by the Issuer of the Bond, is such as to require the consent, approval, permission, order, license, or authorization of, or the filing, registration, or qualification with, any governmental authority on the part of the City in connection with the execution, delivery, and performance of this Agreement or the consummation of any transaction herein contemplated, or the offer, issue, sale, or delivery of the Bond, except as shall have been obtained or made and as are in full force and effect and except as are not presently obtainable. To the knowledge of the City, after making due inquiry with respect thereto, the City will be able to obtain all such additional consents, approvals, permissions, orders, licenses, or authorizations of governmental authorities as may be required on or prior to the date the City is legally required to obtain the same.

(e) No Defaults. No event has occurred and no condition exists that would constitute an Event of Default or that, with the lapse of time or with the giving of notice or both, would become an Event of Default. To the knowledge of the City, after making due inquiry with respect thereto, the City is not in default or violation in any material respect under any organic document or other agreement or instrument to which it is a party or by which it may be bound.

(f) Compliance with Law. To the knowledge of the City, after making due inquiry with respect thereto, the City is not in violation of any laws, ordinances, or governmental rules or regulations to which it or its properties are subject and has not failed to obtain any licenses, permits, franchises, or other governmental authorizations (which are presently obtainable) necessary to the ownership of its properties or to the conduct of its affairs, which violation or

failure to obtain might materially and adversely affect the properties, activities, prospects, profits, and condition (financial or otherwise) of the City, and there have been no citations, notices, or orders of noncompliance issued to the City under any such law, ordinance, rule, or regulation.

(g) Restrictions on the City. The City is not a party to or bound by any contract, instrument, or agreement, or subject to any other restriction, that materially and adversely affects its activities, properties, assets, operations, or condition (financial or otherwise). The City is not a party to any contract or agreement that restricts the right or ability of the City to enter into intergovernmental service agreements.

(h) Disclosure. The representations of the City contained in this Agreement and any certificate, document, written statement, or other instrument furnished by or on behalf of the City to the Issuer or the Bond Buyer in connection with the transactions contemplated hereby, do not contain any untrue statement of a material fact and do not omit to state a material fact necessary to make the statements contained herein or therein not misleading. There is no fact that the City has not disclosed to the Issuer or the Bond Buyer in writing that materially and adversely affects or in the future may (so far as the City can now reasonably foresee) materially and adversely affect the properties, activities, prospects, operations, profits, or condition (financial or otherwise) of the City, or the ability of the City to perform its obligations under this Agreement or any of the documents or transactions contemplated hereby or thereby or any other transactions contemplated by this Agreement, which has not been set forth in writing to the Bond Buyer or in the certificates, documents, and instruments furnished to the Bond Buyer by or on behalf of the City prior to the date of execution of this Agreement in connection with the transactions contemplated hereby.

(i) Project Compliance. The Project complies or will comply with all presently applicable building and zoning, health, environmental, and safety ordinances and laws and all other applicable laws, rules, and regulations of any and all governmental and quasi-governmental authorities having jurisdiction over any portion of the Project.

(j) Financial Statements. The balance sheet of the City as of December 31, 2010, and the statement of revenues, expenditures, and changes in fund balance and the statement of cash flow for the year ended December 31, 2010 (copies of which, audited by Mauldin Jenkins, Certified Public Accountants, LLC, have been furnished to the Bond Buyer) present fairly the financial position of the City as of December 31, 2010, and the results of its operations and its cash flows for the year ended December 31, 2010, with such exceptions as may be disclosed in the audit report. Since December 31, 2010, there has been no material adverse change in the financial position or results of operations or cash flows of the City.

**Section 2.03. Reliance by Bondholder.** The Issuer and the City acknowledge and agree that these representations and warranties are made to induce the Bond Buyer to purchase the Bond, and that such representations and warranties and any other representations and warranties made by the Issuer and the City in the Bond Documents are made for the benefit of the Bondholder and may be relied upon by the Bondholder and shall remain operative and in full force and effect (unless expressly waived in writing by the Bond Buyer), regardless of any

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investigations made by the Bond Buyer or on its behalf, and shall survive delivery of the Bond to the Bond Buyer.

