

RESOLUTION NO. R2013-01

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF MAYOR AND CITY COUNCIL OF CUMBERLAND (THE "CITY") AUTHORIZING THE ISSUANCE AND SALE OF TWO SEPARATE SERIES OF THE CITY'S GENERAL OBLIGATION BONDS PURSUANT TO THE AUTHORITY OF, AS APPLICABLE, SECTIONS 31 TO 37, INCLUSIVE, OF ARTICLE 23A OF THE ANNOTATED CODE OF MARYLAND, SECTION 24 OF ARTICLE 31 OF THE ANNOTATED CODE OF MARYLAND, SECTIONS 81 AND 82A OF THE CHARTER OF THE CITY OF CUMBERLAND, ORDINANCE NO. 3725, PASSED BY THE MAYOR AND CITY COUNCIL ON OCTOBER 9, 2012 AND EFFECTIVE ON NOVEMBER 8, 2012, ORDINANCE NO. 3731, PASSED BY THE MAYOR AND CITY COUNCIL ON JANUARY 29, 2013 AND EFFECTIVE ON FEBRUARY 28, 2013, AND ORDINANCE NO. 3692, PASSED BY THE MAYOR AND CITY COUNCIL ON MAY 24, 2011 AND EFFECTIVE ON JUNE 23, 2011, AS SUPPLEMENTED AND AMENDED BY ORDINANCE NO. 3732, PASSED BY THE MAYOR AND CITY COUNCIL ON JANUARY 29, 2013 AND EFFECTIVE ON FEBRUARY 28, 2013, SUCH BONDS TO BE RESPECTIVELY DESIGNATED "MAYOR AND CITY COUNCIL OF CUMBERLAND TAXABLE REDEVELOPMENT AND REFUNDING BONDS OF 2013" (THE "TAXABLE BONDS") AND "MAYOR AND CITY COUNCIL OF CUMBERLAND TAX-EXEMPT REFUNDING BONDS OF 2013" (THE "TAX-EXEMPT BONDS" AND, COLLECTIVELY WITH THE TAXABLE BONDS, THE "BONDS"), SUBJECT TO THE FURTHER PROVISIONS OF THIS RESOLUTION, THE PROCEEDS OF THE SALE OF THE TAXABLE BONDS TO BE USED AND APPLIED FOR THE PUBLIC

JUN 04 2013

PURPOSE OF (A) FINANCING OR REIMBURSING COSTS OF TWO PROJECTS IDENTIFIED IN ORDINANCE NO. 3725 AS “MEMORIAL CAMPUS FACILITY DEMOLITION” AND “OTHER STREET IMPROVEMENT PROJECTS”, (B) PREPAYING AND CURRENTLY REFUNDING ALL OR A PORTION OF A NOVEMBER 22, 2010 PROMISSORY NOTE PAYABLE TO SUSQUEHANNA BANK (THE “PROMISSORY NOTE”), THE PROCEEDS OF WHICH WERE APPLIED TO FINANCE OR REIMBURSE COSTS OF HVAC UPGRADES TO THE MEMORIAL CAMPUS FACILITY AND (C) PAYING COSTS OF ISSUANCE OF THE TAXABLE BONDS, AND THE PROCEEDS OF THE TAX-EXEMPT BONDS TO BE USED AND APPLIED FOR THE PUBLIC PURPOSE OF PREPAYING IN WHOLE AND ADVANCE REFUNDING THE OUTSTANDING DECEMBER 29, 2006 EQUIPMENT LEASE/PURCHASE AGREEMENT WITH MANUFACTURERS AND TRADERS TRUST COMPANY (THE “2006 LPA”) AND PAYING COSTS OF ISSUANCE OF THE TAX-EXEMPT BONDS; PRESCRIBING THE FORMS AND TENOR OF THE BONDS AND CERTAIN TERMS AND CONDITIONS FOR THE ISSUANCE AND SALE THEREOF BY PRIVATE SALE TO M&T SECURITIES, INC. (THE “UNDERWRITER”) AND OTHER DETAILS INCIDENT TO THE ISSUANCE, SALE AND DELIVERY OF THE BONDS; APPROVING THE SUBSTANTIALLY FINAL FORM OF, AND AUTHORIZING THE COMPLETION, EXECUTION AND DELIVERY OF, A BOND PURCHASE AGREEMENT WITH THE UNDERWRITER; PROVIDING FOR ADJUSTMENTS IN CERTAIN PRELIMINARY MATURITY AND AMORTIZATION SCHEDULES FOR THE BONDS PROVIDED FOR HEREIN AND AUTHORIZING THE CITY ADMINISTRATOR TO DETERMINE AND FIX CERTAIN

TERMS AND DETAILS IN CONNECTION WITH THE SALE OF THE BONDS; AUTHORIZING AND APPROVING THE PREPARATION, COMPLETION AND DISTRIBUTION OF A PRELIMINARY AND A FINAL OFFICIAL STATEMENT IN CONNECTION WITH THE SALE OF THE BONDS; SELECTING A BOND REGISTRAR AND PAYING AGENT, AN ESCROW DEPOSIT AGENT, A VERIFICATION AGENT AND, TO THE EXTENT NEEDED, A BIDDING AGENT, AND DETERMINING OR PROVIDING FOR CERTAIN MATTERS RELATING TO SUCH ENGAGEMENTS; PROVIDING FOR THE APPROPRIATION, DISBURSEMENT AND INVESTMENT OF THE PROCEEDS OF THE BONDS; AUTHORIZING CERTAIN DETERMINATIONS AND ACTIONS TO BE TAKEN IN CONNECTION WITH THE PREPAYMENT OF THE PROMISSORY NOTE AND THE 2006 LPA; PROVIDING FOR THE LEVY AND COLLECTION OF TAXES NECESSARY FOR THE PROMPT PAYMENT OF THE MATURING PRINCIPAL OF AND INTEREST ON THE BONDS; PROVIDING THAT THE FULL FAITH AND CREDIT AND UNLIMITED TAXING POWER OF THE CITY SHALL BE IRREVOCABLY PLEDGED TO THE PAYMENT OF SUCH PRINCIPAL AND INTEREST; PROVIDING THAT THE PRINCIPAL OF AND INTEREST ON THE BONDS ALSO MAY BE PAID FROM ANY OTHER SOURCES OF REVENUE LAWFULLY AVAILABLE TO THE CITY FOR SUCH PURPOSE; MAKING OR PROVIDING FOR CERTAIN COVENANTS AND DETERMINATIONS RELATING TO THE TAX-EXEMPT STATUS OF THE TAX-EXEMPT BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A CONTINUING DISCLOSURE UNDERTAKING PURSUANT TO SECURITIES AND EXCHANGE COMMISSION

RULE 15c2-12 AND COVENANTING TO PROVIDE CONTINUING DISCLOSURE  
RELATING TO THE BONDS; AND GENERALLY RELATING TO THE ISSUANCE,  
SALE, DELIVERY AND PAYMENT OF AND FOR THE BONDS.

RECITALS

1. Mayor and City Council of Cumberland, a municipal corporation of the State of Maryland (the “City”), is authorized and empowered by Sections 31 to 37, inclusive, of Article 23A of the Annotated Code of Maryland, as replaced, supplemented or amended (the “Enabling Act”), and Sections 81 and 82A of the Charter of the City of Cumberland, as published in Municipal Charters of Maryland, Volume 3, 2008 Replacement Edition, as replaced, supplemented or amended (the “Charter”), to borrow money for any proper public purpose and to evidence such borrowing by the issuance and sale of its general obligation bonds. Pursuant to the provisions of Section 24 of Article 31 of the Annotated Code of Maryland, as replaced, supplemented or amended (the “Refunding Act”), the City is further authorized to issue bonds for the purpose of refunding any of its bonds or other evidences of obligation then outstanding for the public purpose of realizing debt service savings or debt restructuring. The Refunding Act provides that refunding bonds may be sold on a negotiated basis with solicitation of bids if the issuer makes a determination in a public meeting that such procedure is in the public interest.

2. As authorized by Section 82B of the Charter and a Resolution adopted by the Mayor and City Council of the City (the “Mayor and City Council”) on December 12, 2006 and effective on December 12, 2006, the City, as lessee, entered into an Energy Performance Contract Municipal Lease/Purchase Agreement dated as of December 29, 2006 (the “2006 Lease Purchase Agreement”), with Manufacturers and Traders Trust Company, as lessor (including any assignee or successor thereto, the “Lessor”), for the public purpose of financing or reimbursing a portion of the

costs of the acquisition and installation of certain equipment (the “Equipment”) designed to control the energy consumption and associated costs stemming from the daily workings of the City’s municipal buildings, facilities and systems, which Equipment is identified in or pursuant to a Performance Contract (including all Schedules thereto) dated September 28, 2006 (the “Contract”) between the City and Johnson Controls, Inc. and on Schedule A to the 2006 Lease Purchase Agreement.

3. The Lessor caused \$3,749,401 to be deposited into an escrow fund to be disbursed for purposes of acquisition and installation of the Equipment pursuant to the provisions of an Escrow Agreement dated as of December 29, 2006 (the “2006 Escrow Agreement”) between Manufacturers and Traders Trust Company, as escrow agent, and the City.

4. Pursuant to the 2006 Lease Purchase Agreement, the Lessor leased the Equipment to the City for a term commencing on the date of execution and delivery of the 2006 Lease Purchase Agreement and ending on May 1, 2022, subject to earlier termination in accordance with the provisions of the 2006 Lease Purchase Agreement. In order to acquire full and unencumbered title to the Equipment, the City is obligated under the 2006 Lease Purchase Agreement to make Rental Payments to the Lessor on each November 1 and May 1, commencing November 1, 2007 and ending May 1, 2022, which Rental Payments are denominated into principal and interest components and the interest component of which is calculated at a rate of 4.097% per annum. The City’s obligation to make the Rental Payments is subject to appropriation of funds sufficient for such purpose in each fiscal year.

5. Sections 3.2 and 10.1 of the 2006 Lease Purchase Agreement provide that the term thereof may be terminated and the Lessor’s interest in the Equipment transferred, conveyed and assigned permanently to the City, on any Rental Payment due date, with at least thirty (30) days’

prior written notice to the Lessor, upon payment by the City of the Rental Payment due on such date and payment in full of the then-applicable Purchase Price as set forth in the Schedule of Payments to the 2006 Lease Purchase Agreement and all other sums required to be paid under the 2006 Lease Purchase Agreement.

6. As authorized by applicable law and Resolution No. R2010-08, adopted by the Mayor and City Council on October 12, 2010 and effective on October 12, 2010, the City executed and delivered a Promissory Note dated November 22, 2010 (the "Promissory Note") to Susquehanna Bank (the "Bank") in order to evidence a loan from the Bank in the principal amount of \$1,532,200, for the public purpose of financing or reimbursing costs of HVAC upgrades to 500 Memorial Avenue, also known as the Memorial Campus Facility, in Cumberland, Maryland (which is the location of the former Memorial Hospital).

7. The Promissory Note bears interest at the rate of 6.00% per annum, calculated on a 365/360 basis, and matures on October 1, 2025. Pursuant to the Promissory Note, the City is obligated to make semi-annual payments to the Bank of \$77,997.49 each on each April 1 and October 1, commencing on April 1, 2011 and ending on April 1, 2025, with a final payment of \$75,834.62 due to the Bank on October 1, 2025. Each payment is denominated into principal and interest components as set forth on the Amortization Schedule to the Promissory Note.

8. The Promissory Note provides that other than the City's obligation to pay a minimum interest charge of \$25.00, the City may pay without penalty all or a portion of the amount owed under the Promissory Note earlier than it is due. Unless otherwise agreed to by the Bank, partial prepayments shall be applied in inverse order of maturity.

9. Pursuant to the authority of the Enabling Act, Sections 81 and 82A of the Charter and Ordinance No. 3725, passed by the Mayor and City Council on October 9, 2012 and effective

on November 8, 2012 (“Ordinance No. 3725”), the City authorized the issuance and sale from time to time, upon its full faith and credit, of one or more series of general obligation bonds in an aggregate principal amount not to exceed Five Million Six Hundred Eighty-seven Thousand Dollars (\$5,687,000) (the “Authorized New Money Bonds”).

10. Ordinance No. 3725 provides that the proceeds of the sale of the Authorized New Money Bonds are to be used and applied for the public purpose of financing, reimbursing or refinancing “costs” (as defined below) of certain projects identified as follows:

	<u>Project Name</u>
1.	Water Main Replacements
2.	Other Street Improvement Projects
3.	Replacement of Hydrants and Valves
4.	East Side Station Roof Replacement
5.	Fort Hill Reservoir Valve Replacement
6.	Upgrade of Water System Cross Connection Program
7.	New Chlorine Feed and Storage Facility
8.	Water Filtration Plant Outfall Relocation Project
9.	Memorial Campus Facility Demolition
10.	Reserves Deemed Necessary or Desirable
11.	Costs of Issuance

(collectively, the “Authorized New Money Projects”). As defined in Ordinance No. 3725, “costs” include, as applicable, land and right-of-way acquisition and development; site and utility improvements; acquisition, demolition, construction, expansion, upgrading, reconstruction, replacement, renovation, rehabilitation, removal, improvement, installation, furnishing and equipping activities and expenses and related activities and expenses; planning, design, architectural, engineering, feasibility, surveying, inspection, construction management, financial and legal expenses and other related activities and expenses; paving, repaving, sidewalk, curb, gutter and drain work and expenses and related activities and expenses; costs of funding any

reserves deemed necessary or desirable; costs of issuance (which may include costs of bond insurance or other credit or liquidity enhancement); capitalized interest (whether or not expressly so stated); and any such costs which may represent the City's share or contribution to the financing or refinancing of any such Authorized New Money Projects. Ordinance No. 3725 provides that the Mayor and City Council shall determine by resolution the manner of selling any such series of the Authorized New Money Bonds, which may be either at public or private sale.

11. Pursuant to the authority of the Enabling Act, the Refunding Act, Sections 81 and 82A of the Charter and Ordinance No. 3692, passed by the Mayor and City Council on May 24, 2011 and effective on June 23, 2011, as supplemented and amended by Ordinance No. 3732, passed by the Mayor and City Council on January 29, 2013 and effective on February 28, 2013 (collectively, "Amended Ordinance No. 3692"), the City authorized the issuance and sale, upon its full faith and credit, of one or more series of its general obligation refunding bonds from time to time in an aggregate principal amount not to exceed Four Million Dollars (\$4,000,000) (the "Authorized LPA Refunding Bonds") in order to provide all or a portion of the funds needed (i) to refund or advance refund the 2006 Lease Purchase Agreement in whole as of any applicable Rental Payment date in accordance with the provisions of Sections 3.2 and 10.1 thereof by paying the Rental Payment due on such applicable date and the corresponding Purchase Price set forth on the Schedule of Payments to the 2006 Lease Purchase Agreement and any other amounts due on such date, in order to realize an objective authorized by the Refunding Act, as determined by resolution, (ii) to finance or reimburse all or a portion of related costs of issuance of the Authorized LPA Refunding Bonds, including, without limitation, legal and financial costs and costs of any credit enhancement, (iii) to fund any reserves deemed necessary or desirable, and (iv) to the extent determined by the Mayor and City Council by resolution, paying interest on the Authorized LPA

Refunding Bonds. Amended Ordinance No. 3692 provides that any such series of the Authorized LPA Refunding Bonds shall be sold on a negotiated basis without solicitation of bids unless by resolution the Mayor and City Council provides for the sale of any such series of the Authorized LPA Refunding Bonds by the solicitation of competitive bids at public sale.

12. Pursuant to the authority of the Enabling Act, the Refunding Act, Sections 81 and 82A of the Charter and Ordinance No. 3731, passed by the Mayor and City Council on January 29, 2013 and effective on February 28, 2013 (“Ordinance No. 3731”), the City authorized the issuance and sale, upon its full faith and credit, of one or more series of its general obligation refunding bonds from time to time in an aggregate principal amount not to exceed One Million Seven Hundred Thousand Dollars (\$1,700,000) (the “Authorized HVAC Loan Refunding Bonds”) in order to provide all or a portion of the funds needed (i) to refund or advance refund the Promissory Note in accordance with its terms by prepaying the same in whole or in part, for the public purpose of (A) realizing savings in the aggregate cost of debt service on a direct comparison or present value basis, or (B) debt restructuring that in the aggregate effects such a reduction in the cost of debt service or is determined by the Mayor and City Council to be in the best interests of the City, to be consistent with the City’s long-term financial plan, and to realize a financial objective of the City, as contemplated in the Refunding Act and as to be determined by resolution of the Mayor and City Council, (ii) to pay all or a portion of the related costs of issuance of the Authorized HVAC Loan Refunding Bonds, (iii) to fund any reserves deemed necessary or desirable, and (iv) to the extent determined by the Mayor and City Council by resolution, to pay interest on the Authorized HVAC Loan Refunding Bonds. Ordinance No. 3731 provides that the Mayor and City Council shall determine by resolution the manner of selling any such series of the Authorized HVAC Loan Refunding Bonds, which may be either at public or private sale.

13. The Mayor and City Council has determined at this time that it would like to (i) issue Authorized LPA Refunding Bonds to provide for the prepayment in whole of the 2006 Lease Purchase Agreement and to pay related costs of issuance, (ii) issue Authorized HVAC Loan Refunding Bonds to provide for the prepayment in whole or in part of the Promissory Note and to pay related costs of issuance, and (iii) issue Authorized New Money Bonds to finance or reimburse costs of the Authorized New Money Projects identified in Ordinance No. 3725 as “Memorial Campus Facility Demolition” and “Other Street Improvement Projects” and to pay related costs of issuance, all as further provided herein.

