
STANDBY BOND PURCHASE AGREEMENT

Dated as of September 1, 2008

By and Among

PASADENA PUBLIC FINANCING AUTHORITY,

CITY OF PASADENA, CALIFORNIA,

WELLS FARGO BANK, NATIONAL ASSOCIATION,
as Trustee

and

KBC BANK N.V.,
acting through its New York Branch

Relating to

Pasadena Public Financing Authority
Taxable Variable Rate Demand Lease Revenue Refunding Bonds
(Paseo Colorado Parking Facilities)
Series 2008

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STANDBY BOND PURCHASE AGREEMENT

THIS STANDBY BOND PURCHASE AGREEMENT dated as of September 1, 2008 (this "*Agreement*"), entered into by and among the Pasadena Public Financing Authority (the "*Authority*"), the City of Pasadena, California (the "*City*"), Wells Fargo Bank, National Association, as trustee (the "*Trustee*") and KBC BANK N.V., acting through its New York Branch (the "*Bank*").

WITNESSETH:

WHEREAS, the Authority has authorized the issuance of its Taxable Variable Rate Demand Lease Revenue Refunding Bonds (Paseo Colorado Parking Facilities), Series 2008 (the "*Bonds*") pursuant to that certain Trust Agreement dated as of September 1, 2008 (the "*Trust Agreement*"), between the Authority and the Trustee, to assist in the financing of the Project (as hereinafter defined); and

WHEREAS, in furtherance of such financing of the Project, the Pasadena Community Development Commission (the "*Commission*") has leased to the Authority the Leased Premises (as hereinafter defined) pursuant to that certain Authority Lease dated as of September 1, 2008 (the "*Authority Lease*"), between the Commission and the Authority, and the Authority has leased to the City the Leased Premises pursuant to that certain Lease Agreement dated as of September 1, 2008 (the "*Lease Agreement*"), between the Authority and the City; and

WHEREAS, principal and interest on the Bonds is payable from Revenues (as defined in the Trust Agreement), primarily consisting of Lease Payments derived from the Lease Agreement; and

WHEREAS, the Trust Agreement provides that the Bonds may bear interest at a Weekly Rate or a Fixed Rate; and

WHEREAS, pursuant to the Trust Agreement and subject to the conditions described therein, the Bonds bearing interest at a Weekly Rate are subject to purchase at various times before the maturity thereof; and

WHEREAS, the Authority and the City desire to provide for the purchase by the Bank on the terms and conditions specified herein of Tendered Bonds which cannot be remarketed as provided for in the Trust Agreement and the Remarketing Agreement; and

WHEREAS, in order to induce the Bank to establish this standby purchase facility (the "*Facility*"), the City, the Authority and the Trustee have agreed to the terms and conditions hereof;

NOW, THEREFORE, in consideration of the mutual promises contained herein and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1. Certain Defined Terms. As used in this Agreement and unless otherwise expressly indicated, or unless the context clearly requires otherwise:

(a) All the agreements or instruments herein defined shall mean such agreements or instruments as the same may from time to time be supplemented or amended or the terms thereof waived or modified to the extent permitted by, and in accordance with, the terms thereof and of this Agreement.

(b) The following terms shall have the following meanings (such meanings to be equally applicable to both singular and plural forms of the terms defined):

"Agreement" shall mean this Standby Bond Purchase Agreement dated as of September 1, 2008, by and among the Authority, the City, the Trustee and the Bank, as the same may be supplemented and amended from time to time in accordance with its terms.

"Alternate Liquidity Facility" has the meaning set forth in the Trust Agreement.

"Authority" shall mean the Pasadena Public Financing Authority, a joint exercise of powers authority organized and existing under the laws of the State.

"Authority Lease" shall mean that certain Authority Lease dated as of September 1, 2008, by and between the Commission and the Authority.

"Authorized Denominations" shall have the meaning set forth in the Trust Agreement.

"Authorized Representative" shall mean any person at the time designated to act on behalf of the City, the Authority, the Remarketing Agent or the Trustee, as the case may be, for purposes of this Agreement by written certificate furnished to the Bank containing the specimen signature of such person.

"Available Commitment" means on any day the sum of the Available Principal Commitment and the Available Interest Commitment on such day, initially \$_____.

"Available Interest Commitment" initially means \$_____ (representing [34] days of interest on the Bonds calculated at an assumed rate of 12% per annum based on a year of 365 for the actual number of days elapsed) and thereafter means such amount adjusted from time to time as follows: (a) downward by an amount that bears the same proportion to such amount as the amount of any reduction in the Available Principal Commitment pursuant to the definition of *"Available Principal Commitment"* bears to the Available Principal Commitment prior to such reduction; and (b) upward by an amount that bears the same proportion to such amount as the amount of any increase in the Available Principal Commitment pursuant to clause (c) of the definition of *"Available Principal Commitment"* bears to the Available Principal Commitment

prior to such increase; *provided* that after giving effect to such adjustment the Available Interest Commitment shall never exceed \$ _____. Any adjustment pursuant to clause (a) or (b) above shall occur simultaneously with the event requiring such adjustment.

"Available Principal Commitment" initially means \$ _____, and thereafter means such amount adjusted from time to time as follows: (a) downward by the amount of any reduction of the Available Principal Commitment pursuant to Section 2.5 or 3.4 hereof, (b) downward by the principal amount of any Bonds purchased by the Bank pursuant to Section 2.2 hereof; and (c) upward by the principal amount of any Bonds theretofore purchased by the Bank pursuant to Section 2.1 hereof, which are remarketed pursuant to Section 2.4 hereof and for which the Bank has received immediately available funds equal to the principal amount thereof and accrued interest thereon, *provided* that the Available Principal Commitment shall never exceed \$ _____. Any adjustment pursuant to clause (a), (b) or (c) above shall occur simultaneously with the event requiring such adjustment.

"Bank" shall have the meaning set forth in the introductory paragraph hereto.

"Bank Bond Rate" shall mean, with respect to any Bank Bond, a rate per annum equal to: (i) the Base Rate from time to time in effect, from and including the Purchase Date with respect to such Bank Bond to and including the date which is 30 days immediately following such Purchase Date and (ii) the Base Rate from time to time in effect plus 1.50% per annum thereafter; *provided, however*, that following the Expiration Date or upon the occurrence and during the continuance of any Event of Default or an Event of Termination, Bank Bond Rate shall mean the Base Rate from time to time in effect plus 3.00%; *provided, further*, that at no time shall the Bank Bond Rate be less than the rate on Bonds that are not Bank Bonds.

"Bank Bondowner" means the Bank (but only in its capacity as owner (which as used herein shall mean beneficial owner if at the relevant time Bank Bonds are Book Entry Bonds) of Bank Bonds pursuant to this Agreement) and any other Person to whom the Bank has sold Bank Bonds pursuant to Section 2.2(b) hereof.

"Bank Bonds" shall have the meaning set forth in Section 2.2 hereof.

"Bank Purchase Price" shall mean the purchase price of any Bank Bonds, which purchase price shall be equal to (i) the principal amount thereof, (ii) plus any accrued and unpaid interest paid by the Bank as part of the Purchase Price of such remarketed Bank Bonds and not repaid to the Bank prior to the date such Bank Bonds are purchased from the Bank, (iii) plus accrued and unpaid interest on the aggregate amount of the Purchase Price of such remarketed Bank Bonds to the extent not included in the amounts paid pursuant to clause (ii) above.

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

"Base Rate" means, for any day, the greater of (i) the Prime Rate plus one percent (1.00%) per annum, (ii) the Fed Funds Rate plus two percent (2.00%) per annum, or (iii) seven

and one-half of one percent (7.50%) per annum. Each change in the Base Rate shall take effect at the time of such change in the Prime Rate or the Fed Funds Rate, as applicable.

“*Bonds*” shall have the meaning set forth in the recitals hereto.

“*Book Entry Bonds*” means the Bonds so long as the book entry system with DTC or any successor thereto is used for determining beneficial ownership of the Bonds.

“*Business Day*” shall have the meaning set forth in the Trust Agreement.

“*City*” shall mean the City of Pasadena, California.

“*Closing Date*” shall have the meaning set forth in Section 6.1 hereof.

“*Code*” shall mean the Internal Revenue Code of 1986, as amended and supplemented from time to time, including relevant regulations, proposed and temporary regulations and published rulings of the Department of the Treasury promulgated thereunder.

“*Commission*” shall have the meaning set forth in the recitals hereto.

“*Commitment Period*” as of any date shall mean the period from such date to the Expiration Date.

“*Contract of Purchase*” shall mean the Bond Purchase Agreement dated as of _____, 2008, by and among Merrill Lynch, Pierce, Fenner, & Smith Incorporated, the Authority and the City.

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

receivable by the City thereunder, exceed or are expected to exceed the interest payable on the related Debt.

"Default" shall mean any event or condition which constitutes an Event of Default or an Event of Termination or which with the giving of notice or the lapse of time, or both would, unless cured or waived, become an Event of Default or an Event of Termination.

"Default Rate" shall mean the Base Rate from time to time in effect.

"Default Tender" means a mandatory tender of the Bonds pursuant to Section 4.02(B) of the Trust Agreement resulting from the Bank's delivery of a Notice of Termination to the Trustee, the Authority, the City and the Remarketing Agent in accordance with Section 7.3(b) hereof.

"Deferred Interest" shall have the meaning given such term in Section 3.1(b) hereof.

"Deferred Interest Fee Amount" shall have the meaning given such term in Section 3.1(b) hereof.

"Differential Interest Amount" means, with respect to any Bank Bond, the excess of (i) interest which has accrued and could actually be paid on such Bank Bond at the Bank Bond Rate, as determined in accordance with Section 3.1 hereof, up to but excluding the Business Day on which such Bank Bond is purchased or deemed purchased from the Bank pursuant to Section 2.4(b) hereof, less (ii) the interest accrued on such Bank Bond received by the Bank as part of the proceeds from the remarketing of such Bank Bond.

"DTC" means the Depository Trust Company.