[End of Article II]

## ARTICLE III

### SALE OF THE PROJECT; SECURITY; TITLE

**Section 3.01. Security for Payments under this Agreement.** (a) As security for the payments required to be made under Section 5.03 hereof and the obligations required to be performed by the City under this Agreement, the City hereby pledges to the Issuer its full faith and credit and taxing power for such payment and performance. The City covenants that, in order to make such payments when due from its general funds to the extent required hereunder, it will exercise its power of taxation to the extent necessary to pay the amounts required to be paid hereunder and will make available and use for such payments all taxes levied and collected for that purpose, subject to the millage limitation described in paragraph (b) below, together with funds received from any other sources. The City further covenants and agrees that in order to make funds available for such purpose in each Fiscal Year, it will, in its general revenue, appropriation, and budgetary measures through which its tax funds or revenues and the allocation thereof are controlled or provided for, include sums sufficient to satisfy any such payments that may be required to be made hereunder, whether or not any other sums are included in such measure, until all payments so required to be made hereunder shall have been made in full. The obligation of the City to make any payments that may be required to be made from its general funds shall constitute a general obligation of the City and a pledge of the full faith and credit of the City to provide the funds required to fulfill any such obligation, subject to the millage limitation described in paragraph (b) below. In the event for any reason any such provision or appropriation is not made as provided in this Section 3.01, then the fiscal officers of the City are hereby authorized and directed to set up as an appropriation on their accounts in the appropriate Fiscal Year the amounts required to pay the obligations that may be due from the general funds of the City. The amount of such appropriation shall be due and payable and shall be expended for the purpose of paying any such obligations, and such appropriation shall have the same legal status as if the City had included the amount of the appropriation in its general revenue, appropriation, and budgetary measures, and the fiscal officers of the City shall make such payments to the Issuer if for any reason the payment of such obligations shall not otherwise have been made.

(b) The City covenants and agrees that it shall, to the extent necessary, levy an annual ad valorem tax on all taxable property located within the corporate limits of the City, as now existent and as the same may hereafter be extended, at such rate or rates, not to exceed 3.04 mills per dollar (or such greater amount as may hereafter be recommended by the Mayor and Council of the City and approved by a majority of the eligible voters in the City by referendum), as may be necessary to produce in each year revenues that will be sufficient to fulfill the City's obligations under this Agreement, from which revenues the City agrees to appropriate sums sufficient to pay in full when due all of the City's obligations under this Agreement. Nothing herein contained, however, shall be construed as limiting the right of the City to make the payments called for by this Agreement out of any funds lawfully available to it for such purpose, from whatever source derived (including general funds).

**Section 3.02. Security for the Bond; Perfection.** Contemporaneously with the issuance of the Bond, as security for the payment of the Bond, the Issuer shall execute and deliver the Assignment. The City hereby assents to the assignment and grant of a first priority

security interest made in the Assignment and hereby agrees that its obligations to make all payments under this Agreement shall be absolute and shall not be subject to any defense, except payment, or to any right of setoff, counterclaim, or recoupment arising out of any breach by the Issuer of any obligation to the City, whether hereunder or otherwise, or arising out of any indebtedness or liability at any time owing to the City by the Issuer. The City and the Issuer further agree that all payments required to be made under this Agreement, except for those arising out of Unassigned Rights, shall be paid directly to the Bondholder for the account of the Issuer. The Bondholder shall have all rights and remedies herein accorded to the Issuer (except for Unassigned Rights), and may enforce such rights and remedies without joining the Issuer as a party, and any reference herein to the Issuer shall be deemed, with the necessary changes in detail, to include the Bondholder, and the Bondholder is deemed to be and is a third party beneficiary of the representations, covenants, and agreements of the City herein contained; provided, however, the Assignment shall not be deemed to impose any obligations or liabilities whatsoever on the Bond Buyer under this Agreement.

Upon reasonable and timely written notice from the Bondholder as to the required form, substance, timing, and place for filing, refiling, recording, or re-recording, or for taking possession of any collateral, the City shall file, refile, record, or re-record all financing statements, continuation statements, documents, and notices or deliver possession of any instrument or cash necessary to perfect and maintain any lien or security interest created by the Assignment for the benefit of the Bondholder as a first and preferred pledge, lien, encumbrance, and security interest in and to the property encumbered thereby. The Issuer agrees that it will cooperate fully and will take any action required to assist the City in meeting the provisions of this Section 3.02.

[End of Article III]

## ARTICLE IV

### THE PROJECT; ISSUANCE OF THE BOND; PROJECT FUND

**Section 4.01. Agreement to Acquire the Project.** Promptly following the issuance and sale of the Bond, the Issuer will acquire the Project.

**Section 4.02. Agreement to Issue the Bond; Application of Proceeds.** In order to provide funds for payment of the Costs of the Project, the Issuer agrees that it shall execute and deliver the Bond Purchase Agreement and sell and cause to be delivered to the Bond Buyer the Bond in the principal amount of \$\_\_\_\_\_ and shall thereupon deposit in the Project Fund the purchase price of the Bond in the amount equal to \$\_\_\_\_\_.