14. Each of Amended Ordinance No. 3692, Ordinance No. 3725 and Ordinance No. 3731 authorizes the Mayor and City Council by resolution to determine that any of the bonds or refunding bonds authorized thereby shall be combined with any other bonds or refunding bonds authorized by the Mayor and City Council and issued as a single series of obligations.

15. The Mayor and City Council, acting on the advice of the financial advisor to the City, bond counsel to the City, the City Administrator of the City (the “City Administrator”) and the Comptroller of the City (the “Comptroller”), has determined that it is in the best interests of the City and its citizens to issue and sell (i) in accordance with and pursuant to the authority contained in the Enabling Act, the Refunding Act, Sections 81 and 82A of the Charter, Ordinance No. 3725 and Ordinance No. 3731, as applicable, a single series of taxable general obligation bonds in order to (A) finance or reimburse costs of the Authorized New Money Projects identified in Ordinance No. 3725 as “Memorial Campus Facility Demolition” and “Other Street Improvement Projects”, (B) prepay in whole or in part and thereby affect a current refunding of the Promissory Note, and (C) pay related costs of issuance, and (ii) in accordance with and pursuant to the authority contained in the Enabling Act, the Refunding Act, Sections 81 and 82A of the Charter and Amended Ordinance

No. 3692, a single series of tax-exempt general obligation bonds in order to (A) prepay the 2006 Lease Purchase Agreement and thereby affect an advance refunding of the 2006 Lease Purchase Agreement and (B) pay related costs of issuance, in each such case, upon the terms and conditions set forth in this Resolution, the proceeds of which general obligation bonds are to be used and applied as herein set forth.

BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF CITY OF CUMBERLAND, THAT:

SECTION 1. (a) The Recitals to this Resolution are deemed a substantive part of this Resolution and are incorporated herein by reference. Capitalized terms used in the Sections of this Resolution that are not otherwise defined herein shall have the meanings given to such terms in the Recitals hereto.

(b) References in this Resolution to any official by title shall be deemed to refer (i) to any official authorized under the Charter or other applicable law to act in such titled official's stead during the absence or disability of such titled official, (ii) to any person who has been elected, appointed or designated to fill such position in an acting capacity under the Charter, the code of City ordinances (the "City Code") or other applicable law, and/or (iii) to the extent an identified official commonly uses another title not provided for in the Charter or the City Code, the official, however known, who is charged under the Charter, the City Code or other applicable law or authority with the applicable responsibilities, rights, powers or duties referred to herein.

(c) With respect to any responsibility, right, power or duty delegated solely to the City Administrator by the terms of this Resolution, in the event of the absence or disability of the City Administrator at the time of exercise of any such responsibility, right, power or duty, and in the event that at such time no Acting City Administrator has been appointed or otherwise provided

for, any such responsibility, right, power or duty may be exercised by the Mayor of the City (the “Mayor”).

(d) To the extent this Resolution does not specifically identify how any responsibility, right, power or duty delegated to the City Administrator by the terms hereof shall be evidenced, any such exercise may be evidenced conclusively by the execution and delivery by the City Administrator of an order with respect thereto.

SECTION 2. (a) Pursuant to the authority of the Enabling Act, the Refunding Act, Sections 81 and 82A of the Charter, Ordinance No. 3725 and Ordinance No. 3731, as applicable, the City hereby determines to borrow money and incur indebtedness for the public purpose of (i) financing or reimbursing “costs” (as defined in Ordinance No. 3725) of the projects identified in Ordinance No. 3725 as “Memorial Campus Facility Demolition” and “Other Street Improvement Projects”, (ii) to currently refund the Promissory Note in whole or in part by prepaying all or a portion of the outstanding principal amount thereof, plus interest accrued thereon to the date of prepayment and any other amounts due in connection with such prepayment (including, without limitation, any minimum interest charge), in order to realize debt service savings on a direct comparison or present value basis or to effect a debt restructuring that in the aggregate effects such a reduction in the cost of debt service, and (iii) pay costs of issuance related to the purposes specified in clauses (i) and (ii) (collectively the “Taxable Project”). It is the current intention of the Mayor and City Council to prepay the Promissory Note in whole; provided that, the City Administrator, on behalf of the City, is hereby authorized and empowered to determine to prepay less than the then-outstanding principal amount of the Promissory Note, together with accrued interest on such principal being prepaid and any related costs, in accordance with the further provisions of this Resolution. It is also the intention of the Mayor and City Council that proceeds of the Taxable

Bonds identified in subsection (b) below shall be applied to costs of the project identified in Ordinance No. 3725 as “Other Street Improvement Projects” only after such proceeds are first applied to, or provision is made for such application to, the other components of the Taxable Project.

(b) To evidence the borrowing and indebtedness authorized in Section 2(a) of this Resolution, the City, acting pursuant to the authority of the Enabling Act, the Refunding Act, Sections 81 and 82A of the Charter, Ordinance No. 3725 and Ordinance No. 3731, as applicable, hereby determines to issue and sell, upon its full faith and credit, a series of its general obligation bonds to be designated as the “Mayor and City Council of Cumberland Taxable Redevelopment and Refunding Bonds of 2013” (the “Taxable Bonds”) in the maximum aggregate principal amount not to exceed Five Million Five Hundred Thousand Dollars (\$5,500,000.00). The provisions of this subsection (b) are subject to Section 3(h) of this Resolution.

(c) Pursuant to the authority of the Enabling Act, the Refunding Act, Sections 81 and 82A of the Charter and Amended Ordinance No. 3692, the City hereby determines to borrow money and incur indebtedness for the public purpose of (i) advance refunding the 2006 Lease Purchase Agreement in whole as of any applicable Rental Payment date in accordance with the provisions of Sections 3.2 and 10.1 thereof by paying the Rental Payment due on such applicable date and the corresponding Purchase Price set forth on the Schedule of Payments to the 2006 Lease Purchase Agreement and any other amounts due on such date, in order to achieve debt service savings on a direct comparison or present value basis or to effect a debt restructuring that in the aggregate effects such a reduction in the cost of debt service, and (ii) to finance or reimburse all or a portion of related costs of issuance, including, without limitation, legal and financial costs and costs of any credit enhancement (the “Tax-Exempt Project”).

(d) To evidence the borrowing and indebtedness authorized in Section 2(c) of this Resolution, the City, acting pursuant to the authority of the Enabling Act, the Refunding Act, Sections 81 and 82A of the Charter, Ordinance No. 3725 and Ordinance No. 3731, hereby determines to issue and sell, upon its full faith and credit, a series of its general obligation bonds to be designated as the “Mayor and City Council of Cumberland Tax-Exempt Refunding Bonds of 2013” (the “Tax-Exempt Bonds”) in the maximum aggregate principal amount not to exceed Three Million Dollars (\$3,000,000.00). The provisions of this subsection (d) are subject to Section 3(i) of this Resolution.

(e) The Taxable Bonds and the Tax-Exempt Bonds are referred to in this Resolution collectively as the “Bonds”, and individually as a “series” of the Bonds.

SECTION 3. (a) Each series of the Bonds shall be dated the date of their delivery and shall be issued initially in book-entry only form as fully-registered bonds, without coupons attached, by issuing a single bond for each maturity of each series registered in the name of Cede & Co., as partnership nominee for The Depository Trust Company, New York New York, or its successor (“DTC”); provided that, if DTC so requests, or a system of book-entry only registration of the Bonds is discontinued, replacement bonds shall be issued in denominations of \$5,000 and integral multiples thereof and shall be consecutively numbered in such manner as shall be determined by the Bond Registrar and Paying Agent identified in Section 10 of this Resolution.

(b) Subject to the further provisions of this Section 3, the Taxable Bonds shall mature, subject to prior redemption at the option of the City and subject to any additional or different term bonds as provided for in accordance with Sections 3 or 4 of this Resolution or a decision to issue the Taxable Bonds solely as serial bonds, as determined by the City Administrator upon the sale of the Taxable Bonds in accordance with the provisions of Section 8 of this

Resolution. It has been recommended by the City’s financial advisor, subject to adjustment as provided herein, that the preliminary maturity schedule for the Taxable Bonds shall be for an aggregate principal amount of Five Million Forty Thousand Dollars (\$5,040,000) as follows:

**Preliminary Maturity Schedule for Taxable Bonds\***

<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Maturity Date</u>	<u>Principal Amount</u>
November 1, 2013	\$270,000	November 1, 2023	\$300,000
November 1, 2014	245,000	November 1, 2024	310,000
November 1, 2015	245,000	November 1, 2025	240,000
November 1, 2016	250,000	November 1, 2026	195,000(1)
November 1, 2017	250,000	November 1, 2027	205,000(1)
November 1, 2018	260,000	November 1, 2028	210,000(1)
November 1, 2019	265,000	November 1, 2029	220,000(2)
November 1, 2020	270,000	November 1, 2030	230,000(2)
November 1, 2021	280,000	November 1, 2031	245,000(2)
November 1, 2022	295,000	November 1, 2032	255,000(2)

(1) represents mandatory sinking fund installment amounts for a term bond maturing on November 1, 2028 in the aggregate principal amount of \$610,000.

(2) represents mandatory sinking fund installment amounts for a term bond maturing on November 1, 2032 in the aggregate principal amount of \$950,000.

\* The maturity dates, principal amounts and determination of serial and term bonds provided for in the foregoing table are subject to adjustment as provided herein.

(c) Subject to the further provisions of this Section 3, the Tax-Exempt Bonds shall mature, subject to any term bonds provided for in accordance with Sections 3 or 4 of this Resolution, as determined by the City Administrator upon the sale of the Tax-Exempt Bonds. It has been recommended by the City’s financial advisor, subject to adjustment as provided herein, that the preliminary maturity schedule for the Tax-Exempt Bonds shall be for an aggregate principal amount of Two Million Six Hundred Fifty-five Thousand Dollars (\$2,655,000) as follows:

### Preliminary Maturity Schedule for Tax-Exempt Bonds\*

<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Maturity Date</u>	<u>Principal Amount</u>
November 1, 2013	\$280,000	November 1, 2018	300,000
November 1, 2014	275,000	November 1, 2019	305,000
November 1, 2015	280,000	November 1, 2020	315,000
November 1, 2016	285,000	November 1, 2021	320,000
November 1, 2017	295,000		

\* The maturity dates, principal amounts and determination of serial bonds provided for in the foregoing table are subject to adjustment as provided herein, including, without limitation, to provide for term bonds.

(e) Interest on each series of the Bonds shall be payable on November 1, 2013 and semi-annually thereafter on each May 1 and November 1 until maturity or any applicable prior redemption. Interest payments due on each series of the Bonds shall be made to the registered owners thereof who are the registered owners of record as of the 15<sup>th</sup> day of the month preceding the month in which such interest payment date occurs. Each series of the Bonds shall bear interest from the most recent date to which interest has been paid or, if no interest has been paid, from its date of delivery. Interest shall be computed on the basis of a 360-day year consisting of 12 30-day months.

(f) The principal or redemption price of the Bonds shall be payable at the designated corporate trust office designated by the Bond Registrar and Paying Agent. Interest on the Bonds shall be payable by check or draft of the Bond Registrar and Paying Agent mailed to the owners thereof; provided that, so long as either series of the Bonds is registered in book-entry form under a book-entry only system maintained by DTC, any successor thereto or any replacement securities depository (the "Securities Depository"), payments of the principal or redemption price of and interest on such series of the Bonds shall be made as required by the rules and regulations of such Securities Depository.

(g) The City Administrator, on behalf of the City, with the advice of the financial advisor to the City, is hereby authorized to agree to a different preliminary maturity schedule for either series of the Bonds and any related preliminary mandatory sinking fund payment schedule for any term bonds for either or both series of the Bonds to be contained in the Preliminary Official Statement referred to in Section 9 hereof, within the limitations and the parameters contemplated by Sections 2, 3 and 4 hereof, based on changes in market conditions between May 31, 2013, the date the foregoing preliminary schedules were generated, and the date of the Preliminary Official Statement or due to other factors impacting the marketing of the Bonds, including, without limitation, to fix any typographical or calculation errors reflected in the foregoing preliminary schedules.

(h) In the event the City Administrator, with the advice of the Comptroller, the financial advisor to the City and bond counsel to the City, determines prior to the sale of the Bonds and execution and delivery of the Bond Purchase Agreement provided for in Section 8 hereof that sufficient savings cannot be achieved or the goals of the Refunding Act will not be met by currently refunding and prepaying any portion of the Promissory Note, the City Administrator may determine that the Taxable Bonds shall not be issued for refunding purposes. In such event, the Taxable Bonds shall be issued with the designation "Mayor and City Council of Cumberland Taxable Redevelopment Bonds of 2013"; neither the Refunding Act nor Ordinance No. 3731 shall serve as authority for the issuance of the Taxable Bonds; and all references in this Resolution to the issuance of the Taxable Bonds for refunding purposes, the current refunding and prepayment of the Promissory Note and Ordinance No. 3731 shall be deemed to be inapplicable.

(i) In the event the City Administrator, with the advice of the Comptroller, the financial advisor to the City and bond counsel to the City, determines prior to the sale of the Bonds and execution and delivery of the Bond Purchase Agreement that sufficient savings cannot be achieved or the goals of the Refunding Act will not be met by advance refunding and prepaying the 2006 Lease Purchase Agreement in whole, the City Administrator may determine that the Tax-Exempt Bonds shall not be issued. In such event, all references in this Resolution to the Tax-Exempt Bonds and the advance refunding and prepayment of the 2006 Lease Purchase Agreement shall be deemed to be inapplicable, and references in this Resolution to the Bonds shall be construed to relate solely to the Taxable Bonds.

SECTION 4. (a) With respect to any term bonds to be issued as determined in connection with the sale of a series of the Bonds (each, a “Term Bond”), each such Term Bond shall be subject to mandatory sinking fund redemption at a redemption price of 100% of the principal amount thereof on such dates and in such principal amounts as determined upon the sale of the applicable series of the Bonds, plus accrued interest to the date fixed for redemption.

(b) The Taxable Bonds that mature prior to November 1, 2024 shall not be subject to redemption prior to maturity at the option of the City. The Taxable Bonds that mature on and after November 1, 2024 shall be subject to redemption prior to maturity at the option of the City, in whole or in part, on November 1, 2023 or on any date thereafter, at a redemption price of 100% of the principal amount of the Taxable Bonds (or portions thereof) to be redeemed, plus interest accrued to the date fixed for redemption, without penalty or premium.

(c) The Tax-Exempt Bonds are not subject to redemption prior to maturity at the option of the City.

(d) If fewer than all of the outstanding Taxable Bonds shall be called for optional redemption, the City shall choose the maturities or portions thereof to be redeemed and the principal amount of each such maturity in its sole discretion, and if any such maturity consists of term Taxable Bonds, the City shall choose the mandatory sinking fund redemption installments of such term Taxable Bonds to be reduced and the amount of each such reduction, in its sole discretion. If fewer than all of the Taxable Bonds of any one maturity shall be called for optional redemption, or if fewer than all of the Bonds of any one maturity of either series shall be called for mandatory sinking fund redemption, the particular Bonds or portions of Bonds to be redeemed from such maturity shall be selected by lot by the Bond Registrar and Paying Agent; provided that, so long as the applicable series of the Bonds is registered in the name of a Securities Depository or its nominee, such selection shall be made by such Securities Depository in accordance with its rules and regulations.

(e) When less than all of a Bond in a denomination in excess of \$5,000 is redeemed, then, upon surrender thereof, there shall be issued without charge to the registered owner thereof, for the unredeemed balance of the principal amount of such Bond, at the option of such owner, Bonds of the same series in any of the authorized denominations specified by the registered owner. The aggregate face amount of Bonds so issued shall be equal to the unredeemed balance of the principal amount of the Bond surrendered, and the Bonds issued shall be of the same series, shall bear interest at the same rate and shall mature on the same date as the unredeemed balance of the Bond surrendered.

(f) When any Bonds are to be redeemed (whether by optional or mandatory sinking fund redemption), the City shall cause a redemption notice to be given to the registered owners of the Bonds to be redeemed in whole or in part by letter mailed first class, postage

prepaid, at least thirty (30) days prior to the date fixed for redemption to the addresses of such registered owners appearing on the registration books for such series of the Bonds kept by the Bond Registrar and Paying Agent; provided, however, that the failure to mail a redemption notice or any defect in a notice so mailed, or in the mailing thereof, shall not affect the validity of the redemption proceedings. The redemption notice shall state (i) whether the Bonds of the applicable series are to be redeemed in whole or in part and, if in part, the maturities, numbers, principal amounts, interest rates and CUSIP numbers of the Bonds to be redeemed, (ii) that the interest on the Bonds or portions thereof to be redeemed shall cease to accrue on the date fixed for redemption, (iii) the date fixed for redemption, (iv) the address of the office of the Bond Registrar and Paying Agent with a contact person and phone number, and (v) that the Bonds or portions thereof to be redeemed shall be presented for redemption and payment on the date fixed for redemption at the designated corporate trust office of the Bond Registrar and Paying Agent. Such notice may state that it is conditioned upon receipt of sufficient funds to effect such redemption by the date fixed for redemption. Notwithstanding anything to the contrary contained in this subsection (f), so long as the Bonds to be redeemed are registered in book-entry only form with a Securities Depository, any redemption notice shall be given in the manner and at the time required by the rules and regulations of such Securities Depository.

(g) From and after the date fixed for redemption, if funds sufficient for the payment of the redemption price and accrued interest are available on such date, the Bonds or portions thereof designated for redemption shall cease to bear interest from and after such date. Upon presentation and surrender for redemption in compliance with the redemption notice, the Bonds or portions thereof to be redeemed shall be paid by the Bond Registrar and Paying Agent at the redemption price, plus accrued interest to the date fixed for redemption. If they are not

paid upon presentation, the Bonds or portions thereof designated for redemption shall continue to bear interest at the rate or rates stated therein until paid.