"Eligible Bonds" means Bonds which bear interest at a Weekly Rate and which are not Bank Bonds or Bonds registered in the name of the Authority or the City or any affiliate thereof.

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

"Event of Default" shall have the meaning set forth in Section 7.2 hereof.

"Event of Termination" shall have the meaning set forth in Section 7.1 hereof.

"Excess Amount" shall have the meaning given such term in the Lease Agreement.

"Expiration Date" shall mean the earliest to occur of (i) the Scheduled Expiration Date; (ii) the date the City reduces the Available Commitment to zero by delivery of a certification in the form of Exhibit E hereto pursuant Section 2.5 hereof; (iii) the Fixed Rate Conversion Date (but only if all the Bonds then bear interest at a Fixed Rate and only after the Bank has purchased any Bonds required to be purchased on such date as provided in the Trust Agreement); (iv) the date which is 30 days after the Bank delivers a Notice of Mandatory Tender, (v) the close of business on the Business Day immediately succeeding the date on which an Alternate Liquidity Facility becomes effective pursuant to the terms of the Trust Agreement, (vi) the date on which an Event of Termination occurs, and (vii) the date on which no Bonds are Outstanding.

"Facility" shall have the meaning set forth in the preamble hereto.

"Fed Funds Rate" means, for any day, the rate of interest per annum as determined by the Bank at which overnight Federal Funds are offered to the Bank for such day by major banks in the interbank market, with any change in such rate to become effective on the date of any change in such rate. Each determination of the Fed Funds Rate by the Bank shall be deemed conclusive and binding on the Authority and the City absent manifest error.

"Financing Documents" shall mean the Trust Agreement, the Lease Agreement, the Bonds, the Remarketing Agreement, the Authority Lease, the certificates of the Authority delivered pursuant to Section 6.1 hereof, and the Purchase Contract as the same may be amended or supplemented from time to time in compliance with Section 5.2(a) hereof.

"Fitch" shall mean Fitch, Inc. and its successors and assigns.

"Fixed Rate" shall have the meaning assigned that term in the Trust Agreement.

"Fixed Rate Conversion Date" shall mean the date that the interest rate on the Bonds is converted to a Fixed Rate.

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

"General Obligation Debt" shall mean any voter-approved long-term Debt of the City secured by the legal obligation of the county in which the City is located on behalf of the City to levy and collect *ad valorem* property taxes sufficient to pay annual debt service on such Debt.

"Governmental Authority" means any national, state or local government (whether domestic or foreign), any political subdivision thereof or any other governmental, quasi-governmental, judicial, public or statutory instrumentality, authority, body, agency, bureau, central bank or comparable authority.

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

"Hazardous Materials" shall mean (a) any petroleum or petroleum products, flammable substance, explosives, radioactive materials, hazardous waste or contaminants, toxic wastes, substance or contaminants, or any other wastes, contaminants, or pollutants; (b) asbestos in any form that is or could become friable, urea formaldehyde foam insulation, transformers, or other equipment that contains dielectric fluid containing levels of polychlorinated biphenyls or radon gas; (c) any chemicals, materials, or substances defined as or included in the definition of "hazardous substances," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," "contaminants," or "pollutants," or words of similar import, under any applicable Environmental Law; (d) any other chemical, material, or substance, exposure to which is prohibited, limited, or regulated by any governmental authority; and (e) any other chemical, material, or substance which may or could pose a hazard to the environment.

"Interest Component" has the meaning set forth in Section 2.1 hereof.

"Interest Payment Date" with respect to the Bonds, which are not Bank Bonds, shall have the meaning assigned that term in the Trust Agreement and, with respect to Bank Bonds, means each of the days set forth for the payment of interest thereon pursuant to Section 3.1(a) hereof.

"Lease Agreement" shall mean that certain Lease Agreement dated as of September 1, 2008, by and between the Authority and the City.

"Lease Payments" shall have the meaning assigned that term in the Lease Agreement.

"Leased Premises" shall have the meaning assigned to that term in the Lease Agreement.

"Lien" shall mean, with respect to any asset, (i) any lien, charge, claim, mortgage, security interest, pledge or assignment of revenues of any kind in respect of such asset or (ii) the interest of a vendor or lessor under any conditional sale agreement, capital lease or other title retention agreement relating to such asset.

"Maximum Annual Lease Payments" shall have the meaning assigned that term in the Lease Agreement.

"Maximum Rate" shall mean the lesser of (i) 15% per annum and (ii) the highest rate permitted by applicable law.

"Notice of Mandatory Tender" shall mean a Notice of Mandatory Tender in substantially the form of the certificate attached hereto as Exhibit H.

"Notice of Termination" shall mean a Notice of Termination in substantially the form of the certificate attached hereto as Exhibit D.

"Official Statement" shall mean the Official Statement relating to the Bonds, including any supplement or amendment to such Official Statement, and any other offering document from time to time distributed concerning Bonds bearing interest at a Weekly Rate.

"Other Taxes" shall have the meaning set forth in Section 2.13 hereof.

"Outstanding" shall have the meaning assigned that term in the Trust Agreement.

"Parent" shall mean, with respect to the Bank, any Person controlling the Bank.

"Participant" shall mean each Person purchasing a participation from the Bank pursuant to a Participation Agreement.

"Participation Agreement" shall mean any Participation Agreement, among the Bank and any person purchasing participations and named therein, relating to this Agreement and the Bonds.

"Payment Account" shall mean the following account, or such account as may be designated by the Bank in writing to the Authority, the City and the Trustee:

KBC Bank N.V., New York Branch
New York, New York
Attention: Loan Administration
ABA Number 026008248
Acct. No. 100000098
Reference: Pasadena Public Financing Authority, Series 2008

"Permitted Encumbrances" shall have the meaning set forth in the Trust Agreement.

"Permitted Investments" shall have the meaning assigned that term in the Trust Agreement.

“*Person*” shall mean an individual, a corporation, a partnership, an association, a joint venture, a trust, an unincorporated organization or any other entity or organization, including a government or political subdivision or an agency or instrumentality thereof.

“*Prime Rate*” means, for any day, the rate of interest announced by the Bank from time to time as its prime commercial rate for U.S. dollar denominated loans, or equivalent, as in effect on such day, with any change in such rate to be effective on the date of any change in such rate. Each determination of the Prime Rate by the Bank shall be deemed conclusive and binding on the Authority and the City absent manifest error.

“*Project*” shall have the meaning set forth in the Lease Agreement.

“*Purchase*” shall mean any purchase of Bonds by the Bank pursuant to Section 2.1 hereof.

“*Purchase Date*” shall mean the date on which any Bonds are required to be purchased pursuant to Section 4.04 or 4.05 of the Trust Agreement.

“*Purchase Notice*” has the meaning set forth in Section 2.2 hereof.

“*Purchaser*” has the meaning set forth in Section 2.2 hereof.

“*Purchase Price*” shall mean the purchase price of Bonds required to be purchased by the Trustee with funds made available under this Agreement, which purchase price shall be equal to the principal thereof plus accrued and unpaid interest thereof to the Purchase Date, if any, but shall in no event exceed the Available Commitment on such Purchase Date.

“*Quarterly Date*” shall mean the first day of each August, November, February and May.

“*Rating Agency*” shall mean Fitch or S&P, as appropriate.

“*Remarketing Agent*” shall have the meaning assigned that term in the Trust Agreement.

“*Remarketing Agreement*” shall have the meaning assigned that term in the Trust Agreement.

“*Request for Purchase*” shall mean a written request for a Purchase substantially in the form of Exhibit A hereto.

“*S&P*” shall mean Standard & Poor’s Ratings Services, a division of The McGraw-Hill Companies, Inc. and its successors and assigns.

“*Sale Date*” has the meaning set forth in Section 2.2(c) hereof.

“*Sale Price*” has the meaning set forth in Section 2.2(c) hereof.

“*Scheduled Expiration Date*” shall mean September __, 2011, as such date may be extended from time to time pursuant to Section 2.15 hereof.

“*State*” shall mean the State of California.

“*Subsidiary*” of a Person shall mean any corporation of which more than 50% of the voting stock, is owned or controlled directly or indirectly by the Person, or one or more of the Subsidiaries of the Person, or a combination thereof.

“*Taxes*” shall have the meaning set forth in Section 2.13 hereof.

“*Tender Agent*” shall mean Wells Fargo Bank, National Association, or any successor tender agent appointed under the Trust Agreement.

“*Tendered Bonds*” shall mean, as of any date, Eligible Bonds, or principal portions thereof, which are subject to purchase pursuant to the Trust Agreement, other than Bonds which have been remarketed.

“*Trust Agreement*” shall mean the Trust Agreement, dated as of September 1, 2008, by and between the Authority and the Trustee, as the same may be supplemented, amended or otherwise modified from time to time in accordance with its terms.

“*Trustee*” shall mean Wells Fargo Bank, National Association, or any other association or corporation which may at any time be substituted in its place as provided in the Trust Agreement.

“*Weekly Rate*” shall mean an interest rate that is determined on a weekly basis pursuant to the Trust Agreement.

Section 1.2. Accounting Terms and Determinations. Unless otherwise specified herein, all accounting terms used herein shall be interpreted, all accounting determinations hereunder shall be made, and all financial statements required to be delivered hereunder shall be prepared, in accordance with GAAP as in effect from time to time, applied on a basis consistent (except for changes approved by the City’s independent public accountants, if any) with the most recent financial statements of the City delivered to the Bank.

Section 1.3. Rules of Construction. When used in this Agreement:

- (a) the singular includes the plural and the plural includes the singular;
- (b) “or” is not exclusive;
- (c) a reference to a law includes any amendment or modification to such law;
- (d) a reference to a person includes any amendment or modification to such law;

(e) a reference to an agreement, instrument or document shall include such agreement, instrument or document as the same may be amended, modified or supplemented from time to time in accordance with its terms and as permitted hereby; and

(f) all references to time shall mean New York time, unless otherwise specified.