**Section 4.03. Application of Moneys in the Project Fund.** The Issuer shall in the Bond Purchase Agreement authorize and direct the Depository to use the moneys in the Project Fund for the following purposes (but for no other purposes):

(a) payment of the cost of acquisition of the Project and any other costs and expenses relating to the acquisition of the Project;

(b) payment of the costs of issuing the Bond;

(c) [payment of interest due on the Bond on each principal or interest payment date to and including \_\_\_\_\_ 1, 20\_\_];

(d) payment of the fees or out of pocket expenses of the Issuer and the City, if any, relating to the Project, including, but not limited to, architectural, engineering, and supervisory services with respect to the Project;

(e) payment of the fees, or out of pocket expenses, if any, of those providing services with respect to the Project, including, but not limited to, architectural, engineering, legal, accounting, and supervisory services;

(f) payment to the City or the Issuer of such amounts, if any, as shall be necessary to reimburse the City or the Issuer in full for all advances and payments made by either of them for any of the items set forth in clauses (a) through (e) above;

(g) payment of any other costs and expenses relating to the Project permitted to be paid by the Issuer under the Urban Redevelopment Law; and

(h) all proceeds of the Bond remaining in the Project Fund after payment in full of all the items set forth in clauses (a) through (g) above, less amounts retained or set aside to meet costs not then due and payable or that are being contested, shall be applied as prepayments under Section 7.03 hereof of the amounts required to be paid under Section 5.03(a) hereof.

**Section 4.04. Disbursements from the Project Fund.** All disbursements from the Project Fund shall be made upon draft or other demand for payment, signed by the Authorized

Issuer Representative and the Authorized City Representative, but before they shall sign any such draft, there shall be filed with the Depository:

(a) A requisition for such payment (the above-mentioned draft or other demand for payment may be deemed a requisition for the purpose of this Section 4.04), stating each amount to be paid and the name of the person to whom payment is due.

(b) A certificate executed by the Authorized Issuer Representative and the Authorized City Representative attached to the requisition and certifying:

(1) that an obligation in the stated amount has been incurred by the Issuer and that the same is a proper charge against the Project Fund and has not been paid and stating that the bill or statement of account for such obligation, or a copy thereof, is on file in the office of the City;

(2) that the signers have no notice of any vendor's, mechanic's, or other liens or rights to liens, chattel mortgages, or conditional sales contracts that should be satisfied or discharged before such payment is made; and

(3) that such requisition contains no item representing payment on account of any retained percentages that the Issuer is, at the date of any such certificate, entitled to retain.

**Section 4.05. Obligation of the Parties to Cooperate in Furnishing Documents; Reliance of the Depository.** Upon payment of any expenses of the Issuer incurred in connection therewith pursuant to Section 5.03(b) hereof, the Issuer agrees to cooperate with the City in furnishing to the Depository the documents referred to in Section 4.04 hereof that are required to effect payments out of the Project Fund, and the Issuer agrees to cause such orders to be directed to the Depository as may be necessary to effect payments out of the Project Fund, in accordance with Section 4.04 hereof. Such obligation of the Issuer is subject to any provisions of the Bond Purchase Agreement requiring additional documentation with respect to payments and shall not extend beyond the moneys in the Project Fund available for payment under the terms of the Bond Purchase Agreement. In making any such payment from the Project Fund, the Depository may rely on any such orders and certifications delivered to it pursuant to Section 4.04 hereof.

**Section 4.06. City Required to Pay Project Costs in Event Project Fund Insufficient.** In the event the moneys in the Project Fund available for payment of the Costs of the Project shall not be sufficient to pay the costs thereof in full, the City agrees to complete the acquisition of the Project and to pay all that portion of the Costs of the Project as may be in excess of the moneys available therefor in the Project Fund. The Issuer does not make any warranty, either express or implied, that the moneys which will be paid into the Project Fund and which, under the provisions of this Agreement, will be available for payment of the Costs of the Project, will be sufficient to pay all the costs that will be incurred in that connection. The City agrees that if after exhaustion of the moneys in the Project Fund the City shall pay any portion of the Costs of the Project pursuant to the provisions of this Section 4.06, it shall not be entitled to any reimbursement therefor from the Issuer, the Depository, or the Bondholder, nor shall it be entitled to any diminution of the amounts payable under Section 5.03 hereof.