SECTION 5. The Bonds shall be executed in the name of the City and on its behalf by the Mayor, by manual or facsimile signature. The corporate seal of the City shall be affixed to the Bonds (manually or by facsimile) and attested by the signature of the City Clerk of the City (the “City Clerk”), by manual or facsimile signature. The Bonds shall be issued subject to registration as to principal and interest in the name of the owner or owners thereof on the books kept for registration and registration of transfer of the Bonds of such series at the designated corporate trust office of the Bond Registrar and Paying Agent. The Bonds shall be authenticated by the manual signature of an authorized officer of the Bond Registrar and Paying Agent. The Bonds shall not be valid for any purpose or constitute an obligation of the City unless so authenticated. In the event any official of the City whose signature appears on the Bonds shall cease to be such official prior to the delivery of the Bonds, or, in the event any such official whose signature appears on the Bonds shall have become such after the date of issue thereof, the Bonds shall nevertheless be a valid and binding obligation of the City in accordance with their terms.

SECTION 6. (a) The Bonds of each series shall be transferable only upon the registration books for such series kept at the designated corporate trust office of the Bond Registrar and Paying Agent and by the registered owner in person, or by his duly authorized attorney in writing, upon surrender thereof, together with a written instrument of transfer in the form attached thereto and satisfactory to the Bond Registrar and Paying Agent and duly executed by the registered owner thereof in person, or by his attorney duly authorized in writing, but no Bond will be transferred unless the Security Depository then in place determines to discontinue providing its services as a

securities depository or directs that the Bonds of such series be re-registered in a different name or denomination, or unless the Securities Depository then in place is removed by the City.

(b) A Bond may be transferred or exchanged at the designated corporate trust office of the Bond Registrar and Paying Agent. Upon any such transfer or exchange, the City shall issue, and the Bond Registrar and Paying Agent shall authenticate and deliver, a new registered Bond or Bonds of the same series in authorized denomination or denominations equal to the aggregate principal amount of the Bond transferred or exchanged, with the same maturity date and bearing interest at the same rate. In each case, the Bond Registrar and Paying Agent may require payment by the registered owner requesting such transfer or exchange of any tax, fee or other governmental charge, shipping charges or insurance that may be required to be paid with respect to such transfer or exchange, but otherwise no charge shall be made to the registered owner for such transfer or exchange.

(c) The Bond Registrar and Paying Agent shall not be required to transfer or exchange any Bond after the mailing or giving of notice of call of such Bond or any portion thereof for redemption.

(d) If any Bond shall become mutilated or be destroyed, lost or stolen, the City in its discretion may execute, and upon its request the Bond Registrar and Paying Agent shall authenticate and deliver, a new Bond of the same series in exchange for the mutilated Bond or in lieu of and substitution for the Bond so destroyed, lost or stolen. In every case of exchange or substitution, the applicant shall furnish to the City and to the Bond Registrar and Paying Agent such security or indemnity as may be required by them to save each of them harmless from all risks, however remote, and the applicant shall also furnish to the City and to the Bond Registrar and Paying Agent evidence to their satisfaction of the mutilation, destruction, loss or

theft of the applicant's Bond. Upon the issuance of any Bond upon such exchange or substitution, the City may require the payment of a sum sufficient to cover any tax, fee or other governmental charge that may be imposed in relation thereto and any other expenses of the City or the Bond Registrar and Paying Agent, including counsel fees, shipping or insurance. If any Bond which has matured or is about to mature shall become mutilated or be destroyed, lost or stolen, instead of issuing a Bond in exchange or substitution therefor, the City may pay or authorize the payment of such Bond (without surrender thereof except in the case of a mutilated Bond) if the applicant for such payment shall furnish to the City and to the Bond Registrar and Paying Agent such security or indemnity as they may require to save them harmless, and evidence to the satisfaction of the City and the Bond Registrar and Paying Agent of the mutilation, destruction, loss or theft of such Bond.

SECTION 7. Except as provided hereinafter or in a resolution or resolutions of the Mayor and City Council adopted prior to the issuance of the Bonds, each series of the Bonds shall be issued in substantially the form attached hereto as Exhibit A and incorporated by reference herein. Appropriate variations, deletions and insertions may be made by the Mayor to provide names, dates, numbers and amounts applicable to a specific series of the Bonds, and modifications not altering the substance of the Bonds to carry into effect the purposes of this Resolution, including (without limitation) to reflect matters determined in accordance with Sections 2, 3, 4 and 8 hereof, to comply with recommendations of legal counsel, or as required by any rating agency as a condition precedent to, or as otherwise related to, obtaining a rating on such series of the Bonds from such rating agency, or as may be required by any provider of municipal bond insurance for all or any portion of such series of the Bonds. All of the covenants contained in Exhibit A hereto are hereby adopted by the City as and for the forms of obligations to be incurred by the City, and the covenants

and conditions contained therein are hereby made binding upon the City, including the promise to pay therein contained. The execution and delivery of a series of the Bonds by the Mayor in accordance with this Resolution shall be conclusive evidence of the approval by the Mayor of the final form of such series of the Bonds and any variations, deletions, insertions, omissions, notations, legends or endorsements authorized by this Resolution.

SECTION 8. (a) The Mayor and City Council hereby determines that it shall be in the best interests of the City to sell the Bonds by private sale due to the fact the City would like to sell taxable and tax-exempt bonds at the same time, the relatively small (for purposes of the U.S. and Maryland municipal markets) size of each series of the Bonds and the ability to time the market, particularly in light of the contemplated advance refunding of the 2006 Lease Purchase Agreement from proceeds of the Tax-Exempt Bonds. Based on a recommendation of the financial advisor to the City, M&T Securities, Inc. was asked to submit a proposal to undertake a negotiated underwriting of the Bonds. The financial advisor to the City recommends, and the City Administrator and the Comptroller concur, that M&T Securities, Inc. demonstrated the necessary knowledge of the Maryland and U.S. municipal bond markets and has the financial wherewithal and experience to serve as the underwriter of the Bonds. Accordingly the Mayor and City Council hereby determines that the Bonds shall be sold by the City to M&T Securities, Inc. (the “Underwriter”) by private sale pursuant to the terms and conditions of a Bond Purchase Agreement substantially in the form of Exhibit B attached hereto and incorporated by reference herein (the “Bond Purchase Agreement”). Within the limitations provided for in this Resolution, the City Administrator, on behalf of the City, with the advice of the Comptroller, the financial advisor to the City and bond counsel to the City, is hereby authorized and empowered to approve the final aggregate principal amounts of each series of the Bonds, the serial and/or term structure

for each series of the Bonds, the aggregate principal amounts of each maturity of and/or mandatory sinking fund redemption payments for each series of the Bonds, the price payable for each series of the Bonds (which may be at, above or below par value), the interest rate or rates payable on each series of the Bonds, the principal amount of and interest on the Promissory Note to be prepaid from the proceeds of the Taxable Bonds and any related costs, and all other matters incident to the sale of the Bonds to the Underwriter, and to approve the final form of, and to execute and deliver, the Bond Purchase Agreement, with such changes, insertions or deletions as do not materially adversely affect the interests of the City and as are necessary to reflect the terms of pricing and sale of the Bonds, such approval to be evidenced conclusively by the City Administrator's execution and delivery of the Bond Purchase Agreement. In determining the matters provided for in this subsection (a), the City Administrator shall take into account any other moneys that may be available for the purposes for which the Bonds are authorized; as of the date of introduction of this Resolution, no such other available moneys are anticipated. It is currently intended that the Bonds shall be priced and sold to the Underwriter on or about June 18, 2013, but the City Administrator, with the advice of the Comptroller, the financial advisor to the City and bond counsel to the City, is hereby authorized to agree to any earlier or later date of pricing and sale recommended by the Underwriter based on market conditions, such agreement to be evidenced conclusively by the execution and delivery by the City Administrator of the final form of the Bond Purchase Agreement reflecting the finally determined date of pricing and sale of the Bonds.

(b) In the event the Underwriter recommends that either series of the Bonds be sold with a municipal bond insurance policy guaranteeing the regularly scheduled payment of all or a portion of the principal of and interest on such series of the Bonds, the City

Administrator, on behalf of the City, with the advice of the Comptroller, the financial advisor to the City and bond counsel to the City, is hereby authorized to approve the selection of the provider of such municipal bond insurance for such series of the Bonds and any terms and conditions relating to such municipal bond insurance, such approval to be evidenced conclusively by the execution and delivery by the City Administrator of any proposal therefor and any documents, certificates or instruments relating thereto. Appropriate provisions relating to any such provision of municipal bond insurance shall be reflected in the final form of the Bond Purchase Agreement approved, executed and delivered by the City Administrator in accordance with the provisions of this Section 8 and, as applicable, in the Preliminary Official Statement and/or the Official Statement provided for in Section 9 of this Resolution.

(c) Notwithstanding anything to the contrary contained in this Resolution, in the event it is determined in accordance with the provisions of this Section 8 that sale of the Bonds shall occur on a date later than August 1, 2013, the City Administrator, on behalf of the City, with the advice of the Comptroller, the financial advisor to the City and bond counsel to the City, is hereby authorized and empowered to approve different dates for the payment of principal of and interest on the Bonds, a different first date on which payment of interest on the Bonds will be made and different dates for the optional redemption features of the Taxable Bonds. In the event such determination is made prior to the date of release of the Preliminary Official Statement, approval of any such changes shall be evidenced conclusively by the provisions of the Preliminary Official Statement reflecting the same. In the event any such determination is made after the date of release of the Preliminary Official Statement but before the date of sale of the Bonds, any such approval shall be evidenced conclusively by the execution and delivery by the

City Administrator of the final Bond Purchase Agreement reflecting such changes and by the provisions of the Official Statement reflecting such changes.

SECTION 9. (a) The preparation and distribution of a Preliminary Official Statement of the City in connection with the offering and sale of the Bonds (the “Preliminary Official Statement”), substantially in such form as has been previously circulated to City officials (without Appendix A, the Comprehensive Annual Financial Report for fiscal year 2012, included in such circulated form, although such Comprehensive Annual Financial Report shall be included in the final Preliminary Official Statement) and with such changes, corrections, insertions, deletions and clarifications as may be approved by the Mayor, the City Administrator and the Comptroller with the advice of the City’s financial advisor and legal counsel, including, (without limitation) to reflect any matters determined in accordance with the provisions of this Resolution, is hereby approved. The Mayor, the City Administrator and the Comptroller, on behalf of the City, are hereby authorized and directed to approve the final form of the Preliminary Official Statement in accordance with this Section 9(a) and to make any appropriate variations, insertions or modifications to the form of Preliminary Official Statement previously circulated not inconsistent with the provisions of the Enabling Act, the Refunding Act, the Charter, Ordinance No. 3725, Ordinance No. 3731, Amended Ordinance No. 3692 or this Resolution, as applicable, or to comply with the recommendations of legal counsel or the City’s financial advisor, or as required by any rating agency as a condition precedent to, or as otherwise related to, obtaining a rating on either series of the Bonds from any such rating agency, or as required by any provider of municipal bond insurance as a condition precedent to, or as otherwise related to, obtaining municipal bond insurance for all or any portion of either series of the Bonds from any such provider of municipal bond insurance, such approval to be evidenced

conclusively by the execution and delivery by the Mayor, the City Administrator and the Comptroller, on behalf of the City, of a certificate deeming the Preliminary Official Statement to be final as of its date for purposes of Securities and Exchange Commission Rule 15c2-12(b)(1), subject to revision, completion and amendment in the final Official Statement referred to in subsection (b) below. The Preliminary Official Statement shall be posted electronically and/or printed as the City's financial advisor shall advise and the Underwriter shall require.

(b) The preparation and distribution of a final Official Statement relating to the Bonds (the "Official Statement"), substantially in the form of the Preliminary Official Statement, with such changes, corrections, additions and deletions not inconsistent with the provisions of the Enabling Act, the Refunding Act, the Charter, Ordinance No. 3725, Ordinance No. 3731, Amended Ordinance No. 3692 or this Resolution, as applicable, to reflect matters determined in connection with the sale of the Bonds, or to comply with the recommendations of legal counsel or the City's financial advisor, or as required by any rating agency as a condition precedent to, or as otherwise related to, obtaining a rating on either series of the Bonds from any such rating agency, or as required by any provider of municipal bond insurance for all or any portion of either series of the Bonds, as the Mayor, the City Administrator and the Comptroller shall approve on behalf of the City, is hereby authorized and approved. The Mayor, the City Administrator and the Comptroller are hereby authorized and directed to approve the final form of the Official Statement on behalf of the City, such approval to be evidenced conclusively by the Mayor's, the City Administrator's and the Comptroller's execution and delivery of the Official Statement. The Official Statement shall be printed and/or posted electronically as advised by the financial advisor to the City and as required by the Underwriter.

(c) The Mayor, the City Administrator and the Comptroller, or any two of such officials acting in concert, with the advice of the financial advisor to the City and bond counsel to the City, are hereby authorized and directed to approve any supplements or amendments to the Preliminary Official Statement or the Official Statement deemed necessary or desirable after the printing or posting of the same (including, without limitation, to correct any material misstatement or omission or to provide any information that was not available at the time such Preliminary Official Statement or Official Statement was released), such approval to be evidenced conclusively by the execution and delivery of any such supplement or amendment by the Mayor, the City Administrator and the Comptroller, or any two of such officials acting in concert, on behalf of the City.

SECTION 10. (a) Manufacturers and Traders Trust Company, with offices in Baltimore, Maryland and Buffalo, New York, or any successor thereto, by merger, consolidation, or otherwise, is hereby designated as Bond Registrar and Paying Agent (the “Bond Registrar and Paying Agent”) for the Bonds. The Mayor and the City Administrator are each hereby authorized to negotiate and to execute and deliver such written agreement with the Bond Registrar and Paying Agent as they shall deem to be necessary or appropriate. The City may designate another entity as Bond Registrar and Paying Agent upon 30 days prior written notice to the registered owners of the Bonds.

(b) Prior to each semi-annual interest payment date, the Treasurer of the City (the “Treasurer”) or other appropriate City official shall deposit with the Bond Registrar and Paying Agent, from the tax proceeds described in Section 14 below and from any other funds then legally available for such purpose, the amounts needed to pay the principal of and interest on the Bonds coming due on each such interest payment date. All moneys so deposited with the

Bond Registrar and Paying Agent shall be deemed and treated by the Bond Registrar and Paying Agent as trust funds for the use and benefit of the registered owners from time to time of the Bonds hereby authorized. Any such trust funds held by the Bond Registrar and Paying Agent for the payment of particular Bonds for periods of more than three years from their maturities or such other periods as may be required by applicable law, because of the failure of the registered owners of such Bonds to present them for payment or because checks issued by the Bond Registrar and Paying Agent in payment of interest shall not have been cashed and no registered owner of a Bond shall have established a right to payment of interest within such period, shall be returned by the Bond Registrar and Paying Agent to the City and, thereafter, the registered owners of any such Bonds shall have claims only against the City for payment of the obligations held by them, and the Bond Registrar and Paying Agent shall be relieved of the trust hereby imposed.

SECTION 11. As soon as may be practicable after the date of execution of the Bond Purchase Agreement hereinabove provided for has been held, the Bonds of each series shall be suitably prepared in definitive form, executed and delivered to the Underwriter upon receipt of the respective net purchase prices therefor. It is anticipated that the date of issuance of the Bonds will be July 2, 2013; provided that, the City Administrator, on behalf of the City, with the advice of the Comptroller, the financial advisor to the City and bond counsel to the City, may determine to move the date of issuance of the Bonds to another date satisfactory to such persons and to the Underwriter; any such determination to be evidenced conclusively by the terms of the Bond Purchase Agreement provided for in Section 8 of this Resolution. The Mayor, the City Administrator, the Treasurer, the Comptroller, the City Clerk and all other appropriate officials and employees of the City, as applicable, are expressly authorized, empowered and directed to take any

and all action necessary to complete and close the sale and delivery of the Bonds to the Underwriter and to negotiate, approve, execute and deliver all documents, certificates and instruments not otherwise provided for herein that are necessary or appropriate in connection therewith, including, without limitation, executing and delivering any agreements required by DTC with respect to the book-entry system of registration of the Bonds or any documents relating to municipal bond insurance to be provided with respect to either series of the Bonds.

SECTION 12. (a) Subject to the provisions of subsection (b) below, the Treasurer or any other appropriate City official is each hereby designated and authorized to receive payment on behalf of the City of the proceeds of the sale of the Taxable Bonds and to invest such proceeds. There may be deducted from the total gross proceeds of the sale of the Taxable Bonds the amount of the Underwriter's discount payable with respect thereto and other expenses of sale of the Taxable Bonds, net of any amounts made available from other sources for the payment of such costs, which deducted amounts shall be applied to pay such expenses of the sale. The proceeds of the Taxable Bonds are hereby appropriated for the purposes of the Taxable Project and shall be deposited in the proper account or accounts of the City, shall be invested within any limits prescribed by Maryland and any other applicable law, and shall be used and applied exclusively for the purposes described herein. If the proceeds received from the sale of the Taxable Bonds exceed the amount needed for the public purposes of Taxable Project, the amount of such unexpended excess shall be set apart in a separate fund and applied to debt service on the Taxable Bonds, unless a supplemental ordinance or resolution, as applicable, is passed by the Mayor and City Council to provide for the expenditure of that excess for some other valid purpose authorized by the Enabling Act, the Refunding Act, the Charter, Ordinance No. 3725 or Ordinance No. 3731, as applicable. Nothing in this Resolution

shall be construed to authorize the expenditure of any moneys constituting proceeds of the Taxable Bonds except for a proper public purpose.

(b) That portion of the proceeds of the Taxable Bonds issued to provide funds to currently refund the Promissory Note may be paid by the Underwriter at the written direction of the Mayor, the City Administrator or the Comptroller, or at the written direction of the financial advisor to the City acting on the City's behalf, directly to the prepayment of the Promissory Note on the date of issuance of the Taxable Bonds.