ARTICLE II

PURCHASE OF BONDS

Section 2.1. Purchases. (a) *Commitment to Purchase.* Subject to the terms and conditions of this Agreement, the Bank agrees to extend credit through the purchase with its own funds of Eligible Bonds tendered for purchase pursuant to Sections 4.04 or 4.05 of the Trust Agreement from time to time on any Business Day during the Commitment Period, commencing on the Closing Date at the Purchase Price. The aggregate principal amount (or portion thereof) of any Eligible Bond purchased by the Bank on any Purchase Date shall be an Authorized Denomination and in any case the aggregate principal amount of all Eligible Bonds purchased on any Purchase Date shall not exceed the Available Principal Commitment (calculated without giving effect to any purchase of Eligible Bonds by the Banks on such date) on such date. The aggregate amount of the Purchase Price comprising interest on the Eligible Bonds (the "*Interest Component*") purchased on any Purchase Date shall not exceed the lesser of (i) the Available Interest Commitment on such date and (ii) the actual aggregate amount of interest accrued on each such Eligible Bond, to but excluding such Purchase Date; *provided* that if the applicable Purchase Date is an Interest Payment Date the amount described in this clause (ii) shall be reduced by the amount of interest payable on each such Eligible Bond on such Interest Payment Date. All purchases of Eligible Bonds by the Bank pursuant to this Agreement shall be made by the Bank in immediately available funds with its own funds.

(b) *Method of Requesting a Purchase.* Upon receipt of a Request for Purchase by the Bank from the Trustee, on behalf of the Authority, not later than 12:00 noon, New York time, on the day of the proposed Purchase, the Bank, subject to the terms and conditions of this Agreement, shall be required to pay to the Trustee by 2:30 p.m., New York time, on such day the Purchase Price of any unremarketed Tendered Bonds, in an amount equal to the amount which, when added to any remarketing proceeds paid to the Trustee by the Remarketing Agent, will be sufficient to pay the principal amount plus accrued and unpaid interest on all such Tendered Bonds required to be purchased on such date. With respect to any such Request for Purchase received by the Bank after 12:00 noon, New York time, on any date, the Bank shall be required to make such Purchase by 1:00 p.m., New York time, on the next succeeding Business Day. Any Request for Purchase shall be signed by an Authorized Representative of the Trustee. Each Purchase shall be made by the Bank by wire transfer of immediately available funds to the Trustee in accordance with written instructions provided by the Trustee.

Section 2.2. Purchase of Bank Bonds. (a) *Rights as Holder.* Any Bonds purchased pursuant to this Agreement shall, from the date of such Purchase until the date the Bank has

received the Bank Purchase Price thereof, be designated as "*Bank Bonds*" in accordance with the Trust Agreement, from the date of such purchase and while they are Bank Bonds, bear interest at the Bank Bond Rate and have other characteristics of Bank Bonds as set forth herein and in the Trust Agreement; *provided, however*, that, so long as no Event of Termination or Event of Default shall have occurred and be continuing, if the Remarketing Agent shall notify the Bank that it has remarketed any Bank Bonds and the Bank shall determine not to deliver such Bank Bonds in exchange for the Bank Purchase Price thereof, such Bank Bonds shall no longer be designated as "Bank Bonds." The Bank, as owner of any Bonds, shall have the rights of owners of Bonds under the Trust Agreement, other than the right to require purchase of such Bonds from proceeds of an advance under the Facility.

(b) *Right to Sell Bank Bonds.* The Bank expressly reserves the right to sell, at any time, Bank Bonds subject, however, to the express terms of this Agreement and the Trust Agreement. The Bank agrees that such sales (other than sales made pursuant to Section 2.2(d) hereof) will be made only to institutional investors or other entities or individuals which customarily purchase commercial paper or tax-exempt or taxable securities in large denominations. The Bank agrees to notify the City, the Authority, the Trustee and the Remarketing Agent promptly of any such sale (other than a sale made pursuant to Section 2.2(d) hereof) and, if such Bank Bond is a Book Entry Bond, specifying the account at DTC to which such Bank Bond is credited; and to notify the transferee in writing that such Bond is no longer an Eligible Bond nor shall such Bond have a short-term rating so long as it remains a Bank Bond. Any Bank Bondowner purchasing a Bank Bond from the Bank shall be deemed to have agreed (i) not to sell such Bank Bond to any Person except the Bank or a Purchaser identified by the Remarketing Agent pursuant to Section 2.2(c) hereof and (ii) if such Bank Bond is a Book Entry Bond, to give all notices in the manner and by the time required by DTC to exclude such Bank Bond from mandatory purchases of Bonds while it remains a Bank Bond. Prior to selling a Bank Bond to a Bank Bondowner, the Bank shall obtain a written acknowledgment from such Bank Bondowner stating that such Bank Bondowner has no right to tender the Bank Bond except as provided herein and shall provide a copy thereof to the City, the Authority and the Trustee. Neither the City, the Authority, the Trustee nor the Remarketing Agent shall have any responsibility or obligation to determine whether a bondowner is a Bank Bondowner. The Bank hereby agrees that, notwithstanding any other provision of this Agreement to the contrary, in the event that on any date the Bank or any Bank Bondowner tenders Bank Bonds or fails to deliver timely notices to DTC to exclude its Bank Bonds from any mandatory purchases in accordance with this Section 2.2(b), the Available Principal Commitment as of 10:00 a.m. (New York time) on such date shall be increased by the principal amount of such Bank Bonds so tendered or deemed tendered.

(c) *Purchase Notices.* Prior to 12:00 noon (New York time) on any Business Day on which a Bank Bondowner holds Bank Bonds, unless the Bank has delivered a Notice of Termination, the Remarketing Agent may deliver a notice (a "*Purchase Notice*") to a Bank Bondowner as registered on the bond register pursuant to the Trust Agreement (and, if held as Book Entry Bonds, then through DTC procedures) and to the Bank, stating that it has located a purchaser (the "*Purchaser*") for some or all of such Bank Bonds and that such Purchaser desires to purchase on the Business Day following the date on which a Bank Bondowner receives, prior to 12:00 Noon (New York time), a Purchase Notice (a "*Sale Date*"), an authorized denomination of such Bonds at a price equal to the principal amount thereof plus unpaid accrued interest

thereon, if any, received by the Bank with respect thereto in accordance with the Trust Agreement (the "*Sale Price*"), any accrued interest thereon to be paid by the City and the Authority on the Sale Date as provided in Section 3.1(a) hereof. The Bank shall have no obligation to deliver the Bank Bonds as directed by the Remarketing Agent unless the City or the Authority has paid or duly provided for the payment of the Differential Interest Amount to the Bank.

(d) *Sale of Bank Bonds.* A Bank Bondowner shall decide whether to sell any Bank Bonds to any Purchaser and shall give notice of such decision to the City, the Authority, the Trustee and the Remarketing Agent by 2:00 p.m. (New York time) on the Business Day preceding the Sale Date. In the event such notice is not timely delivered by a Bank Bondowner, such Bank Bondowner shall be deemed to have determined to sell such Bank Bonds to a Purchaser on the Sale Date (subject to receipt by it of the funds called for by the next following sentence). If a Bank Bondowner determines or is deemed to have determined to sell such Bank Bonds to a Purchaser, such Bank Bondowner shall deliver such Bank Bonds to the Trustee (or, in the case of Bank Bonds which are Book Entry Bonds, shall cause the beneficial ownership thereof to be credited to the account of the Remarketing Agent at DTC) by 10:00 a.m. (New York time) on the Sale Date against receipt of the Sale Price therefor in immediately available funds to the Bank or at the Bank Bondowner's address listed in the bond register pursuant to the Trust Agreement, and such Bonds shall thereupon no longer be considered Bank Bonds. When Bank Bonds are purchased in accordance with this Section 2.2(d), the Trustee shall, upon receipt of such Bank Bonds and upon receipt by such Bank Bondowner of the Sale Price, notify the City and the Authority that such Bonds are no longer Bank Bonds. On the Sale Date, the Differential Interest Amount of such Bonds, if any, shall be paid to the Bank as provided in Section 3.1(a) hereof. Any sale of a Bank Bond pursuant to this Section 2.2 shall be without recourse to the seller and without representation or warranty of any kind. If a Bank Bondowner notifies the Trustee and the Remarketing Agent, as provided in the first sentence of this Section 2.2(d), that it will not sell its Bank Bonds, the Trustee shall notify the Authority, the Remarketing Agent, the Bank and such Bank Bondowner that as of the Sale Date such Bond or Bonds shall no longer constitute Bank Bonds and such Bonds shall be deemed to have been remarketed and the Available Commitment shall be appropriately increased and such Bonds shall bear interest at the same rate as Bonds that are not Bank Bonds.

(e) *Principal.* In accordance with the Trust Agreement, all Bank Bonds will be repurchased from the Bank on the date such Bank Bonds are successfully remarketed in accordance with the Trust Agreement, any such repurchase to be made from the proceeds of such remarketing. Any repurchase of Bank Bonds shall be at the Bank Purchase Price. The City shall pay Maximum Annual Lease Payments (including any Excess Amount) as and when required under the Lease Agreement. In the event any Bank Bonds are outstanding as of the Expiration Date, the City shall exercise its option to prepay Lease Payments under Section 9.03 of the Lease Agreement and, in connection with the exercise of such option to prepay, shall prepay Lease Payments to the fullest extent that the Maximum Annual Lease Payments, together with any unapplied Excess Amount, exceed the amount of Lease Payments otherwise payable under the Lease. All such prepayments of Lease Payments so paid by the City shall be applied by the Authority as early as practicable to the redemption of Bank Bonds as provided in Section 3.01(A) of the Trust Agreement.

(c) *Interest.* Interest payable to the Bank with respect to Bank Bonds shall be computed in the manner set forth in section 3.1 hereof.

(d) *Prepayment.* Bank Bonds may be prepaid in whole or in part, in Authorized Denominations, at any time, without penalty or premium.