**Section 4.07. Authorized City and Issuer Representatives and Successors.** The City and the Issuer, respectively, shall designate, in the manner prescribed in Section 1.01 hereof, the Authorized City Representative and the Authorized Issuer Representative. In the event that any person so designated and his alternate or alternates, if any, should become unavailable or unable to take any action or make any certificate provided for or required in this Agreement, a successor shall be appointed in the same manner.

**Section 4.08. Investment of Project Fund.** Subject to Section 5.3 of the Bond Purchase Agreement, any moneys held as a part of the Project Fund shall be invested or reinvested by the Depository at the written direction of the Authorized City Representative in such Permitted Investments as may be designated by the City. The Depository may make any and all such investments through its own bond or investment department or through its broker-dealer affiliate.

The investments so purchased shall be held by the Depository and shall be deemed at all times a part of the Project Fund, and the interest accruing thereon and any profit realized therefrom shall be credited to the Project Fund, and any losses resulting from such investments shall be charged to the Project Fund and paid by the City.

[End of Article IV]

## ARTICLE V

### TERM; ISSUER OWNERSHIP OF PROJECT; NATURE OF OBLIGATIONS OF PURCHASER

**Section 5.01. Term of Agreement.** This Agreement shall become effective upon its delivery and shall be in full force and effect until midnight, \_\_\_\_\_ 1, 20\_\_\_\_, subject to the provisions of this Agreement permitting earlier termination (including particularly Article VII hereof), or if all the payments and other amounts payable pursuant to Section 5.03 hereof have not been paid or retired, until such date as such payment shall have been made; provided, however, that the covenants and obligations expressed herein to so survive shall survive the termination of this Agreement, but in no event shall the term of this Agreement exceed fifty (50) years.

#### **Section 5.02. Issuer Ownership of Project; Restrictions on Sale or Lease of Project.**

(a) The Issuer agrees that throughout the term of this Agreement title to the Project shall be vested in and shall be the sole property of the Issuer, subject to any liens or leases that the Issuer, with the written consent of the City, may create during the term of this Agreement. The Issuer shall, as directed by the City, use, develop, redevelop, and operate any of the Project, or cause any of the Project to be used, developed, redeveloped, and operated for and on behalf of the Issuer, upon such terms and conditions as are directed by the City. The Issuer shall, as directed by the City, negotiate sales, leases, or other dispositions of any of the Project and work with prospective purchasers and prospective tenants of the affected portion of the Project upon such terms and conditions as are directed by the City. The Issuer shall investigate and make financial analyses and recommendations to the City with respect to all proposals submitted by such prospective purchasers or tenants desiring to purchase or lease the affected portion of the Project. The Issuer agrees that the proceeds of any sale, lease, or other disposition of any of the Project or any other revenues of any nature derived from the Project shall be deposited or disposed of as directed by the City (including, if directed by the City, transferred to the City). The City agrees that none of the sale, lease, or other disposition of all or any portion of the Project or any interest therein shall affect its obligations under this Agreement.

(b) The Issuer agrees that it shall not (1) directly, indirectly, or beneficially sell, convey, or otherwise dispose of any part of its interest in the Project during the term of this Agreement without the prior written consent of the City or except as provided in subparagraph (c) of this Section 5.02 or otherwise permitted under this Agreement, (2) permit any part of the Project to become subject to any lease, mortgage, lien, claim of title, encumbrance, security interest, conditional sale contract, title retention arrangement, finance lease, servitude, easement, license, restriction, reservation, defect in or cloud on title, or other charge of any kind without the prior written consent of the City, except as permitted under this Agreement, and (3) assign, transfer, or hypothecate any payment then due or to accrue in the future under any lease of the Project, except as otherwise permitted in this Agreement.

(c) Notwithstanding any other provision contained herein to the contrary, the Issuer agrees to sell the Project or any part of its interest thereof or any of its interest therein, at the written request of the City, to any third party designated by the City, and the Issuer agrees to

cooperate with the City in furnishing all documents and taking all actions that are required to effect such sale and purchase. At the closing of any such sale and purchase pursuant to this Section 5.02(c), the Issuer shall upon receipt of the purchase price deliver to the purchaser documents conveying to the purchaser good and marketable title (of the same quality as received by the Issuer) to the property being purchased, as such property then exists, subject to the following: (i) those liens and encumbrances (if any) to which title to such property was subject immediately following the delivery of the Bond, but excluding this Agreement, (ii) those liens and encumbrances created by, through, or under the City or to the creation or suffering of which the City consented, and (iii) those liens and encumbrances resulting from the failure of the City to perform or observe any of the agreements on its part contained in this Agreement.