(c) Subject to the provisions of subsection (e) below, the Treasurer or any other appropriate municipal official is each hereby designated and authorized to receive payment on behalf of the City of that portion of the proceeds of the sale of the Tax-Exempt Bonds not deposited with the Escrow Deposit Agent in accordance with the provisions of Section 13 of this Resolution, and to invest such proceeds (being the portion of the proceeds of the Tax-Exempt Bonds to be applied to costs of issuance of the Tax-Exempt Bonds). There may be deducted from the total gross proceeds of the sale of the Tax-Exempt Bonds the amount of the Underwriter's discount and other expenses of sale of the Bonds, net of any amounts made available from other sources for the payment of such costs, which deducted amounts shall be applied to pay such expenses of the sale. The proceeds of the Tax-Exempt Bonds are hereby appropriated for the purposes of the Tax-Exempt Project.

(d) That portion of the proceeds of the Tax-Exempt Bonds issued to provide funds to advance refund and prepay the 2006 Lease Purchase Agreement in whole, together with any other funds available for such purpose, shall be paid to the Escrow Deposit Agent provided for in Section 13 hereof to be used and applied solely as provided for in the Escrow Deposit Agreement provided for in Section 13 hereof.

(e) Notwithstanding the foregoing provisions of this Section 12, any portion of the proceeds of either series of the Bonds to be applied to pay costs of issuance other than the Underwriter's discount with respect to such series, may be paid by the Underwriter directly to the person or entity entitled thereto at the written direction of the Mayor, the City Administrator, the Comptroller or the financial advisor to the City, acting on the City's behalf.

SECTION 13. (a) Manufacturers and Traders Trust Company is hereby appointed as escrow deposit agent (the "Escrow Deposit Agent") under the Escrow Deposit Agreement to be entered into between the City and the Escrow Deposit Agent with respect to the Tax-Exempt Bonds. The Escrow Deposit Agent shall receive a portion of the net proceeds of the Tax-Exempt Bonds and use and apply such proceeds in accordance with the Escrow Deposit Agreement to the advance refunding and prepayment in whole of the 2006 Lease Purchase Agreement. The Mayor and the City Administrator, on behalf of the City, are each hereby authorized and empowered to negotiate, approve, execute and deliver the Escrow Deposit Agreement, such approval to be evidenced conclusively by either such official's signature on the Escrow Deposit Agreement.

(b) The Arbitrage Group, Inc. is hereby selected to provide escrow verification services in connection with the advance refunding of the 2006 Lease Purchase Agreement. In the event The Arbitrage Group, Inc. is unable to provide such services, for whatever reason, the City Administrator is hereby authorized and empowered to replace as he may deem necessary, in any manner he deems appropriate, the provider of escrow verification services.

(c) In connection with the issuance of the Tax-Exempt Bonds, each of the Mayor, the City Administrator and the Comptroller, is hereby authorized and empowered to provide for the bidding for and/or execute or file on behalf of the City, as applicable, any

necessary investment agreements or any necessary subscriptions and any amendments thereto to purchase United States Treasury Obligations – State and Local Government Series (“SLGS”), and/or any direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America in such amounts and maturing at such times so that sufficient moneys will be available from such maturing principal and interest and any cash held uninvested to advance refund and prepay the 2006 Lease Purchase Agreement in whole in accordance with its terms, and to take any other action or to execute any further instrument on behalf of the City necessary to purchase such obligations. Any such obligations, and any cash to be held uninvested in escrow, shall be deposited with the Escrow Deposit Agent provided for in this Section 14.

(d) In the event that at the applicable time SLGS are unavailable for purposes of the escrow fund established and maintained under the provisions of the Escrow Deposit Agreement, Davenport & Company LLC is hereby selected to provide open market bidding services in connection with the advance refunding and prepayment in whole of the 2006 Lease Purchase Agreement. In the event Davenport & Company LLC is unable to provide such services, for whatever reason, the City Administrator is hereby authorized to replace as he may deem necessary, in any manner he deems appropriate, the provider of open market bidding services.

SECTION 14. (a) Conditioned only upon the delivery of and payment for the Taxable Bonds as the “Taxable Redevelopment and Refunding Bonds of 2013”, the Mayor and City Council hereby specifically elects to prepay the Promissory Note in the amount finally selected for prepayment and refunding in accordance with the provisions of Section 8 of this Resolution, which shall be the earliest practicable date available, giving due consideration to any

required notice of prepayment. The Mayor and City Council hereby authorizes and empowers each of the Mayor, the City Administrator and the Comptroller to (i) select the date of prepayment of the Promissory Note in the amount determined in accordance with Section 8 of this Resolution, and (ii) give such notice of prepayment as may be required by the Promissory Note or any documents relating thereto or in the form recommended by bond counsel to the City. Any such notice of prepayment may be given prior to the date of issuance and delivery of the Taxable Bonds and may be conditioned upon receipt of funds sufficient to effect such prepayment.

(b) Conditioned only upon the delivery of and payment for the Tax-Exempt Bonds, the City hereby specifically elects to prepay the 2006 Lease Purchase Agreement in whole on November 1, 2013. The Escrow Deposit Agreement shall provide that the Escrow Deposit Agent shall give notice of prepayment in whole of the 2006 Lease Purchase Agreement in accordance with the provisions thereof. In addition, each of the Mayor, the City Administrator and the Comptroller is hereby authorized and empowered to give additional notice of the refunding and prepayment in whole of the 2006 Lease Purchase Agreement.

(c) In connection with the advance refunding and prepayment in whole of the 2006 Lease Purchase Agreement, each of the Mayor and the City Administrator, on behalf of the City, is authorized and empowered to negotiate, approve, execute and deliver any documents, certificates or instruments deemed necessary or desirable, including, without limitation, termination statements, as may be advisable to reflect the release of the lien of the Lessor on the Equipment and related matters.

SECTION 15. For the purpose of paying the principal of and interest on the Bonds when due, the City shall levy or cause to be levied, for each and every fiscal year during which the Bonds

may be outstanding, ad valorem taxes upon all real and tangible personal property within its corporate limits subject to assessment for unlimited municipal taxation in rate and amount sufficient to provide for the prompt payment, when due, of the principal of and interest on the Bonds in each such fiscal year. In the event the proceeds from the collection of the taxes so levied may prove inadequate for such purposes in any fiscal year, additional taxes shall be levied in the subsequent fiscal year to make up such deficiency. The full faith and credit and unlimited taxing power of the City are hereby irrevocably pledged to the prompt payment of the principal of and interest on the Bonds as and when the same become due and are payable and to the levy and collection of the taxes hereinabove prescribed as and when such taxes may become necessary in order to provide sufficient funds to meet the debt service requirements of the Bonds. The City hereby covenants with the registered owners of the Bonds to take any further action that may be lawfully appropriate from time to time during the period that the Bonds remain outstanding and unpaid to provide the funds necessary to pay promptly the principal thereof and interest due thereon. Subject to the provisions of Sections 16 and 17 hereof with respect to the Tax-Exempt Bonds, the foregoing provisions shall not be construed so as to prohibit the City from paying the principal of and interest on the Bonds from the proceeds of the sale of any other obligations of the City or from any other funds legally available for that purpose. The City may apply to the payment of the principal of or interest on the Bonds any funds received by it from the State of Maryland or the United States of America, or any governmental agency or instrumentality, or from any other source, and to the extent of any such funds received or receivable in any fiscal year or otherwise available for such purpose, the taxes hereby required to be levied may be reduced proportionately.

SECTION 16. (a) Any two or more of the Mayor, the Treasurer and the Comptroller are the officials of the City responsible for the issuance of the Tax-Exempt Bonds within the meaning

of Section 1.148-2(b)(2) of the Treasury Regulations (defined below). Any two or more of the Mayor, the Treasurer and the Comptroller also shall be the officials of the City responsible for the execution and delivery (on the date of the issuance of the Tax-Exempt Bonds) of a certificate of the City (the “Section 148 Certificate”) that complies with the requirements of Section 148 of the Internal Revenue Code of 1986, as amended (the “Code”), and the applicable regulations under Sections 103 and 141-150, inclusive, of the Code (the “Treasury Regulations”), and such officials are hereby authorized and directed to execute and deliver the Section 148 Certificate to counsel rendering an opinion on the validity and tax-exempt status of the Tax-Exempt Bonds on the date of the issuance of the Tax-Exempt Bonds.

(b) The City shall set forth in the Section 148 Certificate its reasonable expectations as to relevant facts, estimates and circumstances relating to the use of the proceeds of the Tax-Exempt Bonds or of any monies, securities or other obligations to the credit of any account of the City which may be deemed to be proceeds of the Tax-Exempt Bonds pursuant to Section 148 or the Treasury Regulations (collectively, the “Tax-Exempt Bonds Proceeds”). The City covenants with the registered owners of the Tax-Exempt Bonds that the facts, estimates and circumstances set forth in the Section 148 Certificate will be based on the City’s reasonable expectations on the date of issuance of the Tax-Exempt Bonds and will be, to the best of the certifying officials’ knowledge, true and correct as of that date.

(c) The City covenants with the registered owners of the Tax-Exempt Bonds that it will not make, or (to the extent that it exercises control or direction) permit to be made, any use of the Tax-Exempt Bonds Proceeds that would cause the Tax-Exempt Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Code and the Treasury Regulations, and that it will comply with those provisions of Section 148 of the Code and the Treasury Regulations as may be

applicable to the Tax-Exempt Bonds on the date of issuance and which may subsequently lawfully be made applicable to the Tax-Exempt Bonds as long as the Tax-Exempt Bonds remain outstanding and unpaid.

(d) In connection with their execution and delivery of the Section 148 Certificate, the authorized officials identified in this Section 13 are hereby authorized and empowered, on behalf of the City, to make any designations, elections, determinations or filings on behalf of the City provided for in or permitted by the Code and the Treasury Regulations and to reflect the same in the Section 148 Certificate and/or the IRS Form 8038-G filed in connection with the issuance of the Tax-Exempt Bonds or any other documentation deemed appropriate by bond counsel to the City; provided that, only one of such identified officials must sign the IRS Form 8038-G.

SECTION 17. The City specifically covenants that it will comply with the provisions of the Code and the Treasury Regulations applicable to the Tax-Exempt Bonds, including, without limitation, compliance with provisions regarding the timing of the expenditure of the proceeds of the Tax-Exempt Bonds, the use of such proceeds and the facilities refinanced with such proceeds, the restriction of investment yields, the filing of information with the Internal Revenue Service, and the rebate of certain earnings resulting from the investment of the proceeds of the Tax-Exempt Bonds or payments in lieu thereof. The City further covenants that it shall make such use of the proceeds of the Tax-Exempt Bonds, regulate the investment of the proceeds thereof and take such other and further lawful actions as may be required to maintain the exemption from federal income taxation of interest on the Tax-Exempt Bonds. All officials, officers, employees and agents of the City are hereby authorized and directed to provide such certifications of facts and estimates

regarding the amount and use of the proceeds of the Tax-Exempt Bonds as may be necessary or appropriate.

SECTION 18. The City hereby designates the Tax-Exempt Bonds as “qualified tax-exempt obligations” within the meaning of Section 265(b)(3) of the Code (relating to the exception from disallowance of the deduction for that portion of a financial institution’s interest expense which is allocable to tax-exempt interest) and, in connection therewith, represents and certifies that (i) the Tax-Exempt Bonds are not “private activity bonds” within the meaning of Section 141 of the Code, (ii) the reasonably anticipated amount of tax-exempt obligations (excluding private activity bonds other than “qualified 501(c)(3) bonds” within the meaning of Section 145 of the Code) that will be issued by the City (and all on-behalf-of issuers or subordinate entities of the City) during calendar year 2013 does not exceed an amount in excess of Ten Million Dollars (\$10,000,000), and (iii) not more than Ten Million Dollars (\$10,000,000) of obligations issued by the City (and all on-behalf-of issuers or subordinate entities of the City) during calendar year 2013, including the Tax-Exempt Bonds, have been designated or, except as permitted by the Code, will be designated, qualified tax-exempt obligations of the City.

SECTION 19. The Mayor and the City Administrator are hereby authorized and directed to approve, execute and deliver in the name of and on behalf of the City a continuing disclosure undertaking for the benefit of the owners and beneficial owners of the Bonds in order to assist the Underwriter in complying with paragraph (b)(5) of Securities and Exchange Commission Rule 15c2-12 (“Rule 15c2-12”). The City shall covenant in the continuing disclosure undertaking that the City will provide to the Municipal Securities Rulemaking Board’s Electronic Municipal Market Access (“EMMA”) and/or to any additional or different depositories designated in accordance with Rule 15c2-12 (the “Additional Repositories”), if any,

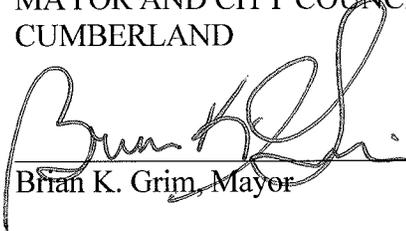
annual financial information and operating data and annual audited financial statements. The City shall further covenant in the continuing disclosure undertaking to provide notice of specified events as required by Rule 15c2-12 to EMMA and/or to any Additional Repositories as required by Rule 15c2-12, if any. The continuing disclosure undertaking may provide that the place or places of delivery of such information shall be subject to change in accordance with the rules and pronouncements of the Securities and Exchange Commission or other appropriate authority.

SECTION 20. The provisions of this Resolution shall be liberally construed in order to effectuate the transactions contemplated hereby.

SECTION 21. This Resolution shall become effective immediately upon its adoption.

MAYOR AND CITY COUNCIL OF  
CUMBERLAND

(SEAL)

  
\_\_\_\_\_  
Brian K. Grim, Mayor

ATTEST:

  
\_\_\_\_\_  
Marjorie A. Eirich  
City Clerk

Introduced: June 04, 2013

Adopted: June 04, 2013

Effective: June 04, 2013

#155417;10002.053

EXHIBIT A  
FORM OF BOND

*Note: Bracketed language is intended to reflect that such provisions apply only to one series of the Bonds or apply only in certain circumstances, and such language shall be deleted from or included in the final form of Bond for the series of the Bonds to which it is inapplicable or applicable, as appropriate.*

UNITED STATES OF AMERICA  
STATE OF MARYLAND  
MAYOR AND CITY COUNCIL OF CUMBERLAND

No. R- \_\_\_\_\_ \$ \_\_\_\_\_

[TAXABLE REDEVELOPMENT AND REFUNDING BOND OF 2013]  
[TAX-EXEMPT REFUNDING BOND OF 2013]

<u>Maturity Date</u>	<u>Interest Rate</u>	<u>Original Issue Date</u>	<u>CUSIP</u>
November 1, _____	_____ %	_____, 2013	

Registered Owner:

Principal Sum: \_\_\_\_\_ DOLLARS

Mayor and City Council of Cumberland, a municipal corporation organized and existing under the Constitution and laws of the State of Maryland (the "City"), hereby acknowledges itself indebted for value received and promises to pay to the registered owner shown above, or registered assigns or legal representatives, on the Maturity Date specified above [(unless this bond shall be redeemable prior to maturity, shall have been called for prior redemption, and payment of the redemption price shall have been made or provided for)], the Principal Sum shown above, and to pay interest on such Principal Sum from and including the interest payment date next preceding the date of registration and authentication of this bond, unless this bond is registered and authenticated as of an interest payment date, in which case it shall bear interest from such interest payment date, or unless this bond is registered and authenticated prior to the first interest payment date, in which event this bond shall bear interest from the Original Issue Date identified above, or unless, as shown on the records of the Bond Registrar and Paying Agent (as hereinafter defined), interest on this bond shall be in default, in which event this bond shall bear interest from the date on which interest was last paid on this bond, at the Interest Rate per annum shown above, payable on November 1, 2013 and on each May 1 and November 1 thereafter until the Principal Sum of this bond is paid in full. Interest shall be computed on the basis of a 360-day year comprised of 12 30-day months.

Both the principal or redemption of and interest on this bond shall be payable in lawful money of the United States of America. The principal [or redemption price of] this bond shall be

payable by check or draft at the designated corporate trust office of Manufacturers and Traders Trust Company, as bond registrar and paying agent (the "Bond Registrar and Paying Agent") in Buffalo, New York or in such other office as the Bond Registrar and Paying Agent may designate. Interest on this bond shall be payable by check or draft of the Bond Registrar and Paying Agent mailed to the registered owner in whose name this bond is registered on the registration books maintained by the Bond Registrar and Paying Agent for the issue of bonds of which this bond is a part as of the close of business on the 15<sup>th</sup> day of the month prior to the month in which each interest payment date occurs (the "Regular Record Date"). Any such interest not so punctually paid or duly provided for shall forthwith cease to be payable to the registered owner on such Regular Record Date, and may be paid to the person in whose name this bond is registered as of the close of business on a special record date to be fixed by the Bond Registrar and Paying Agent for the payment of such defaulted interest (the "Special Record Date"), notice whereof being given by letter mailed first class, postage prepaid, to the registered owner not less than ten (10) days prior to such Special Record Date, at the address of such registered owner appearing on the registration books maintained by the Bond Registrar and Paying Agent. If a principal payment date or interest payment date falls on a Saturday, Sunday or a day on which the City or the Bond Registrar and Paying Agent is not required to be open, payment may be made on the next succeeding day that is not a Saturday, Sunday or a day on which the City or the Bond Registrar and Paying Agent is not required to be open, and no interest shall accrue for the intervening period.