Section 2.3. Interest on Overdue Amounts. Any amount due to the Bank hereunder (whether with respect to Bank Bonds, fees, advances, commissions, expenses or otherwise) which is not paid when due shall bear interest, payable on demand, from the date the same becomes due until such amount is paid in full at the Default Rate, calculated on the basis of a year of 365 days and actual days elapsed.

Section 2.4. Remarketing or Redemption of Bank Bonds. (a) *Remarketing of Bank Bonds.* Simultaneously with the remarketing of any Bank Bonds, the City will, pursuant to the Trust Agreement, cause the Trustee to pay to the Bank, the Bank Purchase Price of any such Bank Bonds remarketed. To the extent that the Remarketing Agent remarkets the Bank Bonds for an amount less than the full amount of the Bank Purchase Price, subject to Section 2.16 hereof the Authority shall pay, or cause the Trustee to pay, to the Bank on the date of repurchase from the Bank, Lease Payments equal to the difference between such Bank Purchase Price and the amount actually received from the purchasers of such Bonds. Upon the repurchase of any Bank Bonds from the Bank at the Bank Purchase Price, the Bank shall give notice to the Trustee to the effect that the Available Commitment shall be reinstated by the principal amount of such remarketed Bank Bonds plus the applicable Interest Component.

(b) *Redemption of Bank Bonds.* The Authority shall cause the Trustee, pursuant to the Trust Agreement, to first redeem Bank Bonds prior to any redemption of any other Bonds pursuant to Section 3.01(D) of the Trust Agreement.

Section 2.5. Reduction and Reinstatement of Commitment. (a) The Available Commitment shall be reduced following each Purchase by an amount equal to the Purchase Price of the Bonds purchased. So long as that the Expiration Date shall not have occurred or the Bank's obligations hereunder have not otherwise terminated, effective immediately upon the receipt by the Bank of the notice from the Trustee in the form of Exhibit F hereto, the Available Commitment shall be reinstated by an amount equal to the Purchase Price received from the purchasers of the remarketed Bank Bonds plus the Interest Component with respect thereto. The City may from time to time reduce the amount of the Available Commitment by delivering to the Bank a certificate in substantially the form of Exhibit E hereto.

(b) The Available Commitment shall be terminated upon the Fixed Rate Conversion Date (but only if all the Bonds then bear interest at a Fixed Rate and only after the Bank has purchased any Bonds required to be purchased on such date as provided in the Trust Agreement). The City and the Authority shall cause written notice of such conversion to be promptly delivered to the Bank and the Trustee by delivering a certificate in substantially the form of Exhibit E hereto.

(c) The Available Commitment shall be terminated on the close of business on the Business Day immediately succeeding the date on which an Alternate Liquidity Facility becomes effective pursuant to the terms of the Trust Agreement. The City and the Authority shall cause written notice of such substitution to be promptly delivered to the Bank and the Trustee by delivering a certificate in substantially the form of Exhibit E hereto.

Section 2.6. Manner of Payments. All payments to be made by or on behalf of the Authority or the Trustee to the Bank on account of amounts at any time owing hereunder or in connection herewith shall be made, and shall not be considered made until received, in United States dollars in the Payment Account in immediately available funds. The Authority or the Trustee shall make each payment hereunder not later than 5:00 p.m. (New York time) on the day when due in lawful money of the United States of America to the Bank's Payment Account in immediately available funds. Any payment received after 5:00 p.m. (New York time) shall be deemed made on the next succeeding Business Day.

Section 2.7. Payment on Non-Business Days. Whenever any payment to be made hereunder shall be stated to be due on a day other than a Business Day, such payment shall be made on the next succeeding Business Day (and if so made, shall be deemed to have been made when due), and such extension of time shall in such case be included in the computation of the payment of interest due hereunder.

Section 2.8. Book Entries. The Bank shall maintain in accordance with its usual practice an account or accounts of the amounts payable to the Bank resulting from the purchase of Bank Bonds and the amounts payable to the Bank hereunder. In any legal action or proceeding in respect of this Agreement, the entries made in such account or accounts shall, in the absence of demonstrable error in the calculation of such amounts, be conclusive.

Section 2.9. Obligations Unconditional. Subject to Section 2.16 hereof, the obligations of the City and the Authority under this Agreement shall be absolute and unconditional under any and all circumstances and irrespective of any setoff, counterclaim or defense to payment which the City or the Authority may have against the Bank, any Participant, the Trustee, or any other Person, including, without limitation, any defense based on the failure of any Request for Purchase submitted by the Trustee to conform to the terms hereof or based on invalidity, inaccuracy, falsity, or lack of genuineness, whether by forgery, fraud or otherwise, of any document, demand, or statement presented pursuant hereto or any failure of the Authority to receive all or any part of the proceeds of the sale of any Bonds or any nonapplication or misapplication by the Trustee of the proceeds of any Request for Purchase, and irrespective of the legality, validity, regularity or enforceability of all or any of the Financing Documents, and notwithstanding any amendment or waiver of (other than an amendment or waiver signed by the Bank explicitly reciting the release or discharge of any such obligation), or any consent to departure from, all or any of the Financing Documents or any exchange, release, or nonperfection of any collateral securing the Bonds or the obligations of the Authority hereunder or any expiration of the term hereof, or any other circumstances or happening whatsoever, whether or not similar to any of the foregoing; *provided, further,* that nothing contained in this Section 2.9 shall abrogate or otherwise affect the rights of the Authority pursuant to Section 8.3 hereof; *provided, however,* that the Authority shall be liable for the full amount of any obligation

hereunder that is owed solely by the Authority or arises solely as a result of this Agreement or any action or omission by the Authority.

Section 2.10. Waivers, Etc. To the full extent permitted by law: (i) the City and the Authority hereby waive (a) presentment, demand, notice of demand, protest, notice of protest, notice of dishonor and notice of non-payment; (b) to the extent the Bank is not in default hereunder, the right, if any, to the benefit of, or to direct application of, any security hypothecated to the Bank until all obligations of the City and the Authority to the Bank hereunder, howsoever arising, shall have been paid; (c) the right to require the Bank to proceed against the City or the Authority hereunder, or against any Person under any guaranty or similar arrangement, or under any agreement between the Bank and any Person or to pursue any other remedy in the Bank's power; (d) all statutes of limitation; and (e) any defense arising out of the election by the Bank to foreclose on any security by one or more nonjudicial or judicial sales; (ii) the Bank may exercise any other right or remedy, even though any such election operates to impair or extinguish the City or the Authority's right to reimbursement from, or any other right or remedy it may have against, any person, or any security; and (iii) the City agrees that the Bank may proceed against the Authority or any Person directly and independently of any other, and that any forbearance, change of rate of interest, or acceptance, release or substitution of any security, guaranty, or loan or change of any term or condition thereunder or under any Financing Document (other than by mutual agreement between the Authority and the Bank) shall not in any way affect the liability of the City or the Authority hereunder.

Section 2.11. Increased Costs. If the Bank or any Participant shall determine that (a) any change in any law or regulation or in the interpretation thereof by any court or administrative or governmental authority charged with the administration thereof shall either (i) impose, modify, or deem applicable any reserve, special deposit or similar requirement against lines of credit issued by, or assets held by, or deposits in or for the account of, or loans made by, the Bank or any Participant, or (ii) impose on the Bank or any Participant any other condition regarding this Agreement, the Facility, any Purchase or any participating interest in any thereof, and (b) the result of any event referred to in the preceding clause (i) or (ii) shall be to increase the cost to the Bank or any Participant of issuing or maintaining the Facility, or funding Purchases or owning Bank Bonds or funding or maintaining any participating interest in any thereof (which increase in cost shall be determined by the Bank's or such Participant's reasonable allocation of the aggregate of such cost increases resulting from such event), then, promptly, and in any event within 30 days after receipt of written notice thereof from the Bank, subject to Section 2.16 hereof, the Authority shall pay, or cause to be paid, to the Bank, from time to time as specified by the Bank for itself or such Participant, additional amounts which shall be sufficient to compensate the Bank or such Participant for such increased cost, together with interest on the amount of such increased cost from the due date specified in such notice at the Default Rate. The Bank shall notify the Authority of any event occurring after the Closing Date that will entitle the Bank or such Participant to compensation pursuant to this Section 2.11 not later than 90 days following the date on which the Bank obtains knowledge thereof. A certificate as to such increased cost incurred by the Bank or any Participant as a result of any event mentioned in clause (i) or (ii) above, prepared in reasonable detail and in accordance with this Section 2.11, submitted by the Bank to the Authority, shall be conclusive, absent manifest error, as to the amount thereof. The Bank agrees to give the Authority notice of any event referred to in this

Section 2.11 promptly after an appropriate officer of the Bank becomes aware of such event; *provided, however*, that the failure by the Bank to so give such notice shall not affect the obligations of the Authority under this Section 2.11 in respect of any period preceding the date of delivery by the Bank of a certificate of the Bank as to such increased cost.

Section 2.12. Capital Adequacy. If the Bank or any Participant shall determine that the adoption of any applicable law, rule, or regulation regarding capital adequacy, or change therein, or any change in the interpretation or administration thereof by any governmental authority, central bank or comparable agency charged with the interpretation or administration thereof, or compliance by the Bank or its head office or such Participant or its head office with any request or directive regarding capital adequacy (whether or not having the force of law) of any such authority, central bank or comparable agency, has the effect of reducing the rate of return on the Bank's or such Participant's capital as a consequence of its commitment hereunder, its issuance or maintenance of the Facility, its funding Purchases or holding Bank Bonds or its funding or maintaining any participating interest in any thereof to a level below that which the Bank or such Participant could have achieved but for such adoption, change or compliance (taking into consideration the Bank's or such Participant's policies with respect to capital adequacy) by an amount deemed by the Bank or such Participant to be material, then, promptly, and in any event within 30 days after receipt of written notice thereof from the Bank, subject to Section 2.16 hereof, the Authority shall pay to the Bank, from time to time as specified by the Bank for itself or such Participant, additional amounts which shall be sufficient to compensate the Bank or such Participant for such reduction in respect of its commitment hereunder, its issuance or maintenance of the Facility, its funding Purchases or holding Bank Bonds or its funding or maintaining any participating interest in any thereof, together with interest on such additional amounts from the due date specified in such notice at the Default Rate. The Bank shall notify the Authority of any event occurring after the Closing Date that will entitle the Bank or such Participant to compensation pursuant to this Section 2.12 not later than 90 days following the date on which the Bank obtains knowledge thereof. A certificate as to such additional amount describing the event which has the effect of reducing the rate of return on the Bank's or any Participant's capital, prepared in reasonable detail and in accordance with this Section 2.12, submitted by the Bank to the Authority, shall be conclusive, absent manifest error, as to the amount thereof. The Bank agrees to give the Authority notice of any event referred to in this Section 2.12 which may have the effect of reducing the rate of return on the Bank's or any Participant's capital promptly after an appropriate officer of the Bank becomes aware of such an event; *provided, however*, that the failure by the Bank to so give such notice shall not affect the obligations of the Authority under this Section 2.12 in respect of any period preceding the date of delivery by the Bank of a certificate of the Bank as to such reduction of the rate of return on capital.