(d) The net proceeds of any sale or conveyance of the Project or any part thereof or any interest therein pursuant to this Section 5.02 shall, at the direction of the City, be applied as prepayments under Section 7.03 hereof of the amounts required to be paid under Section 5.03(a) hereof, and, if the Bond has been fully paid (or provision for payment thereof has been made in accordance with the provisions thereof), any remaining proceeds shall be applied as directed by the City.

**Section 5.03. City's Payment Obligations.**

(a) Until the principal of, premium, if any, and interest on the Bond shall have been fully paid, the City shall pay to the Bondholder for the account of the Issuer, on or before \_\_\_\_\_ 1, 2012, and on or before the first day of each month thereafter, to and including \_\_\_\_\_ 1, 20\_\_\_\_, a sum equal to the amount payable on such date as principal of, premium, if any, and interest on the Bond, as provided in the Bond Purchase Agreement. Each payment under this Section due on an interest or principal payment date, redemption date or tender date until the Bond is fully paid shall in all events be sufficient to pay the total amount of interest, principal, redemption requirement, and premium, if any, payable on the Bond on the principal or interest payment date, on the redemption date or on the tender date. Any payment not received by the Bondholder when due shall continue as an obligation of the City until paid and shall bear interest at the rate of interest on the Bond. The City agrees to pay all reasonable out-of-pocket costs and expenses of the Issuer and the Bond Buyer incurred in connection with their negotiation, structuring, documenting, and closing the Bond, including, without limitation, the reasonable fees and disbursements of counsel for the Issuer and Bond Counsel.

(b) The City agrees to pay all reasonable out-of-pocket costs and expenses of the Issuer, the Bondholder, and the Depository incurred in connection with their administration or modification of, or in connection with the preservation of their rights under, enforcement of, or any refinancing, renegotiation, restructuring, or termination of, any Bond Document or any instruments referred to therein or any amendment, waiver, or consent relating thereto, including, without limitation, the reasonable fees and disbursements of counsel for the Issuer, counsel for the Bondholder, and counsel for the Depository.

Such additional payments shall be billed to the City by the Issuer, the Bond Buyer, the Bondholder, or the Depository from time to time, together with a statement certifying that the amount billed has been incurred or paid by such party for one or more of the above items.

Amounts so billed shall be paid by the City within thirty (30) days after receipt of the bill by the City.

(c) In the event the City shall fail to make any of the payments required in this Section 5.03, the item so in default shall continue as an obligation of the City until the amount in default shall have been fully paid.

**Section 5.04. Place of Payments.** The payments provided for in Section 5.03(a) hereof shall be paid in lawful money of the United States of America in immediately available funds directly to the Bondholder for the account of the Issuer by the method and at the address specified for such purpose by the Bondholder in writing to the City. The additional payments to be made to the Issuer, the Bond Buyer, the Bondholder, or the Depository pursuant to Section 5.03(b) hereof shall be paid directly to the Issuer, the Bond Buyer, the Bondholder, or the Depository for its own use.

**Section 5.05. Nature of Obligations of City Hereunder.** (a) The obligations of the City to make the payments required in Section 5.03 hereof and other sections hereof and to perform and observe any and all of the other covenants and agreements on its part contained herein shall be a general obligation of the City and shall be absolute and unconditional irrespective of any defense or any rights of setoff, recoupment, or counterclaim, except payment (and to the extent there exists any such defense, right of setoff or recoupment, or counterclaim on the date hereof, the same is hereby waived by the City), it may otherwise have against the Issuer or the Bondholder. The City agrees that it shall not (i) suspend, abate, reduce, abrogate, diminish, postpone, modify, or discontinue any payments provided for in Section 5.03 hereof, (ii) fail to observe any of its other agreements contained in this Agreement, or (iii) except as provided in Article VII hereof, terminate its obligations under this Agreement for any contingency, act of God, event, or cause whatsoever, including, without limiting the generality of the foregoing, failure of the Issuer to acquire, occupy, or use the Project as contemplated in this Agreement or otherwise, any change or delay in the time of availability of the Project, any acts or circumstances that may impair or preclude the use or possession of the Project, any defect in the title, design, operation, merchantability, fitness, or condition of the Project, or in the suitability of the Project for the Issuer's or the City's purposes or needs, any sale, lease, or other disposition in whole or in part of the Project, failure of consideration, any declaration or finding that the Bond is unenforceable or invalid, the invalidity of any provision of this Agreement, any acts or circumstances that may constitute an eviction or constructive eviction, destruction of, or damage to the Project, the taking by eminent domain of title to or the use of all or any part of the Project, failure of the Issuer's title to the Project or any part thereof, commercial frustration of purpose, any change in the tax or other laws of the United States of America or of the State or any political subdivision of either thereof or in the rules or regulations of any governmental authority, any sale, assignment, or encumbrance by the City of this Agreement or any of its obligations hereunder, or any failure of the Issuer to perform and observe any agreement, whether express or implied, or any duty, liability, or obligation arising out of or connected with this Agreement.