IT CANNOT BE DETERMINED FROM THE FACE OF THIS BOND WHETHER ALL OR A PORTION OF THE PRINCIPAL SUM OR REDEMPTION PRICE HAS BEEN PAID. EACH PAYMENT OF THE PRINCIPAL OR REDEMPTION PRICE OF THIS BOND SHALL BE NOTED HEREON, BUT THE FAILURE OF THE REGISTERED OWNER OF THIS BOND TO NOTE SUCH PAYMENT SHALL NOT AFFECT THE VALID PAYMENT AND DISCHARGE OF SUCH OBLIGATION AFFECTED BY SUCH PAYMENT.

This bond is the duly authorized bond of an issue of the City, aggregating \$\_\_\_\_\_ in principal amount, dated \_\_\_\_\_, 2013 and designated "Mayor and City Council of Cumberland [Taxable Redevelopment and Refunding Bonds of 2013][Tax-Exempt Refunding Bonds of 2013]" (the "Bonds"). This bond is issued pursuant to and in full conformity with the provisions of Sections 31 to 37, inclusive, of Article 23A of the Annotated Code of Maryland, as replaced, supplemented or amended, Section 24 of Article 31 of the Annotated Code of Maryland, as replaced, supplemented or amended, and Sections 81 and 82A of the Charter of the City of Cumberland, as published in Municipal Charters of Maryland, Volume 3, 2008 Replacement Edition, as replaced, supplemented or amended, and by virtue of due proceedings had and taken by the Mayor and City Council of the City (the "Mayor and City Council"), particularly [Ordinance No. 3725, which was passed by the Mayor and City Council on October 9, 2012 and became effective on November 8, 2012, and Ordinance No. 3731, which was passed by the Mayor and City Council on January 29, 2013 and became effective on February 28, 2013][Ordinance No. 3692, which was passed by the Mayor and City Council on May 24, 2011 and became effective on June 23, 2011, as supplemented and amended by Ordinance No. 3732, which was passed by the Mayor and City Council on January 29, 2013 and became effective on February 28, 2013] (collectively, the "Ordinance"), and Resolution No. \_\_\_\_\_, which was adopted

by the Mayor and City Council on \_\_\_\_\_, 2013 and became effective on \_\_\_\_\_, 2013 (the "Resolution").

The Bonds mature and are payable on November 1 in the following years and amounts and bear interest at the following rates per annum:

<u>Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
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[INCLUDE FOR TAXABLE BONDS ONLY--The Bonds that mature prior to November 1, 2024 shall not be subject to redemption prior to maturity at the option of the City. The Bonds that mature on and after November 1, 2024 shall be subject to redemption prior to maturity at the option of the City, in whole or in part, on November 1, 2023 or on any date thereafter, at a redemption price of 100% of the principal amount to be redeemed, plus interest accrued to the date fixed for redemption, without penalty or premium.]

[TO BE COMPLETED FOR ANY TERM BONDS--The Bonds maturing on November 1, \_\_\_\_\_ are subject to mandatory sinking fund redemption at a redemption price equal to 100% of the principal amount thereof, together with interest accrued to the date fixed for redemption, on the dates and in the principal amounts set forth below:

<u>Redemption Date</u>	<u>Mandatory Sinking Fund Installment]</u>
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[TO BE COMPLETED AS APPLICABLE FOR TAXABLE BONDS AND, TO THE EXTENT THE TAX-EXEMPT BONDS HAVE MANDATORY SINKING FUND REDEMPTIONS--If fewer than all of the outstanding Bonds shall be called for optional redemption, the City shall choose the maturities to be redeemed and the principal amount of each such maturity in its sole discretion, and if any such maturity consists of term Bonds, the City shall choose the mandatory sinking fund redemption installments of such term Bonds to be reduced and the amount of each such reduction in its sole discretion. If fewer than all of the Bonds of any one maturity shall be called for optional [or mandatory sinking fund] redemption, the particular Bonds or portions of Bonds to be redeemed from such maturity shall be selected by lot by the Bond Registrar and Paying Agent.

When less than all of a Bond in a denomination in excess of \$5,000 is redeemed, then, upon surrender thereof, there shall be issued without charge to the registered owner thereof, for the unredeemed balance of the principal amount of such Bond, at the option of such owner,

Bonds in any of the authorized denominations specified by the registered owner. The aggregate face amount of Bonds so issued shall be equal to the unredeemed balance of the principal amount of the Bond surrendered, and the Bonds issued shall bear interest at the same rate and shall mature on the same date as the unredeemed balance of the Bond surrendered.

When any Bonds are to be redeemed, the City shall cause a redemption notice to be given to the registered owners of the Bonds (or portions thereof) to be redeemed by letter mailed first class, postage prepaid, at least thirty (30) days prior to the date fixed for redemption to the addresses of such registered owners appearing on the registration books kept by the Bond Registrar and Paying Agent; provided, however, that the failure to mail a redemption notice or any defect in a notice so mailed, or in the mailing thereof, shall not affect the validity of the redemption proceedings. The redemption notice shall state (i) whether the Bonds are to be redeemed in whole or in part and, if in part, the maturities, numbers, principal amounts, interest rates and CUSIP numbers of the Bonds to be redeemed, (ii) that interest on the Bonds (or portions thereof) to be redeemed shall cease to accrue on the date fixed for redemption, (iii) the date fixed for redemption, (iv) the address of the office of the Bond Registrar and Paying Agent with a contact person and phone number, and (v) that the Bonds or portions thereof to be redeemed shall be presented for redemption and payment on the date fixed for redemption at the designated corporate trust office of the Bond Registrar and Paying Agent. Such notice may state that it is conditioned upon receipt of sufficient funds to effect such redemption by the date fixed for redemption. From and after the date fixed for redemption, if funds sufficient for the payment of the principal or redemption price of and accrued interest are available on such date, the Bonds or portions thereof to be redeemed shall cease to bear interest. Upon presentation and surrender for redemption in compliance with the redemption notice, the Bonds or portions thereof to be redeemed shall be paid by the Bond Registrar and Paying Agent at the redemption price plus accrued interest. If they are not paid upon presentation, the Bonds or portions thereof designated for redemption shall continue to bear interest at the rate stated therein until paid.

This bond is transferable only upon the registration books kept at the designated corporate trust office of the Bond Registrar and Paying Agent, by the registered owner hereof in person, or by his attorney duly authorized in writing, upon surrender hereof, together with a written instrument of transfer in the form attached hereto and satisfactory to the Bond Registrar and Paying Agent and duly executed by the registered owner or his duly authorized attorney.

This bond may be transferred or exchanged at the designated corporate trust office of the Bond Registrar and Paying Agent. Upon any such transfer or exchange, the City shall issue, and the Bond Registrar and Paying Agent shall authenticate and deliver, a new registered bond or bonds of the same series in authorized denominations equal to the aggregate principal amount of the bond so transferred or exchanged, with the same maturity and bearing interest at the same rate. In each case, the Bond Registrar and Paying Agent may require payment by the registered owner of this bond requesting transfer or exchange hereof of any tax, fee or other governmental charge, shipping charges and insurance that may be required to be paid with respect to such transfer or exchange, but otherwise no charge shall be made to the registered owner hereof for such transfer or exchange.

[The Bond Registrar and Paying Agent shall not be required to transfer or exchange this bond after the mailing or giving of notice calling this bond or any portion hereof for redemption.]

The City and the Bond Registrar and Paying Agent may deem and treat the party in whose name this bond is registered as the absolute owner hereof for the purpose of receiving payment of or on account of the principal or redemption price hereof and interest due hereon and for all other purposes.

This bond is initially issued in book-entry only form and registered under a book-entry only system maintained by The Depository Trust Company, New York, New York ("DTC"). Notwithstanding anything to the contrary contained in this bond, for so long as this bond is registered in book-entry form under a book-entry only system maintained by DTC, any successor thereto, or any replacement securities depository, payments of the principal or redemption price of and interest on this bond, the selection of all or any portion of this bond to be redeemed, and any notice required herein shall be made or given as provided by the rules and regulations of such securities depository, and all references to the registered owner of this bond shall mean such securities depository or its partnership nominee. During such period, the City and the Bond Registrar and Paying Agent will recognize such securities depository or its partnership nominee as the owner of this bond for all purposes.

The full faith and credit and unlimited taxing power of Mayor and City Council of Cumberland are hereby unconditionally and irrevocably pledged to the payment of the principal of and interest on this bond according to its terms, and the City does hereby covenant and agree to pay punctually the principal of and the interest on this bond, at the dates and in the manner mentioned herein, according to the true intent and meaning hereof.

It is hereby certified and recited that each and every act, condition and thing required to exist, to be done, to have happened or to be performed precedent to and in the issuance of this bond, does exist, has been done, has happened and has been performed in full and strict compliance with the Constitution and laws of the State of Maryland, the Ordinance and the Resolution, and that this bond, together with all other indebtedness of the City, is within every debt and other limit prescribed by the Constitution and laws of the State of Maryland and that due provision has been made for the levy and collection of an annual ad valorem tax or taxes upon all the legally assessable property within the corporate limits of the City in rate and amount sufficient to provide for the payment, when due, of the principal of and interest on this bond.

IN WITNESS WHEREOF, Mayor and City Council of Cumberland has caused this bond to be executed in its name by the manual or facsimile signature of the Mayor and its corporate seal to be affixed hereto manually or in facsimile, attested by the manual or facsimile signature of the City Clerk, all as of the \_\_\_\_ day of \_\_\_\_\_, 2013.

(SEAL)

ATTEST:

MAYOR AND CITY COUNCIL OF  
CUMBERLAND

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

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

CERTIFICATE OF AUTHENTICATION

This bond is one of the registered bonds of Mayor and City Council of Cumberland designated “Mayor and City Council of Cumberland [Taxable Redevelopment and Refunding Bonds of 2013][Tax-Exempt Refunding Bonds of 2013]”.

\_\_\_\_\_  
as Bond Registrar and Paying Agent

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

Date of Authentication: \_\_\_\_\_

(Form of Instrument of Transfer)

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto

PLEASE INSERT SOCIAL SECURITY OR OTHER  
IDENTIFYING NUMBER OF ASSIGNEE

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(PLEASE PRINT OR TYPEWRITE NAME AND ADDRESS,  
INCLUDING ZIP CODE OF ASSIGNEE)

the within bond and all rights thereunder and does hereby constitute and appoint \_\_\_\_\_

attorney to transfer the within bond on the books kept for the registration thereof, with full power of substitution in the premises.

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

Signature Guaranteed:

\_\_\_\_\_  
Notice: Signatures must be guaranteed by a member or participant of a signature guaranty program.

\_\_\_\_\_  
Notice: The signature to this assignment must correspond with the name as it appears upon the face of the within bond in every particular, without alteration or enlargement or any change whatsoever.



EXHIBIT B

FORM OF BOND PURCHASE AGREEMENT

[See Attached]

\$ \_\_\_\_\_  
**MAYOR AND CITY COUNCIL OF CUMBERLAND (MARYLAND)**  
**GENERAL OBLIGATION BONDS**  
Consisting of  
\$ \_\_\_\_\_  
**Taxable Redevelopment and Refunding Bonds of 2013**  
and  
\$ \_\_\_\_\_  
**Tax-Exempt Refunding Bonds of 2013**

June \_\_, 2013

**BOND PURCHASE AGREEMENT**

Mayor and City Council of Cumberland  
57 North Liberty Street  
Cumberland, Maryland 21502  
Attention: Brian K. Grim, Mayor

Ladies and Gentlemen:

M&T Securities, Inc. (the “Underwriter”) hereby offers to enter into this Bond Purchase Agreement with Mayor and City Council of Cumberland (the “City”). This offer is made subject to acceptance by the City prior to 5:00 P.M., E.D.T., on the date hereof, or at such other time as shall be agreed to by the City and the Underwriter. Upon such acceptance this Bond Purchase Agreement shall be in full force and effect and shall be binding upon the City and the Underwriter in accordance with its terms. If this offer is not so accepted and approved, it is subject to withdrawal by the Underwriter upon written notice delivered to the City’s offices specified in Paragraph 14 below at any time prior to such acceptance and approval.

Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Official Statement relating to the above-captioned Bonds (as hereinafter defined).

**1. Purchase and Sale.** Upon the terms and conditions and upon the basis of the representations set forth herein, the Underwriter hereby agrees to purchase from the City and the City hereby agrees to sell to the Underwriter all (but not less than all) of the City’s Mayor and City Council of Cumberland \$ \_\_\_\_\_ Taxable Redevelopment and Refunding Bonds of 2013 (the “Taxable Bonds”) and \$ \_\_\_\_\_ Tax-Exempt Refunding Bonds of 2013 (the “Tax-Exempt Bonds” and, collectively with the Taxable Bonds, the “Bonds”) at the purchase price set forth below. The Bonds will be dated the date of delivery, will have the maturities and bear interest from their date at the rate or rates per annum shown on Exhibit A hereto and made a part

hereof, and the Taxable Bonds (but not the Tax-Exempt Bonds) will be subject to optional redemption prior to maturity as shown on Exhibit A hereto. The Bonds will be as described in the Official Statement. The purchase price for the Bonds shall be \$ \_\_\_\_\_ (the "Purchase Price"), which is equal to the aggregate principal amount of the Bonds (\$ \_\_\_\_\_), less an amount equal to the Underwriter's discount for the Bonds of \$ \_\_\_\_\_, plus net original issue premium of \$ \_\_\_\_\_.

The Underwriter agrees to accept and pay for the Bonds at the Closing (as defined in Paragraph 7 hereof) in accordance with the provisions of this Bond Purchase Agreement. In the event the City does not accept this offer, or upon its failure to deliver the Bonds at the Closing, or if it shall be unable to satisfy the conditions to the obligations of the Underwriter contained in this Bond Purchase Agreement (unless waived by the Underwriter), or if such obligations of the Underwriter shall be terminated for any reason permitted by this Bond Purchase Agreement, this Bond Purchase Agreement shall terminate and the Underwriter shall have no further obligations or liability. The Purchase Price will reflect the application of the Good Faith Deposit (hereinafter defined). Inasmuch as this purchase and sale represents a negotiated transaction, the City understands, and hereby confirms, that the Underwriter is not acting as a fiduciary of the City, but rather the Underwriter is acting solely in its capacity as an Underwriter for its own account.

**2. Authority, Security and Description of the Bonds.** The Taxable Bonds are issued pursuant to the authority of, as applicable, Sections 31 to 37, inclusive, of Article 23A of the Annotated Code of Maryland (the "Enabling Act"), Section 24 of Article 31 of the Annotated Code of Maryland (the "Refunding Act"), Sections 81 and 82A of the Charter of the City, as published in Municipal Charters of Maryland, Volume 3, 2008 Replacement Edition, as replaced, supplemented or amended (the "Charter"), Ordinance No. 3725, passed by the Mayor and City Council of the City (the "Mayor and City Council") on October 9, 2012 and effective on November 8, 2012 ("Ordinance No. 3725"), Ordinance No. 3731, passed by the Mayor and City Council on January 29, 2013 and effective on February 28, 2013 ("Ordinance No. 3731"), and Resolution No. \_\_\_\_\_, adopted by the Mayor and City Council on June 4, 2013 and effective on June 4, 2013 (the "Resolution").

The Tax-Exempt Bonds are issued pursuant to the authority of, as applicable, the Enabling Act, the Refunding Act, the Charter, Ordinance No. 3692, passed by the Mayor and City Council on May 24, 2011 and effective on June 23, 2011 ("Ordinance No. 3692"), as supplemented and amended by Ordinance No. 3732, passed by the Mayor and City Council on January 29, 2013 and effective on February 28, 2013 ("Ordinance No. 3732"), and the Resolution.

Ordinance No. 3692, Ordinance No. 3725, Ordinance No. 3731 and Ordinance No. 3732 are collectively referred to in this Bond Purchase Agreement as the "Ordinances".

The Bonds are general obligations of the City and constitute an irrevocable pledge of the full faith and credit and unlimited taxing power of the City to the payment of the maturing principal of and interest on the Bonds as when they become due and payable.

Proceeds from the sale of the Taxable Bonds will be applied to (a) undertake demolition and related activities at the City's Memorial Campus Facility, which is the location of the former Memorial Hospital, in order to prepare such property for redevelopment, (b) undertake various paving, repaving, sidewalk, curb, gutter and drain work and related activities that are generally referred to in the applicable authorizing legislation as "Other Street Improvement Projects" to the extent such proceeds are not fully needed for the purposes described in clauses (a), (c) and (d) of this sentence, (c) currently refund all or a portion of a promissory note of the City dated November 22, 2010 payable to Susquehanna Bank (the "2010 Note"), the proceeds of which were applied to finance HVAC upgrades at the Memorial Campus Facility, and (d) pay costs of issuance of the Taxable Bonds. Proceeds from the sale of the Tax-Exempt Bonds will be applied to (a) advance refund in whole the outstanding Municipal Lease/Purchase Agreement dated as of December 29, 2006, between Manufacturers and Traders Trust Company, as lessor, and the City, as lessee (the "2006 Lease/Purchase Agreement"), proceeds of which were applied to acquire certain equipment designed to control the energy consumption and associated costs stemming from the daily workings of the City's municipal buildings, facilities and systems, and (b) pay costs of issuance of the Tax-Exempt Bonds.

**3. Public Offering.** The Underwriter agrees to make a bona fide offering of all of the Bonds at not more than the initial public offering prices or yields as indicated on the cover page of the Official Statement and in Schedule I hereto. Subsequent to such original public offering, the Underwriter reserves the right to change such initial prices or yields as *it* shall deem necessary in connection with the marketing of the Bonds. The obligations of the City and the Underwriter hereunder are conditioned upon Funk & Bolton, P.A., as bond counsel ("Bond Counsel"), being able to issue its approving legal opinions with respect to the Taxable Bonds and the Tax-Exempt Bonds in substantially the forms included as Appendix B to the Official Statement.