Section 2.13. Taxes. (a) To the extent permitted by law, any and all payments by the Authority hereunder or with respect to the Bank Bonds shall be made, in accordance with Section 2.9 hereof, free and clear of and without deduction for any and all taxes, levies, imposts, deductions, charges or withholdings, and all liabilities with respect thereto, excluding taxes imposed on the overall net income of the Bank (and franchise taxes imposed in lieu of net income taxes) by the jurisdiction of the Bank's applicable lending office or any political subdivision thereof (all such non-excluded taxes, levies, imposts, deductions, charges,

withholdings and liabilities being hereinafter referred to as "*Taxes*"). If the Authority shall be required by law to withhold or deduct any Taxes from or in respect of any sum payable hereunder or with respect to any Bank Bonds then, to the extent permitted by law, (i) the sum payable by the Authority shall be increased as may be necessary so that after making all required withholdings or deductions (including those Taxes payable solely by reason of additional sums payable under this Section 2.13) the Bank receives an amount equal to the sum it would have received had no such withholdings or deductions been made, (ii) the Authority shall make such withholdings, or deductions and (iii) the Authority shall pay the full amount withheld or deducted to the relevant taxation authority or other authority in accordance with applicable law.

(b) In addition, to the extent permitted by law and subject to Section 2.16 hereof, the Authority agrees to pay any present or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies that arise under the laws of the United States or the State from any payment made hereunder or with respect to any Bank Bonds or from the execution or delivery or otherwise with respect to this Agreement or any Bank Bonds (hereinafter referred to as "*Other Taxes*").

(c) If the Authority fails to pay Taxes and/or Other Taxes (including Taxes imposed by any jurisdiction on amounts payable under this Section 2.13) required to be paid by the Authority pursuant to clause (a) or (b) in accordance with applicable law, then the Authority will, to the extent permitted by law, indemnify and hold harmless the Bank and reimburse the Bank as applicable, for the full amount of Taxes and Other Taxes (including, without limitation, any Taxes or Other Taxes imposed by any jurisdiction on amounts payable under this Section 2.13) paid by the Bank or any liability (including penalties, interest and expenses) arising therefrom or with respect thereto, whether or not such Taxes or Other Taxes were correctly or legally asserted. Payments by the Authority pursuant to this section shall be made within 30 days from the date the Bank makes written demand therefor which demand shall be accompanied by a certificate describing in reasonable detail the basis thereof.

(d) Within 30 days after the date of any payment of Taxes by the Authority, the Authority shall furnish to the Bank with respect to which such payment was made, at its address referred to in Section 8.11 hereof, the original or a certified copy of a receipt evidencing payment thereof. The Authority shall compensate the Bank for all reasonable losses and expenses sustained by the Bank as a result of any failure by such party to so furnish such copy of such receipt.

(e) Any amounts paid by the Authority to the Bank pursuant to this Section 2.13 which are subsequently recovered by the Bank from any taxing agency shall be repaid to the Authority within 30 days of receipt thereof by the Bank.

(f) Without prejudice to the survival of any other agreement of the Authority hereunder, the agreements and obligations contained in this Section 2.13 shall survive the payment in full of all obligations hereunder and with respect to the Bank Bonds.

Section 2.14. Alternate Liquidity Facility. The Authority may at any time provide an Alternate Liquidity Facility in full and complete substitution for the Facility upon payment to the

Bank of the fees specified in Section 3.4 hereof and all other amounts owing hereunder and upon repurchase of any Bank Bonds at the Bank Purchase Price. The Authority hereby agrees to give the Bank, the Trustee and the Rating Agency forty-five (45) days' prior written notice of any such substitution and, upon such substitution and payment of such fees and all amounts owing under this Agreement and upon repurchase of any Bank Bonds at the Bank Purchase Price, the Facility shall expire.

Section 2.15. Term of Agreement. (a) The term of this Agreement shall be until the later of (i) the Expiration Date and (ii) the payment in full (or purchase from the Bank) of all Bank Bonds and all other amounts due hereunder.

(b) Upon the written request of the Authority by facsimile (with an original to follow by overnight courier) made at least one hundred and fifty (150) days prior to the Scheduled Expiration Date, the Bank shall within 60 days of such request notify the Authority, the City and the Trustee in writing whether or not the Bank will extend the Scheduled Expiration Date with respect to the Available Commitment as of such date for an additional period, and if so will deliver to the Authority and the City a Notice of Extension in the form of Exhibit G hereto. If the Bank fails to notify the Authority and the City of the Bank's decision within such 60-day period, the Bank shall be deemed to have rejected such request. Any such request by the Authority for an extension of the Scheduled Expiration Date shall be substantially in the form of Exhibit B hereto (or in such other form to which the Bank may consent in writing) and, unless the Bank shall otherwise consent, shall include (i) a statement of the outstanding principal amount of the Bonds, (ii) a reasonably detailed description of any and all Defaults that shall have occurred and be continuing, (iii) confirmation that all representations and warranties of the Authority and the City, as set forth in Article IV hereof, are true and correct as of the date of such request and (iv) any other pertinent information requested by the Bank.

Section 2.16. Security. Notwithstanding any provisions herein to the contrary, unless otherwise permitted by law, the Bank acknowledges and agrees that all obligations of the Authority hereunder are secured by and payable solely from the following (together, the "Collateral"): (a) the proceeds from the sale of bonds, certificates of participation or other obligations issued or authorized to be issued by the Authority or the City specifically for the purpose of paying amounts due hereunder; (b) the Lease Payments (including any Excess Amounts) and Additional Payments received by the Authority under the Lease Agreement; (c) all moneys and investments held in any fund or account under the Trust Agreement (except the Initial Portion Account of the Project Fund) and, with respect to Bank Bonds and the payment of principal of and interest thereon and the liability of the Authority with respect to any payment obligations hereunder shall be so limited. The Authority hereby pledges, places a Lien upon and assigns the Collateral to secure the obligations to the Bank under this Agreement.

ARTICLE III

INTEREST ON BANK BONDS; FEES

Section 3.1. Bank Bonds to Bear Interest at Bank Bond Rate. (a) Any Bond purchased by the Bank pursuant to this Agreement shall bear interest at the Bank Bond Rate for the period

commencing from the date that the Bank shall have purchased such Bond and, subject to Section 2.2(a) hereof and the last sentence of this Section 3.1(a), continuing until the Bank shall no longer be the owner of such Bond, payable on each Interest Payment Date, on which such Bonds are to be redeemed and on the date of repurchase of any Bank Bonds. With respect to any Bonds which the Bank so elects not to sell pursuant to Section 2.2(a) hereof, the Bank Bond Rate for such Bonds for the period commencing on the day the Bank so elects not to sell such Bonds until such time as the Bank shall cease to be the holder of such Bonds shall be equal at any time during such period to the interest rate applicable to Bonds other than Bank Bonds, or if all Bank Bonds are then held by the Bank the rate established by the Remarketing Agent as the rate at which the Bank Bonds would bear interest if sold by the Remarketing Agent pursuant to Section 2.2(a).

(b) *Deferred Interest.* For any period during which Bank Bonds are outstanding and as to each monthly interest period, in the event that the amount of interest which would be payable on the Bank Bonds (calculated at the Bank Bond Rate for a monthly interest period, or in the case of the payment of the Differential Interest Amount, if any, on a Bank Bond, for the period from the date of the most recent first day of a calendar month through but not including the date on which such Bank Bond is remarketed) exceeds the Maximum Rate, the amount of such excess shall not be payable on the Interest Payment Date for such monthly interest period as interest on such Bank Bonds but shall be deferred ("*Deferred Interest*"). Deferred Interest shall be allocated among the Bank Bonds outstanding on such Interest Payment Date based upon the principal amount thereof and the length of time such Bank Bonds were outstanding during the monthly interest period related to such Interest Payment Date. Deferred Interest occurring on any Interest Payment Date (i) shall, to the extent permitted by law, bear interest (compounded quarterly on each Quarterly Date) at a rate per annum equal to the Bank Bond Rate (computed on the basis of a year of 360 days and actual days elapsed) until paid in full and (ii) shall become payable, together with interest thereon, to the extent permitted by law, on the next succeeding Interest Payment Date or Dates to the extent the interest (including Deferred Interest and, to the extent permitted by law, interest on such Deferred Interest) payable on the Bank Bonds (if any) for the monthly interest period ending on such Interest Payment Date does not exceed the Maximum Rate for such monthly interest period. To the extent Deferred Interest (or, to the extent permitted by law, any interest thereon) shall be unpaid with respect to Bank Bonds, and such Bonds shall be redeemed or remarketed or shall otherwise cease to be Bank Bonds, such unpaid Deferred Interest (including, to the extent permitted by law, any unpaid interest thereon) shall be converted into a fee payable to the Bank (herein, the "*Deferred Interest Fee Amount*") on the date such Bonds cease to be Bank Bonds.