(b) Nothing contained in this Section 5.05 shall be construed to release the Issuer from the performance of any of the agreements on its part herein contained. In the event the Issuer should fail to perform any such agreement on its part, the City may institute such action

against the Issuer as the City may deem necessary to compel performance so long as such action does not abrogate, limit, or reduce the City's obligations hereunder. The Issuer hereby agrees that it shall not take or omit to take any action that would cause this Agreement to be terminated.

**Section 5.06. Revenues from the Project.** If and to the extent the Issuer has available revenues of any nature derived from the Project after provision has been made for payment of all expenses reasonably incurred or to be incurred in connection with its ownership of the Project, the Issuer shall apply such revenues as directed in writing by the City.

[End of Article V]

## ARTICLE VI

### ADDITIONAL COVENANTS

**Section 6.01. Indemnity.** To the extent permitted by the laws and Constitution of the State, the City shall protect, hold harmless, and indemnify the Issuer, the Bondholder, and the Depository from and against any and all liability, obligations, losses, claims, and damages whatsoever, regardless of cause thereof, and expenses in connection therewith, including, without limitation, counsel fees and expenses, penalties, and interest arising out of or as the result of the entering into of the Bond Documents or any transactions contemplated thereby, the ownership of any item of the Project, the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage, or return of any item of the Project or any accident in connection with the operation, use, condition, possession, storage, or return of any item of the Project resulting in damage to property or injury to or death of any person. The indemnification arising under this Section shall continue in full force and effect notwithstanding the full payment of all obligations under this Agreement and shall survive the termination of this Agreement for any reason.

**Section 6.02. Annual Budgets and Financial Statements.** (a) Commencing with the City's first Fiscal Year commencing after the date of execution and delivery of this Agreement, the City shall furnish to the Issuer and the Bondholder copies of each annual budget of the City within ten (10) days after the filing of the adopted budget with its Governing Body. The covenants on the part of the City herein contained shall be deemed to be and shall be construed to be duties imposed by law, and it shall be the duty of each and every public official of the City to take such action and do such things as are required by law in the performance of the official duty of such officials to enable the City to carry out and perform the agreements and covenants in this Agreement agreed to be carried out and performed by the City.

(b) During the term of this Agreement, the City shall provide the Issuer and the Bondholder annually, within two hundred seventy (270) days after the end of each Fiscal Year, its basic financial statements for each Fiscal Year, with comparative totals for the preceding Fiscal Year, which basic financial statements shall be accompanied by an audit report resulting from an audit conducted by an independent certified public accountant or firm of independent certified public accountants.

[End of Article VI]

## ARTICLE VII

### ASSIGNMENT; PREPAYMENTS

**Section 7.01. No Assignment by City.** Neither this Agreement nor its obligations under this Agreement may be sold, assigned, or encumbered by the City without the prior written consent of the Issuer and the Bondholder.

**Section 7.02. Redemption of Bond.** The Issuer, at the written request of the City at any time and if the Bond is then callable or available for purchase, and if there are funds available therefor, shall forthwith take all steps that may be necessary under the applicable redemption or purchase provisions of the Bond Purchase Agreement and the Bond to effect redemption or purchase of all or part of the then outstanding Bond, as may be specified by the City, on the earliest date on which such redemption or purchase may be made under such applicable provisions.

**Section 7.03. Prepayment.** There is expressly reserved to the City the right, and the City is authorized and permitted, at any time it may choose, to prepay all or any part of the amounts payable under Section 5.03 hereof, and the Issuer agrees that the Bondholder may accept such prepayments and other amounts when the same are tendered by the City. All amounts so prepaid shall at the written direction of the City be credited toward the amounts specified in Section 5.03 hereof, in the order of their due dates, or applied to the retirement of the Bond prior to maturity (either by redemption or purchase) in accordance with the Bond Purchase Agreement and the Bond.

**Section 7.04. Option to Prepay the Purchase Price and Redeem the Bond at Prior Optional Redemption Dates.** The City shall also have the option to prepay amounts payable under Section 5.03 hereof and other amounts payable under this Agreement in such manner and amounts as will enable the Issuer to redeem the Bond prior to maturity, in whole, but not in part, on any scheduled interest payment date, as provided in **Section 7.2 of the Bond Purchase Agreement**. The amounts payable under Section 5.03 hereof and other amounts payable by the Purchaser in the event of its exercise of the option granted under this Section shall be the amount necessary to pay and satisfy all amounts due under the Bond Documents.