**4. Preliminary Official Statement and Official Statement.** The City has previously delivered to the Underwriter for its review, and the Underwriter have reviewed, a Preliminary Official Statement dated June 5, 2013 (the "Preliminary Official Statement"), prepared in connection with the offering of the Bonds, which has heretofore been "deemed final" as of the dated date thereof by the City for purposes of Securities and Exchange Commission Rule 15c2-12, as amended ("Rule 15c2-12"), except for the omission of such information as is specified in Rule 15c2-12. The Preliminary Official Statement is subject to revision, amendment and completion as permitted by applicable rules and regulations, particularly as to those terms and conditions of the Bonds to be determined at a date subsequent to delivery of the Preliminary Official Statement. The Preliminary Official Statement, with only such changes therein as shall have been approved by the Underwriter and the City, including the cover page and all appendices attached thereto, together with such amendments or supplements thereto as are required to be made in accordance herewith and with applicable rules and regulations subsequent to the date hereof, and which is delivered to the Underwriter, complete as of the date of such delivery, is herein called the "Official Statement".

The City shall provide, or cause to be provided to the Underwriter as soon as practicable after the City's acceptance of this Bond Purchase Agreement (but in no event later than seven (7) business days after the City's acceptance of this Bond Purchase Agreement, or

three (3) business days prior to the Closing, whichever comes first, and in sufficient time to accompany any confirmation that requests payment from any customer) printed copies of the Official Statement, executed by the City (and conformed copies thereof) in sufficient quantity to enable the Underwriter to comply with the rules of the Securities and Exchange Commission and the Municipal Securities Rulemaking Board.

The City hereby authorizes the Underwriter, and the Underwriter hereby agrees, to file or cause to be filed the Official Statement and the Escrow Deposit Agreement (as hereinafter defined), with the Municipal Securities Rulemaking Board.

The City hereby consents to the use by and confirms the authority of the Underwriter to use the Official Statement (in printed or electronic form), and any supplements or amendments thereto in connection with the public offering and sale of the Bonds and ratifies and confirms its authorization of the use by the Underwriter prior to the date hereof of the Preliminary Official Statement (in printed or electronic form) in connection with such public offering and sale.

**5. Good Faith Deposit.** Delivered to the City herewith is a federal funds wire payable to the order of the City in the amount of \$\_\_\_\_\_ as a good faith deposit (the “Good Faith Deposit”) for the performance by the Underwriter of its obligations to accept and pay for the Bonds at the Closing in accordance with the provisions of this Bond Purchase Agreement. If the City does not accept this offer, it shall immediately return the Good Faith Deposit to the Underwriter. If the City does accept this offer, it may invest and hold the proceeds of the Good Faith Deposit as security for the performance by the Underwriter of its obligations under this Bond Purchase Agreement until the Closing. Until application of the Good Faith Deposit in accordance with this Paragraph 3, any earnings thereon shall be for the exclusive benefit of the City. Upon Closing, the City shall retain any interest or other income derived from the investment of the Good Faith Deposit. At the delivery of the Bonds, the Good Faith Deposit shall be applied as partial payment of the purchase price of the Bonds. If the City fails to deliver the Bonds at the Closing, or if the City shall be unable to satisfy the conditions to the obligations of the Underwriter as set forth herein (unless the Underwriter waives such conditions), or if the obligations of the Underwriter shall be terminated for any reason permitted herein, the City shall immediately return the Good Faith Deposit to the Underwriter and such return shall constitute a full release and discharge of all claims by the Underwriter against the City arising out of the transactions contemplated by this Bond Purchase Agreement. If the Underwriter fails, other than for a reason permitted herein, to accept and pay for the Bonds at the Closing as provided in this Bond Purchase Agreement, the City shall retain the proceeds of the Good Faith Deposit as and for liquidated damages for such failure and for any defaults hereunder on the part of the Underwriter, and such retention shall constitute a full release and discharge of all claims by the City against the Underwriter arising out of the transactions contemplated by this Bond Purchase Agreement. The City and the Underwriter understand that, in such event, the City’s actual damages may be greater or may be less than such sum. Accordingly, the Underwriter hereby waives any right to claim that the City’s actual damages are less than such sum, and the acceptance of this offer by the City shall constitute a waiver of any right the City may have to additional damages from the Underwriter and no party shall have any further rights against any other party hereunder.

**6. Covenants and Representations of the City.** The City represents and covenants to and with the Underwriter, at the time of its acceptance hereof, and on the date of the Closing, that:

(a) The City is a body politic and corporate and a municipal corporation of the State of Maryland.

(b) By official action of the City, the Ordinances have been duly and lawfully enacted and the Resolution has been duly and lawfully adopted after passage by the Mayor and City Council at meetings that were duly called and at which a quorum was present and acting throughout, and the Ordinances and the Resolution are in full force and effect as of the date hereof, and have not been amended, revoked or rescinded, except to the extent that Ordinance No. 3732 amends and supplements Ordinance No. 3692); and the City has full legal right, power and authority to enter into this Bond Purchase Agreement, the Escrow Deposit Agreement and the Continuing Disclosure Agreement (hereinafter defined), to enact the Ordinances, to adopt the Resolution, and to issue and deliver the Bonds as provided herein, in the Official Statement, and in the Ordinances and the Resolution, and each of such instruments, when executed and delivered by the City, will have been duly authorized, executed and delivered by the City, and will constitute legal, valid and binding obligations of the City, enforceable against the City in accordance with their respective terms.

(c) The City has duly authorized and approved the execution and delivery of, and the performance by the City of the obligations contained in, the Bonds, the Escrow Deposit Agreement, the Continuing Disclosure Agreement and this Bond Purchase Agreement; and the City has duly authorized and approved the performance by the City of its obligations contained in the Ordinances and the Resolution, and the consummation by it of all other transactions contemplated by the Official Statement, the Continuing Disclosure Agreement and this Bond Purchase Agreement is, and to the best of the City's knowledge will be, in compliance with the provisions of the Ordinances and the Resolution.

(d) Except as disclosed in the Preliminary Official Statement and the Official Statement, respectively, there shall not have been any material adverse change since June 30, 2012 in the financial condition or operations of the City.

(e) The Preliminary Official Statement has been delivered to the Underwriter and has been "deemed final" as of the dated date thereof by the City for purposes of Rule 15c2-12;

(f) As of June 5, 2013 and as of the date hereof, the Preliminary Official Statement did not and does not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein, or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; and the

Preliminary Official Statement did not and does not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements contained therein, in the light of the circumstances under which they were made, not misleading (except as to the statements under the captions “BOOK-ENTRY-ONLY-SYSTEM,” “UNDERWRITING” and “FINANCIAL ADVISOR”, as to which no view is expressed).

(g) As of the date hereof and as of the date of Closing, the Official Statement does not and will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein, or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; and the Official Statement does not and will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements contained therein, in the light of the circumstances under which they were made, not misleading (except as to the statements under the captions “BOOK-ENTRY-ONLY-SYSTEM,” “UNDERWRITING” and “FINANCIAL ADVISOR”, as to which no view is expressed).

(h) The enactment or authorization, execution and delivery, as the case may be, of the Ordinances, the Resolution, the Bonds, the Escrow Deposit Agreement, the Continuing Disclosure Agreement, the Official Statement and this Bond Purchase Agreement, the compliance with the terms and conditions hereof and thereof, and the consummation of the transactions herein, therein and in the Official Statement contemplated to be performed by the City, do not and will not (i) violate any law or any regulation, order, injunction or decree of any court, governmental body, agency or other public instrumentality to which the City is subject, or (ii) result in or conflict with or constitute a breach of any of the terms and conditions of, or constitute a default under, or, except as contemplated by the Ordinances, the Resolution or the Escrow Deposit Agreement, result in the creation or imposition of any mortgage, lien, charge or encumbrance of any nature whatsoever upon any assets or property of the City, or any moneys or investments therein pursuant to the terms of any indenture, mortgage, agreement or other instrument to which the City is a party or by which the City or its properties is bound.

(i) Except as disclosed in the Preliminary Official Statement and the Official Statement, no litigation is pending or, to the knowledge of the City, threatened in any court (i) in any way challenging the title of any officials or officers of the City to their respective offices, or (ii) seeking to restrain or enjoin the issuance or delivery of any of the Bonds or the imposition of assessments, charges or taxes to pay the principal of, premium, if any, and interest on the Bonds, or in any way contesting or affecting the validity of, the authority for, or the execution and delivery of the Bonds, any of the Ordinances, the Resolution, the Continuing Disclosure Agreement, the Preliminary Official Statement, the Official Statement or this Bond Purchase Agreement, or contesting the powers of the City or any authority for the issuance of the Bonds, the enactment of any of the Ordinances or the adoption of the Resolution, or (iii) in which a final adverse decision would materially adversely affect the financial condition or operation of the City or adversely affect the transactions contemplated hereby and by the

Continuing Disclosure Agreement and the Official Statement, or (iv) contesting in any way the completeness, accuracy or fairness of the Preliminary Official Statement or the Official Statement.

(j) The City will furnish such information, execute such instruments and take such other action not inconsistent with law or established policy of the City in cooperation with the Underwriter as the Underwriter may request in order to qualify the Bonds for offer and sale under the blue sky or other securities laws and regulations of such states and other jurisdictions of the United States as the Underwriter may designate, provided that the City shall not be required to qualify as a foreign corporation in, or submit to the general jurisdiction of, or execute a special or general consent to service of process in, any other state.

(k) The financial information contained in the Preliminary Official Statement and the Official Statement fairly presents the financial position of the City as of the dates and for the periods therein set forth; and such financial information has been prepared by the Department of Finance of the City or the City's independent public accountant.

(l) The Bonds, the Ordinances, the Resolution and the Continuing Disclosure Agreement conform in all material respects to the descriptions thereof contained in the Preliminary Official Statement and the Official Statement, and the Bonds when authenticated and delivered by the Bond Registrar and Paying Agent, will have been duly authorized, executed, authenticated, issued and delivered and will constitute valid and binding general obligations of the City in conformity with, and entitled to the benefit of, as applicable, the Enabling Act, the Refunding Act, the Charter, the Ordinances and the Resolution.

(m) The City has duly authorized all necessary action on its part for:

(i) the issuance, offering and sale of the Bonds upon the terms set forth herein and in the Official Statement;

(ii) the use of the proceeds of the Bonds as described in the Official Statement;

(iii) the execution, delivery and acceptance, or the enactment, as appropriate, of the Bonds, the Ordinances, the Resolution, the Official Statement, the Escrow Deposit Agreement, the Continuing Disclosure Agreement and this Bond Purchase Agreement, and the carrying out and consummation of all transactions on its part contemplated hereby and thereby; and

(iv) the taking of any and all such action as may be required by the City to carry out, give effect to and consummate the transactions to which the City is a party contemplated hereby and by the Official Statement and the Continuing Disclosure Agreement.

(n) All approvals, consents and orders of any governmental authority or agency having jurisdiction in any matter that would constitute a condition precedent to the performance by the City of its obligations hereunder, or under any of the documents or instruments relating to the Bonds, and to which it is a party (including, without limitation, the Enabling Act, the Refunding Act, the Charter, the Ordinances, the Resolution, the Escrow Deposit Agreement, the Continuing Disclosure Agreement and this Bond Purchase Agreement), have been obtained and are in full force and effect, except such as may be required under applicable blue sky or securities laws in connection with the offering and sale of the Bonds by the Underwriter.

(o) The City will not take or omit to take any action which action or omission would in any way cause the proceeds from the sale of the Bonds to be applied other than as provided in the Ordinances, the Resolution and the Official Statement.

(p) This Bond Purchase Agreement has been duly authorized, executed and delivered by the City.

(q) The City is not now in default and has not at any time been in default as to principal or interest on any security issued or guaranteed by the City which is payable from the same source of payment as the Bonds.

(r) Any certificate signed by any official of the City and delivered to the Underwriter shall be deemed to be a representation by the City to the Underwriter as to the statements made therein.

(s) The City has not been notified of any listing or proposed listing of the City by the Internal Revenue Service as an issuer whose arbitrage certifications may not be relied upon.

(t) The City has not failed to comply, in any material respect, with any undertaking in a written contract or agreement specified in paragraph (b)(5)(i) of Rule 15c2-12.

(u) The executed copies of the Official Statement, when delivered by the City to the Underwriter, will be deemed final by the City as of the date thereof for purposes of Rule 15c2-12.

**7. Closing.** At 10:00 A.M., E.D.T., on July 2, 2013 or at such other time or on such earlier or later date as the parties mutually agree upon, closing shall occur (herein called the "Closing"), and the City will deliver or cause to be delivered to The Depository Trust Company ("DTC"), in New York, New York, through the "FAST System," the Bonds in definitive or book-entry form, duly authenticated and registered in the name of Cede & Co., as registered owner and nominee for DTC, which will act as Securities Depository for the Bonds. At the time of Closing, there will be delivered to the Underwriter at the offices of Funk & Bolton, P.A., Baltimore, Maryland, or at such other place as the parties may mutually agree upon, the other documents hereinafter mentioned; and the Underwriter will confirm delivery of the Bonds to

DTC and pay the purchase price thereof in immediately available funds for deposit in accordance with the Resolution for the account of the City.

**8. Conditions to Obligations of the Underwriter.** The Underwriter has entered into this Bond Purchase Agreement in reliance upon the representations, warranties and covenants of the City contained herein and the performance by the City of its obligations hereunder both as of the date hereof and as of the date of Closing and upon the accuracy of the statements to be contained in the documents, opinions, and instruments to be delivered at the Closing, as set forth below. Accordingly, the Underwriter's obligation under this Bond Purchase Agreement to purchase, accept delivery of, and pay for the Bonds is subject to the performance by the City of its obligations hereunder at or prior to the Closing and to the following additional conditions precedent:

(a) Prior to or simultaneously with the mailing of the Preliminary Official Statement, the Underwriter shall receive a certificate from an authorized official or officials of the City to the effect that the Preliminary Official Statement is deemed by the City to be final as of the date thereof for purposes of Rule 15c2-12, except for the omission of no more than the information permitted to be omitted therefrom by paragraph (b)(1) of Rule 15c2-12.

(b) The representations and covenants of the City contained herein shall be true, complete and correct in all material respects at the date hereof and on the date of the Closing.

(c) At the time of the Closing (i) the Ordinances, the Resolution, the Escrow Deposit Agreement, the Continuing Disclosure Agreement and this Bond Purchase Agreement shall be in full force and effect, and shall not have been amended, modified or supplemented (except as Ordinance No. 3732 amends and supplements Ordinance No. 3962 and except as otherwise may be agreed to in writing by the Underwriter); (ii) the ratings of the Bonds as set forth in Paragraph 7(d)(ix) hereof shall be in effect; (iv) ) the proceeds of the sale of the Bonds shall be deposited and applied as described in the Official Statement and the Resolution; (v) the City shall have duly adopted and there shall be in full force and effect such additional resolutions, ordinances or orders as, in the opinion of Bond Counsel, shall be necessary in connection with the transactions contemplated hereby; and (vi) the City shall perform or have performed all of its obligations required under or specified in this Bond Purchase Agreement, the Official Statement, the Ordinances, the Resolution and the Continuing Disclosure Agreement to be performed at or prior to the Closing.

(d) At or prior to the Closing and as a condition to the obligations of the Underwriter under this Bond Purchase Agreement, the Underwriter shall receive the following:

(i) two copies of all proceedings of the City (including the Ordinances and the Resolution) pertaining to the issuance and sale of the Bonds and the transactions contemplated hereby and by the Official Statement;

(ii) two executed copies each of (A) the Official Statement, (B) this Bond Purchase Agreement, (C) the Escrow Deposit Agreement entered into by and between the City and Manufacturers and Traders Trust Company (the “Escrow Deposit Agent”) as described in the Official Statement (the “Escrow Deposit Agreement”), (D) the Continuing Disclosure Agreement entered into by the City with respect to the Bonds in compliance with Rule 15c2-12 in substantially the form attached hereto as Exhibit C (the “Continuing Disclosure Agreement”), and (E) each other agreement or instrument used in the consummation of the transactions contemplated hereby and by the Official Statement;

(iii) the approving legal opinions of Funk & Bolton, P.A., Bond Counsel, with respect to the Taxable Bonds and the Tax-Exempt Bonds, dated the date of the Closing, in substantially the forms contained in Appendix B to the Official Statement, together with a letter or letters addressed to the Underwriter and Miles & Stockbridge P.C. stating that the Underwriter and Miles & Stockbridge P.C. may rely upon such opinions as through addressed to them;

(iv) a supplementary opinion of Bond Counsel, dated the date of the Closing and addressed to the City and the Underwriter, in substantially the form attached hereto as Exhibit B and made a part hereof;

(v) A certificate, dated the date of Closing, signed by one or more authorized officers or representatives of the City to the effect that, to his or their knowledge: (i) the representations of the City contained in this Bond Purchase Agreement are true as of the date of Closing; and (ii) the City has performed all obligations to be performed hereunder as of the date of Closing;

(vi) copies of the letters to the City from Fitch Ratings and Standard & Poor’s Ratings Services, a division of the McGraw-Hill Companies, Inc., giving the Bonds the ratings of “\_\_\_\_\_” and “\_\_\_\_\_”, respectively;

(vii) with respect to the Tax-Exempt Bonds, the duly executed Tax and Section 148 Certificate of the City and a duly executed or substantially completed United States Treasury Department Form 8038-G;

(viii) an opinion of Miles & Stockbridge P.C., Baltimore, Maryland, counsel to the Underwriter, dated the date of the Closing and addressed to the Underwriter, in form and substance satisfactory to the Underwriter;

(ix) copies of the blue sky memoranda indicating the jurisdictions in which the Bonds may be sold in compliance with the blue sky or securities laws of such jurisdictions; and

(x) such additional certificates, instruments and other documents as the Underwriter, counsel to the Underwriter or Bond Counsel may reasonably deem necessary to evidence the truth and accuracy as of the date of the Closing of the

City's representations and covenants contained in this Bond Purchase Agreement and the due performance or satisfaction by the City at or prior to such time of all agreements then to be performed and all conditions then to be satisfied by the City pursuant to this Bond Purchase Agreement.