Section 3.2. Facility Fee. The Authority hereby agrees to pay or cause to be paid to the Bank, for the period commencing on the Closing Date and ending on the last day of the Commitment Period, and in arrears on the first Business Day of each Quarterly Date occurring thereafter (commencing November 3, 2008, for the period from and including the Closing Date to and including October 31, 2008) to the last day of the Commitment Period, and on the last day of the Commitment Period, a non-refundable Facility Fee (the "*Facility Fee*") with respect to the commitment of the Bank hereunder in an amount equal to the rate per annum (the "*Facility Fee Rate*") specified below of the Available Commitment calculated at all times as though no Tendered Bonds had been purchased by the Bank hereunder (for purposes of this Section 3.2

only, the Available Commitment shall be deemed not to be reduced during any period for which the Bank's obligation to purchase Bonds has been suspended pursuant to Section 7.3(c) or 7.3(d) hereof).

LEVEL	S&P RATING	FITCH RATING	FACILITY FEE RATE
1	AA or above	AA or above	0.40%
2	AA-	AA-	0.475%
3	A+	A+	0.625%
4	A	A	0.775%
5	A-	A-	0.925%
6	BBB+	BBB+	1.075%
7	BBB	BBB	1.225%
8	BBB- or below	BBB- or below	1.375%

In the event that a rating is suspended, withdrawn or otherwise unavailable from any of the Rating Agencies or upon the occurrence of an Event of Default or an Event of Termination, the Facility Fee Rate shall be the Facility Fee Rate set forth in Level 8 above. The term "Rating" as used above shall mean the lowest of the long-term unenhanced ratings assigned to any general fund lease obligations of the City by either of Fitch or S&P. Any change in the Facility Fee Rate resulting from a change in a Rating shall be and become effective as of and on the date of the announcement of the change in such Rating. References to Ratings above are references to rating categories as presently determined by the Rating Agencies and in the event of adoption of any new or changed rating system by any such Rating Agency, each of the Ratings from the Rating Agency in question referred to above shall be deemed to refer to the rating category under the new rating system. The Authority and the Bank acknowledge that as of the Closing Date the Facility Fee Rate is that specified above for Level 1. The Facility Fee shall be payable quarterly in arrears, together with interest on the Facility Fee from the date payment is due until payment in full at the Default Rate. Such fee shall be payable in immediately available funds and computed on the basis of a 360-day year and the actual number of days elapsed.

Section 3.3. Other Fees. (a) In consideration of the use of the Facility, the Authority agrees to pay to the Bank a fee equal to \$250 for each aggregate Purchase made by the Bank hereunder, payable upon each Fee Payment Date.

(b) The Authority shall reimburse the Bank on the Closing Date for its out-of-pocket expenses and fees, including foreign counsel fees (in an amount not to exceed \$3,150) and domestic counsel fees (in an amount not to exceed \$45,000, plus disbursements), in connection with the preparation, execution and delivery of this Agreement.

(c) Upon each transfer of this Agreement in accordance with its terms or appointment of a successor Trustee or Tender Agent under the Trust Agreement, the Authority agrees to pay the Bank the sum of \$2,500 and to reimburse the Bank for its actual costs and expenses associated with such transfer or appointment (including, without limitation, the reasonable fees and expenses of counsel to the Bank) (and interest on such costs and expenses from the date

expended by the Bank to the date reimbursed by the Authority at the Default Rate) payable on the date of such transfer or appointment.

(d) Upon each amendment of this Agreement or any waiver or consent in connection with this Agreement, the Authority agrees to pay the Bank the sum of \$5,000 and to reimburse the Bank for its actual costs and expenses associated with such transfer, appointment or amendment (including, without limitation, the reasonable fees and expenses of counsel to the Bank) (and interest on such costs and expenses from the date expended by the Bank to the date reimbursed by the Authority at the Default Rate) payable on the date of such transfer, appointment or amendment.

Section 3.4. Termination Fee. Upon any termination of the Facility, the City and the Authority agrees to pay, subject to Section 2.16 hereof, (i) an amount equal to all accrued and unpaid fees which would be payable on the next Quarterly Date pursuant to Section 3.2 and (ii) if the Facility terminates on or before the date occurring two years from the date of the Closing Date, a fee equal to the positive difference, if any, between two years' Facility Fee and the amount of the Facility Fee paid to the Bank pursuant to Section 3.2 hereof prior to the date of such termination, *provided, however*, that no such fee will apply if the Facility terminates or the Available Commitment is reduced to zero because (i) an Alternate Liquidity Facility has been delivered and (ii) either (A) the short-term debt rating of the Bank has been reduced by Fitch or S&P to below "F1" (or its equivalent) or "A-1" (or its equivalent) or (B) the Bank has imposed increased costs or Taxes or Other Taxes on the City and the Authority pursuant to Section 2.12 or 2.13 hereof, respectively. Upon any substitution of an Alternate Liquidity Facility for the Facility, the Authority agrees (i) to cause the provider of such Alternate Liquidity Facility to purchase from the Bank any Bank Bonds at a price equal to the principal amount thereof plus all accrued interest thereon of the Bank Bond Rate and (ii) subject to Section 2.16 hereof, to pay to the Bank any unpaid Deferred Interest and all other obligations of the Authority payable hereunder.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES

Section 4.1. Representations of the City. In order to induce the Bank to enter into and perform this Agreement, the City hereby represents and warrants to the Bank, which representations and warranties shall be deemed to be repeated as provided herein, as follows:

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

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

which it is a party, and has full power and authority to perform its obligations under each of the foregoing.

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

(ii) The City is not in default hereunder or under the Financing Documents to which it is a party or under any other material mortgage, indenture, contract, agreement or undertaking to which it is a party or which purports to be binding on the City or on any of its assets.

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

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

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

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

(e) *Litigation.* There is no action, suit, investigation or proceeding pending or, to the best of the City's knowledge after due inquiry, threatened against or affecting the City, in which an adverse determination could have a material adverse effect on the business, operations or condition (financial or otherwise) of the City or its ability to perform its obligations hereunder or under the Financing Documents to which it is a party.

(f) *Disclosure.* The representations and statements made by the City in any document furnished to the Bank by the City in connection herewith or in connection with any Financing Document are accurate as of the date of this Agreement. All financial statements of the City furnished to the Bank were prepared in accordance with GAAP applied on a consistent basis throughout the periods involved. Since the date of the most recent financial statements referred to in the preceding sentence, no material adverse change has occurred in the business, operations or condition (financial or otherwise) of the City. The Official Statement does not, as of the Closing Date or as of its date, contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; provided that no representation is made as to information with respect to the Depository Trust Company, the Bank or the Authority.

(g) *The Financing Documents.* The representations and warranties of the City set forth in the Financing Documents to which it is a party are true and accurate in all material respects on the date of this Agreement as fully as though made on the date of this Agreement. The City makes, as of the date of this Agreement, each of the representations and warranties therein, to be made by the City in the Financing Documents to which it is a party, and for the benefit of, the Bank, as if the same were set forth at length herein together with all applicable definitions thereto. Except as otherwise provided herein, no amendment, modification, termination or replacement of any such representations, warranties, covenants and definitions contained in the Financing Documents to which it is a party shall be effective to amend, modify, terminate or replace the representations, warranties, covenants and definitions incorporated herein by this reference, without the prior written consent of the Bank.

(h) *Liens.* All filings, recordings, registrations or other actions necessary to create and perfect the Liens provided for in the Lease Agreement, the Trust Agreement and herein have been completed.

(i) *No Proposed Legal Changes.* There is no amendment, or to the knowledge of the City, no proposed amendment certified for placement on a statewide or local ballot, to the Constitution of the State or any published administrative interpretation of the Constitution of the State or any State law, or any legislation that has passed either house of the State legislature, or any published judicial decision interpreting any of the foregoing, the effect of which is (i) to materially adversely affect the Bonds or any holder thereof in its capacity as such, or (ii) to materially adversely affect the ability of the City to perform its obligations under this Agreement or any other Financing Document to which it is a party.

(j) *No Immunity.* The City is not entitled to sovereign immunity from any legal proceedings to enforce or collect upon this Agreement or any Financing Document to which it is a party or the transactions contemplated hereby or thereby (including, without limitation,

immunity from service of process and immunity from jurisdiction of any court or tribunal in respect of itself). To the extent that the City has or hereafter may acquire under any applicable law any right to immunity from set-off or legal proceedings on the grounds of sovereignty, the City hereby irrevocably waives, to the extent permitted by law, such rights to immunity for itself in respect of its obligations arising under or related to this Agreement or the Financing Documents to which it is a party.

(k) *Environmental Matters.* In the ordinary course of its business, the City conducts an ongoing review of Environmental Laws on the business, operations and properties of the City, in the course of which it identifies and evaluates associated liabilities and costs (including, without limitation, any capital or operating expenditures required for cleanup or closure of properties presently or previously owned or operated, any capital or operating expenditures required to achieve or maintain compliance with environmental protection standards imposed by law or as a condition of any license, permit or contract, any related constraints on operating activities, including any periodic or permanent shutdown of any facility or reduction in the level of or change in the nature of operations conducted thereat and any actual or potential liabilities to third parties, including employees, and any related costs and expenses). On the basis of such review the City has reasonably concluded that Environmental Laws are unlikely to have a material adverse effect on the ability of the City to make any Lease Payments or any of its obligations hereunder or under any Financing Document.

(l) *Defaults.* The City has not defaulted in the payment of any Debt obligation in the past five (5) years and the City has not, in the past five (5) years, or if the City has defaulted on any such Debt obligation, the City has fully disclosed to the Bank in writing the particulars of any such default or certification and all actions taken by the City to remedy such default or the situation leading to such certification and to avoid any similar default or certification in the future.

(m) *Property Tax Delinquency Rate.* To the best of the City's knowledge, after due investigation, the delinquency rate on collection by the county in which the City is located or receipt by the City of *ad valorem* property taxes is not greater than ten percent (10%).

(n) *Title to Property.* The Commission has a valid and enforceable leasehold interest in the Leased Premises, subject only to Permitted Encumbrances.