[End of Article VII]

## ARTICLE VIII

### EVENTS OF DEFAULT AND REMEDIES

**Section 8.01. Events of Default Defined.** The following shall be “Events of Default” under this Agreement, and the terms “Event of Default” or “Default” shall mean, whenever they are used in this Agreement, any one or more of the following events:

(a) The City’s failure to pay the amounts required to be paid under Section 5.03 of this Agreement at the times specified therein.

(b) The City’s breach in any material respect of any representation or warranty contained in this Agreement or the City’s failure to observe, perform, or comply with any covenant, condition, or agreement in this Agreement on the part of the City to be observed or performed, other than as referred to in subsection (a) of this Section 8.01, for a period of thirty (30) days after written notice specifying such breach or failure and requesting that it be remedied, given to the City by the Issuer or the Bondholder, unless the Bondholder shall agree in writing to an extension of such time prior to its expiration. In the case of any such breach or default that cannot with due diligence be cured within such thirty (30) day period but can be wholly cured within a period of time not materially detrimental to the rights of the Issuer and the Bondholder, to be determined conclusively by the Bondholder, it shall not constitute an Event of Default if corrective action is instituted by the City within the applicable period and diligently pursued until the breach or default is corrected in accordance with and subject to any directions or limitations of time established in writing by the Bondholder.

(c) The City shall (i) apply for or consent to the appointment of or the taking of possession by a receiver, custodian, trustee, or liquidator of it or of all or a substantial part of its property, (ii) enter into an agreement of composition with its creditors, (iii) admit in writing its inability to pay its debts as such debts become due, (iv) make a general assignment for the benefit of its creditors, (v) commence a voluntary case under the federal bankruptcy law (as now or hereafter in effect), (vi) file a petition or answer seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (vii) fail to controvert in a timely or appropriate manner or acquiesce in writing to any petition filed against it in an involuntary case under such federal bankruptcy law, or (viii) take any action for the purpose of effecting any of the foregoing.

(d) A proceeding or case shall be commenced, without the application of the City, in any court of competent jurisdiction, seeking (i) the liquidation, reorganization, dissolution, winding-up, or composition or adjustment of debts of the City, (ii) the appointment of a trustee, receiver, custodian, liquidator, or the like of the City or of all or any substantial part of the assets of it, or (iii) similar relief in respect of the City under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition and adjustment of debts, and such proceeding or case shall continue undismissed or an order, judgment, or decree approving or ordering any of the foregoing shall be entered and shall continue unvacated and unstayed and in effect for a period of sixty (60) days, whether consecutive or not.

**Section 8.02. Remedies on Default.** Whenever any Event of Default referred to in Section 8.01 hereof shall have happened and be continuing, the Issuer, in its discretion, may exercise any one or more of the following remedies:

(a) The Issuer may have access to and inspect, examine, and make copies of the books and records and any and all accounts and similar data of the City.

(b) The Issuer may from time to time take whatever action at law or in equity or under the terms of this Agreement may appear necessary or desirable to collect the amounts payable by the City hereunder then due or thereafter to become due, or to enforce performance and observance of any obligation, agreement, or covenant of the City under this Agreement, including without limitation, bringing any suit, action, or proceeding in law or in equity, including mandamus, injunction, and action for specific performance.

No action taken pursuant to this Section 8.02 shall relieve the City from its obligations pursuant to Section 5.03 hereof, all of which shall survive any such action, and the Issuer may take whatever action at law or in equity as may appear necessary and desirable to collect the amounts then due and thereafter to become due or to enforce the performance and observance of any obligation, agreement, or covenant of the City hereunder.

**Section 8.03. No Remedy Exclusive.** No remedy herein conferred upon or reserved to the Issuer is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission 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 thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Issuer to exercise any remedy reserved to it in this Article VIII, it shall not be necessary to give any notice, other than such notice as may be herein expressly required. Such rights and remedies as are given the Issuer hereunder shall also extend to the Bondholder, and the Bondholder shall be deemed a third party beneficiary of all covenants and agreements herein contained.