The opinions and certificates and other material referred to above shall be in form and substance satisfactory to the Underwriter and to Miles & Stockbridge P.C., counsel to the Underwriter.

**9. Cancellation of Bond Purchase Agreement by Underwriter.** The Underwriter shall have the right to terminate this Bond Purchase Agreement by notification to the City from the Underwriter of the election of the Underwriter to do so if, after the execution hereof and prior to the Closing:

- (a) an event shall occur which makes untrue or incorrect in any material respect, as of the time of such event, any statement or information contained in the Official Statement or which is not reflected in the Official Statement but should be reflected therein in order to make the statements contained therein not misleading in any material respect and requires an amendment of or supplement to the Official Statement and the effect of which, in the judgment of the Underwriter, would materially adversely affect the market for the Bonds or the sale, at the contemplated offering prices (or yields), by the Underwriter of the Bonds; or
- (b) legislation shall be introduced in, enacted by, reported out of committee, or recommended for passage by the State of Maryland, either House of the Congress, or recommended to the Congress or otherwise endorsed for passage (by press release, other form of notice or otherwise) by the President of the United States, the Treasury Department of the United States, the Internal Revenue Service or the Chairman or ranking minority member of the Committee on Finance of the United States Senate or the Committee on Ways and Means of the United States House of Representatives, or legislation is proposed for consideration by either such committee by any member thereof or presented as an option for consideration by either such committee by the staff or such committee or by the staff of the Joint Committee on Taxation of the Congress of the United States, or a bill to amend the Code (which, if enacted, would be effective as of a date prior to the Closing) shall be filed in either House, or a decision by a court of competent jurisdiction shall be rendered, or a regulation or filing shall be issued or proposed by or on behalf of the Department of the Treasury or the Internal Revenue Service of the United States, or other agency of the federal government, or a release or official statement shall be issued by the President, the Department of the Treasury or the Internal Revenue Service of the United States, in any such case with respect to or affecting (directly or indirectly) the taxation of interest received on obligations of the general character of the Tax-Exempt Bonds which, in the opinion of the Underwriter, materially adversely affects the market for the Tax-Exempt Bonds or the sale, at the contemplated offering prices (or yields), by the Underwriter of the Tax-Exempt Bonds; or

- (c) a stop order, ruling, regulation, proposed regulation or statement by or on behalf of the Securities and Exchange Commission or any other governmental agency having jurisdiction of the subject matter shall be issued or made to the effect that the issuance, offering, sale or distribution of obligations of the general character of the Bonds is in violation or would be in violation of any provisions of the Securities Act of 1933, as amended; or
- (d) legislation introduced in or enacted (or resolution passed) by the Congress or an order, decree, or injunction issued by any court of competent jurisdiction, or an order, ruling, regulation (final, temporary, or proposed), press release or other form of notice issued or made by or on behalf of the Securities and Exchange Commission, or any other governmental agency having jurisdiction of the subject matter, to the effect that obligations of the general character of the Bonds, including any or all underlying arrangements, are not exempt from registration under or other requirements of the Securities Act of 1933, as amended (the "Securities Act"), or that the issuance, offering, or sale of obligations of the general character of the Bonds, including any or all underlying arrangements, as contemplated hereby or by the Official Statement or otherwise, is or would be in violation of the federal securities law as amended and then in effect;
- (e) there shall have occurred any outbreak or escalation of hostilities, declaration by the United States of a national or international emergency or war or other calamity or crisis the effect of which on financial markets is such as to make it, in the reasonable judgment of the Underwriter, impractical or inadvisable to proceed with the offering of the Bonds as contemplated in the Official Statement; or
- (f) there shall have occurred a general suspension of trading, minimum or maximum prices for trading shall have been fixed and be in force or maximum ranges or prices for securities shall have been required on the New York Stock Exchange or other national stock exchange whether by virtue of a determination by that exchange or by order of the Securities and Exchange Commission or any other governmental agency having jurisdiction or any national securities exchange shall have: (i) imposed additional material restrictions not in force as of the date hereof with respect to trading in securities generally, or to the Bonds or similar obligations; or (ii) materially increased restrictions now in force with respect to the extension of credit by or the charge to the net capital requirements of Underwriter or broker-dealers such as to make it, in the judgment of the Underwriter, impractical or inadvisable to proceed with the offering of the Bonds as contemplated in the Official Statement; or
- (g) a general banking moratorium shall have been declared by federal or New York or Maryland state authorities or a major financial crisis or a material disruption in commercial banking or securities settlement or clearances services shall have occurred such as to make it, in the judgment of the Underwriter, impractical or inadvisable to proceed with the offering of the Bonds as contemplated in the Official Statement; or

(h) a downgrading or suspension of any rating (without regard to credit enhancement) by S&P or Fitch of any debt securities issued by the City, or (ii) there shall have been any official statement as to a possible downgrading (such as being placed on “credit watch” or “negative outlook” or any similar qualification) of any rating by S&P or Fitch of any debt securities issued by the City, including the Bonds.

**10. Expenses.** The City shall pay or cause to be paid the expenses incident to the performance of its obligations hereunder including but not limited to (a) the cost of the preparation and printing or other reproduction of the Ordinances, the Resolution, the Preliminary Official Statement, the Official Statement, the Escrow Deposit Agreement, the Continuing Disclosure Agreement and the other documents mentioned herein; (b) the fees and disbursements Bond Counsel, the Bond Registrar and Paying Agent, the Escrow Deposit Agent, and any other experts or consultants retained by the City, including the Financial Advisor to the City and The Arbitrage Group, Inc., as the verification agent; (c) the costs and fees of the credit rating agencies; and (d) the cost of preparing and delivering the definitive Bonds. The Underwriter shall pay all expenses incurred by it in connection with its public offering and distribution of the Bonds (including the fees and disbursements of its counsel, Miles & Stockbridge P.C., and the cost of the federal funds wire with respect to the payment for the Bonds).

**11. Indemnification and Contribution.** The City agrees to indemnify and hold harmless the Underwriter, its directors, officers, employees and agents and each person who controls the Underwriter within the meaning of either the Securities Act or the Exchange Act (each, an “Indemnified Party”) against any and all losses, claims, damages or liabilities, joint or several, to which they or any of them may become subject under the Securities Act, the Exchange Act or other Federal or state statutory law or regulation, at common law or otherwise, insofar as such losses, claims, damages or liabilities arise out of or are based upon any untrue statement or alleged untrue statement of a material fact contained in the Preliminary Official Statement, the Official Statement (or in any supplement or amendment thereto), or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, other than material under the headings “BOOK-ENTRY ONLY SYSTEM”, “FINANCIAL ADVISOR” and “UNDERWRITING” and any reoffering information provided by the Underwriter and included in the Official Statement. This indemnity agreement will be in addition to any liability which the City may otherwise have and shall be subject to the provisions of any applicable law.

Promptly after receipt by an Indemnified Party of notice of the commencement of any action, the City will, if a claim in respect thereof is to be made against the City, notify the City in writing of the commencement thereof; but the failure so to notify the City (i) will not relieve it from liability unless and to the extent it did not otherwise learn of such action and such failure results in the forfeiture by the City of substantial rights and defenses; and (ii) will not, in any event, relieve the City from any obligations to any Indemnified Party other than the indemnification obligation. The City shall be entitled to appoint counsel of its choice at its expense to represent the Indemnified Party in any action for which indemnification is sought, provided, however, that such counsel shall be satisfactory to the Indemnified Party. Notwithstanding the City’s election to appoint counsel to represent an Indemnified Party in an

action, the Indemnified Party shall have the right to employ separate counsel (including local counsel), and the City shall bear the reasonable fees, costs and expenses of such separate counsel if (i) the use of counsel chosen by the City to represent the Indemnified Party would present such counsel with a conflict of interest; (ii) the actual or potential defendants in, or targets of, any such action include both the Indemnified Party and the City and the Indemnified Party shall have reasonably concluded that there may be legal defenses available to it and/or other Indemnified Parties which are different from or additional to those available to the City; (iii) the City shall not have employed counsel satisfactory to the Indemnified Party to represent the Indemnified Party within a reasonable time after notice of the institution of such action; or (iv) the City shall authorize the Indemnified Party to employ separate counsel at the expense of the City. The City will not, without the prior written consent of the Indemnified Parties, settle or compromise or consent to the entry of any judgment with respect to any pending or threatened claim, action, suit or proceeding in respect of which indemnification or contribution may be sought hereunder (whether or not the Indemnified Parties are actual or potential parties to such claim or action) unless such settlement, compromise or consent includes an unconditional release of each Indemnified Party from all liability arising out of such claim, action, suit or proceeding.

In the event that the indemnity provided herein is unavailable or insufficient to hold harmless an Indemnified Party for any reason the City and the Underwriter agree to contribute to the aggregate losses, claims, damages and liabilities (including legal or other expenses reasonably incurred in connection with investigating or defending the same) to which the City and the Underwriter may be subject in such proportion as is appropriate to reflect the relative benefits received by the City on the one hand and by the Underwriter on the other from the offering. If the allocation provided by the immediately preceding sentence is unavailable for any reason, the City and the Underwriter shall contribute in such proportion as is appropriate to reflect not only such relative benefits but also the relative fault of the City on the one hand and of the Underwriter on the other in connection with the statements or omissions which resulted in such losses, as well as any other relevant equitable considerations. In no case shall the Underwriter be responsible for any amount in excess of the purchase discount or fee applicable to the Bonds purchased by the Underwriter hereunder. Benefits received by the City shall be deemed to be equal to the total net proceeds from the offering (before deducting expenses) received by it, and benefits received by the Underwriter shall be deemed to be equal to the total purchase discounts and commissions in each case set forth on the inside cover of the Official Statement. Relative fault shall be determined by reference to, among other things, whether any untrue or any alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information provided by the City on the one hand or the Underwriter on the other, the intent of the parties and their relative knowledge, information and opportunity to correct or prevent such untrue statement or omission. The City and the Underwriter agree that it would not be just and equitable if contribution were determined by pro rata allocation or any other method of allocation which does not take account of the equitable considerations referred to above. Notwithstanding the provisions of this paragraph no person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. Each person who controls the Underwriter within the meaning of either the Securities Act or the Exchange Act and each director, officer, employee and agent of the Underwriter shall have the same rights to contribution as the Underwriter, and each person who

controls the City within the meaning of either the Securities Act or the Exchange Act and each official, director, officer and employee of the City shall have the same rights to contribution as the City, subject in each case to the applicable terms and conditions of this paragraph.

**12. Amendments or Supplements to the Official Statement.** If between the date of this Bond Purchase Agreement and the date of the Closing, and for a period of 25 days after the Closing, or any other period as shall be necessary to enable the Underwriter to comply with Rule 15c2-12, any event shall occur or any fact be discovered which would cause the Official Statement, as then supplemented or amended, to contain an untrue statement of a material fact or to omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, the City shall notify the Underwriter thereof. If, in the opinion of the City and the Underwriter, such event requires the preparation and publication of a supplement or amendment to the Official Statement, the City will prepare an appropriate amendment or supplement thereto, at the sole expense of the City, in a form and in a manner approved by the Underwriter (and the Underwriter shall file, or cause to be filed, the same with any nationally recognized municipal securities information repositories designated by the Securities and Exchange Commission at which the Official Statement was filed as required in Paragraph 3 hereof and with the Municipal Securities Rulemaking Board), so that the statements and information in the Official Statement, so amended and supplemented will not be, in the light of the circumstances under which they were made, misleading. The City will cooperate with the Underwriter in amending or supplementing the Official Statement in a form and in a manner approved by the Underwriter.

The parties hereto recognize that if it is necessary to supplement or amend the Official Statement, the Closing may be postponed for an appropriate time to allow the Underwriter to determine the effect of such supplement or amendment upon the market price or marketability of the Bonds or the Underwriter's ability to enforce contracts for the sale of the Bonds.

**13. No Advisory or Fiduciary Role.** The City acknowledges and agrees that (i) the purchase and sale of the Bonds pursuant to this Bond Purchase Agreement is an arm's-length commercial transaction between the City and the Underwriter, (ii) in connection therewith and with the discussions, undertakings and procedures leading up to the consummation of such transaction, the Underwriter is and has been acting solely as a principal and is not acting as the agent or fiduciary of the City, (iii) the Underwriter has not assumed an advisory or fiduciary responsibility in favor of the City with respect to the offering contemplated hereby or the discussions, undertakings and procedures leading thereto (irrespective of whether the Underwriter has provided other services or is currently providing other services to the City on other matters) and the Underwriter has no obligation to the City with respect to the offering contemplated hereby except the obligations expressly set forth in this Bond Purchase Agreement and (iv) the City has consulted its own legal, financial and other advisors to the extent it has deemed appropriate.

**14. Notices.** Any notice or other communication to be given to the City under this Bond Purchase Agreement may be given by delivering the same in writing by (i) certified or registered mail, return receipt requested, first class postage prepaid or (ii) overnight or hand

delivery with written confirmation, to Mayor and City Council of Cumberland, 57 North Liberty Street, Cumberland, Maryland, 21502, Attention: City Administrator; and any notice or other communication to be given to the Underwriter under this Bond Purchase Agreement may be given by delivering the same in writing to M&T Securities, Inc., 25 South Charles Street, Baltimore, Maryland, 21201, Attention: Greg Brunner, Managing Director.

**15. Benefit of Bond Purchase Agreement.** This Bond Purchase Agreement, when accepted by the City in writing as heretofore specified, shall constitute the entire agreement between the City and the Underwriter and is made solely for the benefit of the City and the Underwriter (including any successor in interest of the Underwriter). No other person, including any owners of the Bonds, shall acquire or have any right hereunder or by virtue hereof.

**16. Survival of Representations, Covenants and Agreements.** All representations, covenants and agreements in this Bond Purchase Agreement shall remain operative and in full force and effect, regardless of (a) any investigation made by or on behalf of the Underwriter, (b) delivery of and payment for the Bonds hereunder, and (c) any termination of this Bond Purchase Agreement.

**17. Governing Law.** This Bond Purchase Agreement shall be governed by and construed under the laws of the State of Maryland.

**18. Assignment.** This Bond Purchase Agreement may not be assigned by the City or the Underwriter without the prior written consent of the other party hereto.

**19. Counterparts.** This Bond Purchase Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

**20. Headings.** The headings of the Paragraphs of this Bond Purchase Agreement are inserted for convenience of reference only and shall not be deemed to be a part hereof.

[THE REST OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

If the foregoing is acceptable to you, please sign below and this Bond Purchase Agreement will become a binding agreement between us.

Very truly yours,

M&T SECURITIES, INC.

By: \_\_\_\_\_  
Greg Brunner  
Managing Director

ACCEPTED AT \_\_\_\_\_ [A.M./P.M.] ON THE DATE FIRST ABOVE WRITTEN

MAYOR AND CITY COUNCIL OF CUMBERLAND

By: \_\_\_\_\_  
Jeffrey D. Rhodes  
City Administrator

EXHIBIT A

MATURITY SCHEDULES FOR THE BONDS

I. The Taxable Bonds

A. Amortization Schedule

<u>Due</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Yield</u>	<u>Price</u>
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\* Priced to first optional redemption date of November 1, 2023.

B. Optional Redemption

The Taxable Bonds maturing on or after November 1, 2024 are subject to redemption on or after November 1, 2023 in whole or in part at any time at the option of the City, at a redemption price equal to 100% of the principal amount thereof, together with interest accrued to the date fixed for redemption.

II. The Tax-Exempt Bonds

A. Amortization Schedule

<u>Due</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Yield</u>	<u>Price</u>
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B. The Tax-Exempt Bonds are not subject to optional redemption prior to maturity.

EXHIBIT B

FORM OF SUPPLEMENTAL OPINION OF BOND COUNSEL

(Closing Date)

Mayor and City Council of Cumberland  
Cumberland, Maryland

M&T Securities, Inc.  
Baltimore, Maryland

Ladies and Gentlemen:

We have acted as Bond Counsel in connection with the issuance by Mayor and City Council of Cumberland, a body politic and corporate and a municipal corporation of the State of Maryland (the "City") of \$\_\_\_\_\_ Mayor and City Council of Cumberland Taxable Redevelopment and Refunding Bonds of 2013 (the "Taxable Bonds") and the \$\_\_\_\_\_ Mayor and City Council of Cumberland Tax-Exempt Refunding Bonds of 2013 (the "Tax-Exempt Bonds" and, collectively with the Taxable Bonds, the "Bonds"). The Taxable Bonds are issued pursuant to the authority of, as applicable, Sections 31 to 37, inclusive, of Article 23A of the Annotated Code of Maryland (the "Enabling Act"), Section 24 of Article 31 of the Annotated Code of Maryland (the "Refunding Act"), Sections 81 and 82A of the Charter of the City, as published in Municipal Charters of Maryland, Volume 3, 2008 Replacement Edition, as replaced, supplemented or amended (the "Charter"), Ordinance No. 3725, passed by the Mayor and City Council of the City (the "Mayor and City Council") on October 9, 2012 and effective on November 8, 2012 ("Ordinance No. 3725"), Ordinance No. 3731, passed by the Mayor and City Council on January 29, 2013 and effective on February 28, 2013 ("Ordinance No. 3731"), and Resolution No. \_\_\_\_\_, adopted by the Mayor and City Council on June 4, 2013 and effective on June 4, 2013 (the "Resolution").