Section 4.2. Representations of the Authority. In order to induce the Bank to enter into and perform this Agreement, the Authority hereby represents and warrants to the Bank, which representations and warranties shall be deemed to be repeated as provided herein, as follows:

(a) *Organization and Authorization.* The Authority is a joint exercise of powers authority duly organized, existing and in good standing under and by virtue of the laws of the State, including, particularly, Chapter 5, Division 7, Title 1 (commencing with Section 6500 of the Government Code of the State) and has the power to enter into this Agreement and the Financing Documents to which it is a party.

(b) *Authority to Execute Documents.* All requisite official action of the Authority has been taken at meetings duly noticed, convened and had to authorize the execution and delivery of this Agreement and the Financing Documents to which it is a party and the transactions contemplated hereby and thereby, and has, or had as of the date of execution and delivery, full power and authority to execute and deliver this Agreement and the Financing Documents to which it is a party, and has full power and authority to perform its obligations under each of the foregoing.

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

(ii) The Authority is not in default hereunder or under the Financing Documents to which it is a party or under any other material mortgage, indenture, contract, agreement or undertaking to which it is a party or which purports to be binding on the Authority or on any of its assets.

(d) *No Legal Bar.* (i) The Authority is in compliance with and not in violation under any laws of the State which would adversely affect the Authority's existence or its powers and authority referred to in Section 4.2(b) hereof.

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

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

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

(f) *Litigation.* There is no action, suit, investigation or proceeding pending or, to the best of the Authority's knowledge after due inquiry, threatened against or affecting the Authority, in which an adverse determination could have a material adverse effect on the business, operations or condition (financial or otherwise) of the Authority or its ability to perform its obligations hereunder or under the Financing Documents to which it is a party.

(g) *Disclosure.* The representations and statements made by the Authority in any document furnished to the Bank by the Authority in connection herewith or in connection with any Financing Document are accurate as of the date of this Agreement. The Official Statement does not, as of the Closing Date or as of its date, contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; provided that no representation is made as to information with respect to Depository Trust Company, the Bank or the City.

(h) *The Financing Documents.* The representations and warranties of the Authority set forth in the Financing Documents to which it is a party are true and accurate in all material respects on the date of this Agreement as fully as though made on the date of this Agreement. The Authority makes, as of the date of this Agreement, each of the representations and warranties therein, to be made by the Authority in the Financing Documents to which it is a party, and for the benefit of, the Bank, as if the same were set forth at length herein together with all applicable definitions thereto. Except as otherwise provided herein, no amendment, modification, termination or replacement of any such representations, warranties, covenants and definitions contained in the Financing Documents to which it is a party shall be effective to amend, modify, terminate or replace the representations, warranties, covenants and definitions incorporated herein by this reference, without the prior written consent of the Bank.

(i) *Liens.* No filings, recordings, registrations or other actions are necessary to create and perfect the Liens provided for in the Lease Agreement, the Trust Agreement and herein.

(j) *No Proposed Legal Changes.* There is no amendment, or to the knowledge of the Authority, no proposed amendment certified for placement on a statewide or local ballot, to the Constitution of the State or any published administrative interpretation of the Constitution of the State or any State law, or any legislation that has passed either house of the State legislature, or any published judicial decision interpreting any of the foregoing, the effect of which is (i) to materially adversely affect the Bonds or any holder thereof in its capacity as such, or (ii) to materially adversely affect the ability of the Authority to perform its obligations under this Agreement or any other Financing Document to which it is a party.

(k) *No Immunity.* The Authority is not entitled to sovereign immunity from any legal proceedings to enforce or collect upon this Agreement or any Financing Document to which it is a party or the transactions contemplated hereby or thereby (including, without limitation, immunity from service of process and immunity from jurisdiction of any court or tribunal in respect of itself). To the extent that the Authority has or hereafter may acquire under any applicable law any right to immunity from set-off or legal proceedings on the grounds of sovereignty, the Authority hereby irrevocably waives, to the extent permitted by law, such rights to immunity for itself in respect of its obligations arising under or related to this Agreement or the Financing Documents to which it is a party.

(l) *Title to Property.* The Authority has a valid and enforceable fee simple interest in all of its real property and good title to all of its other property, other than the Leased Premises, and a valid and enforceable leasehold interest in the Leased Premises, subject only to Permitted Encumbrances.

ARTICLE V

COVENANTS

Section 5.1. Affirmative Covenants. As long as this Agreement is in effect, and until all amounts payable hereunder, and under any Bank Bonds, are indefeasibly paid in full, the Authority and the City will perform and observe the covenants set forth below:

(a) *Financial Records.* The City shall at all times maintain financial records and furnish to the Bank as soon as available, but no later than two hundred ten (210) days after the end of each fiscal year, audited financial statements prepared in accordance with GAAP including such balance sheet and statements, certified by an independent certified public accounting firm and prepared in accordance with GAAP, except to the extent State law requires otherwise.

(b) *Notice of Default.* The Authority and the City shall forthwith notify the Bank in writing of the occurrence of any Default or any default under the Financing Documents or any filing by the Authority or the City of a petition in bankruptcy under the Bankruptcy Law. The City shall also notify the Bank of the occurrence of any non-payment default or other event under any indenture, contract or instrument providing for the creation of any Debt of the City where the effect thereof is to accelerate, or permit the acceleration of, the maturity of such Debt.

(c) *Budgets.* The City shall deliver to the Bank a copy of its annual budget for the next fiscal year and such additional period as may be covered by such budget promptly upon adoption of such budget. The City shall include in each budget as separate line items, amounts necessary to pay all Lease Payments and Additional Payments.

(d) *Other Information.* The City and the Authority shall furnish to the Bank, as the Bank may reasonably request, such additional information concerning the Leased Premises, the Authority or the City in order to enable the Bank to determine whether the covenants, terms and provisions of this Agreement, the other Financing Documents to which the City or the Authority,

as appropriate, is a party and all other Debt of the City have been complied with by the City or the Authority, as appropriate, and for that purpose all pertinent books, documents and vouchers relating to the business, affairs and properties of the Authority and the City shall at all reasonable times during regular business hours and upon three (3) days' prior notice be open to the inspection of such accountants or other agents (who may make copies of all or any part thereof at their own cost and expense) as shall from time to time be designated by the Bank. Without limiting the foregoing, upon three (3) days' prior notice the Authority and the City will permit the Bank to visit and inspect any of the properties of the Authority and the City, respectively, during regular business hours and to discuss the affairs, finances and accounts of the Authority and the City with officials of the Authority and the City and any accounting firm performing services for the Authority or the City, as often as the Bank may reasonably request.

(e) *Compliance with Obligations.* The Authority and the City shall observe and comply with all of their obligations arising in connection with the City's Debt, the other Financing Documents and all laws of the State applicable to the Authority and the City.

(f) *Litigation.* The Authority and the City shall forthwith notify the Bank in writing with respect to any pending or threatened litigation with respect to the Authority, the City, the Leased Premises or the Project the existence of which causes the representations set forth in Section 4.1(e) or 4.2(e) hereof to be untrue or inaccurate in any material respect.

(g) *Licenses, Permits, Etc.* The Authority and the City will take all necessary and appropriate action to ensure the continuance in force of all material consents, licenses, permits, orders, decrees, approvals, authorizations, registrations and filings obtained or made in connection with the Leased Premises, the Project, this Agreement or the other Financing Documents to which the Authority or the City is a party or necessary to authorize the execution, delivery and performance by the Authority and the City of this Agreement, the other Financing Documents to which the Authority or the City is a party and all other agreements to be delivered in connection with any thereof.

(h) *Books and Records.* The Authority and the City shall keep or cause to be kept adequate and proper records and books of account with respect to the Authority, the City and the Leased Premises in which complete and correct entries shall be made, reflecting all financial transactions of the City in connection with the proceeds of the Bonds allocable to it.

(i) *Use of Proceeds.* The City shall use the proceeds of the Bonds for the purposes set forth in the Trust Agreement.

(j) *Maintenance of Existence.* Except as may be required by State law, the City shall preserve and maintain its existence as a municipal corporation organized and existing under a charter adopted pursuant to the Constitution and the laws of the State, and its rights, franchises and privileges material to the conduct of its business and shall not reorganize, merge or consolidate with or into any Person, wind up, liquidate or dissolve its affairs (or suffer any liquidation or dissolution) or convert, sell, assign, transfer, lease or otherwise dispose of (or agree to do any of the foregoing at any future time), whether in one transaction or a series of transactions, all or substantially all of its property or assets. Except as may be required by State

law, the Authority shall preserve and maintain its existence as a joint exercise of powers authority duly organized, existing and in good standing under and by virtue of the laws of the State, including, particularly, Chapter 5, Division 7, Title 1 (commencing with Section 6500 of the Government Code of the State), and its rights, franchises and privileges material to the conduct of its business and shall not reorganize, merge or consolidate with or into any Person, wind up, liquidate or dissolve its affairs (or suffer any liquidation or dissolution) or convert, sell, assign, transfer, lease or otherwise dispose of (or agree to do any of the foregoing at any future time), whether in one transaction or a series of transactions, all or substantially all of its property or assets. Notwithstanding the foregoing, the Authority and the City may reorganize, merge or consolidate with or into any Person if and so long as the Person surviving such reorganization, merger or consolidation assumes all indebtedness, liabilities and obligations of the Authority or the City, respectively, hereunder pursuant to a written agreement satisfactory in form and substance to the Bank.

(k) *Notice of Adverse Change.* The Authority and the City shall notify the Bank as soon as possible after any member of the City council, officer of the City or officer of the Authority acquires knowledge of the occurrence of (i) the filing of any action or the occurrence of any activity which would could lead to an initiative or referendum which could lead to the diminution or reallocation of the any revenues or funds received by the City or (ii) any other event which, in the reasonable judgment of such member or officer, is likely to have a material adverse effect on the ability of the Authority or the City to perform its obligations under this Agreement or under any other Financing Document to which the Authority or the City is a party.