**Section 8.04. Agreement to Pay Fees and Expenses.** Upon the occurrence of an Event of Default under any of the provisions of this Agreement and the Issuer or the Bondholder should employ attorneys, accountants, or other experts or incur other expenses for the collection of amounts due hereunder or the enforcement of performance or observance of any obligation or agreement on the part of the City herein contained, the City agrees that it shall on demand therefor pay to the Issuer or to the Bondholder for the account of the Issuer the reasonable fees of such attorneys, accountants, or other experts and such other expenses so incurred by the Issuer or the Bondholder. Any attorneys' fees required to be paid by the City under this Agreement shall include attorneys' and paralegals' fees through all proceedings, including, but not limited to, negotiations, administrative hearings, trials, and appeals.

**Section 8.05. Waiver of Events of Default.** The Issuer may, with the prior written consent of the Bondholder, waive any Event of Default hereunder and its consequences. In case of any such waiver, or in case any proceeding taken by the Issuer or the Bondholder on account of any such Event of Default shall be discontinued or abandoned or determined adversely to the

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Issuer or the Bondholder, then and in every such case the Issuer and the City shall be restored to their former position and rights hereunder, but no such waiver or rescission shall extend to or affect any subsequent or other Event of Default or impair or exhaust any right, power, or remedy consequent thereon.

[End of Article VIII]



**Section 9.04. Amounts Remaining in Funds.** It is agreed by the parties hereto that any amounts remaining in the Project Fund or other funds provided for herein upon expiration or sooner termination of this Agreement, as provided in this Agreement, after payment in full of the amounts payable by the City hereunder and the Bond, the fees, charges, and expenses of the Issuer, the Bondholder, and the Depository, in accordance with the terms hereof, and all sums due and owing to the Issuer, shall belong to and be paid to the City by the Issuer as overpayment of the amounts payable by the City hereunder.

**Section 9.05. Amendments, Changes, and Modifications.** This Agreement may not be amended, changed, modified, altered, or terminated, and the observance of any term hereof may not be waived, without the prior written consent of the Bondholder.

**Section 9.06. Execution of Counterparts.** This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**Section 9.07. Law Governing Construction of this Agreement.** This Agreement is prepared and entered into with the intention that the law of the State, exclusive of such state's rules governing choice of law, shall govern its construction.

**Section 9.08. Immunity of Officials, Officers, and Employees of Issuer and City.** No recourse shall be had for the enforcement of any obligation, covenant, promise, or agreement of the Issuer or the City contained in this Agreement or for any claim based hereon or otherwise in respect hereof against any member of a Governing Body, officer, or employee, as such, in his individual capacity, past, present, or future, of the Issuer, the City, or any successor body, whether by virtue of any constitutional provision, statute, or rule of law, or by the enforcement of any assessment or penalty or otherwise, it being expressly agreed and understood that this Agreement is solely a corporate obligation of the City and the Issuer payable only from the funds and assets of the City and the Issuer herein specifically provided to be subject to such obligation and that no personal liability whatsoever shall attach to, or be incurred by, any member of a Governing Body, officer, or employee, as such, past, present, or future, of the City or the Issuer, or of any successor corporation, either directly or through the City, the Issuer, or any successor corporation, under or by reason of any of the obligations, covenants, promises, or agreements entered into between the Issuer and the City whether contained in this Agreement or in the other Bond Documents or to be implied herefrom or therefrom as being supplemental hereto or thereto, and that all personal liability of that character against every such member of a Governing Body, officer, and employee is, by the execution of this Agreement and as a condition of and as part of the consideration for the execution of this Agreement, expressly waived and released. The immunity of members of a Governing Body, officers, and employees of the Issuer and the City under the provisions contained in this Section 9.08 shall survive the completion of the Project and the termination of this Agreement.

**Section 9.09. Time of Essence.** Time is of the essence of this Agreement. Anywhere a day certain is stated for payment or for performance of any obligation, the day certain so stated enters into and becomes a part of the consideration for this Agreement.

[End of Article IX]

**SIGNATURES AND SEALS**

**IN WITNESS WHEREOF**, the Issuer has executed this Agreement by causing its name to be hereunto subscribed by its Chairman and by causing the official seal of the Issuer to be impressed hereon and attested by its Secretary; and the City has executed this Agreement by causing its name to be hereunto subscribed by its Mayor and by causing the official seal of the City to be impressed hereon and attested by its City Clerk; all being done as of the day and year first above written.

**URBAN REDEVELOPMENT AGENCY  
OF THE CITY OF DUNWOODY,  
GEORGIA**

(SEAL)

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

Attest:

\_\_\_\_\_  
Secretary

**CITY OF DUNWOODY, GEORGIA**

(SEAL)

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

Attest:

\_\_\_\_\_  
City Clerk

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**EXHIBIT A**

**DESCRIPTION OF LAND**

[Attached]