The Tax-Exempt Bonds are issued pursuant to the authority of, as applicable, the Enabling Act, the Refunding Act, the Charter, Ordinance No. 3692, passed by the Mayor and City Council on May 24, 2011 and effective on June 23, 2011 ("Ordinance No. 3692"), as supplemented and amended by Ordinance No. 3732, passed by the Mayor and City Council on January 29, 2013 and effective on February 28, 2013 ("Ordinance No. 3732"), and the Resolution.

Ordinance No. 3692, Ordinance No. 3725, Ordinance No. 3731 and Ordinance No. 3732 are collectively referred to as the "Ordinances". The Ordinances and the Resolution are collectively referred to as the "Authorizing Legislation".

We have examined the law and such certified proceedings and other papers as we have deemed necessary to render this opinion.

Capitalized terms used in this opinion but not defined herein shall have the meanings ascribed to such terms in the Bond Purchase Agreement dated June \_\_\_\_\_, 2013 between the City and M&T Securities, Inc., as Underwriter (the "Bond Purchase Agreement").

We refer you to the Bonds and to the Authorizing Legislation for a description of the purposes for which the Bonds are issued, the security for the Bonds, the manner in which and times at which the principal of and interest on the Bonds are payable, the interest rates payable on the Bonds, the provisions under which the Bonds may be redeemed prior to their stated maturity, and all other details of the Bonds.

As to questions of fact material to our opinion, without undertaking to verify the same by independent investigation, we have relied upon the certified proceedings and other certifications of public officials furnished to us.

We have assumed the accuracy and truthfulness of all public records and of all certifications, documents and other proceedings examined by us that have been executed or certified by public officials acting within the scope of their official capacities, and we have not independently verified the accuracy or truthfulness thereof. We have also assumed the genuineness of the signatures appearing upon such public records, certifications, documents and proceedings.

Further, we have assumed the authenticity of all documents submitted to us as originals, the genuineness of all signatures, and the conformity to original documents of all documents submitted to us as certified or photostatic copies and the authenticity of the originals of such latter documents.

We do not express any opinion herein concerning any law other than the law of the State of Maryland and the federal law of the United States of America.

We have not examined, and express no opinion as to, the existence of or title to real or personal property.

Based upon, and subject to, the foregoing, and on the basis of existing law, it is our opinion, as of the date hereof, that:

(a) The Ordinances have been duly enacted by the Mayor and City Council, have not been amended, revoked or rescinded, except to the extent that Ordinance No. 3732 supplements and amends Ordinance No. 3692, and are in full force and effect.

(b) The Bonds constitute the valid and legally binding general obligations of the City, enforceable against the City in accordance with their respective terms.

(c) The Bond Purchase Agreement has been duly authorized, executed and delivered by the City and, assuming the due authorization, execution and delivery thereof by the Underwriter, constitutes the legal, valid and binding agreement of the City.

(d) The Escrow Deposit Agreement dated as of July 2, 2013 (the “Escrow Deposit Agreement”) between the City and Manufacturers and Traders Trust Company (the “Escrow Deposit Agent”) has been duly authorized, executed and delivered by the City and, assuming the due authorization, execution and delivery thereof by the Escrow Deposit Agent, constitutes the legal, valid and binding agreement of the City

(e) The Continuing Disclosure Agreement of the City dated as of July 2, 2013 (the “Continuing Disclosure Agreement”) has been duly authorized, executed and delivered by the City and constitutes the legal, valid and binding agreement of the City.

(f) The City has duly approved, authorized and ratified the Preliminary Official Statement dated June 5, 2013 relating to the Bonds and the use and distribution thereof, and the City has duly approved and executed the Official Statement dated June \_\_, 2013 relating to the Bonds and duly approved the use and distribution thereof.

(g) Based upon our participation in the preparation of the Official Statement as Bond Counsel, our discussions and inquiries of the City and its counsel and the examinations which we have made, and without having undertaken to determine independently the accuracy or completeness of the statements contained in the Official Statement, nothing has come to our attention which would lead us to believe that the Official Statement as of its date contains an untrue statement of a material fact or omits to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, it being understood that in rendering such opinion we are not and shall not express any opinion with respect to financial, operational, numerical and statistical data or material, or expression of opinions or estimates included in the Official Statement.

The information in the Official Statement captioned “INTRODUCTION”, “APPLICATION OF PROCEEDS”, “REFUNDING PLAN”, “DESCRIPTION OF THE BONDS”, “TAX MATTERS”, “LEGAL MATTERS” and “CONTINUING DISCLOSURE”, and Appendix B to the Official Statement, has been reviewed by us, and, insofar as such information constitutes conclusions of law, legal opinions or descriptions of legal documents, is a fair and accurate summary.

The rights of any holder of the Bonds and the enforceability of the Bonds, the Bond Purchase Agreement, the Escrow Deposit Agreement and the Continuing Disclosure Agreement are subject to: (a) the exercise of judicial discretion in accordance with general principles of equity (whether applied by a court of law or a court of equity), including judicial limitations on rights to specific performance; (b) the valid exercise of the constitutional powers of the United States of America and of the sovereign police and taxing powers of the state or other governmental units having jurisdiction; and (c) bankruptcy, insolvency, reorganization,

moratorium or other similar laws heretofore or hereafter in effect affecting creditors' rights, to the extent applicable.

We express no opinion as to the laws of any jurisdiction other than the laws of the State of Maryland and the federal laws of the United States of America as currently in effect. The opinions expressed above are limited to the matters set forth above, and no opinions should be inferred beyond the matters expressly stated. This opinion is issued as of the date hereof, and we assume no obligation to update, revise or supplement this opinion letter to reflect any facts or circumstances that may hereafter come to our attention, or any changes in law, or in interpretations thereof, that may hereafter occur, or for any other reason whatsoever.

The views expressed herein are solely for the use of the addressees in connection with the consummation of the transactions contemplated by the Official Statement and, without our prior written consent, may not be quoted in whole or in part or otherwise referred to in any legal opinion, document or other report, and may not be furnished to any person or entity, provided that this letter may be included in the transcript of supporting documents in connection with the issuance of the Bonds. This letter may not be relied upon by the holders of the Bonds or any other person or entity to whom it is not specifically addressed.

This letter is furnished to meet, in part, the requirements of Paragraph 8(d)(iv) of the Bond Purchase Agreement, and is furnished solely for your benefit.

Very truly yours,



**FUNK & BOLTON**  
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RONALD L. SOUDERS (PA, DC)

MEMORANDUM

TO: The Honorable Mayor and City Council of Cumberland  
FROM: Lindsey A. Rader  
DATE: May 17, 2013  
RE: Draft Resolution Regarding General Obligation Bonds

Included with this memorandum is a draft resolution relating to the City’s upcoming general obligation bond issue. We intend to have the final version of the resolution introduced and adopted at the June 4, 2013 Mayor and City Council meeting. The enclosed draft resolution was circulated to the bond working group on May 16, 2013 and, in addition to completing preliminary amortization schedules before introduction, I expect that there will be other revisions made to correct any inconsistencies, conform usage of terms or provide for any necessary details regarding the bonds not addressed in the current draft. Prior to the June 4 meeting you will be provided with a “blacklined” version of the resolution that compares the version prepared for introduction against the draft provided with this memorandum.

Part (i) of this memorandum provides an overview of the contemplated bonds and sale process and part (ii) of this memorandum summarizes the material provisions of the draft resolution.

(i)

OVERVIEW

In 2006, the City, as lessee, entered into an Equipment Lease/Purchase Agreement (the “2006 LPA”) with Manufacturers and Traders Trust Company, as lessor, to finance the acquisition of certain equipment designed to control energy consumption and associated costs. The interest component of the Rental Payments due under the 2006 LPA is 4.097% per annum; Rental Payments are due semi-annually through and including May 1, 2022. The City has the right to prepay the 2006 LPA *in whole only* on any scheduled Rental Payment date (each May 1 and November 1) by paying the Rental Payment due on such date, plus an approximately 2% prepayment premium.

In 2010, the City obtained a loan from Susquehanna Bank to finance HVAC upgrades at the Memorial Campus Facility (the location of the former Memorial Hospital). The loan is

evidenced by a promissory note issued by the City to the bank (the “Promissory Note”). Loan payments are due each April 1 and October 1; the Promissory Note matures on October 1, 2025 and bears interest at the rate of 6.00% per annum. The City may prepay the Promissory Note in whole or in part at any time at a prepayment price of the principal amount being prepaid plus interest accrued on such amount to the date of prepayment.

The City would like to borrow money to fund demolition activities at the Memorial Campus Facility and to fund projects generally referred to as “Other Street Improvement Projects”.

Davenport & Company LLC, the financial advisor to the City (the “Financial Advisor”), has indicated that current municipal bond market conditions are such that it is anticipated the City can achieve worthwhile cost savings by refinancing and prepaying the 2006 LPA and the Promissory Note.

Due to the anticipated demolition of the Memorial Campus Facility and the HVAC upgrades to such facility originally financed by the Promissory Note, and the expectation that such location may be redeveloped for use by a non-governmental entity, bonds issued for such purposes must be issued on a taxable basis. The 2006 LPA was issued on a tax-exempt basis and we expect to issue refunding bonds to refinance that obligation on a tax-exempt basis. (A municipal bond/obligation refinancing is commonly referred to as “refunding”; the refunding of the Promissory Note will be a “current refunding” and the refunding of the 2006 LPA will be an “advance refunding”. The distinction is based on the number of days between the date the refunding bonds are issued and the date the refunded obligation can be paid off.)

With the assistance of the Financial Advisor, City officials communicated with certain banks to see if they were interested in purchasing separate series of the City’s taxable and tax-exempt general obligation bonds; none of the banks contacted submitted proposals that were deemed attractive in terms of quoted interest rates and/or prepayment terms.

The Financial Advisor has recommended that the City work with a specific municipal bond underwriter and sell the contemplated bonds through a “negotiated underwriting” (which constitutes a “private sale” or a “sale on a negotiated basis” for purposes of Maryland law and the City Charter) due to the contemplated uses of the bonds and the relatively small issue sizes. The City sold its 2009 pension contribution bonds through a negotiated underwriting for similar reasons. Two separate series of general obligation bonds are proposed: a taxable series and a tax-exempt series.

M&T Securities, Inc. (the “Underwriter”) submitted a proposal to serve as underwriter for the contemplated bonds that the Financial Advisor, the City Administrator and the Comptroller deemed acceptable.



In connection with offering of the bonds, a Preliminary Official Statement outlining terms of the bonds and disclosing the financial and operating condition of the City will be circulated to potential investors by the Underwriter. At a time when market conditions are deemed attractive by the Financial Advisor and the Underwriter, the Underwriter will price the bonds (based on indicated investor interest) and assuming the City Administrator, in consultation with the Comptroller and the Financial Advisor, agrees that the proposed pricing meets or exceeds identified targets for achieving debt service savings and that the proposed interest rates are attractive, the City Administrator will sign a Bond Purchase Agreement with the Underwriter fixing the terms of the sale. The Bond Purchase Agreement is typically signed late in the day of sale or by a stated deadline on the following day. Once the Bond Purchase Agreement is signed, the Underwriter is obligated to purchase all of the bonds from the City on the date of closing, even if it is unable to re-sell the bonds to investors at the agreed-upon pricing.

The resolution delegates authority to approve terms of the sale to the City Administrator because with a negotiated underwriting, unlike a public sale at competitive bid, neither the time nor the date of sale is set in stone days or weeks ahead of time. Therefore, it can be difficult to call the governing body into session to approve the sale terms in a timely fashion. Adding a layer of complexity is the fact that while the Underwriter is pricing the bonds, the “defeasance escrow” for the refunding of the 2006 LPA will need to be structured in compliance with federal tax code limitations (due to the fact that the refunding of the 2006 LPA constitutes an advance refunding). Advance refunding escrows are typically invested in U.S. Treasury State and Local Government Series securities (“SLGS”). However, the U.S. Treasury announced on May 15 that it will suspend sales of SLGS on May 17, 2013. When the “SLGS window” is closed, a defeasance escrow may be structured by soliciting bids for U.S. Treasury securities on the open market within parameters dictated by the tax code. If the SLGS window remains closed when the bonds are priced, it is contemplated that Davenport & Company LLC will serve as the bidding agent for the structuring of the defeasance escrow. Due to the fact that bond pricing and escrow structuring activities will be occurring simultaneously and must be closely coordinated, and that approval of the final terms of the bonds and the details of the defeasance escrow must occur rapidly, the resolution delegates pricing approval authority to the City Administrator. (The substantially final form of the Bond Purchase Agreement, with blanks for the pricing terms, will be attached as an exhibit to the resolution when it is submitted for the June 4 meeting; that document is prepared by Underwriter’s counsel.)

The contemplated timeline is as follows: (i) introduce/adopt bond resolution on June 4; (ii) mail Preliminary Official Statement on June 5; (iii) conduct pricing/sale/defeasance escrow structuring on a date during the week of June 17; (iv) “pre-close” the bond issue on July 1; and (v) close the bond issue on July 2. Promptly following the sale date, the form of Preliminary Official Statement will be revised and completed to reflect sale terms and circulated as the final Official Statement to investors to whom the bonds were pre-sold.

This schedule may be delayed if the Financial Advisor and the Underwriter concur (after consulting with the City Administrator and the Comptroller) that market shifts will not result in a



bond pricing favorable to the City during the week of June 17. Conversely, if both potential investor reaction to the Preliminary Official Statement and market conditions are strong during the week of June 10, pricing may be moved up to later that week.

(ii)

SUMMARY OF BOND RESOLUTION

- The Recitals trace the authority for and purposes of the two series of bonds (referred to in the resolution as the “Taxable Bonds” and the <sup>104-exempt</sup> “Taxable Bonds” and, collectively, as the “Bonds”).
- The resolution contemplates that if the market shifts in a direction that makes either contemplated refunding not cost-effective, the City Administrator, in consultation with the Financial Advisor and the Comptroller, may determine that (i) the Taxable Bonds will be issued only for purposes of funding the Memorial Campus Facility Demolition and Other Street Improvement Projects and related costs of issuance and/or (ii) the Tax-Exempt Bonds will not be issued at all.
- Preliminary amortization schedules and maximum authorized aggregate principal amounts for each series will be included in the final form resolution based on recommendations of the Financial Advisor in consultation with the Underwriter. The City Administrator will be authorized to adjust such schedules within the parameters provided in the resolution prior to pricing.
- The Taxable Bonds maturing on or after November 1, 2024 will be subject to redemption at the option of the City in whole or in part on any date on or after November 1, 2023 at a price of par plus accrued interest. The Tax-Exempt Bonds are not subject to redemption at the option of the City because they are expected to mature approximately 8.5 years after issuance.
- The resolution contains standard provisions regarding registration of the Bonds in book-entry only form with DTC (this is typical for publicly offered bonds), the authorized denominations of the Bonds, the manner of payment of the Bonds and provisions relating to the transfer or exchange of Bonds.
- The substantially final form of the Bonds is attached as Exhibit A and the Mayor is authorized to sign and approve the completed Bonds (the attached bond form identifies certain provisions that are applicable only to each series of the Bonds).
- The determination is made to sell the Bonds to the Underwriter by private sale; the substantially final form of the Bond Purchase Agreement will be attached as Exhibit B, and the City Administrator is authorized to approve the completed Bond Purchase Agreement (reflecting pricing and sale terms) and to sign the same.
- The City Administrator is authorized to agree to the provision of municipal bond insurance for either series of the Bonds and to change the scheduled principal/interest/optional redemption dates for the Bonds if the date of sale is changed to a date later than August 1, 2013.



- The substantially final form of Preliminary Official Statement will be circulated to the Mayor and City Council prior to June 4 and such form is approved and certain City officials are authorized to complete and approve the same; and the completion and approval of the final Official Statement reflecting pricing and sale terms is also authorized, as is any needed amendment or supplement to either the Preliminary or final Official Statements.
- Selection of the following professional service providers is approved: Manufacturers and Traders Trust Company as (i) bond registrar and paying agent for both Bond series and (ii) escrow deposit agent for the Tax-Exempt Bonds; The Arbitrage Group Inc. as the verification agent (which will confirm that the yield on the defeasance escrow securities is within authorized tax code limits and that the structured escrow should be sufficient to pay off the 2006 LPA); and Davenport & Company LLC as the bidding agent if continued closure of the SLGS window requires open market bidding for the defeasance escrow securities. The City Administrator is authorized to select alternatives for the identified escrow deposit agent, the verification agent and the bidding agent.
- Various City officials are authorized to make certain determinations and take certain actions in connection with the prepayment of the Promissory Note and the 2006 LPA.
- The City's full faith and credit and unlimited taxing power are pledged to payment of the Bonds and the City agrees to levy necessary property taxes to pay the Bonds; provided that, to the extent other moneys are lawfully available to pay debt service on the Bonds, the taxes otherwise required to be levied will be reduced proportionately.
- Certain officials are authorized to execute and deliver at closing the tax certificate addressing certain covenants and representations regarding the tax-exempt status of the Tax-Exempt Bonds, and the City covenants to comply with applicable tax code requirements.
- The City designates the Tax-Exempt Bonds as "qualified tax-exempt obligations" (commonly referred to as "bank-qualified" bonds) for tax code purposes and represents that it and any related issuers do not reasonably expect to issue more than \$10 million of tax-exempt obligations (including any qualified 501(c)(3) bonds) in calendar year 2013. (Financial institutions are generally willing to purchase bank-qualified bonds at lower interest rates than non-bank-qualified bonds.)
- The City agrees to deliver a continuing disclosure undertaking in connection with the Bonds and to comply with the provisions of such undertaking while the Bonds are outstanding (which include the filing with a repository of certain annual financial information regarding the City and notification of certain specified events; the proposed form of such undertaking is an exhibit to the Preliminary Official Statement). The City executed similar undertakings in connection with its publicly offered 2008 street improvement bonds and 2009 pension contribution bonds.

L.A.R.