(l) *Trustee and Other Agents.* The Authority and the City shall immediately notify the Bank of any resignation of the Trustee, the Tender Agent or the Remarketing Agent.

(m) *Other Matters.* The Authority and the City shall execute and deliver to the Bank all such documents and instruments, and do all such acts and things, as may be necessary or reasonably required by the Bank to enable the Bank to exercise and enforce its rights under this Agreement and to realize thereon, and record and file and re-record and re-file all such documents and instruments, at such time or times, in such manner and at such place or places, all as may be necessary or reasonably required by the Bank to validate, preserve and protect the Lien of the Bank under this Agreement.

(n) *Annual Appropriations.* The City shall make annual appropriations at levels required under the Lease Agreement to pay all Lease Payments and Additional Payments.

(o) *Maintenance of Insurance.* The City covenants that it will maintain or cause to be maintained insurance as required by the Lease Agreement on the Leased Premises.

(p) *Investments.* Promptly upon any change therein, the City shall deliver to the Bank a copy of the City's current investment policy or the current investment policy of the county in which the City is located or the current investment policy of any other entity which maintains an investment pool in which the City has invested any of its funds, as the case may be.

(q) *Conversion to Fixed Rate.* In the event the Bank declines at any time, in its sole discretion, to extend the Scheduled Expiration Date and the Authority is unable to provide an Alternate Liquidity Facility by such date, the Authority will use its best efforts to convert the interest rate with respect to the Bonds to a Fixed Rate by such Scheduled Expiration Date or as soon thereafter as possible.

Section 5.2. Negative Covenants. As long as this Agreement is in effect, and until all amounts payable hereunder, and under any Bank Bonds, are indefeasibly paid in full, the Authority and the City shall not, unless the Bank shall otherwise consent in writing:

(a) agree to amend, supplement, extend, modify, waive, revise or otherwise alter or terminate any term of the Bonds or any other Financing Document;

(b) appoint, remove or consent to the appointment or removal of the Trustee, the Tender Agent or the Remarketing Agent without the consent of the Bank, which consent shall not be unreasonably withheld;

(c) violate any law, rule, regulation, or governmental order to which it is subject, which violation involves a reasonable likelihood of materially and adversely affecting the Leased Premises, the financial condition, business or results of operations of the Authority or the City or the ability of the Authority or the City to perform its obligations under this Agreement or any other Financing Document to which it is a party;

(d) permit the marketing of any Bonds pursuant to the Official Statement or other offering document unless the Bank shall have approved in writing of the description of the Bank contained in such document or the Official Statement;

(e) invest any amounts on deposit in any of the funds or accounts held or maintained by the Trustee pursuant to the Trust Agreement in any investments other than Permitted Investments;

(f) take any action, or cause the Trustee or Tender Agent to take any action under the Trust Agreement, inconsistent with the rights of the Bank under this Agreement;

(g) take any action which would result in the City's obligations to the Bank under this Agreement not ranking at least *pari passu* in right of payment with all unsecured general fund lease obligations of the City to other creditors;

(h) so long as any of the City's obligations hereunder remain unpaid or any Bank Bonds remain Outstanding, terminate this Agreement, the Lease Agreement or the Authority Lease or replace the Facility with or Alternate Liquidity Facility;

(i) deviate from the investment policies of the City or from the provisions of the Government Code of the State, as in effect from time to time;

- (j) abandon, vacate or close the Leased Premises; or
- (k) encumber, transfer, sell, lease, convey or otherwise dispose of, any interest in, nor create, suffer or assume any Lien to be created on the Leased Premises, except for Permitted Encumbrances.

ARTICLE VI

CONDITIONS PRECEDENT

Section 6.1. Conditions Precedent to Effectiveness. The initial Commitment Period shall commence on the date (the “Closing Date”) that each of the following conditions precedent have been fulfilled to the satisfaction of the Bank and its counsel:

(a) *City Resolutions; Other Financing Documents.* (i) No proceedings taken by the City or the Authority with respect to the Bonds, this Agreement, the Financing Documents and the transactions contemplated hereunder have been revoked or rescinded or otherwise amended or modified and each shall be in full force and effect; (ii) the Financing Documents shall be in full force and effect and shall be in form and substance satisfactory to the Bank; and (iii) the Bank and its counsel shall have received copies of each such document and the Official Statement along with a certificate of an Authorized Representative of the City or the Authority, as applicable, dated the Closing Date to the effect that (A) such copies are true, correct and complete copies of such documents and (B) such documents were duly issued, adopted or executed and delivered and are in full force and effect.

(b) *Opinions.* The Bank shall have received legal opinions of counsel to the City, the Authority and the Trustee and an opinion of Special Counsel, as to such matters as the Bank may reasonably request, each such opinion to be addressed to the Bank, dated the Closing Date and in form and substance satisfactory to the Bank and its counsel.

(c) *Defaults; Representations and Warranties.* (i) No Default and no default under any of the Financing Documents shall have occurred and be continuing or will occur upon the purchase by the Bank of any Bonds and (ii) the representations of the City set forth in Article V and of the City and the Authority set forth in any Financing Document shall be true and correct on and as of the Closing Date with the same force and effect as if made on and as of such date.

(d) *No Litigation.* No action, suit, investigation or proceeding shall be pending or, to the knowledge of the City, threatened (i) in connection with the Bonds, the Financing Documents or this Agreement or any transactions contemplated thereby or hereby or (ii) against or affecting the City or the Authority, in which an adverse decision could have a material adverse effect on the business, operations or condition (financial or otherwise) of the City or the Authority, as the case may be, or the ability of the City to perform its obligations hereunder, or the ability of the City or the Authority to perform its obligations under the Financing Documents to which each is a party.

(e) *Financial Statements.* The Bank shall have received the most recent audited financial statements of the City for the fiscal years ended June 30, 2005, 2006 and 2007, and evidence that the City shall have ended each of the five most recently ended fiscal years with a positive fund balance.

(f) *No Material Adverse Change.* Since the date of the most recent financial statements of the City, no material adverse change shall have occurred in the status of the business, operations or conditions (financial or otherwise) of the City or its ability to perform its obligations under the Financing Documents to which it is a party.

(g) *Certificates.* The Bank shall have received (i) certified copies of all proceedings taken by the City and the Authority authorizing the execution, delivery and performance of this Agreement and the Financing Documents to which each is a party, as applicable, and the transactions contemplated hereby and thereby, and (ii) a certificate or certificates of one or more Authorized Representatives of the City and the Authority, as applicable, dated the Closing Date certifying (A) as to the matters set forth in clauses (c), (d) and (f) of this Section 6.1, (B) to the effect that all consents, permits, licenses and approvals of, and filings, registrations and declarations with, governmental authorities that are required to be obtained or made by the City or the Authority in connection with the Bonds, the Financing Documents and this Agreement have been obtained or made and (C) the name, incumbency and signature of each individual authorized to sign this Agreement, the Financing Documents to which the City or the Authority is a party and the other documents or certificates to be delivered by the City or the Authority pursuant hereto or thereto, on which the Bank may conclusively rely until a revised certificate is similarly delivered.

(h) *Payment of Fees.* All fees and expenses due and payable in accordance with the provisions of Article III and Section 8.5 hereof shall have been paid.

(i) *Ratings.* The Bank shall have received (i) evidence that the Bonds shall have received long-term and short-term ratings of “_____” by S&P and “_____” by Fitch and (ii) evidence that any Bank Bonds (and the related CUSIP number for such Bank Bonds) shall have a long-term rating equal to the rating assigned to the Bonds.

(j) *Trustee and Tender Agent Resolutions.* The Bank shall have received copies of the resolutions of the Trustee and the Tender Agent authorizing the execution, delivery and performance of the Financing Documents to which they are a party, certified as of the Closing Date by the Secretaries of the Tender Agent and the Trustee.

(k) *Trustee and Tender Agent Bonds.* The Bank shall have received certificates of authorized representatives of the Trustee and the Tender Agent certifying as to the authority, incumbency and specimen signatures of the authorized representatives of the Tender Agent and the Trustee authorized to sign the Financing Documents to which they are a party and any other documents to be delivered by them hereunder and who will be authorized to represent the Tender Agent and the Trustee in connection with this Agreement, upon which the Bank may rely until it receives a new certificate.

(l) *Governmental Approvals.* The Bank shall have received true and correct copies of any and all governmental approvals necessary for the City to enter into this Agreement and the Financing Documents to which it is a party and the transactions contemplated thereby and hereby.

(m) *Evidence of Authority.* The Bank shall have received such other certifications as to matters of fact, due authorization, execution and delivery by the parties thereto of the Financing Documents, evidence of corporate authority, copies of governmental consents, permits, licenses and approvals, and other documents as shall be reasonably requested by the Bank, and the form and substance of any order or other official action granting any consent, permit, license or approval shall be satisfactory to the Bank.

(n) *No Prohibition.* No law, regulation, ruling or other action of the United States, the State or any political subdivision or authority therein or thereof shall be in effect or shall have occurred, the effect of which would be to prevent the Bank from fulfilling its obligations under this Agreement.

(o) *Appointment of Agents.* The appointment of the Trustee, Tender Agent and Remarketing Agent shall have been approved by the Bank.

(p) *Evidence of Insurance.* The Bank shall have received evidence that the insurance policies required by Section 5.1(o) hereof are in full force and effect.

(q) The Bank shall have received written evidence satisfactory to the Bank that a CUSIP number has been obtained and reserved from Standard & Poor's CUSIP Service Bureau, a division of The McGraw-Hill Companies, Inc., for Bank Bonds.

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

Section 6.2. Conditions Precedent to Each Purchase. The obligation of the Bank to make any Purchase on any date is subject to the conditions precedent that on the date of such Purchase (a) the Bank shall have received a Request for Purchase and (b) no Event of Termination shall have occurred and be continuing. Unless the City shall have otherwise previously advised the Bank in writing, delivery to the Bank of a Request for Purchase shall be deemed to constitute a representation and warranty by the City that on the date of such Purchase, to the City's knowledge, no Termination Event shall have occurred and be continuing.